

Victoria Police: recurring themes in the management of high profile investigations

Letter of transmittal

To

The Honourable the President of the Legislative Council (Vic)

And

The Honourable the Speaker of the Legislative Assembly (Vic)

This report is presented to Parliament in accordance with section 28(2) of the *Police Integrity Act 2008*.

It draws on the Office of Police Integrity's investigative experience since its inception in 2004 and explores a number of recurring themes that have emerged from our work.

A handwritten signature in dark ink, appearing to read "R. B. Bonighton".

Ron Bonighton AM

ACTING DIRECTOR, POLICE INTEGRITY

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Executive summary

This report sets out the findings of an Office of Police Integrity (OPI) review of Victoria Police's management of investigations, in particular, the management of 'high profile' cases – those cases which attract a high level of media attention. A recurring feature of many Victoria Police investigations is the unauthorised release of confidential information or 'leaking'. Although leaks occur when confidential information about an investigation is released by someone involved in the investigation to someone external to Victoria Police, many 'leaks' originate from other police who acquire information about an investigation when they do not have a legitimate 'need to know' about it. They then wittingly, or unwittingly, pass the information on to a third party.

Any 'leak' risks compromising an investigation and diminishing public confidence in police. In some instances, 'leaked' information has found its way into the wrong hands and this has caused significant harm to individuals and jeopardised investigations and prosecutions. The publication of confidential investigative material is particularly damaging in the context of managing high profile cases.

On at least two occasions since 2004, key witnesses in prosecution cases against allegedly corrupt police were murdered shortly after press reports indicating their identities were published.

Other recurring themes from the Victoria Police investigations include significant shortcomings in terms of:

- managing the demand for information
- assessing the potential for a matter to attract public attention
- implementing effective investigation management models
- assigning investigative responsibility according to the requirements of the case
- dealing with conflict of interest
- managing media relationships

In 2006, Victoria Police introduced a Major Crime Management Model that has resulted in improvement in some of the systems and practices for allocating resources to an investigation. There has also been increased awareness of the particular risks associated with 'high profile' investigations, with ongoing policy development and training on information security and working with the media.

Despite this increased awareness, the heightened risks inherent in some investigations are not explicitly addressed as a matter of course. A risk assessment, an information security plan or a media strategy are not formally required for all investigation plans. This means consideration of these important factors is dependent on the knowledge, experience and inclination of the police involved in any given investigation.

Drawing on OPI's experience, this report makes recommendations intended to assist Victoria Police to handle investigations where there is a demand for information and a potential for information security breaches.

The recommendations support increased awareness and management of conflict of interest issues. They also support a more accountable, open and transparent relationship between police and mainstream media, with appropriate checks and balances.

As information technology continues to evolve and alternative news media emerge, anyone can be a journalist. Similarly, any police investigation can rapidly become a high profile matter. Police attitudes to information sharing must adapt to this changing environment. Adherence to information security principles must become second nature, declaring and managing conflicts of interest must become the norm and commitment to ensuring the integrity of investigations a shared goal.

Key recommendations

OPI recommends that:

- Victoria Police provides a clear framework to indicate when a high profile matter should be investigated by the Crime Department rather than a local Criminal Investigation Unit.¹
- Each investigation or police operation with the potential to attract media attention undergoes a risk assessment that includes an information security plan, media management plan and management strategies for any conflict of interest issues.
- Consideration be given to requiring police to document and report on their professional contact with members of the media and their social and familial associations with members of the media.

¹ In making this recommendation OPI is not suggesting that local Criminal Investigation Units should not investigate any high profile matter or that local Criminal Investigation Units do not have the capacity to investigate such matters. The recommendation is intended to ensure there is clarity in the Accountability and Resource Model about when a high profile matter should be considered for referral to the Crime Department. See pp22–23 and Appendix Four.

Background

Since OPI's inception in November 2004 a significant proportion of its work has involved an examination of the Victoria Police management of investigations, particularly those relating to 'high profile' police matters.

High profile means 'attracting much attention or publicity'.² In some situations, people, issues and events will have had significant public attention in the past and can therefore be expected to attract further attention if they become part of a police matter. Given the innate interest many people have in crime, particularly certain types of crime such as sex crimes, violent or gruesome crimes or crimes involving children or celebrities, it is not surprising a large number of police investigations have the potential to become high profile.

Recurring features of Victoria Police investigations examined by OPI relate to significant shortcomings in:

- managing the demand for information
- assessing the potential for a matter to attract public attention
- implementing effective investigation management models
- assigning investigative responsibility according to the requirements of the case
- dealing with conflict of interest
- managing media relationships

Given OPI will shortly cease to exist, it is timely to reflect on our experience and explore 'lessons learnt'. It is also timely to examine police-media relations given the interest in media matters in the United Kingdom (Leveson Inquiry) and Australia (Finkelstein).³

² Oxford Dictionary online, www.oxforddictionaries.com

³ R Finkelstein QC (2012) *Report of the independent inquiry into the media and media regulation*, Australian Government, Canberra

Methodology

In undertaking the review OPI:

- Examined a selection of OPI's investigation holdings.
- Undertook face-to-face discussions with a wide range of members of Victoria Police. Interviewees included representatives from:
 - Crime Department senior management and investigators
 - Regional crime managers
 - The Intelligence and Covert Support Department
 - Emergency Management
 - The Media Communications and Marketing Department
 - The Forensic Services Department
 - The Ethical Standards Department and the Legal Department.
- Analysed reports from other police and public sector oversight agencies, including Elizabeth Filkin's 2012 report for London's Metropolitan Police Service *The ethical issues arising from the relationship between police and the media*.

Relevant legislation and policy

- *Police Regulation Act 1958*
- *Information Privacy Act 2000*
- *Charter for Human Rights and Responsibilities Act 2006*
- *Judicial Proceedings Reports Act 1958*
- Standards for Victoria Police law enforcement data security
- Victoria Police Manual policy and guidelines
- Whole of Victorian Government information security management framework
- Australian Government protective security framework and information security manual
- Victoria Police Major Crime Management Model

Natural justice

In accordance with natural justice principles Chief Commissioner Ken Lay was provided with a draft of this report. His response is included in its entirety as Appendix Five.

Managing information

Victoria Police investigators must manage their investigations in accordance with the legal and policy framework for managing information acquired in the course of their duties.

Legal and policy framework

According to the section 127A of the *Police Regulation Act 1958*, it is a criminal offence to release police information if police have a duty *not to* release it.⁴ The Act does not specify what that duty might comprise, although courts have found the duty must stem from legislation, not policy.

According to the Commissioner for Law Enforcement Data Security standards and Victoria Police policy, law enforcement information may not be released to any other person unless there is authorisation or a police purpose to do so.

Victoria Police's policy framework comprises policy rules and policy guidelines. Victoria Police policy rules on access and use of information systems require among other things that authorised users:

- *must only use Victoria Police information systems to access or use law enforcement data or other official information which is directly related to the performance of their duties with, or on behalf of Victoria Police,*
- *must only permit Victoria Police information to be viewed by personnel who have been authorised to access that information.*⁵

The rules for release of information to the media authorise any employee of Victoria Police to speak to the media on operational matters directly under his or her control, subject to certain guidelines set out in the Victoria Police Manual⁶

The guidelines for information release to the media state that information should not be released if the information could risk public safety, the privacy of certain individuals, the reputation of Victoria Police, or the integrity of police operations, investigations and prosecutions. The guidelines recommend briefing the Victoria Police Media Unit for matters that could have organisation-wide impact.

⁴ See Appendix One

⁵ See Appendix Two

⁶ See Appendix Three: Victoria Police Manual – Procedures and Guidelines – Release of information to the media

Information security

Victoria Police holds significant information about individuals and organisations. For many, this information is a valuable asset. As noted by OPI in 2010:

One of the biggest risks faced by modern policing services is the risk that employees who have access to sensitive law enforcement data will engage in information trading or the unauthorised release of information.⁷

Justice Kellam of the Victorian Supreme Court of Appeal highlighted the public interest in police securing confidential information:

The accessing of confidential databases held by Victoria Police for the purposes of providing information to [an unauthorised person] must be regarded as most serious. The public is entitled to rely upon the integrity of police officers in investigating and prosecuting agencies. It is entitled to expect that police officers will not abuse intentionally the trust reposed in them in relation to confidential information.⁸

Failure to respect the trust we have that police will keep certain information confidential can have serious consequences, as described by the Commissioner for Law Enforcement Data Security:

The consequences for Victoria Police of information security and integrity failures can lead to catastrophic operational failures – complex investigations can be compromised, criminals can evade apprehension and conviction and the lives of law enforcement officers and others can be put at risk. Information security failures also lead to reputation damage. Other law enforcement agencies are less likely to share their sensitive information with an insecure and unreliable partner. Individuals and organisations are understandably reluctant to fully and frankly disclose information to a law enforcement agency that has a reputation for leaking.⁹

As identified in a previous OPI report, information security is about protecting the security properties of information:

Confidentiality requires that information should not be available to unauthorised parties

Integrity requires that information should only be modified by authorised means

Availability requires that information should be available to those who need it, when they need it

These properties are protected by security controls. Security controls generally fall into three categories people, processes and technology.¹⁰

7 Office of Police Integrity (2010) *Information Security and the Victoria Police State Surveillance Unit*, p8

8 Kellam J.A. in *R v Bunning* VSCA 205 (27 September 2005)

9 Commissioner for Law Enforcement Data Security (Victoria), Annual Report 2008–2009, Commissioner's Introduction, p7

10 Office of Police Integrity (2010) *Information Security and the Victoria Police State Surveillance Unit*, p14

The nature of a crime and the sensitivity of the information acquired during an investigation will inform the level of security controls.

*Sensitive information is an asset that differs from other assets. Once it is inappropriately released it is virtually impossible to retrieve, and it is not easy for those adversely affected to obtain restitution. Indeed, it can be difficult to rectify or recover from the damage caused.*¹¹

The more sensitive the information, the more stringent the controls for managing its security should be.

KPMG reported in 2009 that interviewees from Victoria Police:

*...cited poor understanding and use of information classification guidelines, as was lax application of principles of 'need to know' and 'right to ask'. Stakeholders felt the concept of only accessing information if it was operationally necessary needed to be better understood within Victoria Police. This principle needed to be supported by an obligation on Victoria Police personnel that, if they do not need to know information, they have a related duty not to ask about it.*¹²

Police and the problem of unauthorised disclosures

The 'leaking' or unauthorised release of law enforcement data by Victoria Police has been a recurring theme since OPI's inception. More than 31 investigations by OPI have involved allegations of information security breaches.

