

**FURTHER INFORMATION PROVIDED TO THE ROYAL COMMISSION
INTO THE MANAGEMENT OF POLICE INFORMANTS
KERRI JUDD QC, DIRECTOR OF PUBLIC PROSECUTIONS**

26 February 2020

1. By letter dated 3 February 2020 sent c/- the Solicitor for Public Prosecutions, Ms Abbey Hogan, the Royal Commission invited former Crown Prosecutor, Mr Geoff Horgan QC to make a statement.
2. By email received from the Solicitors Assisting the Royal Commission on 26 February 2020, two of the assertions contained in that letter were withdrawn. The letter dated 3 February 2020 as amended by the email of 26 February 2020 is referred to herein as 'the February 2020 letter'.
3. Pursuant to s. 123(3) of the *Inquiries Act (Vic)* 2014, I voluntarily provide the following information in response to the February 2020 letter.
4. In providing this information I have had recourse to documents held by the OPP and information provided by former Senior Crown Prosecutor Geoff Horgan QC and former OPP solicitors. I do not have any independent knowledge of the issues upon which a comment has been requested.

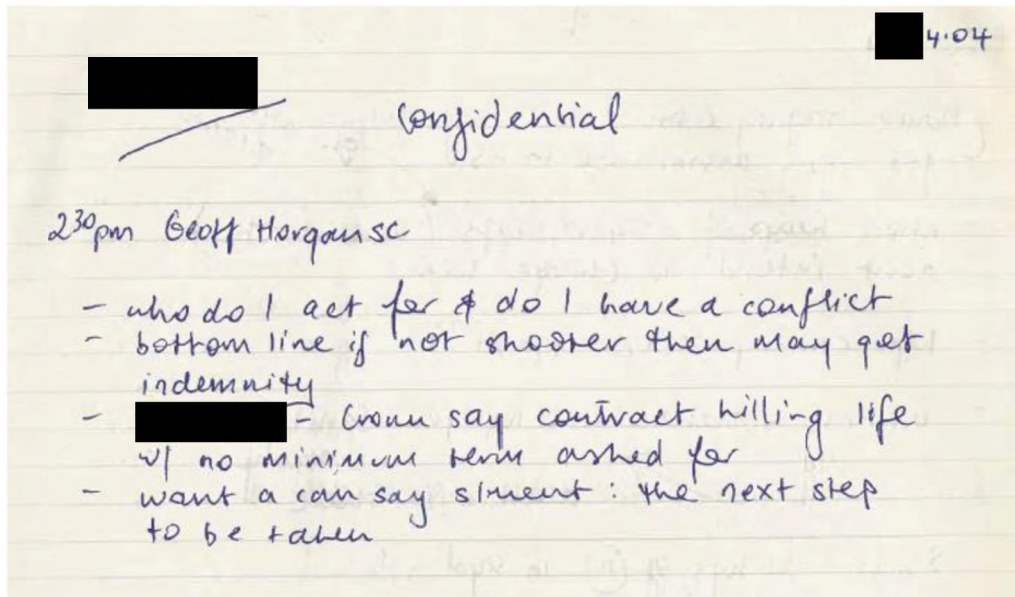
A. Ms Gobbo's Involvement with [REDACTED]

5. [REDACTED] was arrested in relation to the murder of [REDACTED] on [REDACTED] 2003. It has become known through evidence provided at the Royal Commission that in the face of a strong case against him, he indicated an immediate willingness to assist police.¹
6. Subsequently, [REDACTED] indicated a preparedness to plead guilty to the murder of Mr [REDACTED] and give evidence for the Crown in relation to the murders of [REDACTED] and [REDACTED]. In these circumstances it is standard practice for the prosecution to ask that the accused provide to Victoria Police a true, accurate and complete statement of the evidence they can give to enable the Crown to make an assessment of its veracity and value.
7. [REDACTED] provided two statements to Victoria Police dated [REDACTED] July 2004, one in relation to the [REDACTED] murder and the other in relation to the murders of [REDACTED] & [REDACTED]. On [REDACTED] January 2005, [REDACTED] then provided an additional statement regarding the murder of [REDACTED].
8. The statements of [REDACTED] in relation to [REDACTED] and [REDACTED] were made on the basis that their contents could not be used against him. They

¹ Evidence of Stuart Bateson at RCMPPI 2 July 2019 T3351, Evidence of Boris Buick at RCMPPI 29 October 2019 T8507, Evidence of [REDACTED] at committal hearing of [REDACTED]

both included the following paragraph, "I am making this statement to the police in order to give my full involvement in [offending]. I make it in the belief that none of the information contained herein can be used against me in any future proceedings." In contrast, the statement of [REDACTED] in relation to [REDACTED] was not made on that basis.

