From: Dr Craig Minogue PhD

To: The McMurdo Royal Commission into the Management of Human Source Agents

Re: The role of Corrections Victoria and term of reference number 6

Date: 19 January 2019

Introduction:

This submission to the McMurdo Royal Commission is made on the basis of my knowledge, belief and opinion as an expert witness in the management of the prison system in Victoria from the perspective of a prisoner. Attached as Appendix "A" to this submission is a statement supporting my claim to expert witness status.

To satisfactorily and properly resolve the matters set-out in the terms of reference of the Royal Commission, **8 Issues** of specific and focussed inquiry **must** be undertaken in relation to the role of Corrections Victoria in the Management of Human Source Agents of Victoria Police and other law enforcement agencies.

1. **Issue One:** The role of Corrections Victoria, its staff and Officers in facilitating the use of 3838 as a Victoria Police Human Source Agent whose activities occurred within the prison system via her status as 'a lawyer' and a 'visitor' and a person who is permitted to engage in confidential communication with prisoners as those visits and communication are provided for by ss 3, 33(i), 40(1)(2), 47(1)(m)(iii) and 47(2) of the *Corrections Act* 1986 and regs 60(1) & 61 of the *Corrections Regulations* 2009. These provisions of the *Corrections Act* and *Regulations* should be interpreted with reference to the operation of the ss 15(2)(b)(c), 22, 24(1) and 25(2)(a)(g)(h) human rights from the *Charter*.

2. **Issue Two:** The corrupting of the 'right' of prisoners to a classification process as is provided for by s 47(1)(l) of the *Corrections Act* and regs 22-26 of the *Corrections Regulations*, by subjecting prisoners to oppressive conditions in High Security Management and Regime Units [*punishment*] so as to bring psychological pressure to bear on people in order to **coerce** them into [redacted] or to punish prisoners [redacted] Furthermore, the use of inducements such as significantly improved conditions of confinement, and time out of cells, and access to phones, visits, computers and recreational equipment if a prisoner [redacted]

3. **Issue Three:** The corrupting of the 'right' of prisoners to a classification process as is provided for by s 47(1)(l) of the *Corrections Act* and regs 22-26 of the *Corrections Regulations*, to corruptly misuse the right to house Crown witnesses (in a particular matter) together in close quarters so as to facilitate a "hothouse" environment which becomes a factory for the production of false evidence. The obvious witnesses for the Commission to receive evidence from about these prison matters are: [redacted] and others who those persons can identify as being victims of a corrupt and manipulative police/prison system.

4. **Issue Four:** The abuse of the 'separation' power pursuant to reg 27 of the *Correction Regulations*, so as to bring psychological pressure to bear on prisoners to become Human Source Agents for Victoria Police, or to punish prisoners who resist becoming informers.

An aside about the MOU:

The corrupting of the classification right and the abuse of the separation power is deployed by the Major Offenders Unit (**"MOU"**) of Corrections Victoria who work hand-in-glove with Victoria Police and Officers of the Prison Intelligence Unit (**"PIU"**). The Officers of the PIU act as agents of the police in the prison system. The MOU was established by Corrections Victoria to respond to the concerns of the political branches of Government about a small group of prisoners who received ongoing attention in the tabloid media. The MOU manages all aspects of the imprisonment, parole, and community corrections involvement of 'prisoners who [are thought to] represent a danger to the State', down to the very small issues including their 'access to: programs, educational courses, cell property, computers, employment, including community work sites and interactive activities' (*Sentence Management Manual* 2007 s.4.3, pp.10,11). The political reality is that those prisoners who are said to represent 'a danger to the State' are those who have a 'High Public Profile' and those who 'attract significant and ongoing media attention' (*Sentence Management Manual* 2007 s.4.3, p.10). An important role of the MOU is to provide 'Ministerial Briefings and possible Parliamentary Questions pertaining to these offenders' during or after their time in prison (*Sentence Management Manual* 2007 s.4.3, p.13). The MOU monitors prisoners on its list when they are in prison, and if released on Parole, and when they have completed their sentences despite Corrections Victoria not having any lawful jurisdiction once a prisoner is released and has completed Parole; the MOU retains a watching brief for the

political branches of Government over these ex-prisoners. The post-sentence surveillance of MOU prisoners has, in large part, passed to the functions of the Post-Sentence Authority under the *Serious Offenders Act* 2018. It should be noted that the sentence management policies from 2007 which are quoted above were updated in 2013, and they are now not so honest about the political nature of the imprisonment of MOU prisoners. I refer to the MOU as "The Political Prisoners Unit."

