

MELBOURNE PRESS CLUB

Press Club Lunch 20 May 2004

Ganglands War Lunch

Panel: Paul Coghlan, QC, Director of Public Prosecutions; Simon Overland, Victoria Police Assistant Commissioner; John Silvester, The Age
Moderator: Keith Moor, Herald Sun

Keith Moor (KM): If I could just have your attention please. We're about to get under way because I'm sure there are a lot of questions to fire at these people. Firstly, with my Melbourne Press Club hat on, I'd like to sincerely thank Simon Overland for arranging last night's arrest, which has done wonders for attendances today and has saved him doing a press conference. But with my Herald Sun hat on I'd just like to say that if you're going to do it again Simon can you let us know as well because we were a bit red faced this morning.

You've got to feel a bit sorry for Simon because everybody in Victoria these days has a view on what he should be doing to solve these gangland killings. You've got lawyers with vested interests who want to line their pockets by having a royal commission. You've got criminals making malicious statements about good, honest, upstanding policemen because they think it might help their cause when they get to court. And then you've got every journalist from Andrew Bolt to Bob Bottom last week and others having a say in the papers. And then you've got the retired coppers. And of course they would always have done it a different way. I bumped into a retired copper out for coffee who happened to be sitting with a Painter and Docker Underworld identity last week and I'm not prepared to name either of them because they both scare me shitless. I sat down for coffee and very quickly I said what do you think of the underworld war and the Painters and Docker rose to his formidable height and said underworld war, you call that an underworld war? 23 dead if you can believe the Herald Sun or 24 if you believe John Silvester and don't include the latest ones. He said, underworld war? In my day we had 40 dead in the Painters and Dockers underworld war - and, in a scene reminiscent of that classic moment in Crocodile Dundee where he pulls a knife out which dwarves that of the punks - now, that's what I call an underworld war. Not to be outdone, the copper said young policemen today don't know they're born, he said. In my day 40 of us would have been dragged in the minute a crim had killed another crim. We would have got a hold of the crim, hung him outside the balcony and beaten the crap out of him until he told us what they'd done. That's how we used to handle it. Then the Painter and Docker because they'd just started to compare appendages by this stage said luxury he said, luxury. In my day 40 coppers would have been in my house before dawn. They would have rooted the misses and kicked the dog or, vice versa, depending on their sexual proclivities. Then they would have forced me into saying something. Young cops today don't know they're born

the other one said. And I just said gee it's time for me to leave because the policeman was just starting to say when I joined the job I had to lick the road clean before...and I thought no, now's the time to go. And now, to separate fact from fiction we will hear from three people who do actually know what's happening today.

Firstly, I'd just like to introduce Simon Overland and I'll just read his CV. A bit of it's already come out. He is now of course Assistant Commissioner for Crime was sworn in as the state's highest-ranking detective during a graduation parade at the police academy on the 31st January 2003. He commenced his new role on Monday, 3rd February 2003 and gee what a baptism of fire he's had since then with corruption and killings. He's become the public face of those of course. He leads a team of more than 600 people including detectives and civilian experts in the crime department. And that includes the tactical response squad, the organised crime squad, homicide, sexual crimes squad, the arson squad, the Asian squad, the prison squad, the casino squad, armed offenders, major drug investigation division and the major fraud investigation division. Mr Overland was on secondment to the Federal Attorney General's department and project manager for the Australian Crime Commission implementation team from his role as Chief Operating Officer for the Australian Federal Police when he was selected for the Victoria Police role. He was AFP recruit of the year in 1984 rose through the ranks very quickly serving in operational and management positions across the nation. He also served on a special task force, which investigated the murder of AFP Assistant Commissioner Colin Winchester and bitterly disappointed John Silvester and I because he actually was able to prove that it was a disaffected public servant that committed that crime rather than the mafia, which both John and I had written about for many months as having been responsible. They were innocent on that occasion. In 2000 he was General Manager, Finance and People Management before taking up the position of Chief Operating Officer at Deputy Commissioner level responsible for corporate leadership and management including human resource management and development, financial management policy and strategic planning, industrial relations, information technology and learning and development. From April 2002 until his appointment at Victoria Police he had been on secondment as Project Manager for the Australian Crime Commission Implementation team. The Australian Crime Commission has been established to replace as we know the National Crime Authority and incorporates the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments. Mr Overland has a Bachelor of Law with first class honours from the ANU and a graduate diploma in legal studies and Bachelor of Arts in Administration from the University of Canberra. I have been told you have just eight minutes to speak so I'll have the stopwatch on. I'll sit down and introduce the other guests after you have spoken Simon.

Simon Overland, Victoria Police (SO): Thank you, Keith. Look, I apologise in

advance for not being as prepared as I'd like to be for this occasion. I had planned to sit down last Sunday evening and start preparing for this event after visiting the Caravaggio exhibition that is on at the Victorian National Gallery. Unfortunately, I didn't get past the first couple of Caravaggios before my mobile phone went into meltdown and the pace hasn't slackened since. So I'm not quite as prepared as I'd like but none-the-less this was too good an opportunity to pass up.

I think it is an important opportunity to make a number of points about coverage of the gangland murders in Victoria and I would like to thank the Melbourne Press Club for this opportunity. I'll make a number of introductory remarks and then share some of my observations about the reporting of these issues.

My starting point is to affirm my regard for the role the press plays in a strong democracy such as we enjoy in Australia and my acceptance in the legitimacy of the principal that the public has a right to know. I suspect this will provide some comfort to many of you that at least in point of principal we are in agreement. However, as always the real point of difference emerges in the detail as to what is the proper role of the press in reporting on the gangland killings. And just what does the public have a right to know about it?