9. In a statement relating to an offence for which the offender admits guilt and is not claiming the privilege against self-incrimination (such as [REDACTED] statement regarding the murder of [REDACTED] an 'indemnity-type' or 'reverse caution' paragraph is not appropriate given that it is intended that the admission will be used in subsequent proceedings.
10. During cross-examination at the Royal Commission Stuart Bateson was asked about a note he made in his diary on [REDACTED] June 2004 that he rang Mr Horgan who advised that a particular paragraph was not required in [REDACTED] statement. Mr Bateson confirmed that this related simply to an enquiry of Mr Horgan as to whether or not there was a need for an indemnity-type paragraph to be included in the statement.²
11. The diary notes Ms Gobbo made of a conversation she had with Mr Horgan on [REDACTED] April 2004 (as referred to in paragraph 2 of the February 2020 letter) are consistent with a discussion that would take place between prosecution and defence Counsel in relation to the potential resolution of a matter. The notes are extracted and transcribed as follows:



[REDACTED] 4.04

~~[REDACTED]~~ confidential

230pm Geoff Horgan SC

- who do I act for & do I have a conflict
- bottom line if not shooter then may get indemnity
- [REDACTED] - Crown say contract killing life w/ no minimum term asked for
- want a can say statement: the next step to be taken

² Evidence of Stuart Bateson at RCMPPI 28 November 2019 T10091.

██████████
Confidential

2:30pm Geoff Horgan SC

- *who do I act for & do I have a conflict*
- *bottom line if not shooter then may get indemnity*
- ██████████ - *Crown say contract killing life w/ no minimum term asked for*
- *want a can say s/ment : the next step to be taken*

12. Mr Horgan confirms that whilst he does not have an independent recollection of any conversation with Ms Gobbo on ██████████ April 2004, in the event that Ms Gobbo led him to understand that she acted for ██████████ it is likely he would have spoken to her in relation to her client's intention to plead and/or cooperate with authorities if and when necessary.
13. He also states that he has no recollection of Victoria Police and Ms Gobbo engaging in a process of amending ██████████ statements.
14. ██████████ was sentenced on ██████████ 2005 for the murder of ██████████. In advance of that sentence, ██████████ made undertakings to give evidence at the relevant trials concerning the evidence outlined in his statement dated ██████████ July 2004 concerning ██████████ murder, his statement dated ██████████ July 2004 concerning the murders of ██████████ and ██████████ and his statement dated ██████████ January 2005 concerning the murder of ██████████. The then-DPP, Mr Coghlan QC, provided ██████████ with an undertaking on ██████████ February 2005 that evidence he gave in proceedings against ██████████ and his co-accused for the murders of ██████████ and ██████████ would not be used against him provided he told the truth in giving evidence at those trials.
15. Mr Coghlan QC provided the undertaking on the basis that ██████████ promised to assist the prosecution in relation to the principal offender (ie, ██████████). Despite not having been interviewed or charged, ██████████ confessed his involvement in the murders of ██████████ and ██████████. His role was to conduct surveillance on the proposed target (ie ██████████ and ██████████) to the shooting at the behest of ██████████ who he named.³
16. ██████████ gave evidence at the committal hearing of ██████████ and his co-accused for the murders of ██████████ and ██████████ and ██████████ which were ██████████ and commenced on ██████████ 2005. He subsequently gave evidence against ██████████ in his trial for the murder of ██████████.
17. Paragraphs 9, 10 and 11 of the February 2020 letter relate to the committal hearing of ██████████ and his co-accused in ██████████ 2005. Mr Horgan states that the transcript of the hearing speaks for itself and is unable to comment on paragraph 11.

