

VICTORIAN **ombudsman**

**Investigation into an alleged
corrupt association**

October 2012

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Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report of an investigation into an alleged corrupt association.



G E Brouwer

OMBUDSMAN

8 October 2012

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Background

1. In April 2012, I tabled my report in Parliament titled, *The death of Mr Carl Williams at HM Barwon Prison – Investigation into Corrections Victoria*. During that investigation, I identified an email dated 23 April 2010, which had been sent by the then head of an interstate integrity body to the then Chief Commissioner of Victoria Police, Mr Simon Overland.
2. The email, sent four days after the death of Mr Williams, set out information that had been received by an interstate integrity body pertaining to Mr Williams. It referred to an alleged corrupt association between unidentified officers of a Victorian public sector agency and a Victorian criminal identity and suggested that this association may in some way be related to Mr Williams' death. The email also canvassed information about another individual – a person of interest to Victoria Police.
3. The email stated that the source of the information had proved 'to be reliable in other matters'.
4. This email was preceded by an email from Mr Overland's executive assistant on 23 April 2010 titled 'Urgent', advising Mr Overland to telephone the head of the interstate integrity body about Mr Williams.
5. On 29 April 2010, the head of the interstate integrity body sent a further email to Mr Overland advising him that there was an opportunity for Victoria Police to obtain further information in relation to the person of interest mentioned in the email dated 23 April 2010.
6. Mr Overland responded by email on 30 April 2010 advising that 'any additional information would be appreciated' by Victoria Police.
7. A review of Mr Overland's emails by my office showed that the email trail ceased after Mr Overland's response of 30 April 2010. Given the nature of the information, I expected to have found evidence showing that an investigation had been conducted by Victoria Police.

The investigation

8. Because of the serious nature of the information, I decided to conduct an own motion investigation into the administrative actions of officers of the Victorian public sector agency. On 13 March 2012, I wrote to the head of the Victorian public sector agency and the relevant Minister informing them of my investigation.

The Victorian public sector agency

9. Confidential enquiries were made with the head of the Victorian public sector agency. At my request, the head of the agency arranged for a search of the agency's records to be undertaken in relation to its officers and the criminal identity.
10. The search was unable to identify any information to assist my investigation. The head of the agency had no previous knowledge of the allegations and was unable to find any evidence to suggest that the information was known to the agency.
11. As the officers referred to in the email exchange were not named, I have been unable to find any further information to establish their identity. It is not known whether they are still in the service.
12. I have therefore chosen not to name the Victorian public sector agency in question. To do otherwise, would unfairly tarnish the reputation of that agency and its staff.

What did Victoria Police do with the information it received?

13. In April this year, my investigators made enquiries with Victoria Police in an effort to determine what action was taken by Victoria Police in response to the then Chief Commissioner's receiving the emails from the interstate integrity body.
14. Victoria Police has conducted a comprehensive search of its investigation case management and intelligence management system (Interpose) where intelligence information received by Victoria Police is recorded as an information report or case note entry.
15. On 4 May 2012, a senior officer of Victoria Police advised my investigators that a search of the Interpose system did not identify any information report or case note entry in relation to the emails.
16. Victoria Police had no record in the Interpose system of:
 - the emails;
 - the information contained in the emails; or
 - any action taken in response to the emails.
17. In light of this, I decided to write to Mr Overland and seek his assistance in explaining what action he took in response to receiving the emails.

18. In my letter to Mr Overland dated 2 August 2012, I enclosed copies of the emails and invited Mr Overland to respond to the following questions:

1. What action did you take on receiving ... [the then head of the integrity body's] emails dated 23 and 29 April 2010?
2. Were any investigations undertaken by Victoria Police in response to the information received from ... [the then head of the integrity body]?
3. If so, who within Victoria Police was responsible for investigating those matters?
4. Were any conclusions reached in relation to the allegations?

19. In his letter dated 20 August 2012, Mr Overland provided the following answers to my questions:

Question 1: To the best of my recollection I passed this information onto Ken Jones, who at that time was Deputy Commissioner with responsibility for over sighting all matters relevant to the investigations into Carl Williams' murder.

Question 2: I don't know.

Question 3: I don't know.

Question 4: I don't know.

20. In his letter, Mr Overland also stated:

This email correspondence is dated well over two years ago. I don't have a strong recollection about the subject matter of these emails (or these emails themselves) for the following reasons.

In my long involvement with serious criminal investigations and in particular in my time with Victoria Police it was not unusual to receive information like that passed in this instance alleging corruption against various unidentified officials. While such information needed to be assessed, it was relatively routine and not especially remarkable because during serious criminal investigations very general allegations of this kind – lacking in precision and detail – were often made. By lacking in precision and detail I mean there is nothing about time, place, descriptions or identifying features of the ... officers, context etc. As was the case with these emails, around this time allegations often concerned ... [the criminal identity], someone who in my experience was frequently mentioned in the context of alleged corruption.

