

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 MITCHELL LAWTON GREIG

I, MITCHELL LAWTON GREIG, care of the ODPP (ACT), Reserve Bank Building, London Circuit, Canberra City in the Australian Capital Territory, Prosecutor Associate, 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.**

Background and Professional History

1. I am a Prosecutor Associate, attached to the List Team.
2. I have 3 degrees:
 - a. Criminology and Criminal Justice (Griffith University) graduated in 2012;
 - b. Psychological Science (Griffith University) graduated in 2012; and
 - c. Juris Doctor (University of Southern Queensland) graduated in 2021.
3. I graduated with a Graduate Diploma in Legal Practice through the College of Law in December 2021.
4. I joined the Australian Federal Police (AFP) in March 2015 as a Protective Service Officer (PSO), where I was stationed at Defence Headquarters until 2019.
5. In 2019, I transitioned from a PSO to a Constable of Police within ACT Policing. I was stationed at Belconnen Police Station as a General Duties Police Officer, until June 2021.
6. From July 2021 to the end of December 2021, I was seconded to the ODPP where I gained practical experience for the completion of the GDLP. During this time I worked within the Drug and Alcohol Sentence List (DASL) Team.


7. At the end of my secondment, I was offered a contract to commence working for the ODPP as a Prosecutor Associate in Crown Chambers in March 2022. At the end of my secondment in 2021 and before commencement with the ODPP I was on Paternity leave.
8. From March 2022 to November 2022, I worked as a Prosecutor Associate in Crown Chambers.
9. From November 2022 to present, I have been employed as a Prosecutor Associate in the List Team. The Position description is as follows:
 - a. Under the Direction of the Director:
 - i. Assist in the preparation of Magistrates Court lists;
 - ii. Appear as prosecutor in mention and sentence lists in the Magistrates Court;
 - iii. Prepare advice of a basic nature;
 - iv. Contribute to team and corporate objectives; and
 - v. Maintain records in accordance with the *Territory Records Act 2002*.
10. **Attached and marked 'Exhibit 2' - my current CV.**


Duties and Responsibilities – Prosecutor Associate

11. The Position description is as follows:
 - a. Under the Direction of the Director:
 - i. Act as instructor in trials in the Supreme Court;
 - ii. Assist in the preparation of trials by organising and analysing briefs of evidence, preparing subpoenas and liaising with witnesses;
 - iii. Assist generally in litigation, in particular by providing support to advocates;
 - iv. Undertake case management responsibilities including effective file management;
 - v. Prepare advices of a basic nature;
 - vi. Contribute to team and corporate objectives; and
 - vii. Maintain records in accordance with the *Territory Records Act 2002*.

Sex Offences Prosecutions

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12. *R v Lehrmann* is the only prosecution related to sex offences that I have been involved with as a prosecutor associate within the ACT jurisdiction to date.
13. I have not had any specialist training in relation to the prosecution of sex offences.


AFP/ACT Police Roles and Responsibilities and Prior Interactions

14. My understanding is that when a complaint is made to Police relating to a sex offence matter, it is investigated by the SACAT team within ACT Policing. SACAT will then determine if there is a Prima Facie case to proceed with charges of the Defendant. If there is a Prima Facie case, the informant of the investigation will lay the charges or arrest the Defendant if they believe it is the best way to proceed.
15. From my perspective, there was a positive working relationship between the ODPP and AFP/ACT Policing prior to the matter of *R v Lehrmann*. I never had any concerns about the relationship.
16. I did not hold any views in relation to the conduct of the AFP/ACT Policing officers' investigations of sexual assault offences, as it was the first involvement I had at the ODPP relating to AFP/ACT Policing Officers investigations of sexual assault offences.
17. My relationship and the extent of my prior dealings and/or knowledge with AFP/ACT Policing officers involved with the investigation of Ms Brittany Higgins' allegation of sexual assault against Mr Bruce Lehrmann, are as follows:
 - a. Detective Superintendent Scott Moller: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
 - b. Detective Inspector Marcus Boorman: I had one previous experience with him when he was the Officer in Charge for a Protest at Parliament House in December 2019, where he provided a briefing as to the Protest. I did not have any other interactions with him;
 - c. Detective Sergeant Gareth Saunders: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
 - d. Detective Sergeant Jason McDevitt: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
 - e. Detective Sergeant Robert Rose: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;