5. **Issue Five:** The wider practices of Corrections Victoria (beyond the 3838 example), its staff and Officers breaching the legal professional privilege owned by prisoners in relation to:

   (a) their letters (including facsimiles) as per ss 47(1)(m)(iii) and 47(2) of the *Corrections Act* and reg 17 of the *Corrections Regulations*. Legally privileged letters are opened in "error" by prison staff, and facsimiles go "missing", in contravention of the law in the *Corrections Act*. For example see *Minogue v Lourey* [2016] VSC 812 at para.10(b);

   (b) professional visits as per ss 33(i), 40(1)(2), 47(1)(m)(iii) and 47(2) of the *Corrections Act* and regs 60(1) & 61 of the *Corrections Regulations*;

   (c) phone calls between prisoners and their lawyers;

   (d) legal documents in the possession of prisoners;

   and making that unlawfully obtained information available to Victoria Police.

6. **Issue Six:** The indents when Corrections Victoria, its staff and Officers have refused to allow a lawyer to visit a prisoner in connection with the lawyer's practice and professional role. Two examples will illustrate the problem, the first example will illustrate corrupt Human Source Agent activity in the prison system by 3838, and the second example is a routine abuse of power and unlawful limiting of the rights under law of prisoners.

   First Example:

   In one incident of witness tampering in 2008, 3838 was instructed by one of her clients to have the solicitor who was instructing her, visit Barwon Prison

and obtain affidavits from 2 men that were to be used as part of a defence for a matter before a Court. It needs to be understood that 3838 subverted the normal practices of the legal profession, and she inserted herself between the solicitors who were instructing her and her clients so she dealt directly with the clients. The solicitor arrived at the prison and his credentials were verified and he was processed and allowed to enter.

Section 33(i) of the *Corrections Act* list 'a lawyer' as being an authorised visitor to a prison. Section 40(1) of the *Corrections Act* provides that 'A lawyer acting in the course of the lawyer's practice may at the times fixed by the regulations enter a prison and visit a prisoner.' And reg 60 of the *Corrections Regulations* provide:

(1) A lawyer acting in the course of a lawyer's practice may enter a prison and visit a prisoner between 8.30 a.m. and 3.30 p.m. or at other times authorised by the Governor of a prison.

(2) A lawyer visiting a prisoner under these Regulations may exchange legal documents, in a format approved by the Secretary, with the prisoner.

The first prisoner arrived to see the lawyer and the lawyer sought to pass the man an affidavit for his consideration in relation to the evidence he was willing to give in another man's defence. Prison Officers then converged on the visit and said that the visit was terminated because the lawyer was not representing the prisoner. The lawyer was escorted out of the prison and the prisoner was taken back to his cell. There is no requirement at law that a lawyer must be "representing" a prisoner to visit that prisoner in the course of a lawyer's practice. The rights of the lawyer and the rights of the prisoner were violated by an unlawful act of prison staff.

It is believed that the 3838 had to pass on her client's instructions to the solicitor to obtain the affidavits so she could maintain the pretence that she was acting in the interests of her client. She did however communicate to Victoria Police about the risk to their case against her client if he was able to obtain the 2 affidavits. So Victoria Police acting hand-in-glove with Corrections Victoria intervened to prevent the 2 prisoners from consulting with the lawyer. This is not a vague claim, the times and dates and names of all the parties are well known.

Second Example:

On 23 December 2018, a lawyer acting for one of the men who has been a victim of the 3838 informer scandals involving the police, prosecutors and the prison system, was tuned away for the arbitrary reason that: *"It's a busy visit day."*

Because I have the ability, the resources and the will to put matters of complaint into writing, I wrote to the Governor of Barwon Prison under the cover of a letter dated 27 December 2018 and I said:

> **RE: The right of prisoners to receive visits from their lawyers**
>
> Section 40(1) of the *Corrections Act* 1986 and reg 60(1) of the *Corrections Regulations* 2009 provide:
>
> > A lawyer acting in the course of the lawyer's practice may enter a prison and visit a prisoner between 8.30 a.m. and 3.30 p.m.
>
> The *Corrections Act* and the *Regulations* are the law which must be applied in this prison. The law does not say, and you and your staff cannot read it to say:
>
> > A lawyer acting in the course of the lawyer's practice may enter a prison and visit a prisoner between 8.30 a.m. and 3.30 p.m. **[unless it is inconvenient because the prison is having a busy visit day].**
>
> I have attached to this letter copies of the relevant law and I have highlighted the parts that need your attention.
>
> I ask that you give this matter your urgent attention and advise me that you and all of your staff will comply with the law in relation to the right of lawyers to visit this prison, and that they not be turned way for unlawful and arbitrary reasons.