OPI's first public report related to a police information report, excerpts of which were published in the media and thought to have led to the murders of Terence and Christine Hodson.¹³

In September 2005, OPI tabled the report of an investigation into the publication of 'One down, one missing' a 'true crime' story written by a former member of Victoria Police. The publication revealed sensitive and confidential information which exposed the identities of a number of police informers, which the author had a duty not to disclose. In the report, OPI recommended Parliament increase the penalty provisions of Section 127A of the *Police Regulation Act 1958* (unauthorized release of information) because they were 'not sufficient to act as a deterrent to any member who decides ... to divert police information to his or her own ends'.¹⁴ Parliament amended the Act in early 2008 (see Appendix Four).

11 Queensland Crime and Misconduct Commission (2005) *Information Security; keeping sensitive information confidential*, p2

12 KPMG (2009) *Review of information governance with Victoria Police*, Melbourne

13 Office of Police Integrity (2005) *Report on the Leak of a Sensitive Victoria Police Information Report*

14 Office of Police Integrity (2005) *Investigation into the publication of One Down, One Missing*, Melbourne, p30

In OPI's 2006-2007 Annual Report, the then-Director, Police Integrity expressed concern about the associations of some police, exposed in investigations, that revealed:

*...the apparent naivety, or worse, of some police, who do not appear to appreciate the ease with which their roles as police officers can be compromised by their association with others. Police without strong ethical values are too vulnerable to manipulation by those who may want to use a relationship with them to obtain 'favours'. Of particular concern to me is what, amongst some police, appears to be a cavalier attitude to sharing confidential police information with others, including journalists.*¹⁵

In 2008, copies of documents from a Surveillance Target profile containing highly sensitive law enforcement data were found in the possession of a number of suspects in criminal investigations by Victoria Police and police from other jurisdictions.¹⁶

In 2009, the then-Media Director of Victoria Police resigned after admitting disclosing sensitive information in breach of policy and legislation.

In 2011, a Victoria Police Senior Constable was committed to stand trial for disclosing confidential information to a journalist.

On 15 May 2012 a former Inspector of Victoria Police from the Sexual Crimes Squad was fined \$5000 without conviction after pleading guilty to disclosing to journalists and another person details about high profile sexual assault allegations. In sentencing the Inspector, the Magistrate said the unauthorised release of the information was *serious offending by a senior police officer*. She indicated that in the absence of mitigating factors which included the facts that he had lost his job and been shamed and humiliated, it was conduct *that warranted a conviction*.

Some, but not all, of OPI's investigations of information security breaches have involved high profile cases and 'leaking' to a journalist. It is fair to say that such cases are most likely to involve the leaking by police of sensitive information.

As part of its oversight function, OPI is currently conducting an audit of cases relating to a range of matters that involve allegations of unauthorised access to and disclosure of information. The results of this audit will be published in the coming months.

¹⁵ Office of Police Integrity, *Annual Report 2006–2007*, p22

¹⁶ Office of Police Integrity (2010) *Information security and the Victoria Police State Surveillance Unit*

Why do police 'leak' confidential information?

In some respects it is speculative to try to understand why police 'leak' confidential information. Each case will be different and depend on the circumstances, including the psychological profile of the leaker. That said, there has been some research on this question which is explored in an OPI discussion paper.¹⁷

Most relevant of the research is a 2008 review by the Police Integrity Commission which examined 104 complaints regarding leaks of information by New South Wales Police received between 1 November 2006 and 30 June 2007.¹⁸ It found most substantiated complaints were accidental or due to non-malicious motivations such as curiosity or gossip.

In only 21 percent of alleged leaks was there an obvious benefit for the member of police. This was usually 'personal satisfaction'. Police who were interviewed most commonly denied leaking information (16 percent), or claimed it was a necessary exchange of information as part of their job (13 percent).

OPI's experience is consistent with the Police Integrity Commission's research. Although many of our investigations indicate a reckless disregard for the consequences of 'leaking', only a few indicate a deliberate self-interest or malicious motivation behind the leak.

A senior representative of Victoria Police recounted an incident when a member of police told his wife about a police operation he would take part in the following day. The wife told her friend who told her husband. The friend's husband happened to be a journalist who initiated media coverage of the police operation. This lost the element of surprise for police, potentially compromising their safety and the integrity of evidence they hoped to seize as a result of the operation.

In cases examined by OPI leaks have emanated from police across a range of ranks. OPI analysed data shared by Victoria Police on information-related complaints and incidents for the period 1 January 2004 to 1 January 2011 to identify the number of information security allegations and the rank of those involved.

There were 846 information-related allegations against police, not including allegations against non-sworn employees or allegations that did not specify a police rank. Although this data involved allegations rather than proven breaches OPI's analysis suggests no particular rank has shown a greater or lesser propensity to leak.

¹⁷ For further discussion see OPI's 2010 discussion paper *Sensitive and confidential information in a police environment*

¹⁸ New South Wales Police Integrity Commission (2008) *Unauthorised disclosure of confidential information by NSW police officers*

In court in May 2012, the rationale provided by the former Inspector from the Sexual Crimes Squad for his regular contact with the media was to educate the community, encourage the reporting of sexual offences and inspire community confidence in the investigation process of the Sexual Crimes Squad. Yet, in the particular instances to which he pleaded guilty, he knew it was improper and had the potential to lead to the identity of the alleged victims, thereby diminishing public confidence in the integrity of the Squad. Even witnesses called to give evidence as to his character agreed that the 'leaking' was irresponsible.

Some consequences

A person who discloses confidential police information to parties not authorised to have the information loses control over it. Irrespective of the motivation behind the 'leak' the recipient of the information can use it in whatever way he or she likes, with possibly unforeseen and unintended consequences.

In addition to compromising the privacy of individuals, the success of an operation or the integrity of an investigation or prosecution, other consequences of unauthorised disclosures may be even more serious. There are two high profile cases since 2004 where publication of leaked information immediately preceded the murder of key police witnesses in police corruption cases. There are other instances where leaked information has also:

- put at risk the safety of operational police
- created opportunities for suspects to collude, flee or destroy evidence
- compelled a premature response by police requiring a covert operation to become overt
- re-traumatised victims
- caused witnesses to withdraw cooperation.

A cultural problem

The prevalence of 'leaking' from within Victoria Police observed by OPI over the years indicates that Victoria Police has a cultural problem. Most of the cases OPI has investigated do not involve leaked documents – they relate to oral disclosures. Police have an oral culture – they share 'war stories'. Many police either do not recognise or do not accept that talking about an investigation to anyone not involved in the investigation risks compromising that investigation. Anyone can use snippets of information to join the dots. Police need to appreciate operational information is provided to them on a 'need to know' basis. It is a valuable asset that they must protect from inappropriate use.

Changing the police culture of 'leaking' has proven to be difficult, it requires a two pronged attack – an education program to drive home an understanding of the risks and consequences of an unauthorised disclosure of information, together with a highly visible sanctions program which will demonstrate that such disclosures will not be tolerated.

Until Victoria Police has managed to achieve cultural change in this area, investigators will have to pay particular attention to implementing a risk management approach to the issue. This means gaining a better understanding about 'leaking' and developing and implementing strategies to mitigate the risk.

Understanding and addressing risk of unauthorised disclosures

In addition to breaching the privacy of individuals, public airing of details from an investigation before it is finalised compromises the integrity of the investigation. When details of offences are publicly aired there is a real risk other evidence gathering processes will be tainted. For example, leaked details can trigger a witness to provide an account that is influenced by what he or she has read or heard in the media, rather than providing details from the person's own knowledge. Furthermore, if only one version of an incident under investigation is publicly aired, public opinion about the case can be determined without access to a full set of accurate data. This can give rise to public expectations that police will act in a particular way, for example charge a person. This places pressure on police to meet those expectations.

The Crime Department currently undertakes security risk assessments for some of its investigations. This practice should be extended to all investigation units including local Criminal Investigation Units when the investigation is dealing with sensitive or potentially high profile issues. The risk assessment should consider the likelihood and potential impact of unauthorised release of information and a plan should be developed and implemented with strategies to mitigate that risk.

The 2008 NSW Police Integrity Commission study found that a key risk mitigation strategy to prevent leaks is to ensure that police have an understanding of the impact of unauthorised disclosures.¹⁹

Victoria Police adopted this strategy successfully in an operation it conducted in late 2011.

¹⁹ New South Wales Police Integrity Commission (2008) *Unauthorised disclosure of confidential information by NSW police officers*

As part of their approach to public gatherings of a high profile protest group, senior police briefed those who were taking part in the police action on the evening before it was scheduled to take place. They emphasised the importance of maintaining information security to preserve operational integrity, explaining the potential consequences of early unauthorised release of the information. The police action proceeded without anyone releasing information about the details or timing of the police action. Senior police attribute the successful information security associated with the police action to everyone understanding what the consequences of a breach might be.

In addition to assessing the potential for information about a particular investigation to be leaked by other police, each investigation should be assessed regarding the potential for others involved in the investigation to leak.

Police in a regional town were very conscious of maintaining information security in relation to a major drug investigation that involved a well-known local identity. After search warrants were issued in the local court the investigating police were surprised to find media at the identity's residence at the time the warrant was executed. Police in charge of the investigation were confident that the media had been alerted once people outside of Victoria Police became aware of the investigation through external processes.

Consideration should also be given to other external sources including investigative journalists obtaining information about an investigation or operation that might interfere with an investigative process.

While investigators may not be able to prevent the media obtaining details of an investigation from non-police sources, having strategies to deal with media inquiries prevents investigators from inadvertently releasing sensitive information if they are caught unawares by a media inquiry.

Managing high profile cases

Context

By definition, high profile people attract significant media interest. Media interest can also be sparked by the circumstances of a crime or the nature of allegations. Many police investigations invoke curiosity not just from the public but also from other police.

A key to the management of high profile matters is an understanding that *public curiosity* is not necessarily *public interest*. While the public might be interested to know the details of certain police investigations, early publication of those details may not necessarily be in the public interest, that is, of benefit to the common good.

The media's role is to collect, receive and impart information. The community has a right to know about public safety issues that affect it and how police are exercising their powers and using their resources. The community also has a right to be informed about matters of public interest and of interest to the public. These rights are not absolute.

In any case, but particularly in high profile cases, the right of the public to be informed must be balanced with the right of individuals to privacy, the right of any victims to a thorough impartial police investigation and the right of any accused to a fair trial.

Police have an important role in maintaining the balance between these sometimes competing rights.

Assessing potential to attract public attention

Many police investigations have the potential to attract public attention and therefore become high profile investigations.

