

AUSTRALIAN CAPITAL TERRITORY  
BOARD OF INQUIRY  
CRIMINAL JUSTICE SYSTEM

**In the matter of the *Inquiries Act 1991***  
***Inquiries (Board of Inquiry – Criminal Justice System) Appointment 2023***  
**Board of Inquiry into the Criminal Justice System in the Australian Capital Territory**

**STATEMENT OF EMMA LOUISE FRIZZELL**

I, Emma Louise Frizzell, of Winchester Police Centre, Corner Benjamin Way and College Street, Belconnen in the Australian Capital Territory (ACT), state as follows:

The following statement is provided in response to the subpoena I received from the Board of Inquiry into the Criminal Justice System in the Australian Capital Territory requiring me to give information in a written statement regarding my knowledge of matters set out in the Schedule attached to that subpoena. Attached and marked 'Exhibit 1' is a copy of the relevant subpoena.

**Current Employment**

1. I am a Senior Constable of Police with the Australian Federal Police ("AFP").
2. I am currently attached to Australian Capital Territory Policing ("ACTP"), Criminal Investigations, Unsolved Homicide Team.
3. My current role involves investigating unsolved homicides or long term missing persons investigations in the ACT.

**Tertiary Qualifications**

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**Courses and/or Diplomas**

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6. I completed the Federal Police Development Program (“FPDP”) in June 2014.
7. I have completed a Diploma of Public Safety (Policing).

**Employment Chronology**

8. On 15 January 2007, I commenced employment with the AFP in an unsworn capacity.
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10. Working with the AFP in an unsworn capacity gave me the opportunity to experience policing internally and allowed me to grow and travel before applying to become a sworn member in the AFP in 2013.
11. On 20 January 2014, I commenced the FPDP at the AFP College. On 27 June 2014, I successfully completed the program and was sworn in as a Police Officer at the rank of Constable.
12. Between 28 June 2014 and 20 August 2014, I was attached to Traffic Operations, and I enforced traffic legislation.
13. Between 21 August 2014 and 9 July 2018, I was attached to General Duties at the Tuggeranong Police Station, Tuggeranong, ACT. I was the first responder to all matters within the Tuggeranong district and investigated a broad range of criminal offences such as burglary, theft, assault, and domestic violence.
14. On 28 June 2018, I advanced to the rank of First Constable.

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15. Between 10 July 2018 and 28 April 2019, I was attached to the Adjudication and Practices Team at Tuggeranong Police Station, Tuggeranong. The function of this team is to review briefs of evidence after they have been reviewed by team leaders. This is a full time role for all briefs of evidence for Tuggeranong Police Station. This team is formed by two officers reporting directly to the Station Officer in Charge. The team consists of a Sergeant and one other team member who can be a Constable or Senior Constable. At times I was the Acting Sergeant of the team.
16. Between 29 April 2019 and 22 September 2022, I was attached to the Sexual Assault and Child Abuse Team (“SACAT”) within Criminal Investigations, Winchester Police Centre, Belconnen, ACT following my successful expression of interest in the Criminal Investigations Portfolio.
17. On 28 June 2020, I advanced to the rank of Senior Constable.
18. During my time within SACAT, I investigated approximately 40 to 50 complaints of sexual assault and child abuse. My investigations were not limited only to sexual assault investigations. When I was assigned to SACAT my role was to conduct investigations in regard to sexual offences reported to ACTP which were assigned to me by my team leader or other supervisor.
19. As stated above, on 23 September 2022, I joined the Unsolved Homicide Team within Criminal Investigations, Winchester Police Centre, Belconnen.
20. On 15 January 2022, I commenced long-term leave, however remain attached to the Unsolved Homicide Team.

### Training and Education

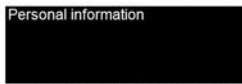
21. Between 13 and 19 May 2019, I attended the Sexual Offences Investigations Program (“SIOP”) held at the Belconnen Police Station, Belconnen, ACT. The SIOP was an ACT

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Policing program which was aimed at upskilling members' skills to conduct investigations into sexual offences.

22. I have completed the following courses:

- FPDP – AFP College – 2014;
- Investigative Interviewing Training Foundation Level 1 – AFP College – 2014;
- Immediate Action Rapid Deployment – Operational Safety Training – 2014;
- NSW Recognised Law Enforcement Officer – Queanbeyan Police Station – 2018;
- Cellebrite UFED Field Operator training – Forensics, Majura Police Complex- 2018;
- Interviewing Vulnerable Witness Program – AFP College – 2019;
- Enhanced Mental Health Training – Belconnen Police Station – 2019;
- Detective Training Program – Stage 1 – AFP College at Majura Police Complex – 2021;
- First Aid Training – 2022; and
- Operational Safety Assessment – Operational Safety Training – Annually.

23. Between 20 and 22 May 2019, I attended the Interviewing Vulnerable Witness Program (“IVWP”) held at the AFP College, Barton, ACT. The IVWP provided me with the skills and knowledge to conduct Evidence in Chief Interviews (“EICI”).

24. Between 11 and 22 October 2021, I attended the Detective Training Program – Stage 1 (“DTP 1”) held at Majura Police Complex, Majura, ACT. DTP 1 provides officers with skills in conducting investigations. The DTP 1 forms part of a four-stage program which allows an officer to obtain their detective designation.

25. My attendance on the SIOP and IVWP came at a fortuitous time, having recently commenced within the SACAT team.

26. I found the content on the SIOP to be insightful and provide a basic understanding of the remit within SACAT investigations. However, the SIOP did not provide guidance on

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how to conduct a sexual assault investigation. This course was ‘presentation’ based and did not, in my opinion, focus upon the process, procedure or law applicable to sexual offence investigations.

27. I found the content and skills obtained from the IVWP, and the timing of my attendance on the program to be highly beneficial as I was able to put the content of the course into practice within the workplace almost immediately.
28. When I started at SACAT, there were three teams consisting of one team leader and about [REDACTED] team members. I was assigned to SACAT Team 1 where I remained for the duration of my tenure. The team was experienced, and I was assigned a mentor to guide me through sexual assault and child abuse investigations.
29. Over the course of my tenure within SACAT the experience level amongst the teams diminished due to staff turnover and more junior incoming staff.
30. There were no further courses aimed at SACAT investigations during the remainder of my time within the portfolio. All SACAT members are required to have undertaken the IVWP as all SACAT investigations require an EICI to be conducted. As of 1 February 2021, this requirement remained in place.
31. Upon commencement in SACAT and bi-annually thereafter, I, and all other members, underwent psychological assessments. These assessments were mandatory. In my opinion, psychological assessments assisted in forming an opinion as to whether a member was mentally fit to remain working within SACAT. A member was required to be cleared to continue working within the area.
32. I attended the psychological assessments and was mentally cleared on the following dates:

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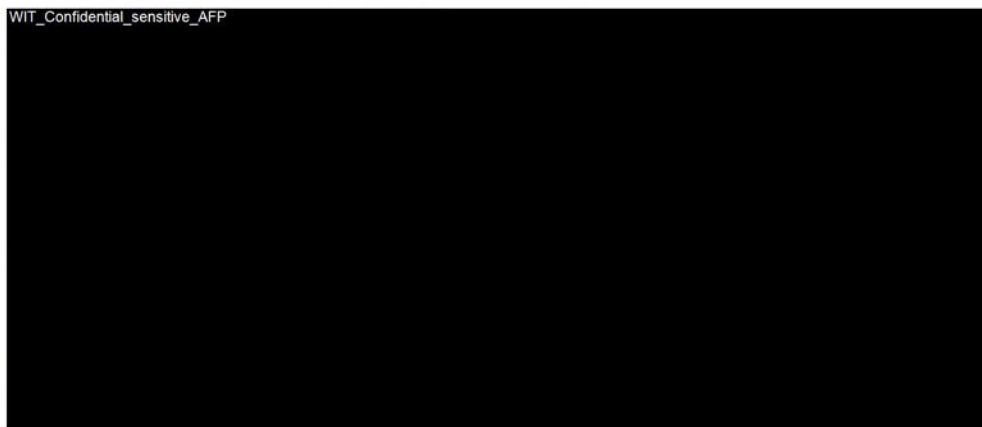
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- a. 26 April 2019;
- b. 22 October 2019;
- c. 07 April 2020;
- d. 04 December 2020;
- e. 05 May 2021;
- f. 03 November 2021; and
- g. 25 May 2022.

### Organisational Structure

33. On 21 February 2021, I remained a member of SACAT Team 1. The SACAT chain of command is illustrated below in the diagram:



34. In approximately October or November 2021, an additional Inspector role was introduced into the Criminal Investigations Portfolio. This role was allocated the Sexual Offences and Child Abuse (“SOCA”) investigations teams to oversee as follows:

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35. I believe the demand for a third Inspector of Criminal Investigations to manage the SOCA portfolio arose as the workload was ever increasing. It needed to be a fulltime position to oversee SOCA adequately. After this new addition, there were no changes to the team structure.

#### Duties and Responsibilities

36. As a Police Officer and a team member within SACAT, it was my duty and responsibility to thoroughly investigate allegations of sexual assault by conducting a thorough and exhaustive investigation as detailed in the Better Practice Guide on Child Abuse and Sexual Offence Investigations (“BPG”) and First Response (“FR”). Attached and marked 'Exhibit 2' is a copy of the Better Practice Guide on Child Abuse and Sexual Offence Investigations and First Response.
37. Furthermore, it is the members’ responsibility to ensure the complainant’s welfare is maintained throughout the investigation process. This can include but is not limited to providing external support referrals and/or engagement with the Victim Liaison Officer.

#### Triage Process for Sexual Assault Complaints

38. A person may report an allegation of sexual assault to ACTP in the following ways:

- a. in person at a Police Station;

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- b. by contacting the Police via telephone; or
  - c. by reporting the matter online via the AFP website.
39. If a person reports the matter in person or via telephone, a Police Real-time Online Management Information System (“**PROMIS**”) case is created and dispatched to a General Duties member to respond to in the first instance. It is irrelevant if the complaint is recent or historical in nature.
  40. A General Duties member would obtain the initial report and if it meets the remit as outlined in the BPG and FR to be investigated by SACAT member, a referral would be made to the Criminal Investigations Reception Officer or referred directly to the on duty SACAT team leader. The referral process is outlined in the BPG on Criminal Investigations, Response and Notification section.
  41. Attached and marked '**Exhibit 3**' is a copy of the BPG on Criminal Investigations Response and Notification.
  42. Upon receipt of a referral into SACAT, the team leader would allocate the complaint to a team member for further investigation.
  43. Alternatively, if a person reports a historical sexual assault allegation online the process is slightly different. The report is submitted to ACT Policing Operations and forwarded by the Sergeant on duty to a SACAT team leader. Reports are compiled and allocated to members for investigation, across all three teams once a week.
  44. On occasion, Victim Support ACT (“**VSACT**”) and the Canberra Rape Crisis Centre (“**CRCC**”) will email the SACAT team leaders directly and bypass the referral process.
  45. The above outlined processes, aside from the historical online reporting and VSACT and CRCC direct referrals, have remained fairly consistent between 2019 and now.

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46. During the first engagement with a complainant, the SACAT member will offer external support from the AFP inclusive of CRCC and/or counselling or similar via Supportlink. CRCC services are often arranged by Police to be provided to the complainant from the outset of making a report.

#### **Investigating Sexual Assault Complaints**

47. Some matters can be time sensitive. This depends on whether the matter is historical, has occurred recently and/or forensic evidence exists and requires an immediate response.
48. For an immediate response matter, a team member and colleague, commonly referred to as a corroborator, will attend the location of the complainant and commence an immediate investigation managing the victim, crime scene, witnesses, evidence and progress the investigation.
49. Common types of evidence obtained in an immediate response investigation may include, but are not limited to: forensic material on persons and physical crime scenes, medical examination, clothing, closed circuit television (“CCTV”), witnesses, bank records, phone records and venue records.
50. Common types of evidence obtained in a historical sexual assault investigation may include, but are not limited to: medical reports, witnesses, bank records, phone records and venue records.
51. If a matter is historical in nature, a team member will contact the complainant either via telephone or in person, and firstly arrange for a meet and greet (“M&G”). In this first engagement, the support of CRCC is offered either via telephone or via attendance as a support person at the M&G.

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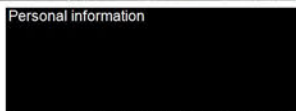
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52. The purpose of a M&G is to provide information to a complainant about the investigative process, welfare support and court processes to allow the complainant to make fully informed decisions and ensure sufficient support is in place for their welfare. The M&G policy complies with the requirements pursuant to section 15D of the *Victims of Crime Act 1994*.
53. A M&G typically encompasses the following and is outlined in the Meet and Greet proforma:
- a. Explanation of the roles of Police Investigators, CRCC Support, CYPS welfare/support, Witness Intermediary Program (“WIP”) Support and DPP Prosecutors;
  - b. Explanation of the wrap around support: A number of agencies engage monthly and, if permitted by the complainant, one agency takes the lead in contact;
  - c. Explanation that their welfare is priority. This explanation is the first priority, recognising the entire process can be mentally and physically traumatic for a complainant. Advice is provided about whether the complainant wants to proceed with a complaint, they can withdraw a complaint, or cease an investigation at any time and that a prosecution may not always be the most appropriate option if it is detrimental to a complainant’s health;
  - d. Explanation of the interview process (EICI process);
  - e. Explanation of the investigation process including obtaining witness statement, medical evidence, interview of alleged offender/s, potential loss of evidence should they decline to proceed at that time and whether at the conclusion of an investigation if there is sufficient corroborative evidence to support a criminal charge of the alleged offender/s; and
  - f. Explanation of the court process including timeframes, special measures for children and adults victims of sexual offences, use of EICIs, DPP engagement and moving out of Police hands.

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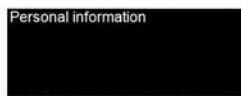
54. Attached and marked '**Exhibit 4**' is a copy of the M&G proforma.
55. Following the M&G, if support is required and/or consented to, arrangements will be made with one or more of the following agencies:
- a. CRCC: For counselling support via telephone or in person;
  - b. Supportlink: For a range of support referrals such as counselling and support for parents, youth and support persons and Police Citizens Youth Club ("**PCYC**");  
and
  - c. WIP – For children or vulnerable adults, referral for the WIP to be engaged in the EICI process.
56. The process of investigating sexual offences has not changed over four years. The only addition to the investigation process is the implementation of WIP.
57. At the conclusion of an investigation and whereby all avenues of enquiry have been exhausted, if a team member is unsure whether sufficient evidence exists to support a criminal charge upon consultation with their team leader, a brief of evidence is compiled and referred to the Office of the Director of Public Prosecutions ("**ODPP**") for review and detailed advice.
58. During my time in SACAT, the process of obtaining advice from the ODPP has changed. During 2020 to 2021, a brief of evidence was compiled and reviewed by three SACAT team leaders for advice. If after review by team members, no definitive direction was reached, the matter would be referred to the ODPP.
59. Sometime in 2021 the process was abandoned, and members can now go directly to the ODPP without the three team leaders consulting.
60. During my tenure in SACAT, I have not been involved in an investigation where my Superintendent had been actively involved. However, during the investigation ("**the**

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**investigation”**) which involved Ms Brittany Higgins’s (**“Ms Higgins”**) allegation of sexual assault concerning Mr Bruce Lehrmann (**“Mr Lehrmann”**) the Superintendent was involved and assisted in the investigation.