I received a response to this letter advising me that prison staff had been reminded of the law in this area and that the prisoner had been spoken to and told it was an honest mistake.

It may be hard to believe, but ***coincidentally*** the prisoner involved in both of the examples used above in relation to Issue Six, from 2008 and 2018, is the same man.

7. **Issue Seven:** The role of registered and unregistered Human Source Agents of Victoria Police who are also s 12-15 *Corrections Act* Officers, those Officers being:

   (a) a Governor of a Prison; or

   (b) a prison officer; or

   (c) a volunteer (s 13); or

   (d) working in a prison or with prisoners and who is:

      (i) an employee in the public service; or

      (ii) an employee in the teaching service; or

      (iii) a member of staff of a TAFE institute within the meaning of the *Education and Training Reform Act* 2006; or

      (iv) a member of staff of a dual sector university within the meaning of the *Education and Training Reform Act* 2006; or

   (f) a member of a prescribed class of persons who works in a prison as a psychiatrist, registered medical practitioner, dentist, nurse, midwife or health worker.

8. **Issue Eight:** There is a widespread belief among prisoners that many areas of the prison are subject to covert audio and video surveillance (without a warrant) by the PIU. These areas include, but are not limited to:

   (a) prison cells;

   (b) common areas; and

   (c) all visiting spaces including legal visits, consulting rooms for

> medical care and programs rooms and spaces where registered psychologists employed under the *Public Administration Act* 2004 interact with prisoners.

9. With the exception of: Psychiatrists, registered medical practitioners, dentists, nurses, midwives or health workers,[1] all of the Officers particularised above under the heading of **Issue Seven** have a duty under law pursuant to the *Corrections Act* for the 'welfare' of prisoners.

10. The welfare of prisoners is one of the primary purposes of the *Corrections Act*.[2] This duty under law for the welfare of prisoners would also enliven the operation of, and proper consideration of, any relevant human rights from the *Charter*.

11. The word welfare means **1.** The health, happiness, and fortunes of a person or group. **2.** An action or procedure designed to promote the basic physical and material well-being of people in need.

12. The duty under law in the *Corrections Act* for the security and management of prisons does not subordinate the statutory requirement for prisoner welfare, or the otherwise normative operation of the rule of law as provided by s 47(2) of the *Corrections Act*. Corrections Victoria should manage prisons with a balancing between security, control, and justice/welfare. In the prison context:

> ''Security' refers to the obligation of the Prison Service to prevent escaping. 'Control' deals with the obligation of the Prison Service to prevent prisoners being disruptive. 'Justice' refers to the obligation of the Prison Service to treat prisoners with humanity **[respect for their welfare and rights at law]**

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1 S 20(6) provides: In relation to officers within the meaning of paragraph (f) of the definition of "officer" in section 14 — (a) subsection (2) applies as if it did not include a reference to welfare.

2 The 'welfare' of prisoners forms an integral part of the enactment and it establishes a framework of rationality through which the whole of the *Corrections Act* and the *Regulations* must be interpreted, see: s.1(a); 7(1); 8A(2)(a)(3); 8E(1)(c); 8F(1)(b); 9A(b)(ii); **20(2)**(5A); **21(1)**; **22(1)**; 23(1); 29(4); 30A(3); 30D(2)(a)(ii); 47C; 47I(2)(b); 55C(1)(b); 55F(2)(a); 56AC(2)(a); 56B(4)(c)(ii)(iii); 56D(1)(b); 56E(b); 57D(1)(a); 109; & 112(1)(a); and regs.1(b); 24(1)(d)(e)(g); 26(c)(l); 31(3)(a); 43(4); 48(b); & 67(4).

> and fairness and to prepare them for their return to the community in a way which makes it less likely that they will re-offend.'[3]

13. If prisoners are not treated with humanity and with respect for their welfare and their rights at law to fair criminal justice processes, then they will (and do) leave the prison system feeling embittered and they present a heightened risk to society. The matters of concern particularised above, and the unchecked activities of Corrections Victoria, the MOU, the PIU and Victoria Police in manipulating and exploiting prisoners, Corrections Victoria staff and Coercions Act Officers [redacted], creates a bitter sense of injustice among prisoners.

14. If the political, executive and judicial branches of Government are allowed to "do whatever it takes" to obtain convictions, then people will feel that they should resist by "doing whatever it takes" to avoid conviction. A zero-sum war-like game is being created by the politics of policing. This is not a superficial issue from the perspective of prisoners, but a deeply felt one.