This is the best explanation I can offer as to why I do not have a particularly strong memory of receiving or dealing with this information. However, it may also simply be the passage of time and the amount of issues I have dealt with before, during and since these emails were sent, the pressures that dealing with those issues have imposed on me, and my lack of personal involvement in this matter after passing the information to [then Deputy Commissioner] Ken Jones.

After passing such information to Jones, I would not have expected to be briefed further on the handling of the information, unless it turned into something significant. By that I mean it may have related to or been supported by other information that raised its significance. Had that been the case then I expect it would have been reported back to me. However, if it turned out to be nothing or did not lead to anything

then I would not expect to be briefed properly about it. To the best of my recollection I was not briefed further in relation to this information. In fact, I would have been surprised had this information lead [sic] to anything as in my experience information of this type very rarely did.

21. My investigators asked Mr Jones about whether the emails, or the information contained in them, had been referred to him by Mr Overland. Mr Jones said that he had 'never heard of the matter' and that he did not receive this information from Mr Overland nor had he seen the emails.
22. Mr Jones said that this information should have been referred to the Victoria Police Driver Taskforce¹, which he was overseeing at the time the emails were exchanged. Mr Jones said that, given the serious concerns raised by the emails, if he had received this information he would have taken immediate action to investigate the corruption allegations and the possible links to the death of Mr Williams.
23. Mr Jones also said that it was possible that Mr Overland had given this information to someone else within Victoria Police to look into.
24. My investigators also questioned a senior officer from the Driver Taskforce about the emails and the information contained in them. The senior officer said that he had not previously seen the emails and was not aware of the corruption allegations, or the possible links to the death of Mr Williams. The senior officer said that the Driver Taskforce had not conducted any investigations into an alleged corrupt association involving officers from the Victorian public sector agency. He also said that this type of information should have been referred to the Driver Taskforce for investigation, as the taskforce had been operational for only a matter of days at the time the emails were received by Mr Overland, and the taskforce was seeking to explore all possible motives for the death of Mr Williams.
25. In response to a draft of my report, Mr Jones repeated that he had no knowledge of the matter. He also considered that Mr Overland's 'explanations were not plausible'. Mr Jones said:

... for him [Mr Overland] to suggest that he would not expect follow up briefings is absurd and he knows it. Any chief [Commissioner] would have wanted to be kept up to date on such a massive issue.

The interstate integrity body

26. My investigators also approached the interstate integrity body regarding this matter. On 2 May 2012, I wrote to the current head of the interstate integrity body requesting his assistance with my investigation. The current head agreed to assist with my investigation and arranged for a search of the organisation's information holdings to be undertaken in an effort to identify any further information which might shed some light on what action had been taken in response to the emails.

¹ The Driver Taskforce was responsible for investigating the murder of Mr Carl Williams and related issues.

27. In a letter dated 14 June 2012, I was advised the following:
- [the interstate integrity body] considers the intelligence it received is reliable ...
- ...
- Neither a review of the ... [interstate integrity body's] files on its dissemination of intelligence to other agencies, nor a review of 761 pages of email exchanges between ... [the interstate integrity body] and the Victoria Police in 2009 and 2010, has yielded anything useful.
- ...
- The opportunity mentioned on 29 April² did not fulfil the hopes.
28. The current head stated that he did not have any information regarding the identity of the officers from the Victorian public sector agency.
29. The current head also advised me that one of his investigation officers had recalled a meeting taking place with investigators from a Victoria Police Taskforce responsible for investigating gangland related crimes, where the substance of the intelligence information contained in the emails was conveyed to investigators from the Victoria Police taskforce. However, the interstate integrity body had no records of:
- the meeting;
 - the visit by investigators from the Victoria Police taskforce; or
 - the names of the investigators from the taskforce who allegedly received this information.
30. Another investigation officer from the interstate integrity body who was allegedly present at this meeting when information was exchanged with investigators from the Victoria Police taskforce, could not recall the meeting taking place nor the exchange of information.
31. At my investigator's request, Victoria Police conducted searches of its travel records in an effort to identify whether any members of the Victoria Police taskforce had visited the interstate integrity body following receipt of the emails. This search failed to identify any such visits by Victoria Police officers from the taskforce in question or any other area of Victoria Police.
32. I caused enquiries to be made with the sender of the emails to Mr Overland. He said that he only had a vague recollection of the matter and could not recall what action was taken by the interstate integrity body or Victoria Police in relation to the information contained in the emails. He also said that he had no recollection of investigators from a Victoria Police taskforce visiting the interstate integrity body regarding this matter, nor did he know the names of the alleged 'corrupt officers' from the Victorian public sector agency.