### Adjudication process

61. Upon completion of a brief of evidence (**“BoE”**), members submit the BoE to their team leader for adjudication. The team leader reviews the BoE in its entirety against either a Mention Brief Adjudication Sheet or a Hearing Brief Adjudication Sheet. These sheets are a checklist that must be completed and attached to the BoE for submission to the portfolio’s Adjudication and Practices (**“AP”**) team. Attached and marked **'Exhibit 5'** is a copy of the Mention Brief Adjudication Sheet. Attached and marked **'Exhibit 6'** is a copy of the Hearing Brief Adjudication Sheet.
62. The team leader provides feedback and guidance to the member on the investigation and/or administrative feedback regarding the BoE. Once finalised, the BoE and completed Adjudication Sheet are provided to the AP team.
63. The AP team will also review the BoE against the Adjudication Sheet. If the AP team request amendments, clarification, further investigations and/or feedback, the AP team will complete a Mention Brief Adjudication Feedback Sheet or AP Hearing Brief Adjudication Feedback Sheet. This sheet will be completed, attached to the BoE and returned to the member for action. Once the member has actioned the AP team's request, the BoE is resubmitted to the AP Team. Attached and marked **'Exhibit 7'** is a copy of the AP Mention Brief Adjudication Feedback Sheet.
64. The AP team will complete the Adjudication Sheet for submission to the Judicial Operations (**“JO”**) portfolio. The JO submit the BoE to the ODPP and Court. I do not know the policies and procedures of the JO.

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65. The adjudication process has remained unchanged since 2019. Attached and marked 'Exhibit 8' is a copy of the AP Mention Brief Adjudication Feedback Sheet.

#### Redaction processes

66. When compiling a BoE, members must ensure certain information is redacted and not disseminated to external parties. Information that is personal information not related to an accused, through to material that is irrelevant to an investigation must be redacted. The person responsible for making redactions is the person who compiles the BoE.
67. For example, a complainant's mobile phone may have the data extracted to capture conversations with an accused person. However, the data extraction also captures conversations of five other unrelated people. These unrelated conversations are not relevant evidence and must be redacted from the BoE.
68. There are two methods to redact evidence:
- a. Make a photocopy of the document and redact the information by using a marker and crossing the information out. Then photocopy the redacted document and place this final version in the BoE; or
  - b. Create a digital copy of the document and convert to a PDF. Within the PDF, utilising the redaction function, mark over the information to be redacted. Once redacted, lock the PDF to prevent the redactions from being removed and the information accessed by external parties and use this version in the BoE.
69. If the information required to be redacted is an audio recording, the member will utilise a computer program to redact the relevant portions.

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70. If the information required to be redacted is in a video recording, the member is required to complete a request form and submit the recording to the ACT Video Operations Team to make redactions.
71. Before redactions are made to either an audio or video recording, a member must copy the recording and only make redactions to the copy to ensure an original master copy is retained.
72. The above-mentioned practices have not changed in the past four years.

#### **Communication with a sexual assault complainant**

73. During an investigation, members must comply with section 14E of the *Victims of Crime Act 1994* which outlines that a Justice Agency must contact a victim if exercising a function in relation to victims' rights.
74. The *Victims of Crime Act 1994* also states police must update victims about the status of an investigation within Section 16A. Section 16A stipulates police must give a victim of an offence an update about the status of an investigation either as soon as practicable after a change in the status of an investigation and at least every six weeks.
75. During the past four years, I believe there was a change to the expected timeframes in which a victim must be contacted within the *Victims of Crime Act 1994*.
76. Contact with a victim of crime can be made via a number of methods and is often discussed with a victim as to their preference during the initial stages of the investigation. Contact can be made by telephone call, text message, email or in person.
77. Further, in recognising the emotional and potentially traumatic impact reporting a sexual offence to police and the subsequent investigation period may have on a complainant of sexual assault, there may be times and/or need for members to engage on a more regular

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basis to engage and continually assess the persons welfare and need for support. Similarly, a complainant of sexual assault may request no contact throughout the investigation to protect their own mental welfare.

78. Police must take a ‘victim-centric’ approach to complainants of sexual assault. This is in regard to contact, the meet and greet process, assisting complainants to be fully informed in their decision-making processes in commencing and/or continuing a sexual assault investigation as well as focusing on support and welfare of complainants.

#### **Threshold to charge**

79. Upon the conclusion of an investigation, it is up to the member to conduct a review of the entire BoE including the complainant’s evidence and both the inculpatory and exculpatory evidence and determine if there is sufficient admissible evidence that supports a criminal charge and leads the member to believe the alleged incident occurred.
80. In considering whether sufficient evidence exists, in my opinion, I must have a reasonable belief that the evidence supports a person being successfully convicted. What has complicated this threshold in recent times is the views being expressed by the ODPP that police only require a reasonable suspicion (eg. an EICI containing a complaint) to put a matter before the court and it is for the ODPP to decide, not police, if a matter has prospects of success or not.

#### **Process to obtain further statements**

81. Previously, when I obtained further information from a complainant, I obtained their evidence via a written supplementary statement. However, I would note this has occurred where the additional information has been relatively short. If necessary, there would be no issue taking a second EICI. I am unaware of any formal policy dictating how further evidence should or must be obtained.
82. The above-mentioned practices have not changed in the past four years.

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**Contact with a complainant about the decision to charge**

83. As outlined above, members are required to contact a complainant when there is a change to the status of the investigation. This includes a decision or consultation with a complainant regarding the decision to charge the alleged offender.
84. In my experience, in criminal matters exclusive of family violence matters, I usually consult the complainant prior to charging an alleged offender to obtain their input and wishes regarding the complaint proceeding to court.
85. If I have concerns a complainant may disclose a potential charge or arrest to an accused, I will notify a complainant once the alleged offender has been charged and/or arrested.
86. If I determine after an investigation the alleged offender will not be charged, I will notify the complainant at the conclusion of the investigation.
87. In sexual assault investigations a member's decision not to charge must be endorsed by the Criminal Investigations Management Committee ("CIMC").
88. A member must complete a minute (document or report) outlining the circumstances of the complaint, alleged offences committed, and a precis of all evidence obtained for the CIMC to review. The CIMC will either support the recommendation to finalise the matter without charge or, not support the recommendation and refer the matter back to the member with further recommendations, advice and queries.
89. In the event the CIMC supports the member's decision not to charge an alleged offender, the member must advise the complainant about the outcome of the investigation.
90. Sometime in 2022, CIMC's ability to review and approve or disapprove a member's decision not to pursue charges was implemented. What this means is that if I as an investigator decide there is insufficient evidence, it must be approved by the CIMC

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before I can finalise the investigation. The practical effect is I can be directed to charge a person as a result of the CIMC's decision.

#### **Cultural views in respect to sexual assault investigations**

91. During my tenure in SACAT, I have observed a shift in the way sexual assault complainants are responded to. In my opinion, since I started with SACAT, more support services are offered to complainants who attend the CRCC in person. However, sexual assault investigations were responded to no differently than any other reported crime, in that a complaint was received and the matter investigated.
92. Over the years, and around the time the Sexual Assault Prevention and Response Steering Committee released a final report, I observed a shift in members' views of sexual assault complaints and the threshold required to charge an alleged offender.
93. Further, the external input of other agencies was strong within the area, which shifts the focus away from investigative skills and towards welfare and support of complainants and their families. In implementing such a victim-centric approach, support and welfare of complainants and the resulting engagement with complainants of sexual assault plays a much more significant part of investigating matter.

#### **Discontinuing and reinstating an investigation**

94. Sometimes a complainant of a sexual assault may decide they no longer wish to pursue an investigation or charge. A complainant only needs to advise the member investigating their complaint of their wishes either via telephone or in writing.
95. In the event that this occurs, complainant's wishes are respected, and they are advised the matter can be reactivated and investigated at any time in the future. Should any outstanding perishable evidence be outstanding, the risks of not obtaining that evidence should the matter re-investigated is also explained to the complainant to ensure they are able to make a fully informed decision.

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96. Should a complainant reinstate an investigation, members tend to it no differently to any other matter and, in my experience, have no pre-conceived views as a result of the matter not being finalised in the first instance.

#### **Challenges, Issues and/or Pressures**

97. In relation to whether there are any internal challenges, issues or pressures that hinder the conduct of sexual assault investigations over the past four years, I would advise that these would be minimal.
98. During my tenure in SACAT, I worked under three separate Detective Inspectors and four team leaders. Each of these team leaders conducted and taught me different skills which provided insight into different investigative styles and skills. However different leadership resulted in inconsistent expectations and processes to investigate complaints.
99. In addition to the turnover of leadership within SACAT, there was also a consistent turnover of team members for both personal and professional reasons. Whilst this can be reflected on both positively and negatively, it further resulted in general inconsistencies within the portfolio which was also challenging at times.
100. Often, incoming members to SACAT were new members to the Criminal Investigations portfolio and experienced investigators were not being replaced with members with similar skillsets.
101. In addition to the staff changes, there was an obvious increase in workload with minimal reprieves. For me, I found the increased workload to be stressful at times and observed the high workload also affected my peers.

#### **Report of the Sexual Assault Prevention and Response Steering Committee**

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102. Around the time of the Sexual Assault Prevention and Response Steering Committee’s (“SAPR”) final report, I observed a shift in views in relation to complaints made to Police and the threshold to charge. I also noted the external input of other agencies was strong within the area; which I believe shifts the focus away from investigative skills and towards welfare and support of complainants and their families.

103. For example, the SAPR report states the following at page 11:

*“This report and its recommendations present an opportunity for the ACT Government to ensure victim survivors know that when they disclose sexual violence, they will be believed and that their chosen pathway to recovering and healing is timely, respectful and responsive.”*

104. As a result of the SAPR review, an internal review of historical and current SACAT investigations commenced and I observed an increase in complaints made about investigators by complainants either directly or via support agencies. As a result, members were becoming increasingly weary of finalising investigations without action being taken and members lost confidence in their decision-making. This was exacerbated by the implementation of the CIMC.

105. Additionally, it was communicated by the ODPP to SACAT that a complainant’s EICI is sufficient to establish a prime facie case and to support an alleged offender to be charged.

106. On 24 November 2021, I attended a SACAT training day and Ms Skye Jerome (“**Ms Jerome**”) and Mr Andrew Chatterton (“**Mr Chatterton**”) of the ODPP attended as speakers to discuss changes to a sexual offence charge.

107. During their presentation, this same advice regarding EICI reports was provided which resulted in conversation around the room between Police and the ODPP. The

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conversation steered towards Police views that corroborative evidence was required to support charges to which the ODPP disagreed. The ODPP staff maintained that a EICI outlining offences was sufficient to charge.

108. The conversation resulted in Ms Jerome advising police to ‘*stay in your lane*’ in reference to the threshold to support a charge. This also resulted in a team member of another external agency making negative comments about Police attitudes.
109. The ODPP’s position raised my concern for a number of reasons. One of those reasons is largely based on the welfare of complainants. In my experience, I have had trials in the Supreme Court which have not been successful and resulted in verdicts of not guilty. These matters had complaints which were support by corroborative evidence. The process of court and receiving a not guilty verdict had a significant detrimental impact on complainants. Thus, to proceed to trial with weaker evidence to support a charge would result in very low confidence in a successful prosecution and ultimately affect the complainant’s mental health.
110. I have found the above type of commentary and attitudes towards police from external agencies to be offensive at times, particularly when I believe that the members within SACAT, myself included, are passionate about our jobs, upskilling in investigating sexual offences and getting successful outcomes for victim survivors.
111. In my opinion, to say that when a complainant makes a disclosure of sexual assault, that they will be believed, is no different to having a pre-conceived notion that all accused persons are guilty until proven innocent which goes against the premise of our judicial system.
112. It is not my job to believe or not believe a complainant. It is my job to conduct an objective search for the truth by way of an exhaustive and objective investigation. If I reasonably believe there is sufficient evidence for a successful prosecution, I would put

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that person before the courts and allow the court to determine whether that evidence proves beyond a reasonable doubt that the person was guilty.

**Director of Public Prosecutions (DPP)/Office of the Director of Public Prosecutions (ODPP)**

- 113.** Prior to the investigation, I have had countless interactions with the ODPP over the years. I have formed and maintained both friendly, respectful, and professional relationships with ODPP staff and have continued to do so following this investigation and the subsequent trial of Mr Lehrmann.
- 114.** In previous matters, I have been able to liaise with ODPP staff about a range of issues or concerns I may have. ODDP staff have provided me with advice on appropriate charges and clarification on legal issues.
- 115.** On one occasion, I met with ODPP staff to obtain advice regarding whether I had sufficient evidence to progress with proffering charges before the court. The matter related to a serious assault on an infant child with no witnesses that was only supported by circumstantial evidence. This meeting and ODPP advice were helpful in my investigation.
- 116.** On another occasion in 2022, I arrested and charged a male for assaulting a non-verbal child. Following his arrest and charges before the court, I met with the DPP to review CCTV to ascertain if further charges could be supported based on circumstantial evidence.
- 117.** This interaction was positive and professional and allowed the ODPP to be aware of what evidence supported the fresh charges when the matter was presented before the court.
- 118.** Further, during my tenure in SACAT, at the conclusion of all trials in which I was the informant, I sought out the ODPP member prosecuting the matter and sought feedback

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on my investigation in an effort to learn and continue developing myself, identify any gaps in my investigations and further understand the court process.

119. I did not receive any significant feedback that suggested there was any concerns with SACAT as a whole or my investigative skillset.
120. In addition to the above, SACAT team leaders and members of the ODPP, ordinarily Ms Jerome and Mr Chatterton who were the Sexual Offence Supervisors at the time, regularly met. During 2021, I performed the role of team leader and attended meetings, however do not recall anything of significance was raised.
121. Additionally, Mr Chatterton was the initial prosecutor for a matter in which I was the informant. The matter required significant liaising due to welfare concerns regarding the complainant and difficulties in the accused appearing before the Court. These interactions were always positive and resulted in a successful outcome.
122. I have not previously had a case with Ms Jerome, however I had engagement with her over the years. Ms Jerome is friendly, helpful and at times maybe abrupt, however this has not raised my concerns nor been an issue for me.
123. Prior to the investigation, I had no engagement with Mr Erin Priestly, Mr Mitchell Greig or Ms Sarah Pitney.

#### Victims of Crime Commissioner

124. Prior to the investigation, I had very limited involvement with the Victims of Crime Commissioner, Ms Heidi Yates (**“Ms Yates”**) apart from informal greetings when Ms Yates attended the office or one occasion when I attended a media function in the company of Detective Superintendent Scott Moller.

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125. Prior to 31 March 2021, my understanding of the functions of the Victims of Crime Commissioner and her staff was very limited. I was aware that Victim Support ACT is an agency available to police to make referrals for victims of crime and were the overarching agency responsible for the Witness Intermediary Program.
126. Prior to the investigation, I had not conducted a sexual assault investigation where Ms Yates, or her staff personally supported a complainant at court. Further, I had not experienced Ms Yates or her staff acting as a conduit between a victim and the police.

