

Liberty Victoria Statement on Police Disclosure in Criminal Proceedings

Liberty Victoria is deeply concerned by recent reports in [The Guardian](#) of a 15-year-old child being charged with murder and remanded in custody for almost a year on the basis fundamentally flawed evidence in circumstances where police had failed to disclose relevant and exculpatory evidence. The case highlights ongoing issues of Victoria Police failing to properly abide by its duty of disclosure. Disclosure is of fundamental importance in every case, however it is gravely worrying that Victoria Police failed to abide by their obligations in circumstances where a child was being held in custody as a result of, in Justice Hollingworth's words, a "corrupted process".

These reports raise many questions about the standards that we as a community should expect and demand from criminal investigations and prosecutions. Disclosure of all evidence — regardless of whether it assists the Prosecution or not — is a fundamental and basic right of every member of our community who is investigated or prosecuted for a criminal offence. It is an obligation that must be complied with by Victoria Police and those prosecuting any offence. Failure to comply causes deeply unfair situations, including innocent people being deprived of liberty waiting for trial or, even worse, being convicted and punished for crimes that they did not commit.

Australia's legal history is littered with examples of where failures of disclosure have led to dreadful injustices.

It is deeply troubling that this lack of disclosure occurred after the [Royal Commission into the Management of Police Informants](#), where the lack of disclosure by Victoria Police of Nicola Gobbo's role as an informer was considered.

The lack of disclosure in the case of the 15-year-old reported on by *The Guardian* also occurred after the Independent Broad-based Anti-corruption Commission's (IBAC) [Operation Gloucester](#), which identified that Victoria Police had engaged in improper statement-taking practices. Jason Roberts successfully challenged his conviction in the Court of Appeal due to this lack of disclosure and was ultimately acquitted of offences after spending two decades in prison.

Victoria Police should learn from the criticisms it has received in respect of its disclosure obligations, rather than repeat its mistakes.

The ongoing disclosure issues are familiar to those practising in criminal law and the example reported in *The Guardian* will not come as any surprise to them.

In Liberty Victoria's view, it is time that the Government introduce legislation for there to be serious consequences for police officers and prosecutors who fail to disclose relevant evidence.

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