

7 October 2022

Premier Daniel Andrews  
Level 1/1 Treasury Place  
East Melbourne VIC 3002

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CC: Attorney General Jaclyn Symes at [jaclyn.symes@parliament.vic.gov.au](mailto:jaclyn.symes@parliament.vic.gov.au)

Dear Premier,

### **Victoria needs a Police Ombudsman**

We are writing to you as concerned Victorians. We are social workers, community lawyers, private practitioners, and social service providers.

We welcome the Andrews' Government commitment to create a robust system of police oversight as part of the current Systemic Review into Police Oversight. The Review was prompted by one of the most egregious cases of police misconduct in recent history and the subsequent recommendations made by the Royal Commission into the Management of Police Informants. As part of this commitment, we are calling for you to urgently create a best practice *Police Ombudsman*.

Police have significant powers – they carry and use guns, tasers, pepper spray and batons, they can stop and search people on the street, and enter a person's home. They have the power to arrest and detain people. A strong democracy and fair civil society demand that these powers are balanced by commensurate civilian oversight. A failure to do so affects us all.

### **The current system fails and investigates less than 1% of complaints**

The Independent Broad-based Anti-Corruption Commission (IBAC) has the power to investigate complaints of police misconduct, but in practice, IBAC investigates less than 1% of police misconduct complaints. IBAC Commissioner Robert Redlich has said himself that, even with more funding, IBAC could only investigate 4-5% of all police complaints. This would leave over 95% of police complaints investigated by police.

IBAC has an important role to play in public sector corruption, let it do its job. Loading it up with police complaints as well means neither role is sufficiently resourced to be effective. Investigations of police complaints requires different powers and skills to that of the corruption watchdog.

The systemic failings of Victoria Police have seriously diminished the Victorian community's confidence in the organisation. These failures include the use of barrister Nicola Gobbo<sup>1</sup> as an informant; the death of Yorta Yorta woman Tanya Day<sup>2</sup> in custody; the assault of a disability pensioner<sup>3</sup> by officers; the force's botched 2019 raid on the Hares and Hyenas<sup>4</sup> bookshop; and its 2017 raid at Inflation nightclub.<sup>5</sup> We are gravely concerned that maintaining the status quo will allow these systemic failings to continue unchecked.

Aboriginal people are more likely to experience serious police misconduct, but less likely to make a complaint. They do not trust the system. IBAC's recent report into complaints made by Aboriginal and Torres Strait Islander people showed why: it found over half of the investigations failed to collect or consider relevant evidence. Conflicts of interest were identified on 84 per cent of files, and half of these conflicts were not managed appropriately. Seventy-three per cent of Aboriginal people who made complaints were not updated on the investigation.

### **The solution: a Police Ombudsman**

Victoria urgently needs a **Police Ombudsman** to independently investigate all complaints about police misconduct and systemic failings.

We need a system that puts people who experience police misconduct at the centre. A system that is:

1. **Truly independent:** investigations into police harm are not conducted by police and are institutionally, practically, culturally and politically independent.
2. **Well-resourced:** reflecting the growing size of Victoria Police.
3. **Complainant centred and culturally appropriate:** so that complainants can fully participate in investigations and, for people who do not wish to make an individual complaint, there are avenues for reports and complaints on systemic issues from health, social services, and the community sector, including legal organisations.
4. **Fair, accountable and transparent:** people who have experienced police harm are included and have input into the process, are given information about their complaint, are informed of the outcome and have a right to appeal the decision.
5. **Able to achieve timely and fair outcomes:** when police cause harm, there need to be appropriate remedies and improved responses to ensure it does not happen again.

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<sup>1</sup> <https://www.theage.com.au/national/victoria/the-nicola-gobbo-lawyer-x-scandal-explained-20201124-p56hh9.html>

<sup>2</sup> <https://www.theage.com.au/national/victoria/no-charges-to-be-laid-against-police-after-death-of-indigenous-woman-tanya-day-20200826-p55pj8.html>

<sup>3</sup> <https://www.theage.com.au/national/victoria/beaten-abused-humiliated-and-filmed-by-victoria-police-20180321-p4z5f2.html>

<sup>4</sup> <https://www.theage.com.au/national/victoria/victim-of-brutal-police-raid-breaks-silence-demands-reform-20191027-p534o1.html>

<sup>5</sup> [Inflation nightclub shooting: Woman who won police payout demands justice \(theage.com.au\)](https://www.theage.com.au/national/victoria/inflation-nightclub-shooting-woman-who-won-police-payout-demands-justice-theage.com.au)

6. **Promotes systemic change** to improve everyday policing: we need a wide-ranging police monitoring regime to identify systemic problems – this means transparent data on police activity like stop and search, and strong monitoring of how police use their powers and weapons.

This is consistent with the recommendation recently made by the Inquiry into Victoria’s criminal legal system, that the Victorian Government consider the “establishment of a new independent body to investigate allegations of police misconduct and increase the accountability of Victoria Police.”

### **Next steps**

So long as police investigate police, misconduct will continue to go unanswered.

We seek a meeting with you to discuss the urgent need to create independent and effective Police Ombudsman.

Yours sincerely,



Nadia Morales  
**Police Accountability Project**  
**Acting CEO Inner Melbourne Community Legal**



Narita Waight  
**CEO Victorian Aboriginal Legal Service**

On behalf of organisations who represent and work with people who have been subject to police harm in Victoria, particularly Aboriginal and Torres Strait Islander Victorians, victims/survivors of domestic and family violence, young people, and people with lived experience of mental health and have endorsed this letter:

Aborigines Advancement League; Australian Lawyers Alliance; Centre for Crime, Law and Justice UNSW; Djirra; Federation of Community Legal Centres; Fitzroy Legal Service; Harm Reduction Victoria; Humanist Victoria; Human Rights Law Centre; Inner Melbourne Community Legal; Justice Connect; Justice-involved Young People network; Liberty Victoria; Media, Entertainment & Arts Alliance – Victorian branch; Mental Health Legal Centre; Moonee Valley Legal Service; Police Accountability Project; Northern Community Legal Centre; Robinson Gill Lawyers; Uniting Church in Australia, Synod of Victoria and Tasmania; Victorian Aboriginal Community Services Association Limited; Victorian Aboriginal Controlled Health Organisation; Victorian Aboriginal Education Association Incorporated; Victorian Aboriginal Executive Council; Victorian Aboriginal Legal Service; Victoria Mental Illness Awareness Council; WEstJustice; Women’s Legal Service; YouthLaw

# Police Accountability Project



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