### The Investigation

#### Involvement in the investigation from 5 February 2021 to 30 March 2021

##### *First involvement in the Investigation*

127. On Friday 5 February 2021, Detective Sergeant (“D/Sgt”) Gareth Saunders (“D/Sgt Saunders”) advised me a request to reactivate a previous report to police of an allegation regarding a sexual assault had been received. He also provided a briefing of the matter.
128. D/Sgt Saunders told me a report had been received alleging in March 2019, staff members from the Minister of Defence Industries Office had gone out and later caught an Uber to Australian Parliament House where they engaged in sexual intercourse. The female involved reported the sexual intercourse to be non-consensual.
129. D/Sgt Saunders further advised the female had been located by a cleaner, and the room was cleaned. The matter was referred to SACAT on 4 April 2019 and Detective Senior Constable (“DSC”) Sarah Harman (“DSC Harman”) was the case officer. CCTV had been quarantined for police and at the time of reporting the incident, the complainant declined to provide a statement. All decisions were uploaded on the PROMIS job.
130. The complainant had since contacted the Security Investigations Diplomatic Liaison (“SIDL”) team wishing to proceed with her complaint. D/Sgt Saunders was conducting

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enquiries as to whether the matter would be deemed a sensitive investigation and was awaiting advice.

131. D/Sgt Saunders advised me he would forward me email correspondence to review and requested I reactivate the PROMIS job and review the matter.

I received email correspondence from D/Sgt Saunders at 2:51pm that same date with the subject 'FW: ACTP Timeline re Sexual Assault Investigation Australian Parliament House. [SEC=OFFICIAL:Sensitive]'. Attached and marked '**Exhibit 9**' is a copy of email correspondence from D/Sgt Saunders dated 5 February 2021.

I was allocated the role of case officer. I noted the allocated PROMIS case number 6381473 was a team level case, meaning I was unable to access the information. I subsequently requested access. Attached and marked '**Exhibit 10**' is a copy of my Official AFP Diary 14908 on page 276.

***Interactions with Ms Higgins and other AFP/ACT Policing members up until 30 March 2021***

132. About 8:31am on Saturday 6 February 2021, in the company of D/Sgt Saunders, I met with Ms Higgins and her boyfriend Mr David Sharaz, at the Belconnen Police Station for the purpose of conducting a M&G. I believe D/Sgt Saunders arranged this meeting.

133. D/Sgt Saunders and I had a conversation with Ms Higgins and Mr Sharaz whereby the following was discussed:

- a. Ms Higgins advised she had it on good authority that a media article would be published in one and a half weeks' time. She knew this as she had been engaging with Ms Samantha Maiden, a reporter for news.com.au, since 2019. Ms Maiden had been writing a piece on the subject and the subsequent internal handling of the alleged sexual assault;

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- b. Ms Higgins reported she felt suppressed to speak within her workplace and had attempted to resign on a number of occasions in the month prior. Mr Sharaz likened the workplace behaviours towards Ms Higgins as ‘*emotional abuse*’ and ‘*gaslighting*’;
- c. Ms Higgins advised she held concerns about information sharing between the AFP and APH, should she progress a report of sexual assault. She cited there was a leak to the Canberra Times in 2019 resulting in someone from the AFP contacting her for the purpose of a welfare check to see if she was okay;
- d. Ms Higgins further advised she was aware APH would not provide a copy of the CCTV to Police and takes issue with this;
- e. Ms Higgins reported she had retained the dress she wore at the time of the incident, having washed it only once and had not worn it again;
- f. Ms Higgins advised on the evening the incident occurred, she attended The Dock and 88mph;
- g. Ms Higgins advised two weeks after the incident, and a number of occasions thereafter, she attended the [WIT\_Conf] Medical Centre in [WIT\_Confident];
- h. Ms Higgins advised she had compiled:
  - i. a timeline of events;
  - ii. a witness list;
  - iii. email correspondence; and
  - iv. recordings of conversations in the workplace. She noted the recordings may be illegally obtained and potentially not admissible. She would make the recordings available to Police.

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- i. Mr Sharaz advised they anticipated the AFP would receive media enquiries regarding the allegation and wanted to ensure the sexual assault investigation would be ‘active’ when those media enquiries were made with the AFP;
- j. D/Sgt Saunders and I explained a statement would be obtained in the form of an EICI and what was involved in that process and why. I offered Ms Higgins the opportunity to participate in an EICI during this M&G which she declined;
- k. Ms Higgins advised while she wanted to participate in an EICI, she wished for the media release to ‘*play out first*’ and queried whether she could provide her statement in three weeks’ time. She noted she intended on travelling interstate the following day, and intended on returning to the ACT around Sunday 21 February 2021;
- l. Upon review of my shifts for 21<sup>st</sup> February, I advised Ms Higgins I would contact her on Wednesday 24 February 2021 to arrange her participation in an EICI. She was advised the investigation would not commence until she provided a statement to police. She was further advised any media coverage may jeopardise any subsequent evidence sought. Ms Higgins acknowledged this, however declined to participate in an EICI during this M&G;
- m. At the conclusion of the M&G, Ms Higgins had returned to her vehicle, and I provided Mr Sharaz a blank Universal Serial Bus (“USB”) for the purpose of Ms Higgins to provide pre-prepared information to police;
- n. Mr Sharaz told me MS Higgins had also completed a recorded interview with television presenter Ms Lisa Wilkinson for the program ‘The Project’ which was due to air on 15 February 2021. He told me Ms Higgins did not want to say

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anything in fear of being judged, she wants to raise awareness about the workplace practices and take a stance; and

o. Ms Higgins and Mr Sharaz were thankful of D/Sgt Saunders's and my support.

134. Throughout the M&G, Ms Higgins became visibly upset and I offered her support services via Supportlink which she accepted. I advised Ms Higgins I would touch base with her to see how she was and conduct a welfare check-in prior to 24 February 2021.
135. I completed a PROMIS CNE, ID 152899373, log 84 on the same day after our M&G. Attached and marked '**Exhibit 11**' is a copy of PROMIS CNE, ID 152899373, log 84.
136. About 4:05pm on the same date, in the company of Leading Senior Constable ("LSC") Mark <sup>WIT\_Personal</sup> I attended the foyer of Ms Higgins and Mr Sharaz's apartment building. Ms Higgins provided me with the white dress she said she had worn at the time of the incident and returned the USB I provided Mr Sharaz earlier. This encounter was fairly brief, without concern or issue.
137. I made notes in my Official AFP Diary 14908 on pages 278-280 regarding this interaction with Ms Higgins. Attached and marked '**Exhibit 12**' is a copy of my Official AFP Diary 14908 on pages 278-28.
138. On Wednesday 17 February 2021, I sent Ms Higgins a SMS message to query how she was and advised I would contact her the following week to discuss obtaining her statement.
139. Later in the day, I received a responding SMS and email from Ms Higgins about booking in a date to provide a statement and requesting the investigation be formally reactivated. Attached and marked '**Exhibit 12A**' is a copy of the relevant email from Ms Higgins dated 17 February 2021.

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140. The following day, I provided an update briefing to Detective Superintendent (“D/Supt”) Scott Moller, Detective Inspector (“D/Ins”) Marcus Boorman and D/Sgt Saunders in regard to the correspondence received from Ms Higgins and her wanting to provide a statement.
141. I later attempted to contact Ms Higgins via phone, however my phone calls were unanswered.
142. I made notes in my Official AFP Diary 14908 on pages 284 – 287 regarding my contact with Ms Higgins. Attached and marked 'Exhibit 13' is a copy of my Official AFP Diary 14908 on pages 284 – 287.
143. I completed a PROMIS CNE, ID 152907173, log 92 regarding my contact with Ms Higgins. Attached and marked 'Exhibit 14' is a copy of the PROMIS CNE, ID 152907173, log 92. Attached and marked 'Exhibit 15' is a copy of the PROMIS CNE, ID 152907179, log 94.
144. About 11:53am on Friday 19 February 2021, I had a telephone conversation with Ms Higgins and the following was discussed:
- a. Ms Higgins was travelling interstate to facilitate her participation in an EICI as she advised she did not wish to travel to Canberra unless it was necessary however, would travel to Canberra if travel was not arranged promptly;
  - b. Ms Higgins noted the narrative her story had taken within the media and queried if the matter was an open investigation or active investigation, advising there was a hyperfocus on this topic in the media;
  - c. I advised I would email Ms Higgins dates and options for her to provide her statement;

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- d. Ms Higgins advised she could have a quiet conversation with members of Parliament to expedite the approval of our travel and noted it should be expedited given members would want this done quickly [reference to APH]; and
- e. Ms Higgins had concerns about answering private number telephone calls and I offered to send her an SMS prior to my calling to alleviate her concerns.

145. Later, on 19 February 2021, I sent Ms Higgins an email titled 'Statement' which detailed our arrangements to obtain her EICI. Attached and marked 'Exhibit 16' is a copy of the relevant email from 19 February 2023 to Miss Higgins.

146. About 4:54 pm that same date, I had another telephone conversation with Ms Higgins and the following was discussed:

- a. Ms Higgins advised me she made a disclosure to her father one week after the incident and in more detail recently;
- b. I queried Ms Higgins about an image that had been disseminated in the media as being an injury to her leg sustained during the incident as the injury and image had not been disclosed to police;
- c. Ms Higgins advised the image was captured on an old iPhone, however she had transferred that image to her new mobile phone via the application 'Signal'.
- d. I advised Ms Higgins police would be seeking her consent to conduct a data extraction of both mobile phones, both previous and current. Ms Higgins agreed to this and advised she would try and locate her old mobile phone;

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- e. Ms Higgins advised she had enabled her photos to save to the cloud on her old phone around the time of Senate Estimates, however she would confirm this;
- f. Ms Higgins participation in an EICI on Wednesday afternoon 24 February 2021. I advised support could be provided to her following her EICI; and
- g. Statements from Mr Sharaz and her father would be obtained on the following day, Thursday 25 February 2021.

147. I made notes in my Official AFP Diary 14908 on pages 288 – 289 after this conversation. Attached and marked '**Exhibit 17**' is a copy of my Official AFP Diary 14908 on pages 288 – 289. I completed a PROMIS CNE, ID 152908006, log 99 after this conversation. Attached and marked '**Exhibit 18**' is a copy of the PROMIS CNE, ID 152908006, log 99.
148. On Monday 22 February 2021, I had a telephone conversation with D/Sgt Saunders who advised me the Executive were removing me as the informant as I was not a designated detective.
149. Detective Leading Senior Constable (“**DLSC**”) Trent Madders would assume the role of informant and I would assume the role of corroborator. DLSC Madders was a designated detective and a very experienced investigator of sexual offences.
150. My role as corroborator was to support him as the informant. I made notes in my Official AFP Diary 14908 on page 290 regarding this conversation. Attached and marked '**Exhibit 19**' is a copy of my Official AFP Diary 14908 on page 290.
151. On Wednesday 24 February 2021, DLSC Madders and I travelled to the Gold Coast, Queensland for the purpose of obtaining a statement from Ms Higgins, Mr Sharaz and Ms Higgins’s father.

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152. About 12.10pm, I had a telephone conversation with Ms Higgins during which I provided directions to the location of the AFP Office at the Gold Coast airport.
153. Ms Higgins told me that she had received SMS messages from the media, however she had not responded. She had not told the media of the location where the EICI would be conducted.
154. On Wednesday 24 February 2021 shortly after 1:00pm, I met with Ms Higgins, her aunty Ms [WIT\_Pers Personal information] a family friend and [WIT\_Personal\_Info Personal information] and Mr Sharaz. A short time later, DLSC Madders and I commenced an EICI with Ms Higgins who had Mr [Personal Informa] join her as a support person.
155. The EICI was suspended at 2:16pm to provide a break to Ms Higgins. Mr Sharaz entered the room and without concern for Ms Higgins's welfare, commenced showing and discussing media coverage to Ms Higgins.
156. During the break, Ms Higgins queried if police were investigating the other alleged victims, who had been reported on in the media to have been assaulted by Mr Lehrmann. I explained to Ms Higgins if a person reports an incident to the media, that report is not automatically a police complaint and that those persons would need to report it to police. I asked Ms Higgins if she knew or had been in contact with any of the persons to which she advised she had not, nor did she know them.
157. At the conclusion of the EICI, I queried with Ms Higgins if she had located her mobile phone and had it with her. We discussed obtaining her written consent to conduct a data extraction. I recall Ms Higgins being concerned about providing her mobile phones and having a data extraction undertaken. However, Mr [Personal inform] reassured Ms Higgins that it was a standard practice.

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158. Ms Higgins had not brought her old mobile phone with her. In the company of Mr [Personal Inform] we made arrangements for me to contact Ms Higgins at 9:00am the following day to arranged for her to return with the mobile phones to complete the data extraction.
159. I then obtained Ms Higgins's written consent to obtain her medical records from the [WIT\_Confidential\_sensitive] medical centre.
160. At the conclusion of the day, I provided a telephone briefing to D/Sgt Saunders. I made notes in my Official AFP Diary 14908 on pages 292 – 300 regarding this conversation on 24 February 2021 with Ms Higgins and company. Attached and marked 'Exhibit 20' is a copy of my Official AFP Diary 14908 on pages 292 – 300.
161. The following morning, as agreed, I attempted to contact Ms Higgins, however Ms Higgins did not answer her phone.
162. As a result, I contacted Mr Sharaz and we had a conversation. The following was discussed:
- a. I made arrangements for Mr Sharaz and Ms Higgins to again attend the AFP Office later that day;
  - b. Mr Sharaz questioned why police wanted Ms Higgins's phone, and raised his concerns about Minister Peter Dutton's knowledge of the matter as per a media report that same morning; and
  - c. I advised Mr Sharaz that I would discuss these matters with Ms Higgins if she had further concerns.
163. A short time later, I received a telephone call from Ms Higgins. We had a conversation as follows:

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- a. I requested she and Mr Sharaz attend the AFP Office to complete the data extraction of her phones and to obtain Mr Sharaz's statement; and
- b. I advised I needed to ascertain a timeline from the disclosure witnesses and their contact details. I would then start arranging statements to be obtained from additional witnesses.

164. Ms Higgins sounded upset. I could hear her crying. The conversation continued as follows:

- a. she was upset about the latest media article, referring to Minister Peter Dutton;
- b. she had raised her concerns in the M&G about information sharing between the AFP and APH;
- c. she was unaware the information would be provided to him, she was feeling very overwhelmed and was no longer confident in the process;
- d. I advised Ms Higgins that I understood it was an overwhelming process, we would do what we could to support her and we would discuss her concerns further in person.

165. Following my conversation with Ms Higgins, I had a telephone conversation with D/Sgt Saunders and provided him a briefing.

166. A short time later, I contacted the CRCC requesting they conduct a welfare call to Ms Higgins later that same day.

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167. Later that day, DLSC Madders and I met with Ms Higgins and Mr Sharaz at the AFP Office. DLSC Madders obtained Mr Sharaz's statement while I obtained information about disclosure witnesses.
168. While Ms Higgins was present, we had the following conversation:
- a. Ms Higgins declined to provide her consent for me to conduct a data extraction of her mobile phone citing she was not confident her records would be confidential;
  - b. Ms Higgins raised concerns about information sharing between AFP and APH. Those concerns were alleviated as I explained the structure of ACTP as an arm of the AFP. Ms Higgins was unable to advise me of her direct concerns;
  - c. Ms Higgins queried investigations into the actions following the alleged incident within APH, advising that Ms Maiden had told her there were internal reviews and a security guard who had anonymously reported the matter and quit his job as a result of a review;
  - d. Ms Higgins queried the decision to clean the suite citing a cover up, queried if evidence had been destroyed, and whether there was a failure of duty of care;
  - e. I advised Ms Higgins should any criminal offending be identified, it would be investigated; and
  - f. Ms Higgins advised Ms Maiden was reporting to her what she uncovered before she reported it in the media. Ms Higgins added at times Ms Maiden's comments influenced her memories and questioned if her memory is a result of being told information.