I would also like to affirm my belief in the importance of police in maintaining a relationship with the media. The notion of relationship is important because it implies a mutuality of responsibilities of and rights that I think is helpful. Implicit in this is the capacity for disagreement and for criticism. But equally recognition of continuing interests that transcends individual transactions. This is something I strive to achieve in my dealings with the press to create a relationship recognising the benefit that we derive from that relationship but equally recognising that at times we will disagree and we will be criticised sometimes fairly, sometimes not. As with all relationships it is balance and continuing dialogue that are important in sustaining it.

There are a number of points I want to make about the reporting of gangland crime or as I prefer to describe it organised crime in Victoria. Now probably much to your disappointment I've tried not to identify particular incidents of reporting as I don't believe this is fair to the respective journalists. And I'm sure also to your disappointment equally I won't talk about particular cases currently under investigation or before the courts for a myriad of reasons.

My first point relates to the profile crime reporting generally enjoys in Victoria. I believe it is different from coverage in other areas of Australia being more intense. This is I suspect at least partly due to the size of Melbourne. As Australia's second largest city it is of a size where the nature of crime will be of a different level to all other Australian cities except Sydney. Even allowing for this it seems to me that there has been a great fascination on the part of the Melbourne media with crime for some time now.

This precedes the trend of increasing fascination with all things crime that I believe is happening across the country and the current organised crime killings here in Victoria. Recent events have changed the crime media market in Melbourne, as national media have become more interested in events here.

This national interest may subside when the current organised crime killings are stopped and corruption issues are dealt with. But for the time being the entry of new players to the Melbourne market changes the dynamic and from my

perspective increases the heat in the market. It also meant that some well-intentioned media players are now operating in the city and crime environment they do not fully understand and there are some real dangers in that.

Another suggestion I offer is that in the reporting of crime the media has moved from being an observer and reporter of the news to being a player in the making of news. And there are some reasons why I think this has happened.

The first is that it is part of a general trend. The dynamic between the media and the world it reports on is exceedingly complex and the interplay between the two invokes in my mind the derivation of Heisenberg's uncertainty principle that applies in science. As applicable to the media it might be stated something like this: does the act of reporting on phenomena change the nature of the phenomena being reported? My answer to this question is yes it does and increasingly this is the case.

The cash-for-comment saga 1 and 2 are perhaps good examples of this outside

the context we are considering today. When is a journalist acting as a journalist or when is he or she acting as an advocate for a particular interest? The lines between reporting, editorialising and advertising are increasingly ill defined. Added to this is the use of spin by many dealing with the media. Spin is all about controlling the agenda, influencing the way we see the world through the media and changing the way we might act within it. The second reason is the fact that crime sells. It sells newspapers and it attracts ratings and hence advertising revenue. The Melbourne media marketplace has always been competitive and the entry of new

national players has increased that competition. Conscious editorial decisions to give prominence to crime stories places added pressure on journalists to out-scoop each other. This pressure further blurs the line between reporting and making the news.

Now examples I can cite in relation to the reporting of the organised crime killings includes publishing of stories that are based on information that is just plain wrong. I could cite a couple of very stark examples of this but I won't because it would tend to identify the stories and the journalists concerned and as I said I don't think that is fair in a forum such as this.

I appreciate that it is possible to get into a lively, esoteric discussion about the nature of truth and whether it is objective or subjective, the nature of sources however publication of stories based on wrong information does impact on the organised crime environment and on our investigations and

in extreme cases it will get people killed. Another real difficulty is stories getting published out of context. And it is difficult for those of us involved in the investigative process to put stories in context because of legal and operational constraints.

There is a chasing of eyewitness accounts. Publication by media outlets of genuine eyewitness accounts can and does real issues to be dealt with in subsequent legal proceedings. And I suspect my colleague Paul Coghlan may have something to say about that later on. But if you understand the way the criminal process works then you understand that subtle but unremarkable variations in eyewitness accounts are manna from heaven for defence barristers. Media utterances at odds with sworn statements are highly problematic. The issue of immediacy is a real problem. Stated this was is a public's right to know. Often with respect to the public right to know the question of timing is critical. An extreme example of this relates to cabinet confidentiality. Information that was so sensitive as to attract a blanket prohibition at its time of currency loses that character over time such that it is publicly released after the passage of the appropriate period of time.

In the reporting of crime there is an increasing pressure to provide the answer now. But the investigative process takes time. So the story can become the amount of time it has taken to investigate something. Equally investigations are best conducted in secrecy, which can be characterised as contrary to the right to know. I don't believe it is because the right to know is not an absolute right. Rather it's one that needs to balance competing interests. The proper time and place for the emergence of detail is through the judicial process, which is and should be conducted in public. But the essence of good investigation is to remain covert for as long as possible and free from the glare of publicity something that appears impossible in this state.

The final observation I will share is that we have a new phenomena of suspects as celebrity. I understand the journalist's desire to seek both sides of a story but it is important to remember despite the various corruption allegations currently about that police do represent the state and the community as it's principle agent of social control and social cohesion. Celebrity suspects challenge agreed standards of cohesion and control and should be treated accordingly.

Again I thank the Press Club for the opportunity and I hope that my comments contribute to the maintenance of our important relationship albeit one characterised by healthy levels of debate and at times vigorous disagreement. Thanks very much.