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- f. Detective Sergeant David Fleming: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
- g. Detective Inspector Callum Hughes: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
- h. Commander Joanne Cameron: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
- i. Acting Commander Hall O’Meagher: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
- j. Acting Sergeant James [REDACTED] No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*;
- k. Detective Leading Senior Constable Trent Madders: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*. Before the trial commenced and during the trial I felt we had a positive working relationship; and
- l. Senior Constable Emma Frizzell: No interaction or relationship prior to commencing as a Prosecutor Associate in *R v Lehrmann*. Before the trial commenced and during the trial I felt we had a positive working relationship.

Involvement in the Matter of *R v Lehrmann*

- 18. I first became aware of Ms Higgins’ allegation of sexual assault against Mr Lehrmann when it was announced on the news.
- 19. I was allocated to work on the matter on the 29th April 2022. Prior to commencing on the matter, the Deputy Director of Public Prosecutions, Joel Hiscox, asked me to confirm that I had no conflicts of interest in relation to the matter. I confirmed that I did not have any conflicts of interest. Joel Hiscox then allocated me as an instructing prosecutor on the matter.
- 20. I am unaware of any specific arrangements that Mr Shane Drumgold SC (DPP) put in place for the conduct of the prosecution in the matter of *R v Lehrmann*.

Pre Trial

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21. I was not involved with the matter on or about 21 June 2021. My first involvement was in late April 2022.
22. I reviewed the Executive Briefing by Detective Superintendent Scott Moller dated 7 June 2021 and the Minute prepared by Detective Inspector Marcus Boorman dated 4 June 2021 provided by the AFP/ACT Policing to the ODPP with the 21 June 2021 Brief of Evidence. On the 7 September 2022, Rachel Fisher, Lawyer for the Accused, filed an Application in Proceeding for the matter. The Application in Proceeding listed at order 1b) the '*Investigative Review Document*' which was one of two documents provided to the DPP for the purpose of seeking legal advice. On the 12th September 2022, I was provided with the two documents by the DPP with the suggested wording for the Affidavit. **Attached and marked 'Exhibit 3' - email correspondence from the DPP dated 12th September 2022.**
23. I do not recall reading an advice provided by the DPP to Detective Superintendent Scott Moller on 28 June 2021 responding to the Executive Briefing by Detective Superintendent Scott Moller dated 7 June 2021 and to the Minute prepared by Detective Inspector Marcus Boorman dated 4 June 2021 provided by the AFP/ACT Policing to the ODPP.

Disclosure Generally

24. My understanding of the usual process for disclosure of material on the legal representatives is the same as any matter, however Part 4.4 of the *Evidence (Miscellaneous Provisions) Act 1991* must be considered, Special Requirements – Sexual Offence and Family Violence Offence Proceedings. The usual process involves having the AFP/ACT Police provide the brief of evidence from ACT Policing Judicial Operations. The ODPP will review the brief before disclosing the brief to the Defendant/Defendant's Lawyer. The review process is to ensure that no protected confidence material is disclosed pursuant to s79D *Evidence (Miscellaneous Provisions) Act 1991*, nor personal details of the complainant disclosed.