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169. I made notes in my Official AFP Diary 14908 on pages 301 – 304 of this conversation with Ms Higgins. Attached and marked '**Exhibit 21**' is a copy of my Official AFP Diary 14908 on pages 301 – 304.
170. About 9:15am on Friday 26 February 2021, in the company of DLSC Madders, I attended the residence of Ms Higgins's father where she was staying at the time. I obtained her signed consent to obtain records from CRCC and [WIT\_Confidential\_sensitive\_Third\_P]
171. I heard DLSC Madders discuss with Ms Higgins her mobile phones and police were requesting to examine her phones for evidential purposes. She was requested to further consider providing her mobile phones before returning to Canberra.
172. Later that day, DLSC Madders and I returned to Canberra. Upon our return, D/Sgt Saunders requested a timeline of the trip. DLSC Madders compiled the timeline, I reviewed and edited the document. I conducted a review of material obtained from [WIT\_Pe Personal informa] a disclosure witness of Ms Higgins, in the company of D/Sgt Saunders and D/Ins Mark [WIT\_Pers]
173. I then had a conversation with D/Sgt Saunders at which time he raised concerns about a potential information leak somewhere due to a media related FOI request. A conversation was also had in relation to obtaining a search warrant for Ms Higgins's mobile telephone.
174. Ultimately, we decided against obtaining a search warrant for a number of reasons. Such a course of action was not conducive to taking a 'victim-centric' approach to sexual assault investigations, historically this had not occurred when a complainant refused to provide evidence and any loss of inculpatory or exculpatory evidence relating to Ms Higgins's phone had the potential to hinder her own complaint.
175. I made notes in my Official AFP Diary 14908 on page 308 about this conversation. Attached and marked '**Exhibit 22**' is a copy of my Official AFP Diary 14908 on page 308.

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176. On Thursday 4 March 2021, I was present for a team meeting relating to the investigation.

I do not recall who was present however the following was discussed:

- a. Statement schedule;
- b. Enquiries to be conducted;
- c. Ms Higgins's mobile telephones;
- d. Search warrants; and
- e. The Project unedited footage.

177. I made notes in my Official AFP Diary 14908 on page 314 after the 4 March 2021 meeting. Attached and marked 'Exhibit 23' is a copy of my Official AFP Diary 14908 on page 314.

178. On Monday 8 March 2021, I had a telephone conversation with Ms Higgins and the following was discussed:

- a. Ms Higgins advised she was returning to Canberra tomorrow, having left Queensland the previous day and was staying in Newcastle overnight;
- b. Ms Higgins agreed to meet with DLSC Madders and I that Friday and offered to arrange in person support from CRCC to attend;
- c. We discussed what shoes she wore on the night of the incident; and

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- d. I queried if Ms Higgins recalled the conversation DLSC Madders and I had prior to us leaving Queensland to which she advised 'yes'. I asked if she had brought her old phone with her to which she advised 'yes'. I asked her to bring the mobile phone with her on Friday to discuss further.
179. I made notes in my Official AFP Diary 14908 on page 315 after this conversation with Ms Higgins on 8 March 2021. Attached and marked '**Exhibit 24**' is a copy of my Official AFP Diary 1490 on page 315.
180. On Wednesday 10 March 2021, I had SMS correspondence with Ms Higgins confirming arrangements to meet that Friday.
181. On Friday 12 March 2021, shortly before DLSC Madders and I were scheduled to meet Ms Higgins, I sent Ms Higgins an SMS advising we were 10 minutes late but would see her soon.
182. Ms Higgins responded advising, '*of course, no worries*' and continued to explain there was a time sensitive legal matter with Minister Reynolds that same morning impacting her schedule. Ms Higgins queried, worst case scenario, was there any way to reorganise the catchup for Monday. We made those arrangements for the meeting to be rescheduled to Monday.
183. A series of SMS messages were sent to Ms Higgins asking if she would make that morning's appointment. Ms Higgins advised she could not, and it was offered to conduct the meeting later that day. Ms Higgins replied that she was not in the best headspace and would prefer to reorganise, noting she was in Canberra until Monday night.
184. I responded to Ms Higgins advising I was on a day off on Monday, but would come into work first thing and would re-arrange CRCC to attend. I arranged to make the appointment on the Monday as she suggested, for 9:00am at Belconnen Police Station. I also referenced the examination of phones. Ms Higgins responded saying '*don't worry*'

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*about coming in* and that she was *'happy to speak just with DLSC Madders'* and stated she was happy to hand over her phone for the day.

185. About 9:24am on Monday 15 March 2021, Ms Higgins did not attend our meeting at the Belconnen Police Station. I attempted to contact her via telephone and SMS. One telephone call was answered and appeared to have a poor connection and hung up.
186. Ms Higgins did not attend the station and did not contact me that day. Both D/Supt Moller and D/Ins Boorman were briefed about this incident.
187. Later that same day, I sent an email to Ms Higgins titled 'Follow up message'. Attached and marked '**Exhibit 25**' is a copy of the relevant email sent to Ms Higgins on 15 March 2021.
188. I also completed a PROMIS CNE, ID 152922153, log 229, outlining the contact I had with Ms Higgins between 8-15 March 2021. Attached and marked '**Exhibit 26**' is a copy of PROMIS CNE, ID 152922153, log 229.
189. On 17 March 2021, I received an email response from Ms Higgins reaffirming the case was now her priority moving forward and she would make a dedicated trip to Canberra if required. The email was a reply to the email titled 'follow up' and was received at 12:59 on 17 March 2021. Attached and marked '**Exhibit 27**' is a copy of the relevant email received at 12:59 on 17 March 2021 from Ms Higgins.
190. On 25 March 2021, I responded to Ms Higgins's email with advice about a referral to the ACT Policing Victim Liaison Officer. Attached and marked '**Exhibit 28**' is a copy of my email of a referral to the ACT Policing Victim Liaison Officer dated 25 March 2021.
191. On Thursday 25 March 2021, I was present for a meeting with CI Response Manager (D/Ins) and the following was discussed:

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- a. If 88mph had CCTV and/records;
- b. Ms Higgins's dress and a potential enquiry for forensics;
- c. To request Ms Higgins's to provide her mobile phone again;
- d. Outstanding Intelligence checks;
- e. Bumble date identification; and
- f. Investigative strategies to be considered or implemented prior to approaching Mr Lehrmann.

192. I made notes in my Official AFP Diary 14908 on page 333 about the review meeting conducted on 25 March 2021. Attached and marked '**Exhibit 29**' is a copy of my Official AFP Diary 14908 on page 333.
193. Throughout the investigation there were numerous briefings conducted to team leaders, the area Inspector and Superintendent that are not documented. These briefings were not recorded as they were in passing or not of great significance.
194. Furthermore, I believed the investigation was being conducted in a methodical and thorough manner. It was obvious the investigation was going to be extensive and was only in its infancy. As a result, I did not concern myself about the prospects of the charge or form a view in relation to the threshold to charge at this early time.
195. At the time, Ms Higgins requested her complaint be reactivated. The information I believed the police had was Ms Higgins's initial version of events and/or engagement with Police within SIDL and SACAT, a PSS executive summary and CCTV from The Dock.

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196. I performed the role of corroborator within the investigation, progressed lines of enquiries and obtained evidential material as outlined in my police statement. This statement outlines the type, time and dates evidence was obtained. Attached and marked 'Exhibit 30' is a copy of my police statements dated 27 July 2021; 25 February 2022 and 14 June 2022.

197. Up until 31 March 2021, I engaged with the following members during the course of the investigation:

- a. D/Supt Moller;
- b. D/Ins Boorman;
- c. D/Sgt Gareth Saunders;
- d. D/Sgt Jason McDevitt; and
- e. DLSC Madders.

198. Up until 31 March 2021, I was not at work during the following dates due to leave:

- a. 11 to 17 February 2021; and
- b. 13 to 23 March 2021.

***Involvement in the Investigation on or around 31 March 2021***

199. About 11:00am on 31 March 2021, I attended a meeting at the Belconnen Police Station in the company of D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt, and DLSC/ Madders. The purpose of the meeting was to meet with the DPP, Mr Shane Drumgold

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(“Mr Drumgold”), and members of the ODPP, Ms Jerome, and Mr Chatterton. My understanding is the ODPP requested they be briefed on the Ms Higgins investigation.

200. We provided the ODPP with a briefing of the investigation to date. The following was also discussed:

- a. Identifying risks to a fair trial in relation to media reporting;
- b. Risks identified due to inconsistent versions of events;
- c. Ms Higgins’s mobile phones and her reluctance to provide her mobile phones;  
and
- d. Uber records.

201. I further recall ODPP being shown CCTV of Ms Higgins and Mr Lehrmann entering the APH security check-point. I recall Mr Drumgold stating something similar to Ms Higgins appeared to him to be ‘*a girl that needs a sleep*’.

202. I recall ODPP being queried as to the value of having an expert witness provide evidence from the CCTV as to the level of intoxication of the parties involved and this suggestion being declined by the ODPP.

203. I recall ODPP being advised that Mr Lehrmann had yet to be interviewed and Mr Drumgold responding that it did not matter what Mr Lehrmann said. I recall this specifically as I was surprised and shocked that the most senior member of the ODPP held no weight to an accused’s version of events as being relevant evidence.

204. I did not convey my views in relation to the prospects of the matter, nor my views in relation to the conduct of the investigation. I do not recall discussions surrounding the

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Witness

decision-making in relation to charging Mr Lehmann as in my opinion, at that stage, the investigation had not progressed enough to make any such determination.

205. My overall impression of the meeting was neutral. The purpose of the meeting was to provide the ODPP a briefing of the investigation so far and for the relationships between the parties to remain well. I recall walking out of the meeting and discussing an unrelated matter that I was the informant for with Mr Chatterton as he was the allocated prosecutor.
206. I made notes in my Official AFP Diary 14908 on page 334 regarding this conversation with the ODPP staff on 31 March 2021. Attached and marked '**Exhibit 31**' is a copy of my Official AFP Diary 14908 on page 334.

*Involvement in the Investigation from 1 April 2021 to 26 May 2021*

207. As of 1 April 2021, I continued to perform the role of corroborator within the investigation, progressed enquiries and obtained evidence as outlined in my Police statement. Attached and marked '**Exhibit 30**' is a copy of my Police Statement.
208. On Tuesday 13 April 2021, I was on a rostered day off when I received a telephone call from D/Sgt McDevitt querying whether I was able to travel to Queensland the following day for the purposes of interviewing Mr Lehmann in the company of D/Ins Boorman. I agreed, however this course of action was sudden and unplanned.
209. On Wednesday 14 April 2021, I wrote a number of Section 3E and 3LA Crimes Act 1914 affidavits, search warrants and later travelled to Brisbane and Toowoomba, Queensland in the company of D/Ins Boorman and Senior Constable ("SC/") James WIT\_Person
210. SC/ WIT\_Person was a team member within the JACAT, had SACAT experience and was proficient in the extraction and review of mobile phone data.

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Witness

211. I made notes in my Official AFP Diary 15477 on page 08-09. Attached and marked 'Exhibit 32' is a copy my Official AFP Diary 15477 on page 08-09.
212. Later that day, I received an internal email correspondence advising that Ms Rebekah Giles had contacted Federal Agent, Ms Rebecca [WIT\_Personal\_Information] requesting an update on the investigation as the legal representative for Ms Higgins. I forwarded this information to D/Ins Boorman.
213. While in Toowoomba, myself, D/Ins Boorman and SC/ [WIT\_Personal\_Information] had a conversation with Mr [Personal Information] and Ms [Personal Information] as outlined in my Police statements. Attached and marked 'Exhibit 33' is a copy of my Police statements.
214. They advised they would inform Mr Lehrmann about Police attendance to speak with him and stated Mr Lehrmann was being legally represented by Mr John Korn ("Mr Korn").
215. While travelling from Toowoomba to Brisbane, I recall D/Ins Boorman receiving a phone call from who I was later advised was Mr Korn. I could hear the conversation and while I do not recall specifics of that conversation, I do recall D/Ins Boorman advised Mr Korn that we wished to conduct a Record of Interview ("ROI") with Mr Lehrmann and did not intend on arresting him at that point in time. There was nothing discussed by D/Ins Boorman that struck me as inappropriate or concerning. It was a standard conversation between Police and a defendant's solicitor.
216. On Friday 16 April 2021, as the investigation team were unaware of Ms Higgins being legally represented, I sent Ms Higgins an email requesting she confirm Ms Giles was her legal representative and to obtain Ms Higgins's consent for police to provide Ms Giles with an update, should that be the case. Attached and marked 'Exhibit 33' is a copy of this email chain from 16 April 2021 between myself and Ms Higgins.

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217. On Sunday 18 April 2021, I was on a rostered day off when I received a telephone call from D/Ins Boorman. D/Ins Boorman advised he was travelling to Sydney, New South Wales that afternoon for the purpose of conducting a ROI with Mr Lehrmann the following day. D/Ins Boorman queried if I was able to travel that same date.
218. As a result, I was recalled to duty and travelled interstate at short notice in the company of D/Ins Boorman and SC/ [WIT\_Persons]. This trip was unplanned to the best of my knowledge.
219. About 2.55pm on Monday 19 April 2021, Mr Lehrmann and Mr Korn attended the AFP Headquarters in Sydney, NSW. Mr Korn advised he would not remain present for the ROI. This was a brief conversation and in the presence of Mr Lehrmann, D/Ins Boorman, SC/ Brown and me. There was nothing discussed by Mr Korn or Police officers that struck me as inappropriate or concerning.
220. As Mr Korn was preparing to leave, Mr Lehrmann attempted to provide Mr Korn with his mobile phone and D/Ins Boorman advised Mr Lehrmann of a Section 3E *Crimes Act 1914* regarding a search warrant for his mobile phone. Mr Korn acknowledged this, provided advice to Mr Lehrmann to provide his mobile phone and shortly after departed the location.
221. I made notes in my Official AFP Diary 15477 on page 15 about Mr Lehrmann attending Headquarters. Attached and marked 'Exhibit 34' is a copy of my Official AFP Diary number 15477 on page 15.
222. About 8:40am on Wednesday 21 April 2021, I attended a meeting with D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt and DLSC Madders. During the meeting the following was discussed:

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- a. The brief and covering report were due on 3 April 2021 to D/Supt Moller who had one week to review the documents and provide the documents to Commander Michael Chew; and
- b. The following tasks needed to be completed:
  - i. Transcript of ROI;
  - ii. Create a timeline;
  - iii. Complete a comparison of evidence against the complainant's statement and an Evidence Matrix;
  - iv. Ministerial phone;
  - v. Confirm witness statements;
  - vi. Collect Legislative restriction, drop off ROI and collect dress;
  - vii. Review Mr Lehrmann's mobile phone;
  - viii. Review Medicare and PBS records;
  - ix. Review Ms Higgins's Medicare;
  - x. Discussed the sentiment in the community both politically and ODPP's views;
  - xi. ODPP and this being at the time the most significant investigation;
  - xii. Witness order and locations;
  - xiii. APH access logs;
  - xiv. Ministers, DLO phone and access logs; and
  - xv. Arrange forensics.

