

From the Office of the Commissioner

Our ref: CD/20/60044

27 October 2020

The Honourable Margaret McMurdo
Commissioner
Royal Commission into the Management of Police Informants
PO Box 10828
MELBOURNE VIC 3001

Dear Commissioner

IBAC submissions in response to Mr Douglas Drummond QC

I refer to the public submission of The Honourable Douglas Drummond QC published by the Royal Commission into the Management of Police Informants (RCMPI) on 20 October 2020 - Submission 156.

Mr Drummond's submission suggests that the outcome of the 2015 Kellam Inquiry means that IBAC has 'already decided that police did not engage in any criminal conduct'. This is not the case.

As outlined in [IBAC's responsive submission to the Royal Commission](#) of 15 September 2020, the Honourable Murray Kellam AO QC was engaged by IBAC to examine the conduct of Victoria Police officers in their use of Ms Gobbo as a human source, and the application and adequacy of its policies, control measures and management practices. The Kellam Inquiry found 'negligence of a high order', concluding that Victoria Police had failed to act in accordance with appropriate policies and procedures.

The findings of the Kellam Inquiry must be considered in light of the scope of this inquiry and the information and resources IBAC had access to at the time. The Kellam Inquiry identified potential cases where the convictions of individuals could have been undermined due to Victoria Police's use of Ms Gobbo as a human source. However, how the information obtained by Victoria Police was used in particular prosecutions and the understanding and intention of relevant Victoria Police officers on its use were not subjects which were within the scope of the Kellam Inquiry.

Given the scope of the Kellam Inquiry, Justice Kellam determined that he could not, on the limited evidence before him, conclude that some Victoria Police members had the requisite intent to pervert the course of justice. However, the Kellam Inquiry ultimately recommended that the Director of Public Prosecutions (DPP) should examine whether any prosecutions based on evidence involving confidential or privileged information obtained by Victoria Police from Ms Gobbo had resulted in miscarriages of justice.


Indeed, it was this recommendation by Mr Kellam and IBAC which ultimately led to the public exposure of Victoria Police's use of Ms Gobbo as a human source, via legal proceedings in the High Court, and the subsequent establishment of the Royal Commission.

The primary task of any further investigation of potential criminality associated with Victoria Police's registration and use of Nicola Gobbo as a human source will be to evaluate the extensive body of documentary and other evidence which has now been gathered by the Royal Commission and to determine whether that evidence, if it supports a criminal offence, can be converted into admissible evidence for consideration by the DPP.

The prior findings of the Kellam Inquiry would not impede upon IBAC's ability to independently conduct an investigation of this nature, if it was deemed to be warranted and in the public interest. Ultimately the Royal Commission's final report and recommendations, and the response by Government, will determine the necessary scope and resourcing of any further criminal investigations, irrespective of who conducts such investigations.

Finally, by way of completeness I note that there appears to be an error in Mr Drummond's submission, where he quotes a Herald Sun article from 22 July 2019 attributing comments to 'the then IBAC Director John Champion'. The Honourable John Champion QC was, at the time, the Director of Public Prosecutions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Redlich', written in a cursive style.

The Honourable Robert Redlich AM, QC
Commissioner