Disclosure Certificate

25. I did not have any involvement in the preparation of any disclosure certificates.

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26. I was involved with communications with the DPP, AFP/ACT Policing and the legal representatives for Mr Lehrmann in relation to disclosure of documents listed on the Disclosure Certificate. An outline of my involvement is as follows:
- a. I first became involved on the 17th June 2022 when Erin Priestly emailed Rachel Fisher regarding her request for disclosure, outlining the reasons why the office couldn't provide the "*Full Cellebrite of Higgins' mobile (unredacted)*" and "*iCloud, Google Data and PROMIS investigation files*". I was CC'd into the correspondence. **Attached and marked 'Exhibit 4' – email from Erin Priestley 17 June 2022;**
 - b. On the 20th June 2022 I was forwarded an email from Erin Priestly relating to correspondence between AFP Legal and Erin Priestly relating to Disclosure material. **Attached and marked 'Exhibit 5' – email from Erin Priestley 20 June 2022;**
 - c. On this same date I was CC'd in correspondence between ACT Police and Erin Priestly relating to material Defence had requested. **Attached and marked 'Exhibit 6' - email from ACT Police 20 June 2022;**
 - d. On 21st June 2022 Erin Priestly forwarded an email to the DPP and Ms Jerome, which I was CC'd in, from AFP legal. This email contained information relating to "investigative review documents". The email describes AFP's legal reasoning behind why some documents are LPP and why others may not be. The DPP responded saying the documents are preparatory to confidential communications between DPP and AFP for the dominant purpose of providing legal advice, and are not disclosable pursuant to s118 *Evidence Act 2011*; **Attached and marked 'Exhibit 7' - email from DPP 21 June 2022;**
 - e. On this same date, Erin Priestly forwarded another email to the DPP, with Ms Jerome and myself CC'd in. This email related to the material that the AFP were providing regarding the Return of Subpoena. **Attached and marked 'Exhibit 8' - email from Erin Priestley 21 June 2022;**
 - f. On this same date, Erin Priestly replied to Stephanie [REDACTED] from AFP Legal, CC'ing me in the correspondence. Ms Priestly informed Ms [REDACTED] that our office was of the view that the material did not amount to a protect

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confidence and it is disclosable (it had already been disclosed as part of the substantive brief). This material related to medical records from Ochre Health Kingston. **Attached and marked 'Exhibit 9' - email from Erin Priestley 21 June 2022;**

- g. On the 17th August 2022 Erin Priestly forwarded 2 emails to me of communication from Ms [REDACTED] of AFP Legal relating to Correspondence from Defence relating to Disclosure. Ms Priestly confirmed for Ms [REDACTED] that the ODPP had disclosed upon Defence the material provided from the AFP relating to communication between the AFP and Ms Higgins or her representatives. **Attached and marked 'Exhibit 10' - email from Erin Priestley 17 August 2022 & Attached and marked 'Exhibit 11' - email from Erin Priestley 17 August 2022**
- h. On the 19th August 2022 I copied the brief and placed it on a USB for collection for Ms Fisher as she had informed me they were having trouble accessing the brief; **Attached and marked 'Exhibit 12' - email to Rachel Fisher 19 August 2022**
- i. On the 23rd August 2022, Ms Fisher emailed Ms Priestly, Ms Jerome and myself pertaining to a "Request for Disclosure: Lehrmann". Ms Priestly forwarded this email to the DPP, asking three questions and outlining that I would speak to Ms Fisher about the assertion that the ODPP had not provided the material provided to the ODPP by the AFP as it had been disclosed twice. The three questions were:
- i. Does the below change our position that the full unredacted Cellebrite will not be disclosed?
 - ii. Are you happy for me to request any PROMIS records in this matter that pre-date 1 April (although I suspect there are none)?
 - iii. Does the below change our position that the full PROMIS file, Google drive data and iCloud data will not be disclosed?

Attached and marked 'Exhibit 13' - email from Erin Priestley 23 August 2022;