³ DPP v ██████████

18. Additional matters that are relevant to paragraphs 9, 10 and 11 of the February letter are also outlined in the response that I provided to the Royal Commission dated 8 November 2019 at pages 31 to 33.
19. The fact that Gobbo had acted for [REDACTED] was discussed during [REDACTED] trial before Justice King. Mr Heliotis, who was acting for [REDACTED] stated that Ms Gobbo had refused to appear on behalf of [REDACTED] at the committal because she had acted for [REDACTED] and saw herself as being conflicted out of it. He said that she had agreed to do [REDACTED] bail application on the basis it didn't involve any attacks on [REDACTED] "or any of that knowledge" but that despite it appearing on the depositions she was not there and had refused to be when it was first raised with her.⁴ During cross-examination [REDACTED] confirmed that he had spoken to Theo Magazis and Nicola Gobbo prior to accompanying police from custody to the St Kilda Road police complex for questioning on [REDACTED] November 2003.⁵ He also stated that Gobbo had appeared for him at one hearing at the Magistrates' Court but did not recall which one it was.⁶
20. It was also put to [REDACTED] in cross-examination that whilst his statement was written in June, it was not signed until July because his lawyers wanted time to consider the contents of it and he agreed.⁷ [REDACTED] gave evidence that his lawyer engaged in lengthy negotiations with the police as to what benefit he would get if he made a statement and gave evidence but he did not name her.⁸
21. In paragraph 12 of the February 2020 letter, solicitors assisting the Royal Commission state as follows:

Counsel Assisting tendered exhibit 785, [REDACTED] statement signed on [REDACTED] July 2004 through Mr Bateson. This version of the statement sets out the changes made to the statement between [REDACTED] July 2004, which appear to be significant. There were a number of paragraphs added and removed.
22. On 12, 17 and 19 February 2020, solicitors at the OPP asked solicitors assisting the Royal Commission to provide any documents which support the assertions made in paragraph 12 of the February 2020 letter. No documents have been provided to the OPP in response to those requests.
23. On a review of exhibit RC785 only (and without the assistance of any further documents), three matters are noted:
 - (a) First, on its face, exhibit RC785 does not set out changes made to [REDACTED] statement between [REDACTED] July 2004, nor does it indicate that paragraphs were added and removed.

⁴ DPP v [REDACTED]⁵ DPP v [REDACTED]⁶ DPP v [REDACTED]⁷ DPP v [REDACTED]⁸ DPP v [REDACTED]

- (b) Secondly, there are two handwritten amendments to RC785 which are noted to have been made at a committal hearing. On [REDACTED] 2005, [REDACTED] was called to give evidence on the first day of the committal in the matter of [REDACTED] and his co-accused. As is the usual practice, he was asked by the prosecutor to identify his statements and whether there was anything he wished to change or add. He was then asked to confirm that they were true and correct. In relation to his statement regarding the [REDACTED] murder, [REDACTED] indicated two minor additions he wished to make.⁹ Where a witness makes amendments to a statement at committal it is common for the amendments to be handwritten onto the statement, and for the amended statement to be tendered as part of the depositions. Exhibit RC785 is the statement of [REDACTED] that was tendered to the court at committal. It is not known who actually made the handwritten additions.
- (c) Thirdly, during the [REDACTED] trial, [REDACTED] was cross-examined in relation to the process at the committal hearing by which the additions were made to his statement. He said that he had read his statement in preparation for the committal and picked up a couple of areas that could be added to. He confirmed that the changes were made to the statement in court.

B. Ms Gobbo's Conflicts

24. In relation to paragraph 13 of the February 2020 letter, the OPP has never been aware of Ms Gobbo having a "potential involvement in [REDACTED] murder" other than the kind of limited ex post facto "involvement" that is outlined in the following paragraphs of this document.
25. It is understood that this assertion is made as the result of the evidence given by Stuart Bateson at the Royal Commission on 19 November 2019, particularly page 9539 of the transcript at lines 31-39 as follows:

Counsel Assisting: There was an issue in the trial about that. The point I'm making is that Nicola Gobbo is tied up factually in the transaction of events which occur around the [REDACTED] murder. It may or may not be that she's deliberately, it seems that [REDACTED] has engaged her to turn up. But nonetheless she is involved in a series of events which affect the outcome of the trial? They're factual matters which are run in the trial?

Stuart Bateson: Yeah, I have a memory of that being put in the trial.