Anyone can contact the media with a 'hot tip' or 'breaking news story'. Most media outlets have a standing invitation for people to call or write in with news stories. When any crime occurs any number of people can have information about the crime – victims, accused, witnesses, or police who receive a report of a crime or are on the scene, or police who hear about the case from other police. Any one of these people can post information about the crime on the internet.

Given the public fascination with crime in general, certain crimes or police investigations will be impossible to quarantine from public scrutiny. Types of police activity that attract greater media attention than others include, for example:

- Any investigation where a high profile person such as a popular entertainer, sports star, judge or politician is the alleged victim or perpetrator.

- Any investigation where a high profile organisation, public authority, union, or political party is the subject of serious fraud or is alleged to have committed an offence.
- Any investigation to do with crimes that are particularly salacious, gruesome or involve children.
- Any investigation of matters considered to be categorised as being ‘in the national interest’ – such as terrorism.

In other investigations, the circumstance of the case will determine whether there is a potential to attract media interest and, if so, how avid that interest might be.

Occasionally, someone involved in an investigation may be motivated to seek publicity about the investigation. For example, a witness may want public attention, or may want to ‘front foot’ the story by airing his or her version of events in the media.

In some instances police at the scene of a crime or critical incident may need to make a public statement because of public safety issues or other public interest factors.

Crime Management Model

Assessment about whether an investigation has the potential to become a high profile investigation should generally occur on receipt of the details regarding the crime and when deciding who will investigate the matter.

As stated in a 2011 OPI report:

Citizens report crime in a variety of ways – over the phone, in person at a police station, or directly to police at the scene of a crime. Police can also become aware of a crime without being notified by a member of the public, for example on patrol or as part of an investigative process.²⁰

Crime reporting processes also vary depending on the type of crime being reported to police and the manner in which the crime came to the attention of police.

In 2006, Victoria Police implemented a new Major Crime Management Model. The Model:

...provides a framework for managing the resources needed to combat major crime... It has been designed to evolve over time, with changes in the crime environment. It therefore does not recommend, for example, the number or types of squad that should exist in the Crime Department, but instead provides a framework and a governance structure for making decisions like these on an ongoing basis.²¹

²⁰ Office of Police Integrity (2011) *Report of investigation into Victoria Police crime records and statistical reporting*, p17

²¹ The Boston Consulting Group (2005) *A Major Crime Management Model for Victoria Police*, p2

Underpinning the Major Crime Management Model is the *Accountability and Resource Model* (see Appendix Four). This Model establishes an assessment framework for determining the seriousness of the crime, its priority and whether the crime should be investigated by a local uniform branch, local Criminal Investigation Unit or the Crime Department.

If a crime is reported at a local or regional police station, information about the crime is first assessed by the person receiving the report of the crime.

Serious crimes reported locally are recorded on a crime report and then faxed centrally to the Central Data Entry Bureau for recording on the Law Enforcement Assistance Program (LEAP) database. Although there are strict audit processes now in place, LEAP is available for all Victoria Police members to access. Should they desire to find details about any case they can.

If the investigation originates within the Crime Department, details are first recorded on Interpose, the Crime Department's electronic case management system. Often this will occur in a 'covert' or 'locked down' shell. 'Covert shells' are secure areas within the electronic case management system. Shells can be created between and within work units, allowing police to lock down investigations so they are visible only to those personnel who 'need to know'.

In some respects the notion of 'lock down' over-simplifies the information security needs of criminal investigations, particularly those that are or have the potential to be high profile. One of the risks of locking down an investigation is that other police who have a legitimate need to know information obtained in the course of an investigation are locked out and information that should be *available* to them is not.

It remains the case that when investigations originate in local police stations, there is less capacity to 'lock down' a matter. Interpose is not available to general duties police and not all police Criminal Investigation Units use Interpose.

A high profile matter that originates in a region may later be transferred to the Crime Department for investigation and it may then be locked down. However, knowledge of the investigation already exists outside the covert shell and it is often too late to lock down information or retrieve information that has already been given to other internal or external recipients of the information.

Assigning investigative responsibility

High profile cases are different

It is a misconception that police should deal with high profile witnesses or accused in the same way they deal with everyone else. An investigation involving a high profile person is not a routine investigation. The media interest in the person or the case makes the investigation non-routine.

Although a high profile person should not be given more or less favourable treatment by police, the fact that the person is a public figure means police must tailor their approach. This does not mean that police have an excuse to breach normal systems, (for example, by taking confidential files home), but rather have a heightened awareness of the specific risks associated with high profile cases, including the stressors on witnesses and conflict of interest issues. This heightened awareness should inform risk management strategies.

Although the *Accountability and Resource Model* (Appendix Three) does not specifically address assessments of high profile investigations, senior police at the Victoria Police Crime Department told OPI that since 2010 the Crime Department has had carriage of not only major crime investigations but all high profile investigations. They said this has minimised information security breaches because the Crime Department is able to provide experienced supervision of each high profile investigation and use 'covert shells' in its information technology system to manage and limit the number of people who have access to information about the case.

OPI is not aware of any current processes in place at local police stations to inform local crime desks when less serious crimes that involve a high profile matter or person are reported locally should be referred or considered for referral to the Crime Department.

OPI recommends that Victoria Police provides a clear framework to indicate when a high profile matter should be investigated by the Crime Department rather than a local Criminal Investigation Unit.

In making this recommendation OPI is not suggesting that local Criminal Investigation Units should not investigate any high profile matter or that local Criminal Investigation Units do not have the capacity to investigate high profile matters. It may be the case that something that starts as a routine investigation by a local Criminal Investigation Unit subsequently attracts a high level of media interest, or *vice versa* something that starts out as a high profile case loses traction with the media. The assessment of a case and who should be assigned to investigate it should be adjusted and re-evaluated in response to changing circumstances.

All investigators should be alerted to the particular risks associated with high profile cases. Irrespective of whether the person is a sports star, celebrity or politician, a person with a high public profile will have an impact on others involved in the case. Ordinary citizens involved in an investigation of a high profile person can be involuntarily thrust into public life. This can be very distressing and impact on the person's psychological welfare and attitude to the case. This can create difficulties for investigators who need credible and cooperative witnesses.

There are also specific risks to investigators involved in high profile cases. In addition to managing the media pressure on witnesses, police appointed to investigate a high profile case need to be more than ordinarily resistant to potential public or political pressure, the demand for information and pressure to resolve the matter quickly.

Dealing with conflict of interest

If an investigation involves a person who is wealthy or influential, others may perceive police investigators as giving preferential treatment to the high profile person. If the person is notorious, a hero, or a rogue, the investigators may be perceived as losing their impartiality because of preconceived ideas based on the person's public reputation.

In any investigation police should be clearly seen to act without fear or favour. This requires adherence to a decision-making framework that is clear, accountable and has processes for identifying and managing conflict of interest.

OPI understands that when a particular investigator is assigned to a case – other than investigations of deaths associated with police contact – little specific attention is given to whether an investigator may have a conflict of interest. Investigators are expected to self-identify when they have a conflict of interest.

Historically OPI has found police are not necessarily adept at identifying actual conflicts of interest, let alone identifying when others may perceive that an investigator has a conflict of interest.²² Public confidence in policing relies on police undertaking their duties impartially. Particular attention should be given to ensuring police involved in investigating high profile matters do not have any real or perceived personal interests that could impair their capacity to undertake the investigation objectively and impartially.

OPI recommends that investigators assigned to the investigation of a high profile matter should be required to make a conflict of interest declaration prior to commencing work on the investigation.

²² Office of Police Integrity (2010) *Managing conflict of interest in Victoria Police*

Developing an information security plan and media management plan

Ideally each investigation or police operation with the potential to attract media attention should undergo a risk assessment that includes both an information security plan and media management plan. This would enable investigators to determine, in advance of any media interest, what information could be released without compromising the integrity of the investigation or impinging on the privacy of anyone involved in the investigation.

Consistent with OPI's recommendations in the 2011 report on *Review of the investigative process following a death associated with police contact*, Victoria Police has now introduced clear guidelines for police making media comments following a death or serious injury involving police.²³

There is less direction for police requested to provide media responses in other situations. General crime, drug and traffic-related matters are relatively straightforward as the media is quite often at the scene and the images alone can tell the story.

Some other crime types, for example sex offences, organised crime activities, counter-terrorism, corruption and maladministration become complex for journalists and police alike. Added to this complexity can be the lack of clarity about who is authorised to speak to the media, this can be particularly problematic in large investigations or multi-agency investigations. The Victoria Police *Use and disclosure of information rules* authorise any person with operational matters directly under their control subject to certain conditions (see Appendix Two). In complex high profile cases this may not be clear. Is it the lead investigator, or is it his or her supervisor, or even someone from police command?

The development of a media plan for each high profile investigation would provide clarity about who is authorised to release information, what information can be released and whether a supervisor or the media unit needed to be involved in vetting material made available to the media.

OPI recommends that each investigation or police operation with the potential to attract media attention should undergo a risk assessment that includes both an information security plan and media management plan.

²³ See Victoria Police Manual – Guidelines – *Release of information to the media* in Appendix Three

Police media relations

Serving the public interest

Both police and the media have an important role in serving the public interest. Public interest in this context means the common wellbeing of society in general, or what serves the ‘greatest good for the greatest number’.

Before members of Victoria Police commence duty they are required to swear an oath of office that they will undertake their duties impartially and work in the interests of Victorians, to preserve the peace and uphold the laws of Victoria.²⁴

The majority of members of the media, while not formally elected, appointed or employed by the public, also have an important role in serving the public interest. They collect, receive and impart information, keep us informed, encourage debate and are important facilitators of, and vehicles for, freedom of speech.

Media attention can assist police to solve crimes and convey important messages about emergency evacuations in natural disasters, road safety or alcohol-related violence. The media is also used to hold police accountable to the public they serve.

In a review of police-media relations in the United Kingdom, Elizabeth Filkin wrote:

*The media is vitally important in holding [police] to account on behalf of the public. The media is essential in informing the public about the work of the police service and its role in the justice system.*²⁵

In the public interest or of interest to the public

In addition to serving the public interest the media has a role in publishing information that is of interest to the public.

*... alongside matters of civic significance, people are interested in more ordinary, amusing, or quirky events.*²⁶

People’s interest in the curious or quirky is compounded by a particular fascination for crime.