KM: I did some ringing around to get some dirt on Paul Coghlan and came up with heaps but there is a good chance that he'll one day be prosecuting me or the Herald Sun for contempt so I ain't going to say anything about him other than he's a great bloke and read from his impressive CV. He's been the Director of Public Prosecutions since 2001. He was chief crime prosecutor from 1995 to 2001, Senior Crime Prosecutor, Major Trials 1985 to 1995. He's been at the Victorian Bar since 1978 to 1990. He was Associate Director of Public Prosecutions, Commonwealth from 1990 to 1992 and Solicitor, Deputy Crown Prosecutor for the Commonwealth between 1969 and 1978, which is where

he and Simon Overland actually got to know each other and our Simon of course doesn't leak. He wasn't the source of any of the dirt on Paul Coghlan that I'm not prepared to talk about because I'm a wimp.

Mr Coghlan has worked as a prosecutor for almost the whole of his professional career although in the time he spent at the Victorian Bar he did do some defence work and some civil work. He's prosecuted on a number of well-known cases including Peter Vaitos, the silver gun rapist; Raymond Edmunds, Mr Stinky: the Dillon and Riark housing commission land deals, Norm Gallagher, the secret commissions; that dirtbag Robert Arthur Selby Lowe, the murderer of Sheree Beasley; and Brian Quinn from Coles Myer and a large number of murder cases and frauds. In more recent times he has appeared in a large number of appeals before the high court and the court of appeal. He has been appearing in the courts around Victoria for more than thirty years and is regarded as one of the most experienced practitioners in criminal law in this state and perhaps Australia. Over to you, Paul.

Paul Coghlan, QC, Director of Public Prosecutions (PC): What Keith omitted to say is that I'm also obviously certifiable cos that can be the only basis for agreeing to come here today. But there you are.

One thing most people know about me is that I've been very private about matters touching the criminal law. And I do so because I'm a respecer in the utmost terms for the fairness of our legal system. And our legal system depends at the end of the day on persons being tried, on the evidence that is before the court, in the courtroom during the course of the trial and on no other basis. And I think we'd all say, we think that's right. We think it's right.

I wonder and I'll pose most of what I want to say in terms of questions that we might ask ourselves and ask one another at the end of the day. The first question and Simon's touched on it to some extent, and I might just in parenthesis say I knew Simon when we were both together in relation to the Winchester inquest and true it is that the Mafia probably didn't kill him. It did not demonstrate that the Mafia are innocent.

The first question is has our attitude to the reporting of criminal cases changed. Do we for instance report in much more detail than we ever have in the past the accounts of eyewitnesses? We go out seeking eyewitnesses and interviewing eyewitnesses. Do we understand that those witnesses will be cross-examined about the accounts that appear in the media and horror against horrors the reporters who interview them might be called to give evidence. Because you might have to confirm that's the version that was given to you if the witness doesn't agree that it was said. Well if that's what we want to buy into well buy into it by all means. And we didn't in the past and we didn't for good reasons. And it is because by-and-large we trusted the legal system. And that's what's up to challenge. Do we trust the legal system as much as we once did?

We freely report prior convictions of people who have been charged with criminal offences in circumstances that those prior convictions would never be admissible in any court of law. A chance that one in twelve in a jury might remember? You bet there is. And the stories are written in a way and it's good journalism isn't it. We want to make 'em memorable stories. We

don't report to have people forget.

I don't want to talk in detail about individual cases or individual reports of cases but an example of both of the instances I've just been talking about are absolutely clear in the reporting of the David Hookes matter at large. Can the man charged with his manslaughter in what is otherwise a relatively uncomplicated case get a fair trial? I just wonder. I'm not all that sure. And I am absolutely terrified that that's what we've come to. I think that there has been a quite clear change over a period of about the last five years. And they're changes that appear more in the print media than they appear elsewhere. Television by and large will, at least in so far as it relates to news, be more interested in and related to relatively short grabs. And they will be things that are not as memorable. It is a short-term appeal. Whether it became apparent for it's view that the print media were losing out to both television and perhaps the Internet to a lesser extent. Whether that's the reason and I don't know but I think it's clear in about the last four or five years in particular that the reporting of crime in the print media has altered quite dramatically.

If you're looking a point about which it changes, it changes pretty much in this state from about the Wales-King case onwards. That there seems to me to

be a quite different approach to the way stories have been approached in the print media in relation to the detail.

If I choose as an example and I don't choose it as a pejorative example I just choose it as something that would be quite different than the way we would have reported it before. In relation to the killings at Monash University that we published in one of the daily newspapers in Melbourne a photograph of a number of weapons. They didn't turn out to be weapons that the man possessed. They just turned out to be examples of the weapons, which

he was licensed to possess. Now the handling of that story in that way and that visual image and that high impact visual image is quite different from the way that we would have published it in the past. So we're pushing the envelope. And what becomes difficult for me about it is I'm a person who equally with my respect of the law in exactly the same way as Simon does I've got great respect for the public's right to know and the media's role in relation to it. The questions to become to know what and in what form. And we've got to think about the way that we proceed in relation to those matters. And for me what have I got to consider? I've got to consider whether at the end of the day these things become contempt of court. And do I want to go down that path? No I do not. It is not where I see us going. I don't see us as being at war with one another. But I think we do have to regard and it mightn't be a bad test sometimes, think if you were the person who was going to be tried. I'm going to be tried for a criminal offence. How would I respond to this level of publicity about the things most intimate to me, which could not under any circumstances go before a jury at the end of the day? And I wonder what the answer to the question would be?

I'm worried about the things I say might be seen in terms of a...as some sort of sermon because I don't regard myself as a sermoniser. I regard myself as a powerful, practical lawyer. And we ought to remember in this state that we had a court of appeal who decided in Glennen's case that he

could not be tried because of the publicity. Now fortunately we reversed that decision in the High Court. But we've had that decision made. We have in NSW some young men now being retried in a very ugly rape case because of the publicity that was given in those cases. Are we going to make some people un-triable in Victoria? Are some people trying to make themselves un-triable and are we playing along with it? Well, I don't think any of us want to see that. And if you can remember something that I said today it is that the chief prosecutor in Victoria said what he was interested in was seeing people tried fairly.