**223.** I made notes in my Official AFP Diary 15477 on pages 26 – 27 regarding this meeting on Wednesday 21 April 2021. Attached and marked '**Exhibit 35**' is a copy of my Official AFP Diary 15477 on pages 26 – 27.

**224.** On Tuesday 27 April 2021, I received a SMS from Ms Higgins advising she was in Canberra the following day and queried whether we needed to talk again. I responded the following day and advised it would be good to meet and tried to obtain her availability

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to meet. Ms Higgins did not respond to my message. I sent another SMS advising I was on shift that day and the following day if she was available. I did not receive a response.

225. About 9:00am on Wednesday 28 April 2021, I attended a meeting in the company of D/Ins Boorman, D/Sgt Saunders and DLSC/ Madders. During the meeting, the following was discussed:

- a. Collection of evidence from APH;
- b. Enquiries to be conducted regarding emails sent to Mr Lehrmann;
- c. Witness statement of an APH ICT personnel;
- d. Query for Ms Higgins in relation to emails she had sent to Mr Lehrmann which were discovered on his mobile phone;
- e. The investigation to remain ongoing and an objective review of all evidence was to be conducted; and
- f. An extraction of Ms Higgins's mobile phones if provided. This is only to be conducted if she provides the mobile phones. Police will not be asking for the mobile phones further as four requests have now been made of Ms Higgins.

226. I made notes in my Official AFP Diary 15477 on page 34 regarding this meeting on Wednesday 28 April 2021. Attached and marked '**Exhibit 36**' is a copy of my Official AFP Diary 15477 on page 34.

227. On Wednesday 5 May 2021, I was advised, as the conduit with Ms Higgins, to cease contact with Ms Higgins as the Victims of Crime Commissioner, Ms Yates, would now be acting on her behalf. Due to my employment and Ms Yates's position, whilst I had

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been the main point of contact for Ms Higgins previously, I would no longer be liaising with Ms Yates.

228. In my experience as an investigator, I had not had an external agency assume the responsibility of all communications with police on the behalf of a complainant ever before. This was not and is not common practice and, in my opinion, assisted in the breakdown of the relationship between Ms Higgins and police. It removed the ability for police to continue ongoing welfare checks which are paramount in sexual assault investigations.
229. D/Ins Boorman provided D/Sgt Saunders, DLSC Madders and I a copy of email correspondence from Ms Yates relating to the above request on 12 May 2021. Attached and marked '**Exhibit 37**' is a copy of Ms Yates's email from 12 May 2021.
230. On Tuesday 11 May 2021, I received an SMS from Ms Higgins. The SMS was a screenshot of an email from Mr Phil Gaetjens along with comment advising Ms Higgins had received the message that day which led her to believe the AFP investigation was largely '*wrapped up*'.
231. The email referenced advice Mr Gaetjens had received the previous day from the AFP Commissioner, Mr Reece Kershaw ("**AFP Commissioner**"). The email stated Mr Gaetjens was now in a position to progress an inquiry into knowledge within the PMO of Ms Higgins's alleged sexual assault.
232. About 11:00am on Wednesday 12 May 2021, I attended a meeting in the company of members of the Investigation Team. This may or may not have consisted of D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt and DLSC/ Madders.
233. During the meeting, the following was discussed:

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Witness

- a. I had received an SMS from Ms Higgins (as outlined above). D/Ins Boorman advised he would speak with Ms Yates as per her email requesting all correspondence and contact with Ms Higgins be via her;
  - b. The subject of conducting a second EICI with Ms Higgins. However, we would exhaust all other avenues of enquiry in an attempt to gather the evidence from alternative means and not to rush the investigation;
  - c. A second ROI with Mr Lehrmann regarding emails sent and received from Ms Higgins following the alleged incident;
  - d. Collection of documents as per recording;
  - e. We were to provide D/Ins Boorman a list of remaining witnesses within Queensland to consider the requirement of travel; and
  - f. Witness statement of either Mr Doug Rid or Mr Drew Burland.
234. I made notes in my Official AFP Diary 15477 on pages 45 – 46 regarding the Wednesday 12 May 2021 meeting. Attached and marked '**Exhibit 38**' is a copy of my Official AFP Diary 15477 on pages 45 – 46.
235. On 21 May 2021, D/Ins Boorman forwarded to D/Sgt Saunders, D/Sgt McDevitt, DLSC Madders and I email correspondence D/Ins Boorman had with Ms Yates, confirming a further EICI with Ms Higgins. Attached and marked '**Exhibit 39**' is a copy of D/Ins Boorman's email with Ms Yates dated 21 May 2021.
236. I completed a number of CNE in relation to contact or attempted contact with Ms Higgins during this timeframe. Attached and marked '**Exhibit 40**' is a copy of the PROMIS CNE ID 152938510, log 298, titled 'Contact on 11 April 2021'. Attached and marked '**Exhibit**

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- 41' is a copy of the PROMIS CNE ID 152938511, log 299, titled 'Attempt contact with Ms Higgins on 8 April 2021'.
237. I have compiled all SMS correspondence between myself and Ms Higgins in a document titled 'Photographs – SMS – Higgins and SC Frizzell'. Attached and marked '**Exhibit 42**' is a copy of 'Photographs – SMS – Higgins and SC Frizzell'.
238. During this period, I had no engagement with the ODPP in relation to this matter. I engaged with the ODPP regarding an unrelated matter I had before the Court. During this time, my relationship with the ODPP continued to be professional, kind, and respectful.
239. Further, I believe the investigation continued to be conducted in a methodical and thorough manner and it was extensive in nature. As a result, I did not concern myself as to a view on the prospects of the matter or views in relation to thresholds to charge.

*Involvement in the Investigation surrounding the second evidence in chief interview on 26 May 2021*

240. On 21 April 2021, the investigation team had directed a comparison of evidence and Evidence Planning Matrix.
241. An Evidence Planning Matrix is a planning tool often utilised in complex investigations which outlines the criminal offence, legal elements of the that offence, the evidence to support each legal element and enquiries identified. I am unsure if this task was completed. Attached and marked '**Exhibit 43**' is a copy of the Evidence Planning Matrix for this investigation.
242. On 28 April 2021, during an internal meeting with D/Ins Boorman, D/Sgt Saunders and DLSC/ Madders, it was reported that an objective review of the evidence obtained was underway. It was identified that there were a number of questions to be asked of Ms Higgins.

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Witness



243. In my experience, when obtaining further information from a complainant it is commonly by a written supplementary statement.
244. It was decided due to the multiple questions we needed to ask Ms Higgins, in fairness to all parties and taking into account the trial process, it would be beneficial to obtain the supplementary statement in a second EICI. I do not recall who made the decision to conduct an EICI. The decision to conduct a second EICI was for both Ms Higgins's welfare and the presentation of evidence in Court proceedings, should the matter progress to that point.
245. About 8:58am on Wednesday 26 May 2021, I attended a meeting in the company of D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt and DLSC Madders. It was scheduled that Ms Higgins's second EICI would be conducted sometime after the meeting.
246. During the meeting, it was agreed the following questions would be asked of Mr Higgins:
- a. Her contact with Mr Lehrmann at 88mph bar as witness Ms WIT\_Personal\_Info reported to have seen physical contact between the pair and the location of photos taken with Mr Lehrmann. There were also questions regarding this issue and a personal email sent;
  - b. Doctors – Where and when did she attend the doctor and where and when did she purchase the morning after pill. Further there were texts to Ben Personal Informat about different doctor she attended compared to what she told Fiona Brown and officers.
  - c. Emails – From Mr Lehrmann and to Mr Lehrmann following the alleged incident;
  - d. Diary; and

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Witness

e. CCTV – Show Ms Higgins the CCTV as requested.

247. I made notes in my Official AFP Diary 15477 on page 53 detailing this meeting. Attached and marked 'Exhibit 44' is a copy of my Official AFP Diary 15477 on page 53.
248. A short time later, in the company of the D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt and DLSC Madders, I attended the Belconnen Police Station and met with Ms Higgins and Ms Yates.
249. It would not be normal practice to have a D/Supt or D/Ins attend such a meeting, however given the position of Ms Yates as the Victims of Crime Commission, I believe their attendance to have been warranted. There was significant power imbalance in play between myself and a person holding a statutory appointment at the level Ms Yates held.
250. During this meeting, I obtained Ms Higgins's signed consent to complete a data extraction of her mobile phone. I then obtained her mobile phone and provided this and the signed consent to AFP Digital Forensics member, Mr Peter WIT\_Pers
251. During this meeting, D/Supt Moller and D/Ins Boorman had a conversation with Ms Higgins and Ms Yates. During this conversation, I recall D/Supt Moller requested Ms Higgins refrain from her continued engagement with the media in relation to the allegation while the investigation continued. Ms Higgins agreed to stay out of the media.
252. At the conclusion of the conversation, D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt, DLSC/ Madders and I conducted a second EICI with Ms Higgins.
253. Following the EICI, I obtained a USB from Mr WIT\_Pe containing the data extraction from Ms Higgins's mobile phone.

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254. The next day on Thursday 27 May 2021, I attended a meeting in the company of D/Supt Moller, D/Ins Boorman, D/Sgt Saunders and D/Sgt McDevitt.
255. Prior to that meeting, DLSC Madders and I commenced a review of the information obtained during the EICI and the data extraction from Ms Higgins’s mobile phone.
256. I reviewed the internet search history and located searches WIT\_Personal\_Info which were highly concerning to me. I was concerned about Ms Higgins’s mental health. I immediately brought this to the attention of the investigations team. I do not recall to whom specifically I reported my concerns, however I do know that it was immediately briefed up the chain of command within the investigations team, inclusive of D/Supt Moller, D/Ins Boorman, D/Sgt Saunders, D/Sgt McDevitt and DLSC Madders, upon discovery.
257. Further we located a series of SMS messages to Ms Higgins’s boyfriend, Mr Sharaz that also concerned me. Ms Higgins sent Mr Sharaz a number of documents and recordings and when he queried, “*What’s this?*”, Ms Higgins responded “*Old audio. I’m clearing out my phone ahead of the police*”.
258. Ms Higgins’s comment to Mr Sharaz indicated to me she was attempting to hide or delete evidence. At this point, my concerns were raised about Ms Higgins’s credibility due to the following:
- a. She had provided different information to witnesses and police officers in relation to her medical treatment following the alleged incident;
    - i. Ms Higgins told Mr Personal informat and Ms WIT\_Person she had or was going to attend a doctor. Ms Higgins told police officers in 2019, she was awaiting on medical results from the WIT\_Confider Medical Centre and on

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another occasion she had not sought medical treatment. Ms Higgins told me and DLSC Madders she had attended the <sup>WIT\_Confid</sup> [REDACTED] Medical Centre.

ii. Enquires confirmed Ms Higgins had not attended a medical centre or an appointment. Ms Higgins stated in her second EICI that she was ‘placating’ Mr <sup>Personal Informa</sup> [REDACTED] by telling him she had attended the doctors.

- b. There were witness accounts of Ms Higgins and Mr Lehrmann kissing and Ms Higgins taking photos of the pair at 88mph and Ms Higgins’s omission of this information; and
- c. The motives of reporting the allegation to Police and timing in relation to media reporting.

259. During the above mentioned meeting with the investigations team, the following was discussed:

- a. We would flag and not review the following with Ms Higgins regarding the data extracted from her mobile phone about the:
- i. Conversations with media entities;
  - ii. Recordings made at APH; and
  - iii. Any recordings with lawyers.
- b. The large amount of data extracted from Ms Higgins’s phone was raised;
- c. Do an early review of data extraction located chat with Mr David Sharaz indicating the clearing of phone prior to providing to the mobile phone to the police. The message was dated the day after the appointment Ms Higgins for her to attend the second EICI and her phone data extracted;

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Witness

- d. Concerns about Ms Higgins's mental health:
- i. Due to her search history; and
  - ii. Referral to CRCC was made and CRCC engaged with Ms Higgins who confirmed she has a <sup>WIT\_Personal\_Info</sup> [REDACTED] <sub>WIT\_Personal\_Info</sub> [REDACTED]
- e. D/Supt Moller to contact Ms Yates as per her direction regarding contact to raise concerns Police had for Ms Higgins welfare; and
- f. Concerns raised regarding the evidence. Advised the decision is not up to the investigation team, but rather the Executive Levels and the DPP.

260. At this time, considering the advice provided in relation to the progression of the matter and the decision to charge lay elsewhere, I no longer concerned myself with the prospects of the matter but rather continued my role as an investigator. Attached and marked 'Exhibit 45' is a copy of Official AFP Diary 15477 on page 56.

#### Advice provided by the DPP

261. Prior to this matter, I had not sought advice from the ODPP in relation to a sexual assault investigation.
262. I had no involvement in compiling the preliminary brief of evidence for this investigation.
263. I had read the advice provided by the DPP addressed to D/Supt Moller, referred to as the DPP advice (“**advice**”). I do not recall the date I read the advice. I have a limited memory of the advice however did note that the preliminary brief of evidence had not been reviewed in its entirety and there were a number of requested enquires.

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Witness

264. At the time of the DPP advice, the investigation was not complete, however I do believe there to be sufficient evidence to warrant a decision. I state this as DLSC Madders and I had prioritised the evidence and the evidence obtained was based on Ms Higgins's recollection of disclosure and subsequent enquiries. It was not expected that any additional information would significantly alter the evidence already obtained.
265. I did not overly engage with the DPP to comment on whether he maintained objectivity in providing his advice to Police outside of the first meeting on 31 March 2022. The DPP's advice at that meeting was he had received offers from other lawyers to prosecute the matter; and that it did not matter what the accused had to say, from which I inferred this matter had been pre-determined.
266. I recall having a conversation within the investigation team about outsourcing independent legal advice, however the Executive declined this suggestion.
267. I did observe a breakdown in the relationship between the DPP, ODPP and the investigation team, which became evident to me when the DPP and ODPP attempted to source CCTV which did not exist from APH.
268. Around May, in the lead up to the first trial date, I was made aware that the DPP and Ms Jerome queried the location of a specific CCTV video that was said to depict Ms Higgins and Mr Lehrmann arriving at APH on the night of the incident. The video they were referring to was not a video that was in the possession of Police.
269. I was aware the DPP and Ms Jerome were advised that we did not have, nor ever had, the CCTV they were referring to, however they were disbelieving of the advice.
270. On Monday 23 May 2022, I obtained a second copy of the CCTV from APH and conveyed it directly to the ODPP where we reviewed the USB together. The USB contained the same nine CCTV videos that were on the original Master exhibit and were contained in the brief. It did not contain the CCTV the DPP and Ms Jerome were seeking.

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271. Despite being advised that the USB contained all available CCTV from APH and was the same as the Master, they still believed there was outstanding CCTV. They subsequently requested the AFP Digital Forensics team to conduct a review of the hard drive that had contained the advice brief.
272. At this point, it became evident that the ODPP did not believe our advice, calling into question our integrity and insinuating that we had either lost or destroyed evidence. It showed their distrust of our investigation team.
273. Further, in the lead up to the trial commencing 4 October 2021, I was present for a meeting between the DPP, Ms Jerome, Commander (“**Cmdr**”) Joanne Cameron, D/Supt Hall O’Meagher, D/Ins Callum Hughes, DLSC Madders, and AFP Legal members.
274. During this meeting, AFP Legal provided advice to the DPP about their position on AFP created documents that they were not claiming legal privilege to. I recall Mr Drumgold requesting they send him the documents so he could ‘*see what damage*’ had to be addressed. Mr Drumgold was rude in his response. I recall this as I would never address my superior in this manner.
275. It was my understanding all these documents had already been provided to the ODPP. These documents were the same documents ODPP had initially declined to engage with me on when preparing the disclosure certificate and seeking their advice at the time.
276. Mr Drumgold requested that should the ODPP seek any enquiries or tasks to be completed by the investigation team during the trial, that all requests be submitted by 3:00pm and those enquires and tasks to be actioned the following day.
277. In my experience, it is not uncommon to receive last minute requests from the ODPP to conduct enquiries or tasks at short notice. This was a stressful time as I also had another trial for a sexual assault offence running at the same time and [WIT\_Personal\_Info].