²⁴ Police Regulation Act 1958 Second Schedule

²⁵ E Filkin (2012) *The ethical issues arising from the relationship between police and the media*, London, p7

²⁶ R Finkelstein QC (2012) *Report of the independent inquiry into the media and media regulation*, Australian Government, Canberra, p319

Western society is fascinated with crime and justice. From films, books, newspapers, magazines, television broadcasts, to everyday conversations, we are constantly engaging in crime “talk”. The mass media play an important role in the construction of criminality and the criminal justice system.²⁷

This fascination with crime creates tension in the relationship between police and the media. Although police and the media have a common goal in serving the public interest, the media has additional drivers. Media outlets are generally commercial enterprises in the increasingly competitive business of selling news.

Although journalists are bound by codes of ethics, the dilemma for members of the media comes when something that is newsworthy and likely to fascinate the community or pique the public’s curiosity should not be disclosed in the public interest. For example, where disclosure would jeopardise an investigation or prosecution. As OPI investigations have revealed, the dilemma is heightened when the media becomes aware a police investigation into a high profile matter is underway.

Working proactively with the media

Soon after his appointment in late 2011, Victoria Police Chief Commissioner Ken Lay made a public commitment to modernising police media relations.

From time to time, police members will talk to the media. I encourage that. It helps get the message out. Our members understand what they can say (to a journalist) and when they can say it. I encourage it. I welcome it. It makes my job easier. It’s great for the community. Do I embrace it? Of course I do. If we trust a detective to investigate a homicide, then we should trust them to be able to talk to the media. There’s no doubt that we need to move to a far more modern way of communicating.²⁸

A ‘more modern’ way of police communicating with the media includes proactive media strategies. Instead of police first deciding ‘*what we are not going to tell the media if they get hold of the story*’, perhaps the first consideration by the management team of any investigation should be ‘*what can we tell the media about this matter*’?

In determining what information, if any, can or should be disseminated to the media in the public interest, police in charge of an investigation or operation must strike a balance between:

- The obligation of police to inform the community on matters they have a right to know about, such as public safety issues.

²⁷ K Dowler (2003) *Media consumption and public attitudes towards crime and justice: the relationship between fear of crime, punitive attitudes, and perceived police effectiveness* in *Journal of Criminal Justice and Popular Culture*, 10(2): 109

²⁸ Lillebuen S 2011 ‘Victoria’s new police Chief Commissioner says his officers are welcome to speak directly with journalists’, *Herald Sun*, 18 November 2011

- The need to ensure any accused has the right to a fair and impartial hearing in a court of law.
- The potential for early release of information to jeopardise an investigation or operation.
- The potential to adversely affect the reputation of persons whose privacy should otherwise be kept intact.

Answers to a number of questions should inform a proactive media strategy. These questions include:

- Can media attention and enlisting public support assist this investigation?
- What details in this matter are protected by legislation or policy?
- Is this is a matter affecting public safety?
- Would disclosure affect a 'fact in issue' or prejudice a person's right to a fair trial in later court proceedings?
- Might a victim be re-victimised or suffer other harm as a result of media attention?
- Could any named cultural, religious or political group be unduly victimised or vilified by publicity about the investigation?
- Is there a risk the media may receive information from an unauthorised source? Would the public interest be served by police 'setting the record' straight'?

Once these issues have been considered, a comprehensive proactive media strategy can be developed and incorporated in the investigation or operation plan as part of routine risk assessments for high profile or potentially high profile matters. The strategy should include details about how, when and what will be released, and by whom. The strategy should also include details about when and how it should be reassessed and if necessary amended.

The rapidly changing media landscape provides police with both risks and opportunities to engage in proactive media strategies. Although Victoria Police received adverse media coverage for inappropriate tweeting during a soccer match in July 2011, police are in a position to take control of communications by interacting directly with the public without relying on a media outlet as an intermediary.

Setting the record straight: integrity of information

"We tend as an organisation to say nothing when [leaks occur] and then perform a strange dance with the press. We should formalise our response and say more."
A Chief Superintendent, Metropolitan Police Service.²⁹

29 E Filkin (2012) *The ethical issues arising from the relationship between police and the media*, London, p17

Often police become alerted to a 'leak' when they are approached by a journalist requesting comment on, or confirmation of the accuracy of, information obtained from an unauthorised source. In situations where police are concerned that publication of the information could compromise an investigation, police engage with the journalist and try to persuade him or her that there are valid public interest reasons for delaying publication.

Sometimes the journalist or the media in general is persuaded and voluntarily agrees to withhold publication of the story. On other occasions the journalist will only agree to withhold publication in return for access to the 'inside story' or an 'exclusive'.

OPI is aware there are occasions when this has worked well – some journalists have waited months before 'breaking a story'. There are other occasions when investigations or police operations have been compromised or put at risk either because police have had to bring forward a planned activity or early release of information has exposed a police investigation, in some instances compromising the safety of witnesses.

An example of early collaboration between police and the media occurred during a 2010 Victoria Police investigation into the conduct of an anaesthetist.

This investigation, undertaken by police in collaboration with the Department of Human Services, concerned allegations that an anaesthetist was deliberately infecting patients with hepatitis C. A journalist had received early information about the allegations. The journalist contacted the police investigator leading the investigation regarding the information obtained from non-police sources. Together, the police and the journalist reached an agreement whereby the media would assist the investigation without intruding on the privacy of the anaesthetist's patients. In return, police provided the journalist with additional and accurate details that could later be published. This was achieved without compromising the privacy of individuals.

Promising further disclosure of information by the police to the media as a form of damage control, or as a bargaining chip to delay publication, raises ethical dilemmas. Is it appropriate for police to offer 'exclusives' that give one media outlet a commercial advantage over others? Or is the offer of 'inside' and accurate information a just reward for good investigative journalism skills?

In some respects it may depend on the circumstances. Police are generally not in a position to legally restrain publication of information obtained by journalists. It may be a judgment call as to whether there is give and take in negotiating delayed publication of some information. It may also depend on whether there is a pre-existing relationship between police and the journalist in question. Where there is a pre-existing relationship, some of the ethical dilemmas identified above are heightened.

Policy and training

Dealing with the ethical issues associated with media contact requires police to operate from a common understanding and the same set of core principles.

It is impossible for any organisation to control every contact with the media. Any proposed solution will rely on police officers and police staff 'living' a set of core principles and making judgements about their application.

...

In the past it has not been sufficiently clear to police officers and staff what principles should underpin contact with the media. This has resulted in practices which have been damaging.

...

Police officers and staff are the best ambassadors for the organisation in providing information to the public. They are part of the public they serve.³⁰

Senior police receive quite extensive media training, but all operational police need to be proficient in understanding the media and trained in working with them.

A senior police member told OPI Review Officers that the media training he received focused mainly on presentation skills and did not address ethical issues such as the rules around information disclosure and using discretion in dealing with the media.

A similar problem was recently reported in the Metropolitan Police Service in the United Kingdom:

"We do policy: 'You will do, you won't do'. We shut stable doors when horses have bolted or we try to rush through policy and we end up with some unwieldy policy as a result of it and then we try and legislate to take away people's discretion because we don't trust people's discretion. I don't think we as an organisation know how to set a framework for decision making at the most individual level for people that encompasses something around integrity and ethics." Deputy Assistant Commissioner Mark Simmons, MPS³¹

There is a need to improve communication and information management training for all Victoria Police employees based on clear principles and more extensive guidelines. There should be particular emphasis on promoting responsibility when discussing sensitive matters in the public domain or with the media, increasing awareness of what constitutes misconduct and improving understanding about why information security policies and processes are in place.

30 E Filkin (2012) *The ethical issues arising from the relationship between police and the media*, London, p7

31 E Filkin (2012) *The ethical issues arising from the relationship between police and the media*, London, p21

Associations with journalists

All police need organisational guidance in relation to their associations with journalists. The Victoria Police media policy authorises any member of Victoria Police to talk about operational issues under their control. This means individual police are able to develop unsupervised relationships with journalists and other members of the media.

OPI is aware through its investigations that a number of police and journalists have regular contact. In some instances the association is based on long-standing personal relationships including family relationships. In other instances it appears journalists have actively sought out particular members of police and cultivated them as sources. It is the informal relationships between police and journalists that pose the biggest risk to the integrity of investigations through early leaking of information.

Where relationships with the media appear partial or selective, this creates a serious problem which is damaging to public confidence and the MPS [London Metropolitan Police Service].

...

It is not uncommon for police officers and staff to have friends and family associated with the media and some have worked for the media in the past. At present there is no guidance to help police officers and staff who have regular contact with the media in family and social situations to understand what is expected in terms of declaring and handling such contact in an ethical way. To protect officers and staff, the MPS has a declaration policy for business interests which should be mirrored for media contacts in a proportionate way.³²

In the United Kingdom, Her Majesty's Inspectorate of the Constabulary recommended *notifiable association policies* should include reference to people who *undertake paid or unpaid work for the media*. It also recommended police should officially record all contact with the media.³³

During consultations for this review, a number of Victoria Police interviewees acknowledged that some police spend time with journalists in relatively informal settings, such as meeting for coffee or on the telephone. They had a range of views about whether these informal contacts were acceptable or not.

Some experienced police told OPI that any casual or private contact with journalists should be recorded and notified to supervisors.³⁴

³² E Filkin (2012) *The ethical issues arising from the relationship between police and the media*, London

³³ Her Majesty's Inspectorate of the Constabulary (2011) *Without fear or favour: a review of police relationships*, HMIC, London, p20

³⁴ Crime Department representatives

As with policies requiring executives to declare financial interests, a notifiable association policy for police and journalists could form part of a suite of Victoria Police's conflict of interest policies.

The suggestion to include members of the media as a class of notifiable associations is not without controversy. Most of the associations police must currently declare relate to people with a criminal history or individuals under investigation. Some senior police were opposed to making associations with journalists notifiable, suggesting journalists would find this offensive.

Relationships with journalists pose a completely different risk for the integrity of police than do relationships with someone who has a criminal history, yet they do pose a risk. The history of leaking in Victoria Police demonstrates many police give information to the media unwittingly, without regard to the consequences of unauthorised disclosures. Others appear to do so out of some personal motivation that has nothing to do with professional policing.³⁵ The legacy of this history is an erosion in confidence in policing from victims and others. It has also impeded information-sharing with police from other jurisdictions.

If police contact with journalists is professional, there is no reason for it to be clandestine. If police are to be encouraged to have more contact with the media and more modern, professional communication strategies, their associations with members of the media should be transparent and accountable. Including journalists in a class of notifiable associations does not prevent police and journalists continuing to associate with each other. Rather it is a prudent measure to protect the reputation of individual police and to ensure the nature of the association cannot be misinterpreted.

Claims of improper media contact or inappropriate leaking can be damaging and tarnish the professional standing of police. If confidential information is only known to a few police, unsourced media reports containing that confidential information can foster mistrust within the group and tarnish the reputation of them all. A transparent declaration of contact with the media at the time it occurs is an effective protection for police that engenders trust and mitigates the risk of being falsely accused of leaking.