15. It needs to be noted that there are registered psychologists who provide services to the Department of Justice by facilitating Cognitive Behavioural Therapy programs for prisoners to address their offending behaviour (as there should be), and those psychologists are employed as s 12 *Corrections Act* Officers. The potential for these Officers to provide Human Source intelligence to the PIU, who could then pass that information to Victoria Police and other law enforcement agencies, have implications for the operation of the *Health Professions Registration Act* 2005 and the professional and ethical obligations of those registered psychologists. And there is the issue of "justice" as referenced from *The Woolf Report* cited above.

16. Section 4(1)(a)(2)(a)(b)(d) of the *Charter* provides that ss 12-15 Officers are public officials and a public authority for the purposes of the *Charter*. An Example at s 4(2)(b) of the *Charter* provides that the management of prisons under the *Corrections Act* and the *Corrections Regulations* is a function generally identified as being a function of government.

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3 Lord Justice Woolf, *Prison Disturbances*, April 1990, (Woolf Report), HMSO London, 1990, para 9:20.

17. It is my understanding that Officers of the PIU at each prison location are the contact point and conduit for Victoria Police and other law enforcement agencies and the prison. The PIU Officers **collect, record, collate, store and disseminate to the police:**

    (a) all Human Source intelligence from ss 12-15 *Corrections Act* Officers (be they registered or unregistered by the police);

    (b) all information received from prisoners and their visitors;

    (c) all telephone calls made from the Prisoner Telephone Control System, including confidential calls to lawyers that are supposedly "exempt" from recording;

    (d) all telephone calls otherwise made and received in the prison between prisoners and lawyers;

    (e) all conversations between prisoners and lawyers in person;

    (f) some confidential communication in letters (including facsimiles) which are "accidentally" opened or "mislaid" or "delayed";

    (g) video and audio surveillance from almost every prisoner area within the prison, including spaces where privileged legal and medical communication should be possible; and

    (h) information from legal documents held by prisoners.

18. The ss 12-15 *Corrections Act* Officers may not be aware that their 'reports' and 'duties' as required by the *Corrections Act*, have the effect of co-opting them as unregistered Human Source Agents of Victoria Police, but I believe that is the practical reality.

19. I believe that Victoria Police (the Prison Squad & other specialist Operations) have direct and unfettered online access to much of the Human Source intelligence that is collected, recorded, collated and stored by the Officers of the PIU at each prison location. These intelligence data bases are titled: PIMS, OASIS, CENTURION and no doubt other data systems of which I am not aware.

20. In *R (Daly) v Secretary of State for the Home Department* [2001] 2 AC 532, Lord Bingham of Cornhill, made it very clear what that law is in relation to the rights of people in prison when he said at page 537 that the 'free standing' rights of prisoners which must be protected by the Courts are:

> 'the right of access to a court; the right of access to legal advice; and the right to communicate confidentially with a legal adviser under the seal of legal professional privilege.'

21. Such rights were systematically violated by 3838, Victoria Police and the Officers and staff of Corrections Victoria who were all acting hand-in-glove with each other. I do not believe that the 3838 situation is an aberration; rather it is illustrative of a corrupt culture in the prison system which facilitates the police doing whatever it takes to bring pressure to bear on prisoners in order to force information out of them, be that information true or false.

22. Victoria Police and 3838 did not work in isolation. I believe that [redacted] the then Corrections Commissioner, gave [redacted] a green light to work hand-in-glove with Victoria Police and 3838 to do whatever the police wanted to be done. [redacted] (the MOU & PIU) then made it possible for [redacted] Units in [redacted] Prison to be riddled with illegal listening devices, including areas for confidential meetings with prisoners and their lawyers. [redacted] and the MOU then made it possible for the PIU at [redacted] Prison to work as full-time agents of Victoria Police, and to, among other things, record confidential and legal privileged telephone calls between prisoners and their lawyers and then forward those recordings to Victoria Police.

23. [redacted] and Corrections Victoria staff [redacted] in the MOU, housed all of the crown witnesses in the so called "gangland" matters in one small section of the [redacted] Unit, and then housed the accused persons in the [redacted] Unit. 3838 would visit and talk via the telephone with accused prisoners, supposedly under the seal of legal professional privilege about their matters before the Courts. Then 3838 would visit in person, and talk via the telephone, with the Crown witnesses in the [redacted] Unit and debrief those crown witnesses on how their evidence may be challenged. Crown witnesses in the [redacted] Unit also made phone calls to members of Victoria Police on the prisoner phone system to co-ordinate

the "workshopping" and "developing" of their evidence. These Crown witnesses may or may not have been [redacted]

24. I believe that some Prison Managers and other staff wondered out loud if these activities were lawful or ethical, but they were told that it had "come down from the top" and they were told to "look the other way."

