



VICTORIA POLICE

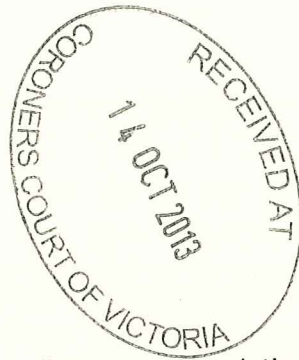
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Briley Miller,
Coroner's Registrar
Coroner's Court of Victoria
Level 11, 222 Exhibition Street
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Dear Ms Miller

This letter is in response to your request regarding recommendations by Coroner Dr Jane Hendtlass, following the investigation into the death of Russell McLarty. The two recommendations which directly relate to police are:

- 1. that the Chief Commissioner of Victoria Police direct the Homicide Squad to investigate all Victorian deaths following an assault in licensed premises to the level of detail required for both prosecution and coronial purposes; and**
- 2. that the Chief Commissioner of Police direct the Homicide Squad or the local area managers to accept responsibility for transferring the coronial investigation of deaths out of the region when an important witness in the death is an off-duty police officer who has a long-term relationship with many of the other witnesses.**

With respect to Recommendation 1, the current mandate of the Homicide Squad is to investigate all suspicious deaths in Victoria, including deaths in custody or police presence and fatal police shootings. In practical terms, where there are suspicious circumstances (identified either immediately or later), Homicide Squad will take primacy and investigate the matter. The squad will then either retain the investigation or hand back where the circumstances are later determined to be not suspicious (this typically occurs after a post mortem). In these non-suspicious circumstances the squad maintains a support role and will typically review the inquest brief prior to its submission to the Office of Public Prosecutions for an opinion on any possible criminal charges before it is submitted to the Coroner. This practice would seem to overcome the problems and issues highlighted in the McLarty inquest, for which the Coroner has seen fit to rectify. On this basis I submit that the current practice, as outlined above, is an alternative to the Coroner's recommendation and has been fully implemented.

With respect to Recommendation 2, the current Victoria Police Policy on managing Conflict of Interest provide minimum standards that employees must meet in identifying and avoiding conflicts of interest. The circumstances and findings in the McLarty inquest, as they related to Recommendation 2, have occurred due to non-compliance with policy. The policy puts the responsibility on each employee to identify actual, potential and perceived conflicts of interest, as well as taking reasonable steps to avoid such conflicts. Had the investigators identified and properly managed the perception for such conflict, the issues raised by the Coroner may not have required a recommendation.

There are further issues with respect to the practicality of implementing Recommendation 2. The fact is that police, particularly those serving in rural areas, need to investigate and be involved in investigations where they may know witnesses or other persons involved. Likewise, police themselves occasionally witness events and become involved in criminal investigations as a witness. The solution to these situations is to avoid conflicts by first identifying the circumstances and risks and then ensuring appropriate action is taken to prevent perceptions of conflict. Recommendation 2, contains too many variables to be practical. The critical limiting factor seems to be for members to fully understand their responsibilities in the Conflict of Interest policy.

On the basis of the preceding comments, I submit that there are unresolved issues within recommendation 2 that need to be addressed. Further work needs to be undertaken by way of education to highlight police members responsibilities in regards to conflict of interest. To this end, the matter has been referred to the Professional Standards Command to broaden knowledge in this area across the Force.

Your sincerely


Stephen Fontana
Acting Deputy Commissioner
Specialist Operations

8 / 10 / 2013