Documenting established relationships with journalists also provides an opportunity for supervisors to support staff to manage those relationships.

OPI recommends that consideration be given to requiring police to document and report on their professional contact with members of the media and their social and familial associations with members of the media.

³⁵ Office of Police Integrity (2011) *Crossing the line*

Conclusion

Since its inception OPI has identified a number of recurring themes in its work in overseeing and investigating Victoria Police. These include:

- problems with leaking
- lack of awareness about information security
- poor understanding and inadequate management of conflict of interest.

A significant proportion of our public reports have exposed these weaknesses and made recommendations to redress them. Similarly, a significant proportion of our education resources is directed towards assisting members of Victoria Police to effectively deal with these issues.

While OPI can assist, the ultimate responsibility for effecting the cultural change necessary to appropriately manage these risks belongs to Victoria Police.

Police information is a valuable asset. It needs to be protected. Linked to an investigator's responsibility to protect information on a 'need to know' basis is the responsibility of other police 'not to ask'. Victoria Police needs to continually learn from past mistakes and instil an information security culture based on these principles.

Irrespective of any benign motivation police may have in talking about their work with others, they need to understand the consequences of law enforcement information getting into the wrong hands. These consequences can undermine police operations, compromise investigations and in worst case scenarios harm individuals, particularly if sensitive information becomes public.

The innate public curiosity and fascination with crime, particularly certain crimes such as sex crimes, violent or gruesome crimes or crimes involving children or celebrities, must often provide an irresistible temptation to members of the media working in a 24/7 news cycle to beat competitors and get a scoop as soon as they have information about a police investigation that will attract public attention. Nevertheless, there is a real risk early publication of details about high profile investigations, some of which may be inaccurate but still fascinating to the public, will prejudice or compromise the investigation.

As we have seen in the United Kingdom and the ongoing Leveson Inquiry into the 'phone hacking scandal', the risks identified in some OPI investigations associated with police developing close relationships with journalists may not be specific to this jurisdiction.

Perceptions of conflict of interest can undermine public confidence in the integrity of investigations. High profile cases can be subject to intense public scrutiny. The allocation of resources to these investigations should be within a decision-making framework that is clear and accountable. Police appointed to investigate these matters or involved in them should be able to withstand public scrutiny. They should be able to demonstrate they are able to undertake their duties professionally with the requisite level of skill and expertise and free of any possible perceptions of bias.

Police and the media must continue to work together to achieve a balance between what information about high profile investigations can be released publicly without compromising the investigation or the privacy of those involved. There are a number of improvements Victoria Police can make to its systems and practices for managing investigations, particularly high profile cases.

It is the task of journalists to seek information of interest to their readers; it is the task of police to properly protect sensitive information. Nowhere is this divide more clearly demonstrated than in high profile cases. The rapidly-changing media landscape provides risks and opportunities for police. Harnessing these opportunities may provide police with more control of their communications with the public without having to rely on media outlets as intermediaries.

Appendix One: *Police Regulation Act 1958, s127A*

Unauthorized disclosure of information and documents

127A. Unauthorized disclosure of information and documents

(1) A person who is a member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the member's duty not to access, make use of or disclose the information.

Penalty: 240 penalty units or imprisonment for 2 years or both.

(1AA) In any proceedings for an offence against subsection (1), it is a defence if the person charged with the offence took reasonable steps not to access, make use of or disclose the information.

(1AB) A person who is a member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the member's duty not to access, make use of or disclose the information, and if the person knows, or is reckless as to whether, the information may be used (whether by the person or any other person) to-

- (a) endanger the life or safety of any person; or
- (b) commit, or assist in the commission of an indictable offence; or
- (c) impede or interfere with the administration of justice.

Penalty: 600 penalty units or imprisonment for 5 years or both.

(1AC) An offence against subsection (1AB) is an indictable offence.

(1A) Subsection (1) does not prevent a member of the police force from accessing, making use of or disclosing any fact or document referred to in that subsection, whether obtained before or after the commencement of section 11 of the Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, on a computerised database in the performance of official duties if the Chief Commissioner of Police has given written authority under subsection (1B) that applies to the member.

(1B) The Chief Commissioner of Police may, by instrument in writing, authorise members, or classes of members, of the police force specified in the authority, to access, make use of or disclose, for the performance of their official duties, information, or classes of information, referred to in subsection (1) on a computerised database specified in the authority that is able to be accessed by:

- (a) members of the police force; or
- (b) persons holding a position within the meaning of section 30 of the Corrections Act 1986, other than as volunteers; or
- (c) officers within the meaning of section 85 of the Corrections Act 1986.

(1C) Nothing in subsection (1A) prevents the accessing, making use of or disclosing of health information within the meaning of the Health Records Act 2001 in accordance with that Act.

(1D) Subsection (1) does not prevent a member of the force from disclosing vehicle accident information in accordance with Part VIB.

(1E) In subsection (1D) vehicle accident information has the same meaning as in section 118L.

(1F) Subsection (1) does not prevent a member of the police force from disclosing to the operator or driver of a tow truck, within the meaning of the Accident Towing Services Act 2007, or a person who manages a depot, within the meaning of that Act, in connection with the towing of a vehicle by a tow truck, information disclosed under section 92(3)(da) of the Road Safety Act 1986 and such a disclosure by a member of the police force is authorised for that purpose.

(2) A person who is a former member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the former member's duty not to access, make use of or disclose the information.

Penalty: 240 penalty units or imprisonment for 2 years or both.

(3) In any proceedings for an offence against subsection (2), it is a defence if the person charged with the offence took reasonable steps not to access, make use of or disclose the information.

(4) A person who is a former member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the former member's duty not to access, make use of or disclose the information, and if the person knows, or is reckless as to whether, the information may be used (whether by the person or any other person) to-

- (a) endanger the life or safety of any person; or
- (b) commit, or assist in the commission of an indictable offence; or
- (c) impede or interfere with the administration of justice.

Penalty: 600 penalty units or imprisonment for 5 years or both.

(5) An offence against subsection (4) is an indictable offence.

Appendix Two: Victoria Police Manual – Policy Rules – *Use and disclosure of information*

Victoria Police Manual – Policy Rules

Use and disclosure of information

Context

The primary legal source of Victoria Police's information security obligations is the **CLEDS Standards for Victoria Police law enforcement data security (2007)**. The 43 Standards developed by the Commissioner for Law Enforcement Data Security outline necessary controls for the secure management of law enforcement data systems and the information they contain. Law enforcement data systems include all relevant data repositories and are not limited to computer systems.

Victoria Police has a legislative obligation to comply with the standards for Victoria Police law enforcement data security developed by the Commissioner for Law Enforcement Data Security. Victoria Police also has an obligation to comply with the **Australian Government Protective Security Policy Framework** and the **Information Security Manual** which describe the minimum standards for physical and information security for all Federal and State government agencies. Victoria Police collects, receives develops and holds a significant amount of information on information systems (such as LEAP) and in hard copy so that it can carry out its law enforcement and community policing functions and to manage the organisation and its people. Victoria Police information, as defined in the VPM Dictionary, contains confidential, sensitive, personal and health information which must be used, disclosed and managed sensitively and appropriately, in line with the above standards and the *Information Privacy Act 2000* and *Health Records Act 2001*.

In accordance with s.127A *Police Regulation Act 1958*, employees (and former employees) must not access, make use of or disclose any information, including documents that come to their knowledge or possession by virtue of their employment, except where the release or communication of that information is authorised by:

- legislation; and/or
- written Victoria Police policy.

These policy rules support Victoria Police's compliance with the above standards and obligations and provide the authority for when employees may access, make use of or disclose Victoria Police information.

Application

Policy Rules are mandatory and provide the minimum standards that employees must apply. Non-compliance with or a departure from a Policy Rule may be subject to management or disciplinary action. Employees must use the Professional and Ethical

Standards to inform the decisions they make to support compliance with Policy Rules.

These Policy Rules apply to all employees.

Rules and Responsibilities

1. Use of Victoria Police information

- Employees must only access and use Victoria Police information held both electronically on information systems and in hard copy, where they have a demonstrable, legitimate business need which is directly related to the performance of their duties with Victoria Police.
- Employees must not let private interests interfere with their public responsibilities as an employee of Victoria Police. Therefore, they must not access or use Victoria Police information, directly or indirectly, for private reasons or personal interest
- Employees are responsible for the security of Victoria Police information that they access or hold. They must treat any information copied, deleted, added, used or disposed of sensitively and professionally with regard to individuals' right to privacy.
- Employees must assess whether Victoria Police information is of a sensitive nature and requires security classification; see **VPMP Classification of information**.

2. Disclosure of Victoria Police information

- Employees are responsible for the security of Victoria Police information that they access or hold. They must not disclose this information without appropriate authority, as required by *CLEDS Standard 11*.

These rules apply to the disclosure of information:

- through written (hard copy and electronic) documents, information systems and verbal communication
- outside of the organisation or to other employees.
- Employees are given authority to disclose Victoria Police information by:
 - relevant legislation
 - policies and procedures in this document and the referenced documents.
- Even if legislation or policy provides the authority to release Victoria Police information, employees must only disclose the information if:
 - the information is within their area of responsibility
 - the recipient has a legitimate business need for the information.
- Requests for and disclosure of Victoria Police information must be recorded in line with section 9.

The *CLEDS Standards* must be adopted for all forms of law enforcement data.

Refer to Chapters 3 and 4 of the Standards for requirements involving the access control and release of law enforcement data.

3. Sharing Victoria Police information with emergency services

- Where police and other emergency services are in attendance at operational incidents, information relating to that incident may be exchanged.
- Personal and health information gained from emergency services must not be passed onto third parties except where necessary for law enforcement or as specifically provided for in the *Health Records Act* or other relevant legislation.

4. Formal requests for Victoria Police information and documents

If an employee receives a request for written Victoria Police information or documents, they must only release the information in accordance with the following table. Requests for and disclosure of information must be recorded in line with section 9.