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- j. On this date I spoke to Ms Fisher and confirmed that the items had been disclosed on them twice. Ms Fisher informed me that the folder that the documents were meant to be contained in, did not contain any of the material. I informed Ms Fisher that I would provide the material via sharepoint. I informed the DPP of this. **Attached and marked 'Exhibit 14' - email to the DPP 23 August 2022;**
- k. On the 24th August 2022 Ms Fisher requested that I copy across the same material/brief I provided on the 19 August 2022 to 2 Hard Drives;
- l. On the 25th August 2022 I informed Ms Fisher that the Hard drives were ready for collection and I provided the exact location on the brief where the material that she wanted would be located in the brief and I provided an Updated Brief Record; **Attached and marked 'Exhibit 15' - email to Rachel Fisher 25 August 2022;**
- m. On the 29th August 2022, the DPP emailed Ms Jerome, Ms Pitney, Ms Priestly and myself his proposed response to Defence; **Attached and marked 'Exhibit 16' - email from the DPP 29 August 2022;**
- n. On this same date, Ms Fisher emailed Ms Jerome, Ms Priestly and myself confirming that the material disclosed to the DPP in relation to the AFP subpoena had been received by the office. Ms Fisher also requested whether the unredacted celebritie and any PROMIS, iCloud or google date material would be disclosed, and also an updated witness list; **Attached and marked 'Exhibit 17' - email from Rachel Fisher 29 August 2022;**
- o. On the 30th August 2022, the DPP emailed Ms Priestly, Ms Pitney, Ms Jerome and myself an updated Disclosure response; **Attached and marked 'Exhibit 18' - email from the DPP 30 August 2022;**
- p. On the 31st August 2022, I emailed Ms Fisher with the DPP's disclosure response and an updated witness list; **Attached and marked 'Exhibit 19' - email to Rachel Fisher 31 August 2022;**
- q. On the 7th September 2022, the DPP emailed Ms Pitney and myself an Affidavit of Ms Fisher and Application in Proceeding that the Crown Disclose to the Accused's legal representatives the following material:

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 Mitchell Lawton Greig

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- i. A complete, unlocked and unredacted electronic copy of the Cellebrite extraction of the complainant's phone;
- ii. The 'Investigative Review Document' referred to at page 18 of RF1; and
- iii. All Material relating to any investigations undertaken by the AFP between 23 March 2020 and 31 March 2021 in relation to a security breach at and the subsequent cleaning of the Ministerial Suite as a result of the after-hours attendance of the Accused and the complainant on 23 March 2020; **Attached and marked 'Exhibit 20' - email from the DPP 7 September 2022;**
- r. On the 8th September 2022, the DPP emailed Ms Pitney, Ms Jerome and myself, outlining that we would require an affidavit outlining the Cellebrite Report, the Investigative Review Document and All Material relating to investigations; **Attached and marked 'Exhibit 21' - email from the DPP 8 September 2022;**
- s. On the 9th September 2022, the DPP emailed Ms Jerome, Ms Pitney and myself regarding his legal submissions in reply to the application; **Attached and marked 'Exhibit 22' - email from the DPP 9 September 2022;**
- t. On the 12th September 2022, the DPP emailed Ms Pitney and myself to proof read his submissions and requested that I form them up into the appropriate form; **Attached and marked 'Exhibit 23' - email from the DPP 9 September 2022;**
- u. On this same date, the DPP provided some suggested wording for the Affidavit he wished me to prepare regarding the Application and attached the two letters that correspond to Ms Fisher's application, namely Marcus Boorman's minute to the DCPO and the letter to the DPP from Scott Moller; **Attached and marked 'Exhibit 3' - email correspondence from the DPP dated 12th September 2022**
- v. On the 13th September 2022, the DPP requested that I file the Affidavits of Ms Pitney and myself and the DPP's submissions; **Attached and marked 'Exhibit 24' - email from the DPP 13 September 2022;**
- w. On this same date I emailed Callum Hughes, Emma Frizzell and Trent Madders regarding Defence's application and provided our Affidavits and submissions

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in reply. Attached and marked 'Exhibit 25' - email to ACT Policing 13 September 2022;