KM: and last but by no means least we have John Silvester, who has been causing me grief for exactly 24 years. Oh, 20 years sorry. Accuracy never was my strong point. It was 1984 I was fresh off the boat from England and sent up to Russell Street Police headquarters where the media rooms were for the Melbourne Herald. The Sun's formidable police rounds team at the time consisted of John Silvester, big Jim Tennison who's here in this room today at the back and Charlie Walker, legends one and all. I dreaded Monday mornings in particular cos I used to start at 6am on the old Herald walking into police rounds because that was the day that Johnny slipped in his smokies the yarns that he had written for quiet Sunday's when the chief-of-staff would beg and plead and Johnny'd say Ok you can have one of my smokies and it would be the splash. It would be full of unnamed sources or quote people like Kath Pettingill or mafia supergrass Giuseppe Verducci and it would almost be impossible to follow up - particularly to a green pom who knew nothing about one-eyed criminal matriarchs and Italian fizzes. Unfortunately, 20 years on I'm still sometimes forced to follow John up and that's because he's been a crime reporter in Australia since 1979. He worked at The Sun and Herald Sun in 1993 before he crossed over into the dark side - and I mean Spencer Street, not public relations. Since then he's worked at The Age and the Sunday Age and he's presently senior crime editor for The Age. He won a scholarship to study drugs - he loves them apparently - crime and corruption in Asia in 1985 and he also worked for the London Sunday Times Insight team, which is a superb title, John. He's won a Quill Award for Investigative Journalism and been highly commended for news, features, comment and radio work in the Quills. He was highly commended in the Graham Perkin Journalist of the Year and Walkley Awards. He won the Ned Kelly Award for True Crime Writing. He has appeared as a special witness at the royal commission in crime in Australia and got off with it. He's also written and published 20 true crime books. I give you John Silvester.

John Silvester, The Age (JS): The reason Keith, there was no names on those stories I only like one name on that and that's mine. Pretty interesting when you talk about whether people can get a fair trial and what sort of things come into the public domain before a jury can get to hear it. I'll give you an example. The Silk/Miller case. You know that. Two police who were gunned down. Two men were charged. Both the Herald Sun and The Age ran

a story, a fascinating story, a story, which said that Bendali Debs had planned to kill Rod Miller's wife and baby. Um terrible, terrible story. Very potentially inflaming story. That actual allegation was never put to a jury because the judge, Justice Cummings said, I consider it ought to be excluded in the interests of a fair trial. Who made those statements? Was it Michael Venus? No it wasn't. It was Jeremy Rapke, the prosecutor at the committal. That information was in the public domain because it was raised within a court but for some reason those sort of statements won't bias a jury but something written elsewhere will. Wayne Strawhorn is a drug squad detective presently facing serious charges. It was alleged that he ran a corrupt fiefdom and had threatened to kill a junior officer who had informed on him. Who made that statement? Was it Neil Mitchell? No it was a defence lawyer making a plea in a totally separate case. He's facing charges of making threats to kill. Those threats it has been publicly revealed were serious. He was serious when he made those threats. Did Geoff Wilkinson write those words? No it was Catherine Willems the Supreme Court judge. He hasn't been tried yet. We've also been told we've got X number of police and former police who are facing corruption charges. And we have publicly said we have a corruption problem. We have police officers who have become involved in drugs in selling and using them. Was that Derryn Hinch after lunch? No. Christine Nixon.

So the thing is we can't live in a world where everything is just decided inside court. We'd like to believe that the court hearing is some dispassionate hearing where a jury and a judge weigh up the facts in a dry and clinical way. That is not the way the courts work. We begin when the police officers arrive. White shirts best suits look like they've come out of the FBI academy. Women go weak. Strong men open doors for them.

Mothers

wish to take them home and cook them a lamb roast. These men would never tell a lie.

In comes the accused. love and hate on his hands and though the make up is there no tattoos are shown. New false teeth. I've known crooks with perfect eyesight to come in with glasses looking like Professor Peabody.

The victim's family arrive they look dull-eyed at the jury. And then the accused family arrives. Take Bendali Debs family. They're basically the Manson family and they arrive looking like the Partridge family. They're informed how to sit up straight, how to look. It's all part of theatre. I've seen defence lawyers cry, scream, yell obscenities and then fall asleep. And that was Colin Lovitt at lunch.

We look at gangsters in the media. And Simon made the point that now the gangsters are getting out and they have lawyers and they virtually have PR agents. Sometimes they're the same person. I don't know who's had more press

conferences Simon Overland or Carl Williams. When gangsters these days talk

about doing a two shot I don't know if they're talking about killing someone or doing an interview on the Sunday program.

We talk of suppression orders. The trouble is the gangsters know about it. When the couple were killed on the weekend nobody said lay down I can't name

you because of a court order. They're still shot.

So can these characters with all the publicity get a fair trial? Well there is an example we're going through an extraordinary set of circumstances at the moment but we have been there before.

Go back to Walsh Street. Two police were killed. Kath Pettingall was quoted the day after saying it wasn't my boys. That was a battle that was fought in the media. You had Wendy Pierce sitting in the house which had been demolished by the SOG and then there was an unnamed source saying they had

done this. It was all out there. And then enormous pressure on a jury to convict. The public, the community was outraged that two police were murdered. There was huge pressure and they did not convict for one reason. The evidence wasn't strong enough.

I actually believe that juries are robust enough for this. Judges have two favourite expressions. One of them is I believe in the system. And the other one is come in young man and sit on my lap. This won't hurt at all. But we treat them as kids.

