

Op Covina - timeline re BOE [SEC=OFFICIAL]

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Date: Fri, 29 Apr 2022 08:57:35 +1000
Attachments: FW_ Police v Lehrmann CC2021_8143 [SEC=OFFICIAL_Sensitive].pdf (705.33 kB)

OFFICIAL
 CPO , DCPO,

In this email below is a broad time line of events related to the brief of evidence and its service to the Defence barrister. If you seek further details I can get the team to provide the referenced CNEs. Key points in time was around the service of the brief (unredacted) , id of the issue of unredacted material and retrieval / replacement of BOE.

A key issue emerging here is that whilst further review of the BOE for "sufficiency of evidence" was not necessarily needed due to the "red team" efforts of D/Supt Smith etc. , the decision to not adjudicate the BOE any further therefore then meant other adjudication actions such as redactions and removal of material in the Defence copy were not attended to.

It would appear that whilst our existing systems of adjudication and BOE service sufficiently ensure such errors are minimised or excluded completely, but in this instance, the established routine processes were not followed, thereby creating the opportunity for such routine issues (eg. Redaction and removal of legally excluded material) to be overlooked or forgotten - thereby creating the mistake of serving an unredacted brief to the Defence on 6 August 2021.

Attached is an email which if read backwards shows the interaction between primarily DPP Drumgold and D/Supt Moller about identifying the redaction issue and its remedy in Sept 2021.

Importantly, DFT have asserted no copies of the BOE (unredacted) where made and an assertion from Mr Korn that none of the material of concern was accessed by anyone.

Timeline
 OFFICIAL
 Date

Event

Source

9 June 2021

D/Supt Moller submitted an EB to Cmdr Chew requesting direction/advice on the course of the investigation.

EB - Log entry 474

16 June 2021

Cmdr Chew informed D/Supt Moller to refer the brief to the DPP and Cmdr Smith for a 'red team' review.

EB - Log entry 474

17 June 2021

D/Supt Moller informed Cmdr Chew his view was there was insufficient evidence to proceed.

D/Supt Moller notes

18 June 2021

D/Supt Moller sent Cmdr Smith email request to conduct the 'red team' review of the brief of evidence.

CNE - Log entry 472

21 June 2021

Preliminary brief provided to the DPP

CNE - Log entry 624

28 June 2021

DPP provided preliminary advice that there was a reasonable prospect of conviction

CNE - Log entry 624

28 July 2021

Cmdr Smith's 'red team' review commenced. The review was finalised and determined the investigation was of a high standard.

CNE - Log entry 624

30 July 2021

Cmdr Chew requested D/Supt Moller to commence preparing summons brief based on legal advice provided by DPP.

D/Supt Moller notes

3 August 2021

Cmdr Chew informed D/Supt Moller not to have the brief adjudicated and to proceed with summons as it had been independently reviewed. D/Supt Moller disagreed with no adjudication but complied and advised D/Sgt Bob Rose.

D/Supt Moller notes

5 August 2021 1124hrs

D/Sgt Bob Rose lodged critical decision "in concert with ACTP Senior Executive" not to further adjudicate the summons brief.

CNE - Log entry 563

6 August 2021

Summons brief served on defence barrister John Korn in Sydney by DSC Personal Informatic

Affidavit of service - Log entry 571

17 September 2021

Shane Drumgold emailed D/Supt Moller asking if counselling records, EICI were disclosed in the brief to defence.

Attached document

22 September 2021

D/Supt Moller responded to Shane Drumgold in the affirmative.

Attached document

23 September 2021

D/Supt Moller emailed defence barrister Korn requesting relevant documents be deleted

D/Supt Moller email to Korn 23/9/21 0759hrs

23 September 2021

D/Supt Moller telephone conversation with defence barrister Korn, who advised he had not accessed the brief other than to read the fact sheet.

CNE - Log entry 591

27 September 2021

D/Supt Moller left defence barrister Korn a voice message requesting confirmation of having deleted the relevant items.

D/Supt Moller email to DPP 27/9/21 1133hrs

8 October 2021

Defence barrister Korn confirmed in writing that he had not viewed, printed or downloaded material from the USB stick containing the brief

John Korn email to D/Supt Moller 8/10/21 1708hrs

15 October 2021

Unredacted brief retrieved from defence barrister Korn by DSC [Personal inform] (Brief was served correctly through DPP processes in September 2021 - exact date unknown).

Ref. para 25 DSC [Personal inform] supp statement.

13 October 2021

D/Supt Moller informed DPP that Cmdr Chew made the decision to hand the brief directly to defence

D/Supt Moller email to DPP 13 October 2021 1040hrs

20 April 2022

DFT completed an analysis of the USB stick served on defence barrister Korn. DFT advised that the files had not been 'altered, copied or moved'. They could not determine if the files had been viewed.

D/Sgt Fleming email to D/Insp Hughes 20 April 2022 1308hrs

Regards

Jo
COMMANDER JOANNE CAMERON
INVESTIGATIONS
ACT POLICING

Tel: [Personal information]

www.afp.gov.au<<http://www.afp.gov.au>>

[Australian Federal Police]<<http://www.afp.gov.au>>

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