- x. On 15th September 2022 there was a meeting with members of the AFP and the DPP at the ODPP – at which I was in attendance. In respect of this meeting:
- i. AFP members in attendance were: Peter Crozier, Joanne Cameron, Helen [REDACTED], Shelley [REDACTED], Stephanie [REDACTED], Callum [REDACTED] and Joanne Cameron's EA;
 - ii. Prosecutors in attendance were: DPP and myself;
 - iii. The subject matter of the meeting was: The Disclosure Request of the AFP Investigative Review Documents; Attached and marked 'Exhibit 26' - email to the DPP 15 September 2022;
- y. On 21st September 2022 there was a meeting with members of the AFP and the Prosecutors. In respect of this meeting:
- i. AFP members in attendance were: Hall O'Meagher, Callum [REDACTED], Emma Frizzell, Trent Madders, Joanne Cameron and Helen [REDACTED];
 - ii. Prosecutors in attendance were: DPP, Skye Jerome, Sarah Pitney and myself;
 - iii. The meeting initially was organised to discuss AFP assistance relating to security arrangements for the Trial, but the discussion surrounding Disclosure became the main topic;
 - iv. Filenotes of the meeting were made by Sarah Pitney and Skye Jerome; Attached and marked 'Exhibit 27' - email from Sarah Pitney 21 September 2022 & Attached and marked 'Exhibit 28' - email from Skye Jerome 21 September 2022
- z. After the meeting Helen [REDACTED] emailed through to me the documents that were to be produced by the AFP to Defence. I have forwarded this material through to the DPP, Ms Jerome and Ms Pitney; Attached and marked 'Exhibit 29' - email to the DPP, Skye Jerome and Sarah Pitney 21 September 2022 & Attached and marked 'Exhibit 30' - email to the DPP, Skye Jerome and Sarah Pitney 21 September 2022

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- aa. On 22nd September 2022, the DPP emailed Ms [REDACTED] requesting clarification of the AFP LPP protocols. Ms [REDACTED] replied providing ACT Policing procedures for requesting legal advice and representation. **Attached and marked 'Exhibit 31' - email from AFP Legal 22 September 2022**

Celebrite

27. On 6th June 2022 [REDACTED] from Kami Saeedi Law emailed Ms Priestly and myself noting a number of items that were password protected, including the Celebrite data. These items were also password protected on our system, but I provided Ms [REDACTED] a workaround in order to search the PDF by choosing 'Print As' and select 'Microsoft Print to PDF' the item would be searchable in the new format. Ms [REDACTED] informed me that it had worked. **Attached and marked 'Exhibit 32' - email from [REDACTED] 6 June 2022**
28. On 9th June 2022 Ms Priestly emailed Emma Frizzell and Trent Madders, including me in the correspondence, informing them of further disclosure that Defence was requesting, including the unredacted celebrite and the images from the Icloud and Google account. I forwarded this correspondence to Ms Jerome. **Attached and marked 'Exhibit 33' - email to Skye Jerome 9 June 2022**
29. On 14th June 2022 Ms Jerome emailed Ms Priestly, including me in the email, to request Defence to refine their disclosure request as it would take weeks to review and redact the material. Ms Priestly replied saying she would. **Attached and marked 'Exhibit 34' - email from Erin Priestly 14 June 2022**
30. On 17th June 2022 Ms Priestly emailed Ms Fisher, including me in the correspondence. Outlining that our office would not provide the Full Celebrite of Higgins' mobile (unredacted) as the ODPP has legislative obligations relating to personal information disclosure, and that we weren't in a position to provide the full iCloud, Google Data and PROMIS Investigation files due to its voluminous nature. Ms Priestly requested Ms Fisher to refine the material sought we would be able to accommodate the request. **Attached and marked 'Exhibit 35' - email from Erin Priestly 17 June 2022**