So does the media manipulate juries? Look, it's fantastic. It's a love-in.

We're all fantastic people. No-one believes anything that we do. We've told them. These bastards won't listen. That's the problem. You think about it.

We said Kennett would win the election. They went and voted the other way the ingrates. We said the next big culinary treats would be fondues. Excuse me? Dipping bread into lard. We said that would happen. We voted the P-76 to

be the car of the year. So people read it and then they get on. And I believe in the strength of the jury system.

Now as for as the police and the media. You've got this massive amount of information in the police department. You have this inexhaustible curiosity in the media and we have a small tube, which is the official, formal methodology. And more and more we're trying to get it to go through that tube. And it won't work. There will be a flow over. And there is an active method of trying to destroy individual relationships between members of the media and the police department. And the media has to take some responsibility for that because when we get scooped we moan and we cry about

it and so there is pressure for everything. Don't talk to the media. Go to media liaison. And that means it's just not good for the democracy that the official version is the only one it's got. And as a result of that members of the media don't know as much about intuitively the police operations. So they are more likely to put on air something in a paper or on air, which impacts on an investigation because they are not aware of what's happening. Now being 382 years old I can remember back in the police club where in those days there was a lot of face to face discussions between journalists and police some of them very robust. People would have fifty pots and then Jim Tennison would drive them home. I remember once when he was pulled up

and the policeman said, have you been drinking and the he said, bloody oath I have I've been with the armed robbery squad. And he said, well you'd better get home that's a hard school.

So those days won't come back but there is a need to liaise and to

understand each other's roles. And there is a difference between a need to know and a right to know. And it is a really difficult time but the fact is that these are extraordinarily, unbelievable and unprecedented stories. So there will be this coverage. And the point being made that people outside of the people who normally deal with police are going to get involved and write stories. It is absolutely inevitable. And of course we now have crims being used as sources. The difficulty is crims sometimes lie. They sometimes do. And they sometimes manipulate people because they've got trials coming up and they'd like to say that the police loaded them up and they like that to be in the paper. And obviously they like the glamour of it all. I mean we've got funerals and you've got people who arrive there dressed in dark suits wearing t-shirts and dark glasses and covered in about \$82,000 worth of gold necklaces and they say oh, no I'm not a gangster. So what do we do? Do we replace the jury system? Under the present circumstances perhaps there is an alternative. Reality television. We could have perhaps Survivor Melbourne style with Carl Williams as the host and you just text message in who you want to be the next victim. It would be good for ratings and we could make a tidy sum out of the SMS. Thank you very much.

KM: Because John rambled on for so long (gee he needs a good sub doesn't he?) I'll leave my questions cos I'm sure with a room full of journalists there's plenty of them out there. All I ask is that you identify yourselves and your organisation. There are microphones walking around. So if one of you could hold your hand up?

Raphael Epstein, ABC Radio (RE): I was going to wait for others but no-one put their hand up so I'm going to get down to things that may be a bit off the topic. If I could just address a question to the DPP? All of the corruption cases and perhaps some of the gangland cases are you able to give us any idea of the scale of cases that have been derailed or delayed by those investigations. I obviously don't want you to talk about specific cases or numbers but can you give us you know an indication of perhaps how difficult it has made some cases and perhaps actually derailed others?

PC: I think it's probably only 4 or 5 substantial cases that are delayed by it. And any time you've got any allegation of corruption that'll affect some cases. I think it's true to say that the investigation has gone on a bit longer than people would have wished. But it's a bit more important that it be thorough than it be quick. There's been a perception in the past that these things get swept under the carpet and not investigated thoroughly. I mean we've put as much effort into it jointly between ourselves and the police as you possibly can and you hope you get it right. If it takes time and it slows down some cases, it does. I'll ask a question back. How long would a royal commission stop it for?

(RE): I guess I'm asking...(END OF SIDE ONE OF TAPE. REMAINDER OF QUESTION NOT RECORDED)

Another audience question also not recorded addressed to Simon Overland.

SO: No look I think that clearly information does leak out of the police force. There's no question of that. But I think there is a variety of reasons that occurs. I think some of it is just about relationships that are formed over a long period of time and people for whatever reason release information and that's something most of you in this room will be eternally grateful for. So I think there is always going to be a level of leaking that goes on regardless. I think it's some of the things that John was talking about, about the curiosity and the availability of information.

I think it is possible to put some more sinister connotations on some of what is occurring. I think clearly there are some people within the organisation who perhaps have particular views about the ways particular issues are being dealt with and it seems to me they release information for their own causes. But it seems to me there is an ultimate irony about that because the motivation that's put forward because the motivation that is put forward is about concern about the way corruption matters may or may not be being dealt with and of course the act of releasing information to the media is an offence. So you have noble cause corruption on the part of people who aren't satisfied with the way corruption allegations are being dealt with inside the organisation. There is a slight irony there.

But no, I don't think much of it is directed towards Christine. I mean clearly in an organisation of 13,000 people there are some people who are not happy with the way she's taking the organisation but the vast majority of people are behind her. And to those people who aren't happy my advice is go and get another job.

KM: Various groups have called for a permanent crime commission in Victoria to help tackle organised crime and gangland killings. I'm just wondering Simon, your view and Paul Coghlan's and Johnny's if he wants to buy into it.

SO: Oh look I'm getting good at answering this question. That essentially is a matter for government and the people of Victoria. And if the government ask me my views I'm happy to tell them and I'm sure if they want to take that issue forward they will.

KM: You said you think it should be publicly debated though? You'd like there to be a debate about whether there should be one or not?

SO: I think it's helpful to have a debate about these issues but I recognise that the police aren't in the best position to decide these issues. We have a view. It's a particular view and these sorts of issues benefit from a range of different views and that needs to be run through government process.