26. [REDACTED] trial for the murder of [REDACTED] took place from [REDACTED] [REDACTED] 2005. The Crown case was put on the basis that he was the organiser who counselled and procured the murder, and [REDACTED] were agents. [REDACTED] and [REDACTED] to and from the location. This principal-agent relationship was illustrated by presentation to the jury of intercepted telephone calls made by [REDACTED] to Theo Magazis and Nicola Gobbo on Sunday [REDACTED] 2003, the day after [REDACTED] was killed. The purpose of the calls was to arrange legal representation for [REDACTED] at the filing hearing the next day. Ms Gobbo

⁹ [REDACTED]

agreed to attend the Melbourne Custody Centre to see [REDACTED] after 5pm that day but did not appear on his behalf.

27. Theo Magazis appeared on behalf of [REDACTED] at the filing hearing on Monday [REDACTED] 2003 and Sean Grant appeared for [REDACTED]

28. [REDACTED] was not a witness in [REDACTED] trial and he did not make a statement about the [REDACTED] murder until [REDACTED] March 2006. That statement included an allegation that during Ms Gobbo's attendance upon him on the evening of [REDACTED] 2003 he had rubbed his fingers together and mentioned [REDACTED]. He stated that, "This action was referring to getting the money from [REDACTED] to go to [REDACTED] so she could be taken care of. Nicola wrote a note and put it to the screen. Although I don't remember the exact wording it said words to the effect that she would be seeing them that day."

29. Mr Horgan is unable to comment on the content of paragraph 14 of the February 2020 letter which invites comment on a hypothetical raised in evidence by Mr Bateson:

Counsel Assisting suggested to Mr Bateson that he had ample opportunity to tell either yourself or the judge that the Purana Taskforce were not comfortable with Ms Gobbo acting for these people because she is too involved in the events. In response, Mr Bateson said "in the circumstances that arise, I reckon Geoff Horgan SC would probably say, Stuart, you let me worry about those sorts of things, you stick to what you do".

30. Nonetheless, it is noted that the transcript quoted above continues as follows:

*Did you ever say anything like that to him?---No, I don't recall saying that.
Do you know whether anyone else said anything like that to him?---No, I don't.*

31. Four matters are noted in relation to paragraph 15 of the February 2020 letter. First, as set out at page 24 of the response that I provided to the Royal Commission dated 8 November 2019, Mr Horgan recalls having concerns that Ms Gobbo had conflicts of interest, given that she appeared for a number of people involved in gangland matters, and believes that he raised the issue with her on more than one occasion.

32. Secondly, the diary note Ms Gobbo made of a conversation she had with Mr Horgan on [REDACTED] April 2004 (as referred to previously) shows that upon entering into resolution discussions, Mr Horgan asked her straight away who she acted for and whether she had a conflict.

33. Thirdly, Ms Gobbo's evidence on 5 February 2020 concerning her note of the conversation with Mr Horgan on [REDACTED] April 2004 was as follows:¹⁰

*Did you have discussions with people concerning the potential conflict that you may have in acting for [REDACTED]?---Yes
Who with?---I had discussions with [REDACTED] himself, Bateson, [REDACTED] solicitor...*

¹⁰ Evidence of Nicola Gobbo at RCMPPI 5 February 2020 T13204-5.

Any others?---I had conversations with [REDACTED] and [REDACTED] because I was lying to them about my knowledge of what [REDACTED] was doing or not doing.

...

On [REDACTED] April 2004 there's an entry in your court book and a note of a discussion with Mr Horgan including, "who do I act for and do I have a conflict". Do you recall being questioned about who you acted for and whether you had a conflict?---Not specifically but...it sounds like something that Geoff Horgan would have asked.

Did you feel as if you had a conflict? Yes, I know it was the subject of conversations and not outside my contemplation that I did have a conflict but I couldn't work out a way of getting away from [REDACTED] in a way that didn't reveal what he was doing to everybody else.

34. Fourthly, Mr Horgan also recalls Ms Gobbo reporting that she had sought a ruling from the Ethics Committee and that that Justice King had raised concerns regarding Ms Gobbo's potential conflicts. The details of the process by which that ruling was sought and obtained are set out in more detail in the response that I provided to the Royal Commission dated 8 November 2019.

C. Ms Gobbo's Involvement with [REDACTED]

35. Matters relevant to paragraph 20 of the February 2020 letter are set out at page 46 to 47 of the response that I provided to the Royal Commission dated 8 November 2019.
36. Paragraph 20 of the February 2020 letter states that, "Mr Bateson then returned to the office and informed Ms Gobbo of the discussion and asked her to contact you to discuss further." Mr Horgan does not have a specific memory of this but considers that it sounds like the likely course of events.