Source or type of request	Conditions or procedures for release
Requests from Government departments or statutory bodies	<ul style="list-style-type: none"> • Information may be released: <ul style="list-style-type: none"> - when there is specific legislation that supports or requires release; or - when there is a Memoranda of Understanding or other formal agreement in place which supports information release - if personal or health information, when release is in line with the <i>Information Privacy Act</i> or <i>Health Records Act</i> • For further guidance, refer to the Information Sharing Guide
Court related requests: <ul style="list-style-type: none"> • Pre-hearing disclosure • Subpoenas • Civil litigation matters 	<ul style="list-style-type: none"> • Members must give a defendant specific information gained during the course of an investigation in line with pre-hearing disclosure provisions in Part 3.2, Division 2, <i>Criminal Procedure Act</i>; see VPMP Briefs of evidence • Employees must advise the Subpoena Management Unit when they receive a request or subpoena to give evidence and/or produce documents; see VPMP Court processes • Requests for information relating to civil litigation matters must be referred to Civil Litigation Division
Criminal justice matters: <ul style="list-style-type: none"> • Statements • Victims 	<ul style="list-style-type: none"> • Persons who have made a written statement to police must be supplied with a copy upon request • Victims of crime must be provided with certain information; see VPMP Victim support
Accident and property records	Under the <i>Police Regulation Act</i> , vehicle collision information may be disclosed to certain persons; see VPMP Release of accident and property records

Source or type of request	Conditions or procedures for release
Police histories and Criminal records	<ul style="list-style-type: none"> Requests for details of an individual's police record/criminal history for employment, licensing/ registration or voluntary service purposes must be referred to the Public Enquiry Service, Records Services Division; see VPMG Release of police records
Media requests	<ul style="list-style-type: none"> Requests for non-public documents, interviews or footage – refer to the FOI Office for assessment and authorisation; see VPMG Release of information to the media for further details Requests for police training videos – consult the Educational Media Unit, People Development Division, People Department and obtain approval from the Department Head Request for mugshots under Part VIC, <i>Police Regulation Act 1958</i> – refer requests to the Media Unit; having regard to the process in VPMG Release of information to the media
Police publications	<p>Release of specific Victoria Police publications must be authorised. Refer requests to the following areas for advice and authorisation:</p> <ul style="list-style-type: none"> Corporate publications – Media and Corporate Communications Policy documents and manuals – Corporate Policy, Corporate Strategy and Governance Department Training documents and manuals – People Development Division, People Department Other publications – Freedom of Information Unit
Requests for ESD investigation information	Refer to VPMP Complaints and discipline
Requests from researchers	Refer to VPMG Research
Other requests for non-public information	Refer requests to the FOI Unit for assessment and authorisation.

5. Releasing information to the media

5.1 Speaking on operational matters

Employees are authorised to speak to the media on operational matters directly under their control, subject to the following conditions:

- the Media Unit must be consulted and briefed before any information is released, having regard to **VPMG Release of information to the media**
- employees must advise their supervisors of the information to be released prior to speaking to the media
- any release of information must have regard to **VPMG Release of information to the media**.

5.2 *Requests for interviews*

- Where media representatives make contact requesting an interview in relation to an incident or event, authorisation from the Media Unit must be obtained prior to providing agreement for an interview, having regard to **VPMG Release of information to the media**.

5.3 *Information about suspects or victims*

- Employees who want to release photograph or computer generated images of suspects or victims to the media must, prior to release:
 - contact the Media Unit and provide sufficient information to justify authorisation
 - complete a 'Photographs and Images Authorisation for Publication [Form 1127], obtain approval from an Officer and forward it to the Media Unit.
- All information in regard to escapees or absconders requires prior approval from the Media Unit before it can be released.
- Media Unit must be used for distribution of photographs, computer generated images (FACE), sketches, video tapes and audio tapes.
- Appropriate physical and ethnic descriptions are to be used, having regard to **VPMG Release of information to the media**.
- When a wanted person is located notify the Media Unit.

5.4 *Information about missing persons*

- Names or photographs of missing persons must only be released with the written approval of next of kin, relative or concerned person, on an 'Authority for Media Release - information or image of missing person' [Form 1410].
- When a missing person is located notify the Media Unit.

6. Disclosure of information to employers or regulatory authorities

In certain circumstances, it may be in the public interest for a member to disclose to an employer or regulatory authority that an employee or member has come under police notice. Members must have regard to **VPMG Notification of offences** when deciding whether to disclose such information. In instances where it is decided to release such information, this must be done in compliance with the CLEDS standards.

7. Disclosure of corporate statistics

7.1 *Definition*

Corporate statistics are those obtained from:

- Crime Statistics and Reporting System (CSRS) – in respect of previous financial year (released in August)
- Member Activity Sheet (MAS) – in respect of previous financial year (released in October)
- Collision Management and Information System (CMIS) – Road Policing – in respect of previous calendar year (released in April)
- Computer Aided Dispatch (CAD) – Call for Service - in respect of previous financial year (released in October)
- Fixed Penalty Payment System (FPPO) – in respect of previous financial year (released in October)

7.2 Responsibilities

- Corporate Statistics Unit is responsible for:
 - developing the standards and policy for collecting, collating and setting the classification and counting rules for corporate statistics and
 - developing, maintaining and releasing of corporate statistics
- Official corporate statistics are publicly released on a quarterly and annual basis, and all requests for such statistics should be directed to the relevant websites, as follows:
 - quarterly statistics on the Victoria Police News website and
 - annual statistics on the Victoria Police website
- Employees releasing corporate statistics to external parties:
 - only disclose them after the public releases on the websites above
 - do not comment publicly on state-wide crime trends arising from corporate statistics. However they may comment on local statistics that relate to their area of responsibility. All such requests must be referred to the Director, Media and Corporate Communications.
 - only release them in accordance with the *Release Conditions* below
 - if they have doubts about the validity of the statistics to be released they consult with Corporate Statistics Unit before release
 - only release them in summary format (de-identified data)
 - advise the recipient the disclosed statistics must not be released to a third party.
- Employees releasing corporate statistics to internal parties must only do so in accordance with the *Release Conditions* below.
- All requests for and release of corporate statistics must be recorded in line with section 9.
- All other (non corporate) statistics must only be released by the relevant owner/work unit responsible for them with an appropriate authority.

- The *Release Conditions* below refer to the disclosure of corporate statistics that are not publicly available from the websites noted above. All such requests are to be sent to the appropriate authorising officer.

7.3 Release Conditions

External Requests	Authorising Officer	Fee Applicable
Ministers and Parliamentarians	Chief Commissioner of Police (CCP)	NA
Media organisations	Director, Media and Corporate Communications, in consultation with the Manager, Corporate Statistics Unit	A fee applies for requests which take more than 2 hours to prepare
Government Departments – including local, state and federal - and all other external parties and organisations (excluding researchers)	Manager, Corporate Statistics Unit	A fee applies, as appropriate
Researchers	Refer to VPMG Research	A fee applies
All FOI requests	Manager, FOI, in consultation with the Manager, Corporate Statistics Unit	A fee applies

* Fees (where applicable) – refer to [Victoria Police Accounting Manual](#)

Internal Requests	Type of Statistic	Authorising Officer	Conditions of Release
Victoria Police employees	All types used for determining service delivery and resource management requirements in the local Department or Region	Local DIU or Corporate Statistics Unit	<p>Local statistics must be collated according to Victoria Police standards, and only obtained from statistical systems by Corporate Statistics Unit</p> <p>CAD statistics must not be used as a primary means to identify a person who has made an emergency call. For further clarification, contact the Manager, Corporate Statistics Unit</p> <p>Research requests relevant to attainment of an academic qualification, refer to VPMG Research.</p>

8. Disclosure of personal records

- Private and confidential information relating to Victoria Police employees must only be disclosed if the disclosure relates to the primary purpose for which the information was collected, or a related secondary purpose and the individual would reasonably expect Victoria Police to use or disclose the information for the secondary purpose, except:
 - with the consent of the employee
 - when required by law; or
 - for law enforcement activities or community policing functions, or in accordance with any other exemption provided under the *Information Privacy Act* or the *Health Records Act*.
- See **VPMP Release of personal records** for further details on accessing and releasing personal records.
- See **VPMP Personnel security** for the requirements for handling personal information obtained for a security clearance.

9. Recording requests and release of information

- As far as is practical, Victoria Police information that contains law enforcement data must only be released if a written request has been received. Written requests must justify that the information sought is reasonably necessary for a particular purpose and what legislation facilitates the release. To prevent unreasonable delays, law enforcement data relating to court processes may be released without a written request.
- Workplace Managers must ensure that all requests for and release of information/data, including personal or health information held by Victoria Police are recorded in a correspondence register. The register must capture sufficient information relating to who, what, when, where, why and how information/data/documents were released and on whose authority.
- Before releasing any Victoria Police information, the originator must consider the security classification of the documents, having regard to **VPMP Security classified information**.
- The employee releasing the information must advise the recipient that they:
 - are responsible for the security of the information
 - must provide the same level of security classification and protection assigned by Victoria Police
 - must manage the information securely and not release it to any other individual or organisation.

Quick Links

- CLEDS Standards:
Access Control (Std [8](#), [9](#), [10](#))
Release (Std [11](#), [12](#), [13](#))
- VPMP Access and use of information systems
- Privacy Information sharing guidelines
- VPMG Release of information to the media
- VPMG Release of accident and property records
- VPMG Release of police records
- VPMG Notification of offences
- VPMG Research

Further Advice and Information

For further advice and assistance regarding these Policy Rules, contact the Information Management Standards and Security Division.

Update history

Date of first issue	22/2/10	
Date updated	Summary of change	Force File number
06/12/10	<ul style="list-style-type: none"> • Inclusion of references to specific CLEDS Standards that apply to this policy and name changes to the Commonwealth protective security manual to Australian Government protective security policy framework and Information and communication technology security manual to Information security manual. • Section 9 has been strengthened for greater accountability to ensure employees include sufficient information in the correspondence register for all requests and releases of information, including on whose authority the release occurs. 	061979/10
21/04/2011	Section 7 has been extensively revised to accommodate additional corporate statistics which are now subject to fee for services when requested by external parties. Further information on requests from researchers have also been added.	061257/10

Victoria Police Manual – Policy Rules –Use and disclosure of information

30/01/12	<ul style="list-style-type: none">• Minor amendments in sections 4 and 5 to clarify release of information to the media and the seeking of pre-arranged interviews.• Separation of missing person information from form 1127 requirements.	059865/09

Appendix Three: Victoria Police Manual – Procedures and Guidelines

– *Release of information to the media*

Victoria Police Manual – Procedures and Guidelines

Release of information to the media

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- Section 124A and s.127A, *Police Regulation Act 1958*
- Section 95 and Health Privacy Principle 2.2 (Schedule 1), *The Health Records Act 1958*
- VPMP Use and disclosure of information
- VPMP Critical incidents

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Guidelines for information release

As required by **VPMP Use and disclosure of information**, and s.127A *Police Regulation Act 1958*, employees must not disclose information that comes into their possession through their employment if they have a duty not to release that information without authorisation.