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278. At 4:13pm on 12 October 2021, the day before I was to give evidence at the trial, I received an email from Ms Jerome requesting I bring the physical copy of my statement and all attached exhibits and notes to the trial. This comprised of 57 documents. These documents were contained within the eBrief.
279. The request was significant and as it was late afternoon, to complete this request would have meant substantial overtime and the trial was commencing at 9:00am the following morning. I was stressed and overwhelmed.
280. I contacted Mr Mitchell Grieg, who I had a good relationship with due to working on previous matters and asked about Ms Jerome's request.
281. Mr Greig advised Ms Jerome did not understand eBriefs and the ODPP already had the material Ms Jerome was requesting. Mr Greig would liaise with Ms Jerome. Mr Greig later confirmed the ODPP was in receipt of items and Ms Jerome's request did not need to be actioned.
282. My engagement with Mr Grieg and Ms Erin Priestly was positive and I speak highly of them both. Ms Priestly is a ODPP prosecutor who was on leave at the time of the trial. Ms Jerome was took over her matters.
283. I, DLSC Madders, Mr Grieg and Ms Priestly had significant experience with each other as we have conducted numerous matters together. Upon Ms Priestly going on leave, niceties were exchanged via email whereby it was noted to have been a pleasure working with each other on the matter.

#### Decision to charge

284. As indicated, following the second EICI with Ms Higgins, I personally had concerns about Ms Higgins's inconsistent and uncorroborated evidence. However, I continued to

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investigate the matter as per the advice provided to me on 27 May 2021. I understand the decision to charge was not my role in this matter as I was the corroborating case member.

285. I do not recall specifically what date I was advised that Mr Lehrmann was to be charged, by whom I was advised and specifically of what I was advised. In regard to my overall impression, my concerns had remained unchanged.
286. I could not provide in depth commentary as to my perception as to whether there was any pressure to charge Mr Lehrmann given it was already made apparent that the decision to charge did not lie within the investigation team. The decisions and pressures were not directed down at our levels, nor was I privy to where the direction came from, outside of that of the DPP advice, or when the charge was to be laid.
287. Upon charging Mr Lehrmann, my views and attitude towards the prosecution were unchanged. The investigation team continued, up until the completion of the trial, to conduct enquiries, inclusive of interstate travel, witness statements, taskings by the DPP, servicing subpoenas etc and present evidence.
288. I remained engaged with the ODPP for the entirety of the prosecution and provided assistance and advice when and where I was able. In fact, the continual engagement with this matter frustrated the ability to have uninterrupted progress of my other investigations and matters before Court.

#### Summons, Brief of Evidence and Disclosure

289. I did not prepare the summons and BoE for this matter.
290. The usual adjudication process for preparing a BoE has been outlined above. This process was not adhered to for this matter. I understand this decision was made by a superior Officer in the chain of command.

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291. On Tuesday 3 August 2021, I was in the company of DLSC Madders when D/Supt Moller requested that the fresh evidence be put onto a USB for disclosure to the DPP. D/Supt Moller advised he would hand deliver the USB to the DPP and obtain a receipt. This request related to the additional enquiries the DPP requested in his review of the advice brief.
292. I asked D/Supt Moller who would adjudicate the BoE before processing the summons as the brief was a full disclosure brief. I explained the adjudication process and its purpose to D/Supt Moller and he acknowledged my concerns.
293. D/Supt Moller later advised given the brief had already been reviewed, in reference to an internal review of the investigation, and the adjudication process [via AP] would not be conducted again.
294. I made notes in my Official AFP Diary 15477 on page 84 about this conversation with D/Supt Moller. Attached and marked '**Exhibit 46**' is a copy of my Official AFP Diary 15477 on page 84.
295. On Thursday 5 August 2021, I was working from home and had a telephone conversation with DLSC Madders. DLSC Madders advised the updated information was no longer being provided to the DPP and he had been requested to arrange a summons on that same date.
296. In response, I advised DLSC Madders to request a decision CNE be placed on the job by whomever had given him the tasking.
297. I made notes in my Official AFP Diary 15477 on page 85 regarding this conversation with DLSC Madders on 5 August 2012. Attached and marked '**Exhibit 47**' is a copy of my Official AFP Diary 15477 on page 85.

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298. On Friday 6 August 2021, I had been made aware the summons brief was being served directly on Mr Korn in Sydney. I do not recall who advised me of this. As a result, I had a conversation with D/Sgt Robert Rose and I raised concerns for the welfare of Mr Lehrmann in considering he had been [WIT\_Personal\_Info] upon learning he was the subject of the allegation. I requested consideration be given for a request to Queensland Police to conduct a welfare check or to raise the concerns with Mr Korn.
299. I made notes in my Official AFP Diary 15477 on page 86 about this conversation with D/Sgt Robert Rose on 6 August 2021. Attached and marked 'Exhibit 48' is a copy of my Official AFP Diary 15477 on page 86.
300. On Monday 30 August 2021, I met with D/In Boorman relating to the brief and the following was discussed:
- a. Diary notes;
  - b. Ms [WIT\_Personal\_Info]'s diary;
  - c. Communication and correspondence specific to Mr Korn, Mr Sharaz, Ms Higgins and Ms Yates;
  - d. Statement from Department of Defence; and
  - e. The conduit between investigation team and high office holders to arrange statements or obtain relevant material.
301. On Friday 17 September 2021, I received an email from the ODPP titled 'Police v Lehrmann CC2021/8143' identifying an issue with the Crown's copy of the brief of evidence received on 6 August 2021. The email outlined a number of issues relating to unlocked redactions, counselling records, EICI audio recordings and further evidence

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issues. Attached and marked '**Exhibit 49**' is a copy of the email titled 'Police v Lehrmann CC2021/8143' dated 17 September 2021 from the DPP.

302. On Wednesday 22 September 2021, D/Sgt Rose requested I review the email list from the ODPP and reinforced the need to ensure the defence copy of the hearing brief was free of error. As a result, I conducted a review of the mention brief and carried out any amendments that were tasked.
303. On Friday 24 September 2021, I sent an email to D/Acting Inspector Damien [Personal Information] titled 'RE: Police v Lehrmann CC2021/8143', advising I had reviewed the brief as best as I could, however it was my preference that another team member cross reference the amendments to ensure it was accurate and void of any issues. Attached and marked '**Exhibit 50**' is a copy of the email sent to D/Acting Inspector Damien [WIT\_Personal Information] titled 'RE: Police v Lehrmann CC2021/8143' dated 24 September 2021.
304. That same day, I sent an email to D/Sgt Rose and DLSC Madders titled 'Covina – Updated mention brief' which provides a direct link to an updated mention brief and outlines the changes completed, as per the DPP's request. Attached and marked '**Exhibit 51**' is a copy of my email sent to D/Sgt Rose and DLSC Madders titled 'Covina – Updated mention brief' dated 24 September 2021. Attached and marked '**Exhibit 52**' is a copy of my email to D/Acting Inspector Damien [Personal Information] titled 'RE: Police v Lehrmann CC2021/8143' dated 24 September 2021.
305. On Sunday 26 September 2021, I sent an update to the above-mentioned email to D/Sgt Rose and DLSC Madders. Attached and marked '**Exhibit 53**' is a copy of my email to D/Sgt Rose and DLSC Madders dated 26 September 2021.
306. Between Monday 9 August and Thursday 26 August 2021, I was working from home. Further, I was on leave between 11-12 August 2021 and 18-19 August 2021.

Personal Information

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Emma Louise FRIZZELL

Witness



**Disclosure**

307. On 16 August 2021, I commenced drafting the disclosure certificate. I do not recall if I was requested to complete this, and if so, by whom. However, I do recall raising the issue that it must be completed and that it had not been done.
308. In my experience, I have only compiled disclosure certificates as the case informant for a matter. There is a requirement for the informant to sign the disclosure certificate. I had minimal experience and no specific training in completing disclosure certificates. A/Sgt Marissa [WIT\_Personal\_In] and AFP Legal provided advice as to how to draft a disclosure certificate.
309. On 1 September 2021, I had a telephone conversation with an AFP Legal Member, Mr Adam [WIT\_Confidential\_ser] relating to disclosure. This conversation was followed by an email from Mr [WIT\_Confidential\_s] titled 'RE: Disclosure'. Attached and marked '**Exhibit 54**' is a copy of the email sent by Mr Adam [WIT\_Confidential\_s] dated 1 September 2021.
310. I made notes in my Official AFP Diary 15477 on page 91 about how to draft a disclosure certificate. Attached and marked '**Exhibit 55**' is a copy of my Official AFP Diary 15477 on page 91.
311. On 15 September 2021, I sent DLSC Madders an email titled 'Disclosure certificate for review' requesting he review a draft disclosure certificate. Attached and marked '**Exhibit 56**' is a copy of the email sent to DLSC Madders titled 'Disclosure certificate for review' dated 15 September 2021.
312. On 29 September 2021, I requested a meeting with Ms Jerome and Ms Priestly to discuss the disclosure certificate and remainder of the brief.

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Emma Louise FRIZZELL

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Witness

313. On 8 October 2021, I discussed the disclosure requirements with Ms Jerome and Ms Priestly. Afterwards, Ms Jerome sent an email stating that any legal advice provided by the ODPP to the AFP was subject to LPP.
314. Further, that AFP Legal is responsible for determining whether to waive the LPP attached to advice provided by the ODPP to the AFP. Ms Jerome confirmed her office did not require a copy of the briefing documents. Attached and marked 'Exhibit 57' is a copy of the email sent by Ms Jerome about disclosure requirements dated 8 October 2021.
315. Shortly thereafter, I sent an email to Mr [WIT\_Confidential\_sen] titled 'RE: Disclosure' stating the ODPP had declined to provide generalised advice without first reviewing materials we may be seeking advice on and that the decision rests with AFP legal. Attached and marked 'Exhibit 58' is a copy of the email to Mr [WIT\_Confidential\_s] titled 'RE: Disclosure' dated 8 October 2021.
316. I was absent from the workplace between 9 to 28 October 2021 during which time DLSC Madders liaised with AFP Legal.
317. On 22 October 2021, Mr [Personal information] provided further advice regarding the draft disclosure certificate. Attached and marked 'Exhibit 59' is a copy of the email from Mr [WIT\_Confidential\_s] dated 22 October 2021.
318. On 27 January 2022, I sent an email to D/Ins Callum Hughes and D/Sgt David Fleming titled 'Operation Covina – Disclosure Certificate' with a final draft copy of the disclosure certificate for review and approval. Attached and marked 'Exhibit 60' is a copy of the email to D/Ins Callum Hughes and D/Sgt David Fleming titled 'Operation Covina – Disclosure Certificate' dated 27 January 2022.
319. Later that same date, D/Sgt Fleming provided advice following his review of the document via reply email. Attached and marked 'Exhibit 61' is a copy of the email from D/Sgt Fleming dated 27 January 2022.

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Emma Louise FRIZZELL

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Witness



320. On 2 February 2022, email correspondence was received from the ODPP with advice that Ms Priestly would be the primary contact to settle the brief and brief disclosure certificate. Attached and marked 'Exhibit 62' is a copy of the email from ODPP dated 2 February 2022.
321. To accurately complete the disclosure certificate, I undertook an audit of all electronic information holdings within the AFP S:Drive. I created an administrative document to log the information and its location within the brief material or the disclosure certificate. As a result, I located material not only relevant to the disclosure certificate but of that to be added to the BoE.
322. On 3 February 2022, at the conclusion of the review, I provided D/Sgt Fleming a report via email titled 'Op Covina review'. Attached and marked 'Exhibit 63' is a copy of the review provided to D/Sgt Fleming titled 'Op Covina review' dated 3 February 2022.
323. As a result of the review, on 24 February 2022, I updated the draft disclosure certificate and sought AFP Legal Member, Mr James [WIT\_Personal] to review and provide advice on my draft disclosure certificate in an email. Attached and marked 'Exhibit 64' is a copy of the email sent to Mr James [WIT\_Personal] dated 24 February 2022.
324. On 28 February 2021, I received advice from Mr [WIT\_Personal] via email from AFP Legal Member, Ms Stephanie [WIT\_Personal\_Info]
325. The email provided advice on the internal briefing documents and the disclosure certificate. Attached and marked 'Exhibit 65' is a copy of the email from Mr James [WIT\_Personal] dated 28 February 2022.

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Emma Louise FRIZZELL

Witness



326. I subsequently sought advice from D/Ins Hughes as to how to pass the information onto ODPP and was advised to submit the information on the disclosure certificate via email on 1 March 2022.
327. On 1 March 2022, I liaised with Ms [WIT\_Personal\_Info] regarding the appropriate schedule the internal documents would sit within the disclosure certificate and subsequently this advice was confirmed in an email from Ms [WIT\_Personal\_Info]. Attached and marked 'Exhibit 66' is a copy of the email from Ms [WIT\_Personal\_Info] dated 1 March 2022.
328. I completed the disclosure certificates, which were signed by D/Supt Moller and D/Ins Hughes for submission to the DPP, along with provision of an updated eBrief that same day.
329. At the conclusion of the above, I recommended an internal review be conducted whereby Police statements are reviewed against the brief to ensure all evidence was accounted for in relation to disclosure. This was subsequently conducted by D/SC Wayde [WIT\_Personal\_Info].

### Other Involvement in the Investigation

#### *Interactions with AFP/ACT Policing officers in relation to the investigation*

330. I did not prepare documents relating to the investigation outside of those mentioned above, or to Commander Chew and the Sensitive Investigations Oversight Board.
331. Any involvement I had in relation to claims of Legal Professional Privilege over documents produced by the AFP is limited only to the identification of those documents within the disclosure certificate as outlined above.
332. I was unaware that the DPP or ODPP had concerns about any of the AFP/ACT Policing officers allocated to the investigation.

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Emma Louise FRIZZELL

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Witness

333. I recall D/Supt Moller relaying a conversation he had with Commissioner Kershaw during morning exercise around Not relevant. I do not recall the content of that conversation.

***Interactions with the legal representatives for Mr Lehrmann***

334. Apart from what I had already stated, I have no further involvement with Mr Lehrmann's legal representatives during the investigation, up until the service of the summons on 6 August 2021.

***Interactions with the Victims of Crime Commissioner during the Investigation***

335. As outlined above, on 5 May 2021, I was advised to cease contact with Ms Higgins as the Victims of Crime Commissioner Ms Yates, would now be acting on her behalf.

336. Given Ms Yates's position being the Victims of Commissioner, it was not appropriate for me to liaise with her, as I had been with Ms Higgins. D/Supt Moller assumed the role of conduit with Ms Yates.

