

INFORMER 3838: A WEB OF DECEIT

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One of the officers treated the protection duty like an end-of-season football trip, getting so drunk that she had to help him back to his hotel. Another was a fish out of water on his first overseas jaunt, his discomfort aggravated by a paranoia about germs.



Kuta Beach in Bali, where police officers took Informer 3838. *Credit:Alamy*

Meanwhile, back in Melbourne's underworld, the case itself was being undermined.

Gangland killer Carl Williams was the star witness, but the lawyer was the police's ace up the sleeve. Her involvement was to be kept under wraps for as long as possible.

A detective later told the court that three people in Barwon Prison maximum security already knew the lawyer was a witness in the upcoming committal hearing.

"It's fanciful to think the word hasn't spread," another lawyer said at the time.

Then, in the wake of a breakdown in her relationship with police and their attempts to protect her identity, Informer 3838 did an extraordinary handbrake turn and sued them for failing in their duty to keep her safe.

In her decade-long career as a barrister, Informer 3838 had represented a who's who of Melbourne's underworld. She had become a trusted adviser to drug traffickers, murderers and mafia figures.



Former drug squad detective Paul Dale at Melbourne Magistrates Court in 2010 for proceedings over the murder of police informer Terence Hodson. *Credit: Craig Abraham*

When she reluctantly agreed to become a witness against Dale for the Hodson murders, both police and the lawyer believed the criminal fraternity would not care that she was co-operating to punish an allegedly bent cop.

It was a fundamental miscalculation, one of a series that would unravel the arrangement.

The scandal over what had actually happened in the darkest days of the underworld war has taken almost a decade to play out. But it unfolded in secret; police, lawyers and journalists knew, but it was beyond the knowledge of most Victorians.

For years, the bitter legal battle about her involvement had been concealed behind a series of cryptic initials: "AB, CD and EF". So sensitive was the dispute, so intricate the web of suppression orders over the case, almost nothing beyond those letters could be reported.

On Monday morning, the Supreme Court unwound almost all of that. In an email to Victoria's journalists the bulk of the publication bans were lifted.

It brought into the light hundreds of pages of secret court decisions about whether or not criminals could be told that their convictions may have been compromised. They were released along with a seething High Court judgement about the conduct of both Informer 3838 and Victoria Police.

"[The lawyer's] actions in purporting to act as counsel for the convicted persons while covertly informing against them were fundamental and appalling breaches of [her] obligations as counsel to her clients and

of [her] duties to the court.

“Likewise, Victoria Police were guilty of reprehensible conduct in knowingly encouraging [the lawyer] to do as she did and were involved in sanctioning atrocious breaches of the sworn duty of every police officer.”

It left Victorian Premier Daniel Andrews no choice but to call a royal commission into the police’s handling of their dynamite informer and the cases the lawyer had contaminated by turning double agent.

Blood in the streets

This tale of deception all began with the gangland war.

In the early 2000s, the bodies were piling up in the battle to control Melbourne’s lucrative drug trade.

There was a murder a month. Alphonse “The Black Prince” Gangitano had been killed; Carl Williams murdered Mark Moran; and Victor Peirce was gunned down in his car in Port Melbourne.



Underworld killer Carl Williams.

But it was the execution of Jason Moran and Pasquale Barbaro in front of five children at an Auskick game in June 2003 that ramped up the pressure on police to stop the bloodshed.

“It was a desperate and dangerous time,” Chief Commissioner Graham Ashton said this week, seeking to explain why the force had turned to such desperate measures as Informer 3838. When the information pot of gold came, police were willing to bend the law to scoop from it.

She’s known by a few acronyms now – Witness F, Lawyer X, EF and Informer 3838. She also had a high profile in Melbourne’s legal and underworld communities. Charismatic, brash and witty she loved a drink

with cops and crims alike.

“She wanted to be wanted,” one policeman said.

By one reading, she was also trapped. She knew about crimes that had been committed, or were about to be committed, and said she feared she might be charged as an accessory.