KM: Paul?

PC: I think we've got to give the ACC a bit of a try yet. When we did set the Australian Crime Commission up to replace the NCA to have a broader approach in each of the states and to get away with the difficulties about

the sort of references and the way that you had to operate under the old NCA system. And I think that we should give it more of a try than it has been given so far. As a basic investigatory model in terms of my involvement over the years I think the taskforce model is a very good model that before you want to talk about coercive powers you need to look at how well you can use telephone intercepts, listening devices, any other form of electronic surveillance you can do, just ordinary surveillance just then connected to any information you can gather before we need to get necessarily to a coercive model. Apart from anything else it might just at the moment until we can work through whether the Australian Crime Commission is a good idea and whether we can make it work, it will be just another stall in the process. Let's all wait while we set up the crime commission. It requires an act of Parliament. When do we reckon that's going to be done? You know I can tell you how long the process takes if you want an amendment made to the law but that's for discussion some other time.

KM: John?

JS: A Royal Commission would actually be totally not only ineffectual but counter-productive because we have a number of trials that would have to be delayed. So that's just lunacy because there's a very strong argument that these murders are being committed because the system has come down. And it's a national problem with a national solution. And thirdly, Purana is locking people up. SO are we saying that the traditional method has failed? I don't think so.

Jim Tennison (JT): Look my question's directed to Mr Paul Coghlan because I think there's a lot of people here who would be interested in the answer to this and maybe John Silvester would get a couple of good night's sleep and so would The Age editor. I'm just interested in whether the Director of Public Prosecutions is looking at The Age over its reporting in the last 48 hours of the latest episode of the gangland wars?

PC: I can't comment on it. It's simply not fair to any of the people involved. I just won't comment.

JS: I'd like to personally thank you for that question too, Jim.

Josie Taylor, ABC TV (JT): This is for Mr Overland. How significant was the arrest made yesterday and how much pressure is there on the Purana taskforce to make high profile arrests?

SO: Look I think any arrest in this area is significant. It demonstrates that we're making progress but I don't want to overplay that though. Yes, look we're under pressure but we're used to that and we're not going to be

rushed into doing things because the media might be on our back or the politicians might be on our back or any other reason.

There were particular reasons why we made the arrest yesterday. They were operational reasons. I'm not going to discuss those but I'm pleased that we are making progress and I guess I'd like to I guess, elaborate on what John said. I mean the fact is Purana is making arrests. We now have people charged in relation to three murders. If you look at our strike rate before that it 's zero. We now have five people on trial or will be on trial we believe in relation to these murders and I think there will be more arrests to come.

KM: Claude?

Claude Farrell, formerly of The Age (CF): I'd like to ask Paul Coghlan whether he thinks there is room in our criminal law for something which the Costigan commission I think recommended and has been remarkably useful in

dealing with the Mafia in the United States. I refer to the so-called RICO statute (Racketeering influenced and corrupt organisations) statute, which makes it possible to prosecute by proving a pattern of crime rather than proving an individual offence against an individual person.

PC: People have looked at it in various times and the commonwealth at one stage did have an organised crime offence. There are probably constitutional difficulties for the commonwealth so we could take it on in the states. I'm not sure for us whether it makes it much easier one way or the other to prove things. We would approach conspiracy in a slightly different way to the way the Americans might and I think most of the things they think they can cover by their RICO statute can be covered by conspiracy. But the real oomph in more recent times about civil RICO and it's get the money. It's put them out of business by getting the money. You just take over the business which are the so-called legal fronts for where the dirty money's coming from and stop it that way. And they've had a lot of success doing that. So when our law enforcement agencies in Victoria do talk about confiscation legislation and so on and perhaps stuff regularly as draconian as what we've got in Western Australia and our own system here from the 1 July when our new regulations will come in will be pretty draconian in it's own right. If you think about organised crime it is about only one thing. It's about making money. That's what it's really about and if you can do something about controlling the money you can do a fair bit about controlling organised crime.

JS: As long as the courts back that sort of thing up. We had the case the other day where a loon walked into Lewis Moran's house with \$43,000 in cash in a shopping bag, unemployed and there was traces of cocaine and heroin on the money and yet it couldn't be established that that money came directly from a drug deal and he's likely to get the money back. Now if that's justice I'm a banana.

PC: I signed the appeal papers in that case this morning.

JS: Beautiful.

Zoe Daniel, ABC: Why should people trust the witness protection program and is the reason informers are fearful of using it because they fear the way the system is being run that they fear the police running the system.

SO: Look, the starting point on this is that I'm not responsible for witness protection within Victoria Police. It is outside my area of responsibility. The second part to the answer is that the comments attributable to Purana in the story that started this are wrong. We have not expressed concern about the program. The journalist was made aware of this. The story was run and I can't take it any further than that.

PC: Apart from that there are a hell of a lot of people who don't want to go into witness protection. It's a bit like being in jail. If the whole of your life is to be controlled there are a lot of people who just won't tolerate it. We do have lots of witnesses who go into the system who quit. Cos they don't like it. It's a very difficult system to operate. If you want to look after people 24 hours a day and take it seriously they don't get much freedom.

KM: Simon, has the Australian Crime Commission actually questioned anybody yet and if not why not because there was a big push on to get them involved?

SO: They are involved. We've always said we won't confirm when they start their hearing program. That's covered by secrecy provisions and I can't take it much further than that.

Chris McLeod, Herald and Weekly Times (CM): I was interested in Simon's remark in relation to the crime commission that setting one up might be a matter for the public. And I think a lot has been said of the media's role in reporting some of these crimes but surely the media's role is to keep the public as fully informed as possible so they can make decisions like that.