337. D/Ins Boorman provided D/Sgt Saunders, DLSC Madders and I a copy of email correspondence from Ms Yates on 12 May 2021. Attached and marked 'Exhibit 67' is a copy of the email from D/Ins Boorman regarding Ms Yates's request on 12 May 2021.

338. Regarding communicating with Ms Higgins via Ms Yates, given Ms Yates's position as the Commissioner for Victims of Crime, it was not appropriate for me to communicate directly with her.

339. Should an occasion arise where communication with Ms Higgins was required, the request would have to be submitted within the internal chain of command to D/Supt Moller for him to liaise with Ms Yates to then speak with Ms Higgins.

340. On Monday 12 July 2021, D/Supt Moller, and D/Ins Boorman met with Ms Higgins and Ms Yates in Brisbane, Queensland.

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341. I have been informed during this meeting, Ms Higgins showed D/Supt Moller and D/Ins Boorman an image she alleged to have been taken on the night of the incident. The image was said to be in her Google Drive.
342. Following the meeting, Ms Higgins provided her consent for her Google Drive and iCloud accounts to be reviewed. The accounts were downloaded, and I subsequently reviewed Google Drive and iCloud. I did not locate any imagery from the date of the incident, nor an image that resembled what had been described by D/Supt Moller and D/Ins Boorman.
343. As Ms Yates was privy to the conversations between Police and Ms Higgins and had personally viewed this photo that was unable to be located by Police, and was independent to the two parties, I sought to obtain her statement. Ms Yates was another person who could possibly provide evidence of that conversation and imagery. Ms Yates was a legitimate witness we needed to make inquiries with to ensure our investigation was complete.
344. On 8 September 2021, I sent D/Supt Moller an email titled ‘Op Covina – Statement from Ms Yates’ in which I sought his consideration in approving a request to obtain a witness statement from Ms Yates. Attached and marked ‘**Exhibit 68**’ is a copy of the email sent to D/Supt Moller titled ‘Op Covina – Statement from Ms Yates’ dated 8 September 2021.
345. On 9 September 2021, D/Supt Moller sent me an email with advice that he had emailed a request to Ms Yates for her to provide a statement. As a result, DLSC Madders and I later obtained that statement.

#### Interactions with other persons in relation to the Investigation

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Witness



346. In relation to the approximate number of witnesses with whom I engaged during the course of the investigation those details are outlined within my Police Statement. Attached and marked '**Exhibit 30**' is a copy of my Police Statement.

**Preparation and Trial in the matter of R v Lehrmann following service of summons on 6 August 2021**

347. During the course of the trial of *R v Lehrmann*, I was the case informant for another sexual assault matter being tried in the Courtroom next door (*R v Ayoub*). Both trials commenced on 4 October 2021 and concluded 13 October 2021. During this period, I was involved in administrative taskings and provided evidence in both trials.

348. To the best of my knowledge, neither Ms Yates or her staff provided support to the complainant in the course of the *R v Ayoub* trial, or while the complainant provided pre-trial evidence.

**Interactions with DPP/ODPP in the preparation for and during the trial in the matter of R v Lehrmann**

349. During my engagement with the DPP and ODPP in relation to the matter, I received about 500 - 560 emails largely of an administrative nature relating to taskings, queries and meeting requests.

350. I also met with the ODPP on a regular basis, of which I initiated around late 2021, to ensure given the significant content of the brief that all enquiries and taskings were completed and information flowed between ACT Policing and the ODPP efficiently.

351. I did find however that to receive information or advice from the ODPP was at times lacking, resulting in my needing to engage and query ODPP further. For example, in the lead up to the first trial dates, I was engaging the ODPP for Police to be proofed prior to trial as no engagement had been received in relation to this. ODPP were not engaging with Police in the way they would normally in the lead up to trial.

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352. Furthermore, the continued engagement was in an effort to avoid 'last minute' requests from the ODPP as historically this is not unusual, if not expected.
353. On 8 October 2021, I was present for a meeting with the ODPP. I took notes in my official AFP Diary D15477 on page 118, It was following this meeting that Ms Jerome provided written advice as referred to above relating to disclosure. Attached and marked '**Exhibit 69**' is a copy of my official AFP Diary D15477 on page 118.
354. On 10 February 2022, in the company of D/Sgt Fleming I was present for a meeting with Ms Jerome and Ms Priestly. The purpose of the meeting was to discuss the status of the brief and ongoing enquiries. I took notes in my official AFP Diary D15477 on page 287. Attached and marked '**Exhibit 70**' is a copy of my official AFP Diary D15477 on page 287.
355. On 28 February 2022, I had a conversation with the ODPP about Ms Samantha Maiden and Ms Lisa Wilkinson's media involvement in the case. I recall on a number of occasions raising whether statements of the two were required to which these queries were initially declined. I made notes in my official AFP Diary D15477 on page 314. Attached and marked '**Exhibit 71**' is a copy of my official AFP Diary D15477 on page 314.
356. On 27 April 2022, I had a meeting with the ODPP. The purpose of the meeting was to discuss the status of the brief and ongoing enquiries. I made notes in my official AFP Diary D15993 on page 30. Attached and marked '**Exhibit 72**' is a copy of my official AFP Diary D15993 on page 30.
357. On Thursday 12 May 2022, I attended the office of ODPP and met with Ms Jerome and Ms Priestly to be proofed in preparation of giving evidence in the trial. Following my proofing, we discussed the brief and ongoing enquiries. I made notes in my AFP Diary

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D15993 on page 38. Attached and marked 'Exhibit 73' is a copy of my official AFP Diary D15993 on page 38.

358. At some stage around this time, I was made aware that Mr Drumgold and Ms Jerome queried the location of a specific CCTV video that was said to depict Ms Higgins and Mr Lehrmann exiting a vehicle and approaching a gate at APH on the night of the incident. The video they were referring to was not a video that was in the possession of police.
359. I was aware this information was conveyed to Ms Jerome and Mr Drumgold however they were disbelieving of the advice. As a result, I made a number of enquiries.
360. On 23 May 2022, following a request by DLSC Madders for [WIT\_Personal\_VIT\_Personal] to create a second copy of the CCTV [WIT\_Confidential\_ser] by APH, I made arrangements via email with Mr [WIT\_Personal\_Int] to attend APH and collect a USB and complete a statement. Attached and marked 'Exhibit 74' is a copy of my email sent to Mr [WIT\_Personal] on 23 May 2022.
361. About 10:54am, in the company of D/Sgt Fleming, I attended APH and met with Mr [WIT\_Personal] who provided me an envelope containing a USB, password and instructions. I completed a statement with Mr [WIT\_Personal] and completed the evidence transfer.
362. I had a conversation with Mr [WIT\_Personal] where he advised there was no further CCTV and that all [WIT\_Confidential\_ser] CCTV was on the USB. I advised Mr [WIT\_Personal] Mr [WIT\_Personal] Mr [WIT\_Personal] reported to the ODPP that CCTV containing Ms Higgins and Mr Lehrmann exiting a car and entering APH existed. I queried if this was the case. Mr [WIT\_Personal] reiterated to me that all [WIT\_Confidential\_ser] CCTV was on the USB. Mr [WIT\_Personal] could not confirm or recall that particular CCTV when he last reviewed the CCTV.
363. D/Sgt Fleming and I departed APH and conveyed the envelope directly to the ODPP. We met with Mr Drumgold, Ms Jerome, Ms Priestly, and Mr Grieg for the purpose of showing them the contents of the USB, directly from the USB provided by APH.

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Witness



364. Upon review of the USB, nine video files were located. They were the same as the nine files located on the master copy received by police from APH in 2021. Despite this, Ms Jerome and Mr Drumgold still believed CCTV described by Mr [WIT\_Personal\_] existed. They advised they believed the CCTV was on the hard drive of the advice brief. I advised I would enquire with DLSC Madders who compiled the advice brief.
365. Ms Jerome also queried alterations and statement of [Legislative restriction] I advised that an intelligence officer who had organised the [Legislative restriction] for ease of review was drafting a statement.
366. I advised Ms Jerome no alterations were made to the [Legislative restriction] only redactions. Ms Jerome did not believe me and advised the CCTV times were altered. As a result, Ms Jerome requested un-redacted copies. I made notes in my official AFP Diary D15993 on page 45 after this conversation. Attached and marked 'Exhibit 75' is a copy of my official AFP Diary D15993 on page 45.
367. On 27 May 2022, I attended the ODPP and met with Mr Greig to provide a USB containing a redacted version of the ROI.
368. We had a conversation whereby Mr Greig advised the ODPP were in receipt of emails from the Department of Defence ("DoD").
369. I asked Mr Greig about these email as the DoD had advised D/Ins Boorman they would not recover the content. Mr Greig stated the DoD reported the AFP never asked for the content. Mr Greig advised that was incorrect. I made notes in my official AFP Diary D15993 on page 51 after this discussion. Attached and marked 'Exhibit 76' is a copy of my official AFP Diary D15993 on page 51.
370. On 16 June 2022, in the company of D/Ins Hughes, I was present for a meeting between AFP Legal, the ODPP and Mr Drumgold relating to a subpoena, LPP and disclosure. The DPP advised they were sourcing evidence themselves, outside of police.

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371. During this meeting, I made notes in my official AFP Diary D15993 on pages 60 – 61 during the meeting. Attached and marked '**Exhibit 77**' is a copy of my official AFP Diary D15993 on pages 60 to 61.
372. On 21 June 2022, I attended the ODPP and provided Ms Prestly with two USBs which contained further material for disclosure and a compilation of CCTV. I made notes in my official AFP Diary D15993 on page 65 after this disclosure. Attached and marked '**Exhibit 78**' is a copy of my official AFP Diary D15993 on page 65.
373. About 4:00pm on 21 September 2022, I was present for a meeting with the DPP, Ms Jerome and Mr Grieg. It was during this meeting further discussions were had in relation to LPP relating to documents that fell under the remit of a subpoena.
374. Also discussed were witness and security concerns, media attendance, expected length of the trial, DPP views that it was likely I would be the only police witness and a request that DPP submit any taskings by to 3:00pm the day prior to requiring the results. It was evident to me in this meeting from the ODPP's terse engagement with AFP members, that the relationship between their office and the AFP was strained at this point.
375. I made notes in my official AFP Diary D15993 on pages 120 – 121 during this meeting. Attached and marked '**Exhibit 79**' is a copy of my official AFP Diary D15993 on page 120.
376. On 29 September 2022, I attended the ODPP and met with Mr Greig and provided him a USB containing evidential material. I had a conversation with Mr Greig relating to the trial and made notes of this conversation in my official AFP Diary D15993 on page 128 after our meeting. Attached and marked '**Exhibit 80**' is a copy of my official AFP Diary D15993 on page 128.

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377. On 8 October 2022, an email request from the ODPP was received to conduct a further tasking. Attached and marked '**Exhibit 81**' is a copy of an email from ODPP dated 8 October 2022. I alerted D/Ins Moore and DLSC Madders as to the request for their attention to address. I made notes in my official AFP Diary D15993 on page 138 about this request. Attached and marked '**Exhibit 82**' is a copy of my official AFP Diary D15993 on page 138.
378. I had further interactions as outlined below relating to notifications of requests and/or contact with the legal representatives for Mr Lehrmann.
379. In addition to the above, during the course of the trial, I would wait outside the courtroom for ODPP to exit should they have any taskings, queries or wish to discuss anything relating to the matter with me.
380. The ODPP did not engage with me one way or the other.
381. On one occasion, Mr Drumgold and Ms Jerome walked right by me within reach and ignored me. Given Mr Drumgold's position, I did not feel comfortable in approaching him myself.
382. I did exchange pleasantries with Mr Greig on occasion, however he also did not stop to engage with me as we normally would. I found this to be strange.

*Interactions with the legal representatives for Mr Lehrmann in the preparation for and during the trial*

383. I do not believe there are any issues with police engaging with defence lawyers in a professional capacity. We as police have an obligation to objectively investigate matters to obtain the truth. In criminal prosecutions we have an obligation to advance and disclose all evidence which supports and does not support the prosecution case.

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384. It is my view liaising with and disclosing perceived weaknesses in a prosecution case to the legal representative for the defendant outside of an official process and in consultation with ODPP is inappropriate, however noting as stated above, police do have an obligation to disclose all evidence supportive or not. I did not disclose perceived weaknesses in the prosecution case to the legal representative for Mr Lehrmann.
385. Whilst engaged in the matter of *R v Ayoub* in the court room next door, I was approached by the legal representative of Mr Lehrmann who advised me what evidence of mine he intended to address. The ODPP prosecutor was present and there were no concerns raised by any persons about this interaction.
386. On 29 September 2022, the legal representatives for Mr Lehrmann, Mr Steven Whybrow (“Mr Whybrow”) and Ms Rachel Fisher (“Ms Fisher”) attended the Winchester Police Centre for the purpose of reviewing the EICIs of Ms Higgins as per normal procedures and legislative requirements.
387. Whilst in attendance, defence lawyers are provided a room and access to the recordings. Police do not remain in the room. As a result, the defence lawyers are provided my work mobile number and advised to contact me should they require anything, as they had no access to any other part of the Police Station.
388. On 2 October 2022, I missed a call on my work mobile phone from a phone number I now know to belong to Mr Whybrow. I later received a series of text messages from Mr Whybrow as follows:

*‘Hi Emma, Steve Whybrow here. Desperately trying to get hold of contact ID of various numbers in BH [redacted] – seems she has deleted every text from her phone the night but they show up in the [redacted] as number’*

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Emma Louise FRIZZELL

Witness

*'Even if I can just give you numbers and get the ID for this instead of her while contact list be helpful. Beyond privacy issues now when it people she contacted and then deleted the texts'*

389. About 9:06am 3 October 2022, I received further correspondence from Mr Whybrow as follows:

*'Hi Emma, Steve Whybrow here. Desperately trying to get hold of contact ID of various numbers in BH [redacted] – seems she has deleted every text from her phone the night but they show up in the [redacted] as number'*

390. About 9:38am, I sent a response and contacted Mr Greig of the DPP who advised he would review and provide advice. I followed this contact up with an email that stated the following:

*'Good morning, Apologies for the delayed response – I'm not at work today but am forwarding your request on. Kind regards, Emma'*

391. In response, Mr Whybrow sent:

*'Hey Emma cheers';*

*'Have worked out it is a bloke called Alex [redacted] Do you know if he was ever spoken to by anyone?'*

392. When I received an email response from Mr Greig he advised the ODP's position is that the request from Mr Whybrow formed part of an application that was being addressed by Mr Keegan Lee and any requests relating to redacted information should be requested through him and not the AFP.

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Emma Louise FRIZZELL

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393. I queried if the ODPP would notify the defence lawyers or whether they wanted police to. I was advised to please notify Mr Whybrow and if he wanted to discuss further, to contact the ODPP team.

394. As a result, I sent the following response to Mr Whybrow:

*'Good afternoon, Your request re contact ID of numbers, was forwarded to DPP for action who have advised it is part of the application 1a) which is being dealt with by [WIT\_Personal\_Info] IF you require any further information, we can provide it via [WIT\_Personal\_Info] In regards to the second query re: Mr [Personal Info] I will endeavour to confirm first thing tomorrow morning when I return to the office. Kind regards, Emma.'*

395. I received the following response from Mr Whybrow

*'On phone to [WIT\_Personal\_Info] now. Thanks.'*

*'DPP less than keen to provide disclosure of anything that might assist from my perspective'.*

396. On 4 October 2022, upon commencement of shift, enquiries were made in relation to Mr Alex [Personal Informa] involvement in the matter and advice was provided to Mr Greig to on forward to defence via email titled 'RE: Request from Defence'.