25. Officers of the PIU are called "Secret Squirrels" by other prison staff, and in practice they are an "intelligence elite" who have a power and remit, official and unofficial, that results in their actions being unquestioned by other prison staff – and it seems, to be without accountability. In short, PIU Officers are freelance Human Source Agents of Victoria Police [redacted]

26. [redacted], may have given [redacted] and Corrections Victoria and its staff and Officers the green light to do whatever the police wanted, but as I have made the case in the pod-casts recently posted to my Twitter account, it was the Cabinet, the political branches of Government who put direct political pressure on the police who were told: ***"Don't worry about the law, the Parliament makes the law, we say what the law is, so you just do whatever it takes and we'll cover your arse."***

27. Corrections Victoria and its staff and its Officers actively choreographed the unlawful and unethical conduct of 3838 and the police in the prison system by abusing its powers, and by unlawfully limiting the operation of prisoners rights.

The modality of cover-ups in Victoria

28. Corruption and misconduct in Victoria Police and the prison system is usually deflected and covered-up by atomising systematic corruption through the use of discrete Inquiries, Reports and Reviews of limited scope which are aimed at a few malfeasant individuals, rather than tackling the underlying organizational and institutional culture that enlivens individual people to act corruptly.

29. Human Source 3838 and the police involved in handling and steering her activities, and the many other lawyers who knew or who turned a blind-eye or who actively kept the secret, behaved in the way they did because of the political and policing culture in Victoria.

30. It will be short sighted of the Commission to view the behaviour of individual people as an isolated aberration from the culture of the organizations and institutions that empower them.

31. The cultural problem is illustrated by the fact that Chief Commissioner Graham Ashton has publicly stated that he has been preparing the response of Victoria Police to a Royal Commission for nearly a decade. The Government has publicly stated that it has faith in Graham Ashton as the Chief Commissioner of Police. However, Graham Ashton knew of 3838's role as a Human Source against her clients from at least 2004 onwards. Graham Ashton gave evidence in matters before the Courts and took action when he was at the Office of Police Integrity, to conceal information sought by accused persons that may have identified 3838 as an informer against her clients. Graham Ashton has spent many millions of dollars of public funds on lawyers in various matters before the Courts to resist formal disclosure of facts that **he knew** would lead to a Royal Commission into corrupt and unlawful conduct by the police.

32. The cultural problem is also illustrated by the fact that [redacted], who were the leading handlers of 3838, have both been promoted to [redacted] worked intimately with 3838 from 2004 onwards.[4]

33. [redacted] was a senior investigator and laid charges against the clients of 3838, and he even played a small role on the *Underbelly* televison series. The cases being brought against accused persons in the so called "gangland" matters were effectively rehearsed in public by [redacted] and an officer named [redacted] (now also promoted) via their participation in the *Underbelly* televison series.

34. Today, preparing for the Royal Commission with Graham Ashton is [redacted]

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4 *AB & EF v CD* [2017] VSC 350 at [19] under the heading of 3838's letter titled 'Assistance to Victoria Police' at para.13 of the letter.

35. Graham Ashton and [redacted] and many others continue in their roles despite a judge in the Supreme Court of Victoria finding as a matter of fact and law, that:

> 'I do consider that the proposed disclosures [about 3838 and police conduct] would reveal 'reasonable grounds to believe' EF [3838] and members of Victoria Police are 'implicated in' a serious misdeed of public importance.'[5]

36. Graham Ashton and [redacted] continue in their roles despite the High Court of Australia making findings of fact and law that:

> 'Victoria Police were guilty of reprehensible conduct in knowingly encouraging [3838] to do as she did and were involved in sanctioning atrocious breaches of the sworn duty of every police officer to discharge all duties imposed on them faithfully and according to law without favour or affection, malice or ill-will.'[6]

37. Chief Commissioner Ashton publicly rejects the findings of fact and law by the Supreme Court of Victoria and by the High Court of Australia, and has argued in his public comments that he and his officers all acted in good faith. And the Government states it has faith in Graham Ashton. Most of the offending police officers from the 3838 scandals remain in place to help Victoria Police prepare and respond to a Royal Commission about their conduct. It is fair to say that the rule of law is no more than a platitude in Victoria if Chief Commissioner Ashton is allowed to continue thumbing his nose at the findings of fact and law by the Supreme Court and the High Court.