She remembers walking to court one day hoping a tram would hit her so she wouldn't have to face the ordeals ahead of her.

She claims she was stood-over by her most infamous client – drug lord Tony Mokbel – to ensure the guilty plea and silence of one of his underlings, who was arrested for running a pill press.

The lawyer wanted to be rid of Mokbel, but by then she was in up to her neck.

“She used to mix too much with the clients and wouldn't listen, despite my warnings that she wasn't smart enough, she was in too deep,” one lawyer said.

“There's no loyalty ... they will slice you up as soon as it suits them.”

In deep

Just how the lawyer became a police supergrass is so knotted in disputed accounts and misinformation that even Supreme Court judge Timothy Ginnane would find it impossible to untangle.

What is known is around mid-2003 contact was established between a detective and the barrister that led to what she claims was the single biggest police breakthrough in the escalating gangland war.

She says she was pivotal in turning a key player into an informer.

“His actions,” she wrote of the criminal, “created a precedent for others to follow and was the crack in the dam wall of silence that lead (sic) to a flood. He laid the foundation for the prosecution of numerous murderers.”

With her access, the lawyer quickly became Victoria Police's most valuable informer. The volume and quality of her information meant that in September 2005 she became a registered informant.

Embracing her role, Informer 3838 even began telling on her clients. In one case, she represented a client the same day she contributed to his arrest by tipping off police about his drug lab.

She also began fostering introductions between her clients and undercover police operatives, becoming an “agent provocateur”, as her behaviour has been described in a former client's pending appeal against a

conviction.

But there were still ground rules.

Informer 3838's co-operation had always been conditional on an agreement that she would never be publicly exposed, never called to testify.

That changed when the police's desperation to solve one of the state's most infamous murders hit its peak.

Murder, mayhem and corruption

Terence Hodson and his wife Christine were executed in their Kew home in May 2004 after a leaked police file revealed that Terence, a veteran criminal, had become an informer.

Police quickly zeroed-in on a suspect – drug squad detective Paul Dale – and an alleged motive – silencing Hodson before he could testify about Dale's alleged involvement in the burglary of a drug house. That case had collapsed after the Hodsons' murder.

But proof was hard to find. It took three years for the first major breakthrough: notorious drug trafficker Carl Williams – who was already serving 21 years in jail when he was sentenced to at least another 35 for the murders of Mark Mallia, Jason Moran and Lewis Moran – began co-operating with police.



Carl Williams sits behind bullet-proof glass at Melbourne Magistrates Court in 2007. *Credit: Jason South*

The theory was Williams had acted as broker between Dale and the hitman, Rodney Collins.

From April 2007, Williams provided a series of statements detailing the plot. They were rich with colourful

details about a clandestine meeting with Dale in a swimming pool, where they could not be overheard.

Yet Dale remained free because Williams was a “tainted witness” – several Supreme Court judges would later note – with a documented history of providing “inconsistent” and “highly unreliable” information.

Enter Informant 3838, who investigators believed was uniquely positioned to get much-needed corroboration.



Paul Dale

In 2004, before the Hodson murders, Informant 3838 had acted as a go-between for Williams and Dale, passing on messages and giving Dale burner phones. Dale later testified that they’d also had a sexual relationship, which she denies.

Ultimately she would wear a wire to a meeting with Dale in a South Yarra cafe to discuss the taskforce Petra investigation.

On the covert recording, Dale told the lawyer that Williams’ statement to police was “very accurate”, containing information only the two of them could know.

In February 2009, almost five years after the double murder, Dale was arrested and charged.

In preparation for the prosecution, police deregistered the lawyer as Informer 3838 and began referring to her as “Witness F”. The intention was to keep secret her lengthy history as an informer.

But as a witness her identity could not be kept secret for ever.

“How could anyone trust her after that?” an underworld source says. “Everyone knew she had been wired. Everyone thought she was wired.”

Even a prosecutor in the committal hearing predicted the outcome.

“The criminal underworld may well look at her and say, ‘Hang on, I’ve dealt with her, my mate has dealt with her – what’s she going to say about us when push comes to shove?’” the prosecutor said.