397. I received an email response from Mr Greig advising me Mr Whybrow should not be contacting me (ACT Police) directly and that if he wanted to discuss it, he needed to go through ODPP. Mr Greig requested I cease communicating with Mr Whybrow. Mr Greig advised they had not informed Mr Whybrow and there was no need for me to either. I found this odd because if Mr Whybrow was not advised he had to go through ODPP it

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meant he would continue to contact me directly. Attached and marked 'Exhibit 83' is a copy of the email sent to me from Mr Greig on 4 October 2022.

398. I completed a PROMIS CNE, ID 153255381, log 880. Attached and marked 'Exhibit 84' is a copy of PROMIS CNE, ID 153255381, log 880.
399. About 9:18am on 5 October 2022, I missed a phone call from Mr Whybrow. A short time later, I received an email titled 'Threatening email' from Mr Whybrow to which I responded. Attached and marked 'Exhibit 85' is a copy of the relevant email from Mr Whybrow dated 5 October 2022.
400. The email was a complaint made by Mr Whybrow for investigation by Police. I briefed Detective Acting Superintendent Mark <sup>WIT\_Person</sup> [REDACTED] and the complaint was subsequently allocated to a team to investigate.
401. On 7 October 2021, I attended the ACT Supreme Court in relation to the matter of *R v Ayoub*. Whilst in attendance, I spoke with my colleague D/Acting Sergeant ("D/A/Sgt") Lauren Gilliland outside of the court room of the matter of *R v Lehrmann*.
402. While speaking with D/A/Sgt Gilliland, Ms Fisher approached and queried if I was aware of the DPP's commentary in court the previous day. I cannot recall my response however it was followed by Ms Fisher stating they would be using it in closing arguments.
403. I provided evidence in the matter of *R v Ayoub* and when exiting Supreme Court room 4 in the waiting area between the two courtrooms, I was speaking again with D/A/Sgt Gilliland as Mr Whybrow was walking by. Mr Whybrow and I greeted each other.
404. Mr Whybrow stopped and introduced himself to D/A/Sgt Gilliland noting they had not met previously. He went on to apologise to me, advising he did not realise I was working on two matters.

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Emma Louise FRIZZELLI

Witness

405. Mr Whybrow queried that upon receiving the results of enquiries made via the ODPP, should he have further enquiries, whether I would be around Court on Monday to conduct those said enquiries. I advised that I was more than happy to assist however he would have to put the request via the ODPP. Mr Whybrow acknowledged this and said he would. Mr Whybrow advised one of the subscribers identified was the security guard and the other the bumble date and that they had made contact.
406. Mr Whybrow lastly made remark about the DPP's comment in court the previous day and said it was '*fucked*'. I believe this was in relation to the DPP making adverse comment in court proceedings about police interviewing skills.
407. While I was conversing with Mr Whybrow, I observed Ms Jerome and Mr Greig to exit the court room. I observed them to look at us, however they continued to the lift and did not approach us.
408. I called Mr Greig and met with him in the foyer of the ACT Magistrates Court and advised him of the above-mentioned conversation. I followed this conversation up with an email titled 'This afternoon's conversation'. Attached and marked '**Exhibit 86**' is a copy of an email to Mr Greig 7 October 2021.
409. I made notes in my Official AFP diary D15993 on pages 136 – 137 after this incident. Attached and marked '**Exhibit 87**' is a copy of my Official AFP diary D15993 on pages 136 – 137.
410. On Sunday 9 October 2022, I received an email and SMS titled 'URGENT STATEMENT – Alex <sup>Personal info</sup> [REDACTED]' from Mr Whybrow, requesting a witness statement be obtained. Attached and marked '**Exhibit 88**' is a copy of an email from Mr Whybrow requesting a witness statement dated 9 October 2022.

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Emma Louise FRIZZELL

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411. I contacted D/Acting Inspector (“D/A/Ins”) Adam [WIT\_Personal] and advised him of the request. I later had a conversation with D/Ins [WIT\_Personal] who advised he had allocated the task to a team to obtain.
412. On 12 October 2022, I received an SMS from My Whybrow requesting to discuss my evidence. I showed the SMS to D/A/Ins [WIT\_Personal] for advice. D/A/Ins [WIT\_Personal] advised me this was not uncommon, he had encountered similar during his career, and he approved my engagement with Mr Whybrow as requested.
413. D/A/Ins Moore advised me to seek the approval of ODPP prior. I also notified D/Ins Boorman when conversing about a number of topics.
414. I subsequently sent an email to Mr Greig advising of the request from My Whybrow and the requirement for the ODPP to approve. I asked him to advise if the request is supported by the ODPP and if so, whether someone from the ODPP wished to be present.
415. A short time later, I sent an SMS to Mr Greig relating to another query that I was urgently seeking a response for another witness. A short time later, I received a response from Mr Greig as follows:

*‘Sorry, no he won’t be required tomorrow. He will be Monday and regarding your other email that should be fine. You just can’t discuss any request for advice on the brief and any response give.’*

*‘Also, can you attend our office at 9 to go through your evidence?’*

416. I responded as follows:

*‘Great – I’ll let Pete know. Confirming yes to defence request to meet with me this afternoon? Yes of course – 9am would be great*

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417. To which Mr Greig replied:

*Sorry, I have been flat out and haven't been able to access emails. I've been using my laptop for exhibits. Terrific, thanks. To both and will see you at 9 tomorrow.'*

418. I took Mr Greig's responses to approve a discussion of my evidence with Mr Whybrow, however I could not discuss the advice sought and provided by the ODPP on the advice brief.

419. About 4:09pm, in the company of D/A/Sgt Gilliland I attended the office of Kamy Saeedi Law and met with Mr Whybrow and Ms Fisher. Mr Whybrow advised he wished to clarify some points in my statement, notes and CNE and that he was not going to criticise me.

420. Mr Whybrow proofed me as to my evidence and I made notes about those conversations in my Official AFP diary. At the conclusion, Mr Whybrow advised he may require D/Ins Boorman and D/Supt Moller to give evidence, however he wished to speak with D/Supt Moller first. If he was unable to, he would be unlikely to call them.

421. Mr Whybrow queried if when I made an enquiry with the <sup>WIT\_Confiden</sup> Medical Centre, had I asked them if they kept records of patients who made bookings and did not attend. I advised I did not ask that question. Mr Whybrow queried if I could make that enquiry relating to the <sup>WIT\_Confiden</sup> Medical Centre.

422. Mr Whybrow advised me he had sought the ODPP approval in person to speak with me and the ODPP approved.

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423. I provided a briefing of the meeting to D/Supt Moller and D/Ins Moore. I made notes in my Official AFP diary. Attached and marked 'Exhibit 89' is a copy of my Official AFP diary D15993 on pages 141- 144.
424. About 9:00am on 13 October 2022, I attended the office of Ms Jerome for the purpose of a proofing session prior to my giving evidence that morning. Also present was Mr Greig. Upon attendance, Ms Jerome advised there was no changes to my previous proofing session some months earlier and asked if I had any queries.
425. I advised Ms Jerome of the enquiry Mr Whybrow had requested I conduct with the WIT\_Confider Medical Centre and queried whether the ODPP permitted me to make the enquiry. Ms Jerome advised she had to seek advice from Mr Drumgold and would advise.
426. Following my meeting with Ms Jerome, I had a telephone conversation with D/A/Sgt Gilliland who advised that all decisions were to go to D/Supt Moller from now. I advised D/A/Sgt Gilliland of the above request, and she agreed I should query D/Supt Moller. As a result, I sent a message to D/Supt Moller while I waited outside the courtroom to give evidence.
427. I sought D/Supt Moller's advice, while still awaiting advice from the ODPP as I was due to give evidence at 10:00am that morning and believed the enquiry results were relevant information. I was required to speak to that evidence in court prior, given Ms Higgins was scheduled to return to court to give evidence the following morning.
428. Shortly thereafter, I was called to give evidence in the trial of *R v Lehrmann*. At the conclusion of providing my evidence, I still had not received advice from the ODPP regarding this issue. I did however, receive advice from D/Supt Moller advising, '*Given our job is to search for the truth we should make the enquiry*'.

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429. A short time later, I conducted the enquiry resulting in information relevant to the matter of *R v Lehrmann*.
430. As at 2:00pm, I still had not received advice from the ODPP. D/Supt Moller advised to provide the information to the ODPP via email and allow them to decide what to do with it. I am unsure when the ODPP provided this information to Mr Whybrow. I made notes in my Official AFP Diary D15993 on pages 141 – 146 regarding the additional evidence. Attached and marked '**Exhibit 90**' is a copy of my Official AFP Diary D15993, pages 141 to 146.
431. On 18 October 2022, during a break of court proceedings, while in the company of DLSC Madders, Mr Whybrow approached and queried if we were there for Ms Higgins being in contempt of court.
432. We advised we were unaware and Mr Whybrow advised he would raise the topic and make a complaint as it *'cannot go unaddressed noting that there wasn't one set of rules for Ms Higgins, and one set of rules for everyone else'*.
433. Mr Whybrow reported the previous day, Ms Higgins uploaded a portion of their transcript to her Instagram account. It was apparent the transcript was incorrect. The transcript was available for about 20-30 minutes before it was removed. Skynews reported on it and reproduced the images.
434. DLSC Madders and I briefed D/Supt Moller and D/Ins Boorman on the conversation.
435. On 19 October 2022, Mr Whybrow provided D/Ins Boorman, DLSC Madders and I documents relating to his complaint the previous date. I subsequently exhibited the documents.
436. During a break of proceedings later that day, Mr Whybrow approached D/Supt Moller, D/Ins Boorman, DLSC Madders and I and advised they had identified five offences

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committed by Ms Higgins. D/Ins Boorman advised that the documents received will be reviewed and considered. I subsequently created a PROMIS job and advised it would be referred to another team for investigation.

437. On 27 October 2022, I received email correspondence from Mr Whybrow titled 'Criminal Complaint against Brittany Higgins'. The complaint was referred to D/Ins Boorman. I had no involvement beyond being in receipt of the correspondence. Attached and marked 'Exhibit 91' is a copy of an email from Mr Whybrow dated 27 October 2022.
438. Throughout the trial, as indicated above, I would wait near the entrance to the courtroom should ODPP wish to discuss the matter or have any enquiries.
439. Ordinarily, in my experience, ODPP would always engage with me. In this case, the ODPP did not engage with me but rather the members of the defence did. The engagement was largely just polite pleasantries ranging from greeting each other, to querying me about my pregnancy.

*Interactions with Ms Higgins, her legal representatives and/or the Victims of Crime Commissioner in preparation of and during the trial*

440. About 10:36am on 22 September 2021, in the company of DLSC Madders, I conducted a Record of Conversation ("ROC") with Ms Yates who had Ms Kath Personal info acting as a support person.
441. I only encountered Ms Yates on one other occasion at the ACT Supreme Court at the conclusion of a proceeding. We greeted each other in passing, Ms Yates's role was complimentary of Police.

*Interactions with any other persons during the trial*

442. I am unaware of who Senator Ms Linda Reynolds partner is, nor what they look like. If I happened to sit next to them during the trial, it was entirely unintentional.

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443. On 5 October 2021, I had a conversation with Commander Cameron and she requested daily briefings be provided via Acting Sgt Jude [WIT\_Personal\_Info] and any mention of politicians or political interest be briefed to her.
444. I later had a conversation with A/Sgt [WIT\_Personal\_Info] who expanded the addressee list with members of the Executive.
445. In addition to this, a group was created within the application Signal titled 'trial updates'. I do not recall who created the group, however during the course of the trial the following persons were attached at some point or another: Cmdr Cameron, D/A/Ins [WIT\_Personal\_Info] A/Sgt Gilliland, D/A/Supt [WIT\_Personal\_Info] D/A/Ins Ryan [WIT\_Personal\_Info] Du/Supt Moller and DLSC Trent Madders. Attached and marked 'Exhibit 92' is a copy of the 'trial updates' group created in October 2021.
446. The purpose of the group was to provide real time updates to Senior Management of Criminal Investigations and members of the ACTP Executive team. I commenced providing updates following my provision of evidence and ability to be present in the courtroom.

#### Bail

447. I had no interactions with any person about bail regarding this matter, however it would not be unusual for either party to seek police views.

#### Media

448. During the course of the investigation, I believe the level of media involvement did affect the conduct of the investigation of Ms Higgins's complaint.

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449. I believe it was a tool driven by Ms Higgins and Mr Sharaz, which is evident from the first engagement I had with them whereby Ms Higgins advised she wished to see how the media played out prior to her providing a statement.
450. It is evident from the review of Ms Higgins's mobile data extraction she had extensive engagement with various entities for an extended period of time. It was in these conversations I believe a query from a journalist as to when she would provide a statement prompted her request to do so.
451. Further, I believe it effected the evidence we were obtaining from witnesses. For example, on 29 March 2021 at the conclusion of a ROC with Ms [WIT\_Personal Personal] Ms [Personal] wished to provide information she did not wish to be contained in her statement.
452. Similarly, the same occurred at the conclusion of obtaining Ms [WIT\_Personal Personal info] statement.
453. Additionally, on 10 April 2021, I met with Ms Higgins's previous house mate who declined to provide a statement citing his concerns surrounding the media attention and him not wanting to go to court. He advised he was concerned if the media identified him it could adversely affect him in the future. While I was able to explain the processes and alleviate those concerns to an extent, the housemate continued to decline, citing that he was paranoid about his concerns to the point he did not even bring a phone to meet with me.
454. Further, Ms Higgins herself made comment on 25 February 2021 when referencing Ms Maiden providing her information. As a result, Ms Higgins herself identified she was having difficulty distinguishing what she remembered from the event against what she had been told by Ms Maiden.
455. I had no involvement in the AFP preparation of media plans.

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456. On 14 October 2021, as proceedings were resuming and whilst inadvertently seated next to Ms Maiden, she passed me a piece of paper and requested if she could talk to me after the trial finished. The note contained a mobile telephone number.
457. Upon a break in proceedings, I queried Ms Maiden why she wanted to speak and she advised she was writing a book. No further conversation was had on this topic.
458. I provided a written briefing to the ‘trial updates’ group in Signal.
459. I believe the ACTP media team reached out to Ms Maiden to request her not to engage members directly.

#### Board of Inquiry

460. I have engaged with members of ACTP in regard to administrative queries given the investigation and my involvement spanned over a two-year period, for the purpose of either refreshing my memory or locating evidential material to assist in the preparation of this statement.
461. I have been present for meetings held by the ACTP Executive team which were administrative in nature, and I believe the minutes or email precisés of those meetings are available.
462. Further, I engaged with members of the investigation team regularly to check on their welfare only.
463. At no stage has any person told me what to submit or not submit in my evidence.

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<sup>M.M.</sup> Affirm <sup>M.M.</sup> Gold Coast <sup>M.M.</sup> Queensland <sup>M.M.</sup> 13 April <sup>M.M.</sup>  
SWORN before me at Canberra in the Australian Capital Territory on 24 March 2023.

Personal information  
[Redacted]

Signature of Person Making Statement  
EMMA LOUISE FRIZZELL

Personal information  
[Redacted]

Signature of witness



Personal information  
[Redacted]

NAME OF WITNESS

Personal information  
[Redacted]

Emma Louise FRIZZELL

Personal information  
[Redacted]

Witness