38. If one takes a bite from a partially rotten apple, it would be spat out as unpalatable. However, if sliced into thin enough pieces, that which is rotten

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5 *EF v CD* [2017] VSC 351 at [32] with n.22 relying on A *v Hayden* (1984) 156 CLR 532, 547 (Gibbs CJ). See also *EF v CD* [2017] VSC 351 at [28] & [30]. And for 'serious misdeeds of public importance' see *AB & EF v CD* [2017] VSC 350 at [123] with n.92 & 93 relying on *Corrs Pavey Whiting & Byrne v Collector of Customs (Vic)* (1987) 14 FCR 434, 456 (Gummow J).

6 *AB v CD & EF v CD* [2018] HCA 58 at [10] with n.2 relying on the *Victoria Police Act* 2013 (Vic), Sch 2, and formerly *Police Regulation Act* 1958 (Vic), Second Schedule.

can in some cases be made palatable as a little bit of rot can be overlooked. Dealing with matters individually and in a separate and distinct way is like slicing the rotten apple to make it palatable.

39. Because no-one joins the dots, the systematic corruption continues in Victoria and leads to something like the 3838 scandals. It works like this: Over a period of many years, a critical mass of complaints about criminal and corrupt activity is reached. Let's say, as an example, the Drug Squad led by [redacted] and the members of that Squad are disbanded and some:

    (a) leave the Police Force of their own accord;

    (b) are sacked;

    (c) are moved to suburban or rural police stations;

    (d) are moved to non-operational areas and into roles in the Police Association and the Media Liaison Unit; and

    (e) some very few are prosecuted and imprisoned.

40. Then the disbanded Drug Squad has a name change, and there is police command rhetoric about there being a few malfeasant individuals, and that the police can police themselves, and with that the Major Drug Investigation Unit is established. This unit does not start from scratch, but some of the corrupt officers who have not yet been identified as corrupt help to start the newly named squad; people like Wayne Strawhorn take a leading role, as he was [redacted]. And then some of the original Officers from the disbanded Drug Squad start to make their way back from their postings in suburban and rural police stations once it is thought they have paid their penance. The officers who go to the Police Association and the Media Liaison Unit never make it back into an operation role as those non-operational postings are a very small step before prosecution and imprisonment.

41. Then, of course it all starts again, and the Major Drug Investigation Unit is disbanded and [redacted] and others go to prison, and there is rhetoric about there being a just few malfeasant individuals, and that the police can police themselves, and with that, abracadabra, the Drug Task Force established and all is well and there is nothing to see here, *move along*. And

of course the news media who rely on the Police Association and the Media Liaison Unit for their news product, so the media goes along for the ride.

42. The Drug Squad — the Major Drug Investigation Unit — the Drug Task Force incantations, is not an isolated example; it is the normal course of events which allows a corrupt policing culture to be passed down from one generation of police to another.

43. When the Armed Robbery Squad was disbanded because of allegations of murder, brutality and criminal activity, a notable incident accrued when one officer, who was given penance in a suburban police station, [redacted] came undone when he presented an armed robbery kit of overalls, masks and guns to some young uniformed officers with the plan of an armed robbery on a drug dealer, and those officers went to their superiors rather than doing the robbery.

44. The Armed Robbery Squad was disbanded, but it was reformed as the Major Crime Squad, and when that Squad was disbanded and it was reformed as Armed Offenders Squad. The Ombudsman, investigating allegations of brutality and criminal conduct in the Armed Offenders Squad, had an interview room bugged and a young police officer was recorded bashing a suspect in the face with a phone while he was screaming: *"Show us some fucking respect, we are the Armed Robbery fucking Squad!"* No, the Armed Robbery Squad was disbanded over criminal activity some 12 years before this incident. The young police officer claiming Armed Robbery Squad status was, what, 12-13 years old at the time that Squad was disbanded? What this demonstrates is that there is a core culture of criminal activity which is transferred from the old squad to the new one, and so on. This atomising strategy in Victoria of dealing with matters individually and in a separate and distinct way, is a very large part of the problem. In fact the atomising strategy is a form of corruption in and of itself. **NB:**— The IBAC should be taking the "broad" approach, but that body is stuck in the atomising strategy; I understand that the IBAC did not speak with 3838 as part of its investigation into her role with police as a Human Source Agent against her own clients. The thin slicing of the rotten apple is an institutionalised practice in Victoria, even at the IBAC.