When speaking to or responding to requests from the media, employees should not release Victoria Police information that:

- endangers the life or safety of any person

- impedes or interferes with the administration of justice, or prejudices -
 - a police operation
 - an investigation
 - a prosecution or person's right to a fair court hearing
 - the independence of oversight bodies investigating critical incidents, taking particular care not to pre-empt the outcome of any investigation
- may be of assistance to criminals or suspected persons
- relates to a coronial investigation except in accordance with **Media Protocols for Incidents Involving Police and the Coroner**; contact Media and Corporate Communications Department for details
- is likely to bring Victoria Police into disrepute or diminish public confidence in it
- they know is false or misleading
- expresses an opinion of culpability
- is critical of Victoria Police, another police service, the government or government departments
- the victim has requested be withheld
- may cause a breach of confidentiality or privacy relates to an internal investigation unless they have consulted the Assistant Commissioner, Ethical Standards Department
- reveals the value of drugs, by a precise cash amount, seized by police or stolen from chemists, hospitals, doctors, etc
- concerns an absconding incident at a Youth Justice Centre or Residential Centre, without consulting the Media Unit first
- does not relate directly to their specific area of responsibility
- contains means of identifying:
 - any person appearing before a Children's Court
 - a ward of the State or subject to State guardianship
 - injured victims before their next of kin have been notified
 - victims of crime or witnesses without their permission
 - a victim of a sexual offence
 - a defendant before they appear in an open court or before a Bail Justice
 - a sworn employee involved in a shooting incident, before an open hearing commences
 - suicide victims, except with the approval of an Officer and only where an operational need exists

- jury members
- deceased persons, other than by authority under the *Health Records Act 2001*, if the consent has not been obtained from the next of kin
- the whereabouts of located missing persons unless they provide their consent. Refer to VPMG Missing persons investigations.

Further information is also available in the **Victoria Police Media Guide**.

2. Release of information process

2.1 Comments

- Comments at crime scenes may be made by the police commander in charge at the scene, in consultation with the Media Unit and in line with the preceding guidelines. A record of what was said or released should be kept.
- The importance and value of maintaining rapport with local media in respect to issues limited to within each PSA is recognised. However, when a matter or incident has the potential to impact across the organisation, it is then important to liaise with the Media Unit to ensure all messages are consistent and have been approved. This would apply to such incidents as those that would –
 - attract major media interest, eg. SOG deployment; fatal collision; homicide
 - be of Force wide significance, eg. critical of the organisation or police members; questioning processes
 - have wider than local area impact
 - likely have other PSAs / Regions also commenting on the same issue
- Refer to section 3 for more information about making comment to the media following critical incidents.
- The Media Unit is operational 24 hrs / 7 days to provide the necessary advice and guidance to ensure all messages are consistent.

2.2 Photographs and images - suspects

Photographs and Facial Automated Composition and Editing (FACE) images may only be issued with the following approvals, and only where an operational need exists or a demonstrated public benefit is clear as provided by s.124A, *Police Regulation Act*:

- During investigations and up until a person is charged -
 - With approval of an Officer on 'Photographs, Images and/or Related Document Authorisation for Publication' [Form 1127]

- Forward a copy to the Media Unit prior to release of images
- Once matters are heard and Court proceedings have been completed, Media outlets seeking images may make application for the image through the Freedom of Information Unit (FOI).
- Update the Media Unit if there are any developments to major crimes so that consideration can be given to releasing an update to the media.

2.3 Photographs and images – missing persons

Photos of missing persons may only be published by the Media Unit once a next of kin has authorised the release of the photo on an 'Authority for Media Release - information or image of missing person' [Form 1410].

2.4 Agency photographs- requested by the media

- If the media request a copy of a mugshot, it may be provided under s.118R, *Police Regulation Act* to 'authorised media outlets' by making application to the Freedom of Information Unit on an Application for the release of an agency photograph from Victoria Police to an authorised media organisation [Form 1335].
- If a media outlet wishes to become recognised as an authorised media organisation, they can apply to the Media Unit using Application to be an authorised media organisation [Form 1334].

2.5 Escapees and absconders

A person who has escaped from custody or absconded from supervision may be subject to a court order or other special conditions. All information in regard to escapees or absconders requires prior approval from the Media Unit before it can be released.

3. Comments following death or serious injury involving police

3.1 Police spokesperson

As stated in **VPMP Critical incidents**, comments to the media on death or serious injury incidents involving police must only be made by the nominated police spokesperson:

- Incident resulting in a death – an Assistant Commissioner or above, or member nominated by them
- Non- fatal incidents – a Divisional Commander or above, or member nominated by them.

3.2 *Appropriate comments*

As stated in **VPMP Critical incidents**, the police spokesperson must consult with the Media Unit before releasing information on critical incidents. When making comments to the media, the police spokesperson is to follow these guidelines:

- Express concern about the welfare of the family of the deceased or injured and of any police members involved
- If the media seeks comment regarding the circumstances of the incident:
 - only provide a brief account of the incident; details such as the date, time and location of the incident may be provided.
 - the gender and age of the deceased or injured may be provided, but details of their medical or psychological state should not
 - comments about members' actions should be confined to statements of fact based on information available at the time
- Advise that there will be a police investigation of the incident by the relevant unit (e.g. Homicide Squad, Major Collision Investigation Squad or other unit or squad)
- In the case of a death, advise that the matter will be subject to a Coroner's inquest and that police investigators will prepare a brief of evidence to the Coroner to assist with the inquest
- Advise that the police investigation will be subject to oversight by ESD and that in the case of a death, they may also report to the Coroner
- Advise that the Office of Police Integrity will also independently oversee the investigation
- Advise that the police investigation and the oversight of the investigation will not pre-judge the outcome of any inquest.

4. Wanted persons/descriptions

4.1 *Physical descriptions*

- Physical descriptions given in releases to the media are to be as detailed as possible.

Descriptions are to be limited to the following categories, and begin with the phrase "The (person/suspect/offender) is perceived as being of << descriptor category >>".

- Descriptor Categories:
 - Aboriginal/Torres Strait Islander appearance
 - Asian appearance

- African appearance
- Caucasian appearance
- Indian sub-continental appearance
- Mediterranean/Middle-Eastern appearance
- Pacific Islander/Maori appearance
- South American appearance
- Other appearance: where there has been positive identification of the nationality or ethnic appearance of the person being described, a specific ethnic description may be released to the media. The fact a victim thinks the person who assaulted or robbed them was, for example, Lebanese or Vietnamese etc. is not sufficient.

Generic physical characteristics should be described as follows:

- Always refer to a person's height in centimetres and not feet and inches
- A person's build can be referred to as thin, slim, medium, large, stocky, solid or obese
- A person's complexion may be referred to as tanned, olive, fair, pale or dark.

4.2 Medical condition, mental illness and disability descriptions

- It is an offence under the *Health records Act 1958* to release the medical details of a person without their express permission. However, a general description can be given provided it does not disclose the person's treatment or other personal information.
- An acceptable general description of an injured person's condition would be "The person has sustained ...
 - minor,
 - moderate,
 - serious or
 - life-threatening injuries".
- The location of injuries should also be described in general terms, for example, "The person has sustained injuries to the ...
 - chest,
 - upper body,
 - arms or legs,
 - back, head and stomach."
- Do not release details of the medical condition, mental illness or disability of a person (i.e. bipolar, dementia, autism etc.) unless it is relevant to identifying or locating the person, and has been confirmed by an appropriate source (eg. family member, service provider). Alternatively, you could say, "The person has a condition which ...
 - requires medication

- may result in them becoming disoriented or confused about their location.”
- It is reasonable to state if they do not have the required medication with them and that this is a concern.
- Release of video and audio recordings
- Information of assistance to police

Closed Circuit Television footage, in-car video etc. which relates to current matters and could assist with unsolved crimes or provide a warning to the public may be released to the media with the owner's permission as well as with the approval of an Officer via Form 1127 under s.124A *Police Regulation Act 1958*.

- Information requested by media

As required by **VPMP Use and disclosure of information**, requests for video taped footage and/or audio taped recordings are to be referred to the FOI Unit for assessment.

The FOI Unit will liaise with the Media and Corporate Communications Department to determine whether the information can be released outside of the FOI process or should be subject to the *Freedom of Information Act 1982*.

Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines, contact Media and Corporate Communications Department.

Update history

Date of first issue	22/2/10	
Date updated	Summary of change	Force File number
	Section 3- Ethnic descriptions. Amendments to 'Aboriginal' appearance to 'Aboriginal/Torres Strait Islander' to conform with the now acceptable curtesy title introduced by DHS in 2006. This change in title better reflects the plurality and diversity of Victorian Aboriginal communities.	066161/11
30/01/12	Incorporation of various criteria from the 'Victoria Police Media Guide' and 'Protocols for the Public Release of Information between the Coroners Court of Victoria and Victoria Police', including: Re-write of sections dealing with release of photographs	059865/09

Victoria Police Manual - Guidelines – Release of information to the media

	and images; updating of allowable physical descriptors; and distinction between local media contact and contact with Force wide implications	
13/02/12	Updated to include specific guidance on release of information to the media following a death or serious injury incident associated with police contact.	067251/11

Appendix Four: Victoria Police Accountability and Resource Model



ACCOUNTABILITY & RESOURCE MODEL 11/12

SERIOUS CRIME DESK (03) 9865 2727

The Accountability and Resource Model identifies investigative primacy for reported Category 1 and Category 2 offences. The Serious Crime Desk is responsible for confirming the categorisation and prioritisation of all cases. The level of support is determined by the case priority and will be assessed on its relative merits.

Reactive Investigations — upon attendance at a crime notify the Serious Crime Desk of all suspected Category 1 or 2 incidents.

Category 1 — Crime Department take investigation primacy and Regions provide support in accordance with the case priority

Category 2 — Regions take investigation primacy and Crime Department will provide support in accordance with the case priority

Targeted Operations — require the approval of Tasking and Coordination to ensure a focus upon organised, recidivist and serial offending. Targeted operations may be authorised and investigated by the Crime Department regardless of category.

DISPUTES

If a dispute arises regarding the assessment of the crime, responsibility or priority the matter should be referred to the Serious Crime Tasking and Coordination Manager to resolve, OR if it is after hours the Duty Crime Officer.

SERVICES

The senior investigating member from the Crime Department (Category 1) or Regions (Category 2) is responsible for the call out of forensic services via the On-Line Supervisor. All category 3 call-outs must be authorised after hours by the Duty Crime Officer.

INVESTIGATION PLAN

Within three (3) days of the initial report to the Serious Crime Desk an investigation plan is to be completed on the Interpose System. The responsibility for ongoing Tasking and Coordination lies with the area that takes investigative primacy.