SO: Well as I said I think there is a role for the media in terms of the public's right to know but as always the question is about balance and the question is often about timing; the timing of which information becomes available. I think there's plenty of information out there at the moment from my point of view, too much. Others will disagree with that but I think there is plenty of information out there in the public domain. I do believe though that given the nature of our society that questions like this do need to be debated publicly. That essentially is an issue for government to run and my responsibility as an officer of government in a sense is to provide government with advice should they ask for it and if they want to have the debate then I'm happy to contribute to it but I don't see it as my role to start that debate. I think the Chief Commissioner is in a slightly different

position. She's a statutory office holder. She has certain responsibilities that I don't enjoy as basically a humble employee of Victoria Police.

PC: The other problem about it is too that people like us, people involved either directly for Simon or indirectly for me in the question of law enforcement rarely get taken very seriously when we talk about coercive powers.

Jane Kenrick, Leader Newspapers (JK): I've got a fairly pedestrian question to ask. We've got known criminals. We've got police and surveillance powers. How is it that people keep getting killed and police are surprised? I read in other media that police are picking up and monitoring conversations and still people are being killed. Surely some of these people are in the police sights, are being observed and some of these deaths are avoidable?

SO: I think your question fundamentally misunderstands the nature of policing. And this is a point I've addressed ad nauseam. Surveillance does not provide protection to people. Surveillance of these people is very difficult is not impossible to maintain on 24 hour basis. The only way in which we can protect people is if they are prepared to cooperate fully with us and then and only then can we make any guarantees about the safety of people. Now that said there are a range of things that we try and do to make sure people don't get killed. It's our first responsibility. You know rule number one when you come into the police academy is preserve life and that's

what we try and do. But equally the people who are doing this are part of an organised crime environment. They're life-long career criminals. They're very skilled. They're very aware of how we work. And it's a constant game of cat and mouse. Now I think part of the difficulty is people watch far too much TV. You know the average surveillance operation, which consists of a couple of detectives in a car driving two cars back from a major organised criminal down the middle of the city is just farcical. The resources and the effort that is required to put together a proper surveillance operation are considerable and it is a very, very difficult thing to do.

KM: Carl Williams would like to put a question through table 10.

Jeremy Kelly, Herald Sun (JK): Thanks for that Keith. My question is to the Director. Are you aware of a practice that seems increasingly more common especially with gangland figures where defendants names are not being published on the court list for what I have been told is an effort to keep the media away.

PC: I'm not aware of that. And I don't have any control over what appears on any court list. I mean if it's an appearance at court it's a public thing. There are some things that happen in court that are not necessarily public to do with some other parts of the process the obtaining of warrants and so on which may or may not require the appearance on the court list but if you'll let me know what the details are I'll have a look at it.

KM: ABC at the back

Peter Ryan, ABC (PR): We've heard a lot today that this is all about taking care of business and making money but Simon how far have your investigations gone into uncovering any so-called involvement from the respected end of town, big business? What are you uncovering?

SO: Quite a bit.

PR: Could you elaborate?

SO: No

KM: Just one for Paul. Just as judges are above being influenced by anything we write wouldn't it be fair to say that maybe jury members are equally able to judge on the evidence before them rather than anything they've seen in print or on television.

PC: Look, I'm a person with the greatest fundamental belief in trusting juries. And I only wish our appeal court would only have the trust that I have and that's all part of the process. It's not necessarily always the perception you have about how a jury reacts to it. It's about how appeal courts and other parts of the process react as well. But I know what I'd do if I was sitting there in a jury and somebody said in a case that was about a bouncer charged with killing someone, did you all know that this blokes done this a couple of times before. Now it's just not fair to people. I mean you'd hope that you're capable of saying I put that to one side. But can any of us really do that? And I reckon there are just some parts of it and I follow all the things that are said about there being stuff out there that might be prejudicial in some way but go back to the question I was asking. The question is has it changed in the last few years. I think it's changed. Has it necessarily changed for the better? That's the challenge I'm wanting to put out. I'm not too sure. And I think in particular the things that could never get before a jury are the things that are a bit of a worry.

KM: Another question from the ABC. Table 15

Marco Bass, ABC (MB): Mr Coghlan, Without talking about specific media organisations you seem to be saying today enough is enough and the integrity of the criminal justice system is at stake. Would you send an editor or journalist to jail to protect that integrity?

PC: If it was serious enough, yes. I mean if it was the punishment that fitted the crime, yes.

MB: Well you've warned us. You sent out a statement after the coverage of the Hookes affair. So we have been warned and there have been some major suppression orders ignored or late or flouted. Are thinking about it?

PC: I think about all of it. I've sent out another one since of course in relation to the St Kilda footballers. Two press releases from me in the space of one year is pretty remarkable.

Nick Coe, Channel Nine (NC): My question is addressed to Simon. Ever since the first arrests and before the first arrests related to these gangland killings were made in October it has been made pretty plain to us that the role of informants has been pretty critical. Have you found that to be the case and if so has the intense scrutiny of the media do you think played a role in those informants rolling over?

SO: Well I won't and can't talk about the role of informants in particular investigations. I appreciate that the media does both good and what I think are bad things. And I guess that it's some of what I was trying to say earlier on. That I appreciate that it's not all a one-way street that we can't expect everything to go our way and we can't expect not to be criticised and we can't expect that sometimes things will go against us. That will happen. It's a key way that we reach witnesses. It's a key way that we get information that we want out into a public domain. So I think as with all things there's probably times when media reporting actually helps us in relation to informants in general but there are times when perhaps it doesn't.

NC: In a general sense though the greater the coverage does it alter the informants attitude towards the police not specifically in this case but in general?