2 29 April 2010 email sent by the then head of the interstate integrity body to Mr Overland advising him that there was an opportunity for Victoria Police to obtain further information in relation to a person of interest mentioned in the email.

Conclusions

33. The general public should have confidence in the ability of our law enforcement agencies to ensure that all intelligence information received in relation to possible criminal activities or threats to life are thoroughly assessed to determine their authenticity, and acted upon where necessary.
34. My investigation identified that Victoria Police has no record of any action being taken in response to intelligence information which was rated as from a reliable source raising serious corruption allegations against officers of a Victorian public sector agency, purportedly linked to the death of Mr Williams.
35. It is concerning that Victoria Police is unable able to say what, if any action was taken in response to receiving this information.
36. Mr Overland's assessment that the information contained in the emails was relatively routine and unremarkable stands in contrast with the view of a number of senior Victoria Police officers. The senior Victoria Police officers my investigators spoke with who were shown the emails considered that, on the face of it, the information raised serious concerns which required further investigation.
37. It is also concerning that this intelligence information does not appear to have been provided to the Driver Taskforce. The timing of the information, coming four days after the death of Mr Williams, may have assisted the Driver Taskforce in identifying motives for the murder of Mr Williams.
38. The opportunity for Victoria Police to obtain further information about a person of interest mentioned in the emails dated 29 and 30 April 2010 also appears to have been missed.
39. I consider that Victoria Police should take immediate action to thoroughly investigate the corruption allegations and any possible links to the death of Mr Williams.
40. In response to my draft report, Mr Overland's legal counsel said:

Mr Overland does not agree with the characterisation in the draft report of his conduct, nor the conduct of Victoria Police.

...

Based on his previous experiences, where he has put forward cogent and reliable submissions and information in response to draft reports sent to him [by the Victorian Ombudsman] and it has made no difference to the content of the final report, he does not propose to expend similar resources and time on this occasion, when it appears to him that, as with previous reports, the outcome has been prejudged.
41. The current Chief Commissioner of Victoria Police, Mr Ken Lay, responded to my draft report as follows:

On receiving this draft report I have sought and received copies of the emails referred to in it. As your draft report correctly states, the first email was received from the ... [interstate integrity body] on 23 April 2010.

...

There was no record of any reply or forwarding of that message by Mr Overland. As per your report, I have found a second email from that same agency to Mr Overland on 29 April 2010 stating that 'they' can obtain further information from their source if required. Mr Overland responded to this email the following day stating that further information would be appreciated. This email, in turn, was apparently not actioned or responded to by the ... [interstate integrity body].

...

Based on your draft report and my subsequent enquiries, I have asked for these emails [between the head of the interstate integrity body and Mr Overland] to be converted into an intelligence report (IR) and properly assessed. Whilst Victoria Police sometimes receives intelligence, information or allegations via email from members of the public, I am concerned that information of this highly sensitive nature would be simply emailed by another ... agency to Victoria Police in the manner it has.

I am accordingly writing to the ... [interstate integrity body] to remind them that information of this type should be disseminated to other policing agencies through the official and agreed channels. That is, through the creation and classification of an information report, its inclusion on the ACID/ALIEN [Australian Criminal Intelligence Database/Australian Law Enforcement Intelligence Net] database and its on forwarding to the Victoria Police Intelligence and Covert Services Department, which then ensures that it is properly recorded on our [Victoria Police] intelligence system. Simply transmitting such information via regular email to police executives will always run the risk that information will not be followed up due to both the volume of emails received on a daily basis and the frequent scheduled unavailability of the Chief Commissioner to personally review every email sent to him.

Poor record keeping practices

42. Accountability requires that government agencies are able to demonstrate and justify their decision-making. In this regard, the failure of an agency to maintain adequate records compromises the agency's functions, undermines its credibility and impacts negatively on the public's perception of it.
43. My investigation identified major deficiencies in the record keeping practices of Victoria Police in relation to the management of this significant intelligence information.
44. I consider that the failure of Victoria Police to keep basic records about the actions taken in response to intelligence information received from the head of an interstate integrity body, detailing serious corruption allegations, is an indictment on its record keeping practices. There appears to be no audit trail within Victoria Police to explain who was responsible for assessing the information or what action was taken, if any. In this regard, there are important lessons to be learnt for all law enforcement and integrity agencies dealing with intelligence information to ensure best practice in record keeping, including taking appropriate action.

Recommendations

I recommend that Victoria Police:

Recommendation 1

Investigate the corruption allegations made against officers of the Victorian public sector agency and any possible links to the death of Mr Williams.

Recommendation 2

Review its record keeping practices in relation to the management of intelligence information.

Recommendation 3

Provide the Minister for Police and Emergency Services with its review of record keeping practices on completion.