PRIORITY	JUSTIFICATION	DESCRIPTION
A	Life threatening	<ul style="list-style-type: none"> Imminent threat to person/s life if urgent action is not forthcoming.
	Terrorist act	<ul style="list-style-type: none"> An act or threat intended to advance a political, ideological or religious cause by coercing or intimidating an Australian or foreign government or the public, by causing serious harm to people or property, creating a serious risk to the health and safety of the public, or seriously disrupting trade, critical infrastructure or electronic systems.
	High Community impact	<ul style="list-style-type: none"> The crime causes or has the potential to cause substantial fear or outrage in the community.
B	High victim impact	<ul style="list-style-type: none"> A person who individually or collectively has suffered serious harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights.
	High risk recidivists	<ul style="list-style-type: none"> The targeting of a known or suspected high risk recidivist
	Organised crime involvement	<ul style="list-style-type: none"> Crime committed in an organised and systematic manner by a number of persons in an ongoing association or group whose primary motivation for association is to gain profit and/or influence and where tactics that involve intimidation, violence and corruption and commonly used.
C	Multi agency investigation	<ul style="list-style-type: none"> An investigation involving a multi agency response.
	Complex evidentiary considerations	<ul style="list-style-type: none"> The complexity of the investigation results in the high likelihood of:- <ul style="list-style-type: none"> Evidence deterioration or destruction/ Impact upon case by judicial or custodial time constraints/ Difficulty in interpreting or obtaining complex or specialist evidence from external sources/ Difficulty in case preparation due to transcribing, translating or interpreting.
	Identified organisational focus	<ul style="list-style-type: none"> Targeted investigations in accordance with the Victoria Police Priorities and Standards—reducing and preventing crimes against the persons, fighting serious crime and organised crime and reducing and preventing property crime.
D	Series/serial offences	<ul style="list-style-type: none"> The investigation of an identified series of crimes suspected of being committed by a person or persons.
	Otherwise routine investigation	

CATEGORY 1	CATEGORY 2
ARSON & EXPLOSIVES <ul style="list-style-type: none"> •suspicious fire death (or injury likely to result in death) •fatalities involving wildfire/bushfire •bomb / explosive device excluding incendiary or soda bombs 	<ul style="list-style-type: none"> •fire related death, suicide, life threatening/ significant serious injuries •politically motivated fires, complex suspicious fires •intentionally or recklessly causing a wildfire/bushfire
BURGLARY <ul style="list-style-type: none"> •aggravated burglary involving life threatening and/or significant serious injuries or shots are fired 	<ul style="list-style-type: none"> •aggravated burglary where a firearm is produced •aggravated burglary which is sexually motivated
CHILD EXPLOITATION <ul style="list-style-type: none"> •commercial / organised manufacture or large scale distribution networks of child pornography •on-line child exploitation •organised / cross-jurisdictional child prostitution offending 	<ul style="list-style-type: none"> •manufacture (general) of child pornography •child prostitution related offending
CORRUPTION <ul style="list-style-type: none"> •corruption relating to prison officers •corruption of public officials transnational or organised crime related 	<ul style="list-style-type: none"> •corruption (all other)
DRUGS <ul style="list-style-type: none"> •large commercial traffick or cultivation of illicit drugs (inc. conspiracies & attempts) that include aggravation, such as corruption, transnational or linked to organised crime 	<ul style="list-style-type: none"> •large commercial traffick or cultivation (inc. attempts & conspiracy)
DRUGS—CLANDESTINE LABS <ul style="list-style-type: none"> •sophisticated clandestine drug laboratory operations 	<ul style="list-style-type: none"> •clandestine drug laboratories assessed by CLS as unsophisticated <i>(Note: All clandestine laboratories must be processed by VFSC or CLS)</i>
E-CRIME <ul style="list-style-type: none"> •reported or targeted investigations assessed as involving highly complex information technology that are transnational, multi-agency or involving catastrophic victim impact 	<ul style="list-style-type: none"> •reported or targeted investigations assessed as involving complex information technology and high victim impact or involving recidivist offenders
ESCAPE <ul style="list-style-type: none"> •high risk escapee or breach of prison or rescue 	<ul style="list-style-type: none"> •adult escapees from prisons
FIREARMS ASSISTED VIOLENCE / FIREARMS TRAFFICKING <ul style="list-style-type: none"> •non-accidental shooting resulting in life threatening and/or significant serious injuries •organised trafficking of illegal firearms •shots at police 	<ul style="list-style-type: none"> •non-accidental shots fired, excluding suicide •armed robbery where firearms are produced •sale of illicit firearms
FRAUD <ul style="list-style-type: none"> •reported or targeted investigations assessed as highly complex, transnational, multi agency or involving catastrophic victim impact 	<ul style="list-style-type: none"> •reported or targeted investigations assessed as complex, high victim impact or involving recidivist offenders
KIDNAPPING / ABDUCTION <ul style="list-style-type: none"> •kidnapping/abduction where victim remains captive •ransom kidnapping 	<ul style="list-style-type: none"> •kidnapping where victim recovered
MOTOR VEHICLE THEFT <ul style="list-style-type: none"> •motor vehicle or marine vessel-related organised crime which involves substantial planning & organisation, systemic and continuing activity and with the purpose of obtaining profit, gain, power or influence 	<ul style="list-style-type: none"> •motor vehicle rebirthing
MISSING PERSONS <ul style="list-style-type: none"> •suspicious disappearance (probable homicide) •unidentified remains (probable homicide) 	<ul style="list-style-type: none"> •suspicious disappearance •long term missing persons (more than 30 days) •unidentified remains (remaining unidentified after 3 days)
POLICE SHOOTING/DEATH IN CUSTODY/DEATH IN POLICE PRESENCE <ul style="list-style-type: none"> •deaths in custody or in police presence, including deaths after serious and very recent interaction with police •shots fired by police resulting in fatality or any injury 	<ul style="list-style-type: none"> •All incidents are subject to standard ESD notification and oversight process
PRODUCT CONTAMINATION/EXTORTION/BLACKMAIL <ul style="list-style-type: none"> •product contamination •high risk or high profile extortion/ blackmail 	<ul style="list-style-type: none"> •all other extortion/blackmail
ROBBERY— ARMED AND GENERAL <ul style="list-style-type: none"> •armed robbery/attempt involving life threatening and/or significant serious injuries; or shots are fired; or armored cash carriers; or substantial value (\$10,000 or more) 	<ul style="list-style-type: none"> •armed robbery where firearm is produced
SEX CRIMES <ul style="list-style-type: none"> •rape involving home invasion; life threatening and/or significant serious injuries; or multiple offenders •rape of child (under 16 years) by a stranger •abduction for purpose of sexual penetration by a stranger 	<ul style="list-style-type: none"> •rape of child (under 16 years) – suspect known •rape / attempt / assault with intent to rape by a stranger •indecent acts committed upon a child, elderly or disabled person that involves a high level of violence or unusual modus operandi •attempted abduction for purpose of sexual penetration by a stranger
SUSPICIOUS DEATH <ul style="list-style-type: none"> •murder and manslaughter •child destruction or infanticide 	<ul style="list-style-type: none"> •murder-suicide and assisted suicide •sudden unexpected death of an infant (SUDI) or child (SUDC)

Appendix Five: Response by Chief Commissioner Lay



VICTORIA POLICE

Mr Ron Bonighton, AM
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Dear Mr Bonighton

Recurring themes in the management of high profile cases

Thank you for the opportunity to provide a response to the above report. Victoria Police recognises that the release of confidential information other than in the legitimate course of members' duties has a number of serious consequences which undermine community confidence in our organisation. As a consequence information security breaches are taken seriously and in recent times a number of initiatives have been introduced to address this important issue.

In 2010 Victoria Police established the Information Management Standards and Security Division (IMSSD) which aims to change attitudes and behaviours in terms of information management and information security. This Division has responsibility for implementation of recommendations made by the Commissioner for Law Enforcement Data Security (CLEDS) pursuant to its ongoing reviews of Victoria Police related business practices.

An Information Awareness Campaign has been launched which includes an on-line information security awareness module which has been completed by 95% of all Victoria Police staff. We are also embedding relevant messages in the learning objectives and course content for recruits and other developmental and promotional courses.

Victoria Police is currently liaising with the Office of Police Integrity (OPI), Prevention and Education Unit in a proposal to develop another on-line module which will include scenarios involving interactions with the media when dealing with 'high profile' investigations such as those referred to in the Report.

The first of three "Key recommendations" of the report proposes that 'high profile' matters are investigated by the Crime Department rather than local Crime Investigation Units. The basis for this recommendation appears to be comments attributed to members of the Crime Department that having it investigate such matters would minimise the risk of information security breaches occurring.

I understand the intent of this recommendation is to minimise risks however given the source of several information releases over the last two years has unfortunately included investigators from the Crime Department I am not confident that this recommendation alone would address the core issue. Additionally, not all high profile cases are related to

major criminal investigations and are often related to serious motor vehicle collisions or matters of a more minor nature that do not come within the ambit of Crime Department investigation responsibility.

For these reasons I do not accept, nor endorse recommendation 1.

The second key recommendation of the report suggests risk assessments are undertaken of investigations and operations that have the potential to attract media attention. An aligned recommendation within the body of the report requires investigators of high profile matters to make Conflict of Interest Declarations. The declarations were initiated under the Victoria Police *Strategy of the Investigation of Death Following Police Contact*.

The Crime Department has recently introduced an instruction that mandates the governance arrangements for Task Forces which are established to investigate serious and therefore high profile crimes. The requirement for potential members of high risk Task Forces to complete these declarations will be included in this instruction. The declarations will not only cause members to consider potential conflicts of interest throughout their involvement in the Task Forces but also alert them to the risks of information releases and other related matters.

I endorse and accept recommendation 2.

Victoria Police recognises the significance of the relationship between Victoria Police officers and the media however we require more time to consider the potential implications of the third key recommendation. Whether the imposition of such a requirement would be detrimental to the trust developed in our working relationship with the media and whether such a requirement would be effective in achieving what is sought by its introduction are important considerations prior to undertaking to adopt that recommendation. I therefore propose to assign this matter for work to be conducted to determine the feasibility of adopting this recommendation or not.

Accordingly I am not in a position to endorse or not endorse recommendation 3 at this time. A response will be provided as soon as possible.

I thank you and your staff for their assistance and advice on dealing with the serious issue of release of confidential and sensitive information by Police

Yours sincerely,


Ken D Lay APM
Chief Commissioner
27/5/12