45. More can be learned about the real situation in Victoria if someone joined all the dots and looked at the pattern, from Drug Squad incarnations, the Armed Robbery Squads' incarnations, and the so called "window shutter

conspiracy", to the many sexual assaults and rapes of women by police stationed in rural areas (often those doing penance from Melbourne) to the outright corruption, brutality and criminality of the major squads in Melbourne. It is this wider cultural issue that made the 3838 scandals possible.

The challenge for the McMurdo Royal Commission

46. A Royal Commission must "join-the-dots" and not conduct another individual, separate and distinct inquiry. A holistic approach must be taken, and not a thin slicing of the apple because there is a problem here which is more than the mere sum of the discrete parts. There is a more fundamental and real phenomena that needs to be grasped.

47. The starting point for the McMurdo Royal Commission should be to collate and combine all the sources of information that are already available, and which have been keep secret so far, into a homogeneous narrative, and then inquire from that base to join the dots. We do not need another discrete inquiry, another thin slice of the rotten apple that is the politics of policing in Victoria.

48. Please see:

    (a) The 2005 Tony Fitzgerald Report for the Office of Police integrity;

    (b) The report and decision making that resulted in the 2009 deactivating of 3838;

    (c) The OPP database review by Mr J Champion SC, the Director of Public Prosecutions;

    (d) The 2012 Ombudsman's *Report into the death of Mr Carl Williams*;

    (e) The 2010–2012 other discrete and secret inquires, reports and reviews into the wider circumstances associated with the death of Mr Carl Williams and the management of the prison system and Human Source Agents of Victoria Police;

(f) The 2012 Comrie Review;

(g) The 2013 Operation Loricaed;

(h) The 2013 book by Paul Dale: *Disgraced? The cop and the centre of Melbourne's gangland wars*, Five Mile Press, Scoresby Victoria;

(i) The 2014 Operation Bendigo;

(j) The 2015 Kelam IBAC Report;

(k) Various Australian Crime Commission injuries from 2002-2010;

(l) *AB & EF v CD* [2017] VSC 350;

(m) *EF v CD* [2017] VSC 351; and

(n) *AB v CD & EF; EF v CD; CD v AB* [2017] VSCA.

49. I am sure there are many more Inquires, Reports & Reviews which Victoria Police have used to cover-up and delay the disclosure of their unlawful conduct.

50. That the 3838 scandals have dragged on for as long as it has, is because of the piecemeal approach in Victoria of dealing with matters individually and in a separate and distinct way, and because each separate Inquiry, Report and Review is kept secret, no-one can join-the-dots.

51. It is, in my view, the role of the Royal Commission to join the dots and not perpetuate the discrete slicing of the rotten apple that is the politics of policing in Victoria.

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Craig Minogue PhD - 19 January 2019

Appendix "A" attached.

From: Dr Craig Minogue PhD

To: The McMurdo Royal Commission into the Management of Human Source Agents

Re: **Appendix "A"**

Date: 19 January 2019

My everyday experience of the prison system in Victoria of the past 33 years has been characterised by my critically analysing it and it's practices, and my responses to it. I have never gone home for the weekend or had annual leave. My experience has been 24 hours a day, every day of the year. My experience as a prisoner, my academic achievements and my expertise in the workings of the prison system are unparalleled in the history of Victoria.

I honestly believe that my experience and specialised knowledge which is based on my training, study and experience as an academic, qualifies me to provide opinion evidence as an expert witness in respect of the prison system in Victoria.

I have been in custody in Victoria since 30 May 1986. I have tried to make the most of my imprisonment and I have adopted a philosophy of becoming a lifelong learner as part of my personal rehabilitative project. As part of my rehabilitative project I have become internationally recognised as an expert on matters concerning imprisonment and related subjects.

I have reinvented myself from a criminal outsider to an academic. I have 3 academic degrees from Universities in Victoria. My BA was awarded with 3 major sequences of interdisciplinary and comparative studies which brought an analytical, comparative and historical approach to combine and cut across all of the disciplines of the humanities to examine certain themes and processes that are central to all cultures in the modern world, such as philosophy, the history of ideas, religion and science, and the exploration of subjects like: the nature of human existence; value; belief and purpose; ethics and morality; knowledge and belief, and how we represent these things in the production and reception of texts, images, art, technology and everyday practices as they are in turn examined through the disciplines of anthropology, philosophy, psychology, history and linguistics.