By then, police were moving her from hotel to hotel – the Park Hyatt, The Langham, The Westin – there were clandestine meetings in empty floors of high-rises and police were paying for everything from flights to fuel to phone bills.

They wanted her alive for Dale’s trial. Afterwards they planned to give her and her family new identities and relocate them overseas.

Then, on April 19, 2010, Carl Williams was beaten to death in prison with the metal stem of bicycle seat wielded by Matthew Johnson, head of anti-informer gang Prisoners of War.



Prison CCTV footage released after Matthew Johnson’s court case shows the convicted killer (left) sneaking up behind Carl Williams (seated) with the stem of an exercise bike before launching his deadly attack.

The charges against Dale were dropped. But whispers continued to spread that the criminal lawyer was a “dog”.

Blowing the lid

Informer 3838 says her information was integral to the arrest and prosecution of at least 386 criminals.

Among them were members of the Calabrian mafia-linked syndicate arrested over the world's largest ecstasy bust in 2008.

Her involvement had been sanctioned by the highest levels of law enforcement in Victoria, including then deputy police commissioner Simon Overland.

Yet the profound conflict of interest at the heart of her co-operation – a barrister who betrayed her own clients – was a ticking time-bomb.

In 2011, Graham Ashton, who knew about 3838 in his role at the Office of Police Integrity, became head of the crime department in Victoria Police. Ashton asked for an internal review and the response was unequivocal: "We have an issue."

A formal investigation, known as the Comrie Review, found the lawyer had potentially "disregarded legal professional privilege" and "potentially interfered with the right to a fair trial". Some convictions of her clients may be "open to claims of being unsafe".

For the next two years, the police ran internal probes as potentially tainted trials and appeals continued to run in courts, the Office of Public Prosecutions none the wiser.

Investigations based on her information also continued.

Then, in April 2014, the *Herald Sun* published a story about "Lawyer X", describing but not naming a prominent barrister who was recruited and registered as an informer.

An Independent Broad-based Anti-corruption Commission investigation was instigated, then its findings suppressed. It is known that investigator Murray Kellam, QC, found the matter "had the potential to have adversely affected the administration of justice in Victoria", though he stopped short of making any criminal finding.

His report is said to be the first time the OPP had an inkling that the cases it had been running could result in "unsafe" prosecutions and convictions.

Friendly fire

In February 2015, the OPP began its own review. The results prompted then director of public prosecutions John Champion to warn the attorney-general in a confidential report that possible "miscarriages of justice" had occurred.

He was "firmly of the opinion" that those convicted should be informed.



Former director of public prosecutions John Champion.

What followed is one of the strangest and most expensive legal battles between two government agencies in Australia's history.

Victoria Police launched legal action against the OPP in 2016 to stop them sending letters to former clients of Informer 3838. They argued the information would result in the murder of the lawyer, a fact that should outweigh other considerations.

A succession of losses followed for Victoria Police. The Supreme Court, the Court of Appeal and finally the High Court rejected their argument. The message was clear: the justice system had been corrupted and accused people's right to due process and independent legal counsel had been compromised.

Victoria Police had known all this eight years ago.

A senior government lawyer's opinion from early 2010 was that protecting the identity of a confidential informant was a powerful reason for concealing their identity, but it wasn't absolute. There would always be the view that nothing trumps the right to a fair trial.

How Victoria Police could take such a dangerous path – and refuse to change direction when it had the chance – is yet to be answered.

Was it a few bad apples? Incompetence? A command structure obsessed with scoring a conviction? Good intentions gone awry?

“There has never been a more significant revelation than what came out of the High Court judgement. It

has the potential to uncover misconduct on an incredible scale, travelling from the informer herself all the way to the highest offices of law enforcement,” said Ruth Parker, solicitor for one of the convicted men.

Beginning early next year, the royal commission will start to unwind this 15-year-long scandal to determine just where it all went wrong, and why.

Crime reporter

Chris Vedelago is an investigative journalist with a special interest in crime and justice.

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