SO: I think it's difficult to generalise. People provide information for all sorts of reasons and the interplay with the media will have various impacts and I just don't think I'm in a position to generalise about that.

PC: From my perspective I don't think any informant who is identified publicly as an informant is going to be as much help to us as they otherwise might be.

Paul Kennedy, Channel 10 (PK): Mr Overland, can you talk about what the relationship between Ceja and Purana now is and whether it has intensified or become more intimate in the last week?

PC: Neither is investigating the other at the moment.

SO: Look this gets into a tricky area so as always I'll try and answer your question. The reporting of the double murder in Kew on Sunday runs the risk of making a number of assumptions that are quite dangerous and what I've tried to do on Monday was to set out quite clearly that there is a particular avenue of inquiry that we will follow and we will follow as thoroughly and rigorously as we can. And that because of concerns about transparency we've actually asked the ombudsman and he has agreed to oversight that part of the investigation. But that said there are a number of other avenues of inquiry that are open and that we need to follow and

that my advice to everyone is to be careful about the assumptions that you might make because you could be wrong. And of more concern to me is that if that line is pushed too hard it actually becomes counterproductive to the effort the investigators are putting into that investigation. So I think that is about all I can say about that.

KM: Channel Nine News. Table 2.

Darren Lunney, Channel Nine News (DL): Paul I just wonder what the reason is for keeping the suppression order placed on a victim that was placed last weekend. Now that he's dead does the suppression order not die with him? What's the particular reason for keeping it in place?

PC: There's more to it. That's all I can say. It's not simply a matter about him.

KM: Just one final question from me if there's not one out there - oh there table 2.

Peter Morris, Channel Seven (PM): Simon, I was interested in your comments before about witness statements and the broadcasting of witness statements. What do you suggest we do because my impression is that once you start putting prohibitions or start making things conditional in terms of witnesses it's really much an all or nothing type of equation for us. What do you suggest is the answer to the problem and how do you suggest we as a media manage that.

SO: Well I think it's really a matter of being conscious of what it is you're doing. The point I was making is that you need to recognise that any statement a witness makes about a matter will be relevant to that matter. And the formal way for doing that is with the formal taking of a statement, which is what we do. And that statement is formally sworn and adopted and part of a brief and it's what goes forward to court and that is the version of events that is put forward. Now you need to actually understand, as I'm sure you do, the way the criminal process works. That what criminal barristers will seek to do is to look for inconsistencies in statements that have been made. It is a classic way of cross-examining to either disprove what it is the witness is saying or to attack their credit. And if the witness has stood up in the media and has made a statement that is slightly inconsistent and at odds with what it is they have said to us in their written statement even though from my point of view that is perfectly explainable if we're asked to tell a story we'll always tell it slightly differently each time we tell it but that provides fertile ground for experienced criminal barristers to cross-examine. And I think the point that Paul was making is that if you are the person that has elicited that statement you may actually find yourself a player in subsequent proceedings. So my point of view is I'd prefer you didn't talk to them at all. That would be my starting point. I appreciate that you have different interests and different reasons for wanting to do that. I guess all we're saying is think

about it. Be conscious of what it is you're doing.

KM: That's all the time there is for questions ... I'm sorry Geoff Wilkinson has one final question.

Geoff Wilkinson, Herald Sun (GW): QUESTION INAUDIBLE AS NO MICROPHONE

PC: No what I'm talking about, Geoff and in a sense I think Simon's talking about too is the change in style. I mean we don't any longer say, an eyewitness said and give a brief summary of what that person might say. The sort of reporting that we've done for hundreds of years I suspect. We now say, Joe Bloggs the man standing on the second floor balcony said today in inverted commas, exactly what the man says. We purport in terms of the style that we produce, to produce verbatim accounts. We do now lay the foundation for witnesses being bashed over the nut with that sort of stuff. We could do without it. I mean I think cross-examination should get better too and I wish people didn't just get cross-examined about their prior inconsistent statements. It's boring and it's not very important. It is the style of cross-examination in Victoria today. There are two hundred such questions being asked just now. It's phoney. We can do without it. But as to saying look there's an eyewitness who said...of course there's people who have been doing that. But why should they be identified and why should they be quoted verbatim? It's just an unnecessary complication. Is it a change? I think it's a change. I might be wrong. Is it a change for the better? I don't think so.

KM: Any re-examination, Mr Wilkinson?

GW: INAUDIBLE

PC: I don't know because we lose cases. And we lose cases because the credibility of witnesses is affected. One of the things it is effected by is cross-examination of witnesses about previous versions they've given. It is one of the bases on which cases are lost. I had in a particular case the police losing confidence in a witness because a slightly different version appeared in the press. I can do without it like a hole in the head.

JS: Don't use that expression.

PC: I withdraw it.

KM: Ian Henderson

Ian Henderson (IH): Gentlemen, that's been a riveting discussion and I know one which we don't have very often and I think it's a great shame because personally I think the sort of freewheeling exchanges that have happened in this room today can only make for a better relationship. And can make for a more successful prosecution, forgive the word of the task that we're all

trying to do and that's make sure that the good guys win. Thank you very much. We know you're all busy men. We really do appreciate your time here today and as a brief token of our thanks I have here a pen for each of you. First to you Simon, perhaps this one you can use on your next raft of letters of complaint to the news editors here assembled. Thank you very much.

Paul, I rather fancy that you might use this pen for your third press release this year.

Sly in my mind's eye I reckon you could use this pen to underline your next by line and Keith I reckon you could use your pen to cross his next by line out. Thank you gentlemen. Thank you all for coming. This has been a great lunch. May there be many more of them. Please do remember the journos ball.

Pick up a flyer on your way out. Thanks for your attention today. Good a afternoon.