My Honours degree was awarded as an H1, First Class Degree in *Philosophical Studies* which delved into: French analytical philosophy as that relates to an analysis of the history of Western philosophy and conceptions of the Self as a subject of: society, technology and culture; while also examining the influence on Western philosophy and psychological traditions of Buddhist ideas and practices; and a cross-cultural investigation of conceptions of Self and non-self in ancient Eastern and modern Western philosophy. My Honours thesis commenced with Aristotle's idea that there is an ethical limit to wealth, then applied Peter Singer's consequentialist utilitarianism while exploring the question: 'What contribution is being made by *The Simpsons* to our understanding of morality and ethics, the acquisition and accumulation of wealth, and what is it to live a good life?'

My research-based PhD in applied ethics, human and social sciences was awarded in 2012. My research thesis investigated what I argued was an immoral ontology of good Self and bad Other which emerges out of the public and private discourse about crime and punishment as seen through Michel Foucault's conception of disciplinary power. My PhD research and its findings were discussed with approval at pp.89-90 & 95-97 in David Brown 2016 'Penal Violence' in *Australian Violence: Crime, Criminal Justice and Beyond*, edited by Julie Stubbs & Stephen Tomsen, Federation Press, Annandale NSW.

When I first appeared before a Court on 30 May 1986, I was addressed as Mr Minogue. Since then I have purposefully sought to transform my life through education and learning. For me, my Doctorate is emblematic of a process of personal change and positive achievement; it is the fulcrum of my transformative process.

I have 47 publications and more than 20% of my PhD research was published before the degree was awarded. I have completed the Certificate IV in Training & Assessment and the updated qualification of the Cert.,IV in Training & Education which are considered in the Vocational and Educational Training sector, to be teaching qualifications.

I do not claim any qualifications in the area of the law, but I do accept the title of a "jailhouse lawyer" in a positive sense not in the pejorative.[1] My intellectual and academic activity, and my work as a jailhouse lawyer can be described as an ethical hermeneutic analysis of the unaccountable deployment of power against the vulnerable Other.[2]

My work on matters associated with imprisonment has been presented by other academics at academic conferences in: Adelaide; Hobart; Ottawa; Kings College London; and Padua, Italy. As an example, my published academic work on matters associated with imprisonment appears in:

(a) *Alternative Law Journal*;
(b) *Foucault Studies;*
(c) *Review of Education, Pedagogy & Cultural Studies;*
(d) *Journal of Prisoners on Prisons;*
(e) *Punishment and Society;*
(f) *The Human Rights Defender;*
(g) *Social Justice: A Journal of Crime, Conflict & World Order;*
(h) *Eureka Street: A magazine of theology, the arts and public affairs;* and
(i) *The Green Left Weekly.*

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1 See Minogue 2008(a); 2008(d); 2008(f); 2009(c); 2008-2009; & 2012 in the bibliography below.

2 For the unaccountable deployment of power see Minogue 2015(b) in the bibliography below.

A recent peer reviewed publication is with Professor Piché of the University of Ottawa and Professor Walby of the University of Winnipeg. Our chapter in *Engaging with Ethics in International Criminological Research*, Michael Adorjan & Rosemary Ricciardelli (editors) Routledge London & New York, is entitled: 'Carceral Tours and Missed Opportunities: Revisiting Conceptual, Ethical and Pedagogical Dilemmas'. The editors of this work introduce the book as 'drawing upon the experiences of international experts, this book aims to provoke further refection on and discussion of ethics in practice.' Because of the contemporaneousness of the ethical and pedagogical issues that we raise, our chapter is located in 'Part IV - Emerging areas.'

My occupation is that of an academic. An 'occupation' is not only a 'job or profession' or what a person is paid to do, it is also 'the action being occupied in something purposeful' and 'a way of spending time.' And if an activity is 'academic', then it is associated with:

(a) Education and scholarship;
(b) The activities of advanced institutions of learning and those who work in them;
(c) Higher education; and
(d) The refinement of the mind rather than the learning of skills.

If activity is related to 'scholarship', then it is about 'learning and knowledge acquired by study', and 'scholarship' relates to the academic accomplishments of a scholar like their qualifications, academic publishing and teaching activities.

My work as an educator has been published by a Monash University student association and by a Community Legal Centre for use in their community education projects. The training program I designed and the training manual I authored for peer educators in the area of Hepatis C and other blood born viruses was published by the peak public health body addressing viral hepatitis in Victoria and funded by the Victorian Department of Health. My work has been included in materials provided in law, criminology and sociology coursers at Monash University.

Craig Minogue PhD - 19 January 2019

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This bibliography lists all of my publications in books, journals, broadcast papers, peer presented conference papers, general articles, boutique publications and reported judgements in human rights test cases.

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