Victoria Police's response

In respect of the recommendations contained in the report, I [Chief Commissioner Lay] can advise your office that I have taken them under notice.

...

Based on your draft report and my subsequent enquiries, I [Chief Commissioner Lay] have asked for these emails [between the head of the interstate integrity body and Mr Overland] to be converted into an intelligence report (IR) and properly assessed.

Ombudsman's Reports 2004-12

2012

Whistleblowers Protection Act 2001 Investigation into allegations of detrimental action involving Victoria Police
June 2012

Own motion investigation into Greyhound Racing Victoria
June 2012

The death of Mr Carl Williams at HM Barwon Prison - investigation into Corrections Victoria
April 2012

Whistleblowers Protection Act 2001 Conflict of interest, poor governance and bullying at the City of Glen Eira Council
March 2012

Investigation into the storage and management of ward records by the Department of Human Services
March 2012

2011

Investigation into the Foodbowl Modernisation Project and related matters
November 2011

Investigation into ICT-enabled projects
November 2011

Investigation into how universities deal with international students
October 2011

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October 2011

Investigation into the Office of Police Integrity's handling of a complaint
October 2011

SafeStreets Documents - Investigations into Victoria Police's Handling of Freedom of Information request
September 2011

Investigation into prisoner access to health care
August 2011

Investigation into an allegation about Victoria Police crime statistics
June 2011

Corrupt conduct by public officers in procurement
June 2011

Investigation into record keeping failures by WorkSafe agents
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Whistleblowers Protection Act 2001 Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee
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The Brotherhood - Risks associated with secretive organisations
March 2011

Ombudsman investigation into the probity of The Hotel Windsor redevelopment
February 2011

Whistleblowers Protection Act 2001 Investigation into the failure of agencies to manage registered sex offenders
February 2011

Whistleblowers Protection Act 2001 Investigation into allegations of improper conduct by a councillor at the Hume City Council
February 2011

2010

Investigation into the issuing of infringement notices to public transport users and related matters
December 2010

Ombudsman's recommendations second report on their implementation
October 2010

Whistleblowers Protection Act 2001 Investigation into conditions at the Melbourne Youth Justice Precinct
October 2010

Whistleblowers Protection Act 2001 Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace
July 2010

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June 2010

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May 2010

Report of an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat
April 2010

Whistleblowers Protection Act 2001 Investigation into the disclosure of information by a councillor of the City of Casey
March 2010

Ombudsman's recommendations - Report on their implementation
February 2010

2009

Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre
December 2009

Own motion investigation into the Department of Human Services - Child Protection Program
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Own motion investigation into the tendering and contracting of information and technology services within Victoria Police
November 2009

Brookland Greens Estate – Investigation into methane gas leaks

October 2009

A report of investigations into the City of Port Phillip

August 2009

An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing

July 2009

Whistleblowers Protection Act 2001 Conflict of interest and abuse of power by a building inspector at Brimbank City Council

June 2009

Whistleblowers Protection Act 2001 Investigation into the alleged improper conduct of councillors at Brimbank City Council

May 2009

Investigation into corporate governance at Moorabool Shire Council

April 2009

Crime statistics and police numbers

March 2009

2008

Whistleblowers Protection Act 2001 Report of an investigation into issues at Bayside Health

October 2008

Probity controls in public hospitals for the procurement of non-clinical goods and services

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Conflict of interest in local government

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Conflict of interest in the public sector

March 2008

2007

Investigation into VicRoads' driver licensing arrangements

December 2007

Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters

November 2007

Investigation into the use of excessive force at the Melbourne Custody Centre

November 2007

Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract – CNG 2007

October 2007

Investigation into a disclosure about WorkSafe's and Victoria Police's handling of a bullying and harassment complaint

April 2007

Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong

February 2007

2006

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Review of the *Freedom of Information Act 1982*

June 2006

Investigation into parking infringement notices issued by Melbourne City Council

April 2006

Improving responses to allegations involving sexual assault

March 2006

2005

Investigation into the handling, storage and transfer of prisoner property in Victorian prisons

December 2005

Whistleblowers Protection Act 2001 Ombudsman's guidelines

October 2005

Own motion investigation into VicRoads registration practices

June 2005

Complaint handling guide for the Victorian Public Sector 2005

May 2005

Review of the *Freedom of Information Act 1982*

Discussion paper

May 2005

Review of complaint handling in Victorian universities

May 2005

Investigation into the conduct of council officers in the administration of the Shire of Melton

March 2005

Discussion paper on improving responses to sexual abuse allegations

February 2005

2004

Essendon Rental Housing Co-operative (ERHC)

December 2004

Complaint about the Medical Practitioners Board of Victoria

December 2004

Ceja task force drug related corruption – second interim report of Ombudsman Victoria

June 2004