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31. On 23rd August 2022 Ms Fisher emailed Ms Priestly, Ms Jerome and myself requesting further disclosure of material, including the Cellebrite download. **Attached and marked 'Exhibit 36' - email from Rachel Fisher 23 August 2022**
32. On 31st August 2022 I emailed Ms Fisher with the Disclosure response from the DPP. **Attached and marked 'Exhibit 19' - email to Rachel Fisher 31 August 2022;**
33. On 14th September 2022 I was informed by the DPP that Keegan Lee had been briefed by the office for the hearing surrounding the disclosure of the Cellebrite data. I emailed Mr Lee with the Affidavits surrounding the Cellebrite material, the DPP submissions and provided Mr Lee with a USB containing the Cellebrite data. **Attached and marked 'Exhibit 37' - email to Keegan Lee 14 September 2022**
34. On 15th September 2022 I emailed Emma Frizzell, Trent Madders and Callum [REDACTED] requesting the full extraction of the Cellebrite report, so that Mr Lee would be able to open the hyperlinks.
35. Emma Frizzell replied informing me that they have on their system that it was provided but provided an image of what the folder should look like and said if we didn't have the same page they would arrange a copy ASAP. I provided Emma an image of how the folder looks on our system which doesn't have the additional folders to provide the ability to click on hyperlinks. Emma confirmed that they would organise for a copy to be provided but due to the size of it, 206GB, it will take a significant time to download. Trent Madders confirmed for me that it wouldn't be completed that day. **Attached and marked 'Exhibit 38' - email to ACT Policing 15 September 2022**
36. I corresponded with Mr Lee as that the download would likely be completed over the weekend. I provided Emma Frizzell's email to Mr Lee so that they would be able to correspond directly with one another over the weekend.
37. On 17th September 2022 Ms Frizzell emailed Mr Lee informing him that there were some errors relating to the download to the USB and was trying to complete the download again without any errors.
38. On 18th September 2022, Ms Frizzell emailed Mr Lee informing him that the second attempt at the copy had produced errors again, but there was far more content than not that had errors. Ms Frizzell said that there was another copy being downloaded by Trent Madders that appears to not have the same errors, but it wouldn't be able to be provided

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until Mr Madders was back on shift on Tuesday. Mr Lee confirmed that he collected the USB from City Police station that day. **Attached and marked 'Exhibit 39' - email from Keegan Lee 18 September 2022**

39. On 27th September I emailed Ms Fisher after Mr Lee requested me to email her and provide Ms Higgins Cellebrite on a USB for her. I informed her it was the same one that I had previously provided her. Ms Fisher informed me that they couldn't copy or highlight any portion of the Cellebrite data. Our office wasn't able to do this either due to it being password protected. **Attached and marked 'Exhibit 40' - email from Rachel Fisher 27 September 2022**
40. On 29th September 2022 Ms Frizzell informed me that she uses the same password for all PDF's and was not comfortable providing the password to Defence due to the issues providing unlocked documents. **Attached and marked 'Exhibit 41' - email from ACT Policing 29 September 2022**
41. On 3rd October 2022 I received an email from Ms Frizzell relating to a request received directly from Steven Whybrow SC to provide information from the Unredacted Cellebrite. I provided this information to the DPP who informed me to tell Ms Frizzell that the question relates to the application of ground 1a) which Mr Lee is dealing with, that any request for redacted information from the Cellebrite report or Cellebrite data should be requested through him as part of that application and that if Mr Whybrow SC would like to discuss he can email our office. **Attached and marked 'Exhibit 42' - email from the DPP 3 October 2022**

Meeting with Lisa Wilkinson

42. On the 27th May 2022 I emailed Tasha Smithies, Lisa Wilkinson's legal representative, to organise a proofing between Skye Jerome and Lisa Wilkinson. **Attached and marked 'Exhibit 43' - email to Tasha Smithies 27 May 2022**
43. I received an email on the 28th May 2022 from Tasha Smithies confirming a date and time to conduct the proofing, the 31st May 2022 at 4pm. The proofing would be conducted over Microsoft Teams. **Attached and marked 'Exhibit 44' - email from Tasha Smithies 28 May 2022**

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44. On the 31st May 2022 *R v Lehrmann* was listed at 4pm for Mention due to Legal Aid coming on as Bruce Lehrmann's lawyers.
45. Due to the listing, I was asked by Skye Jerome to postpone the proofing with Lisa Wilkinson. I emailed Tasha Smithies informing her of this, and requesting whether Lisa Wilkinson was available the following week. **Attached and marked 'Exhibit 45' - email from Skye Jerome 31 May 2022 & Attached and marked 'Exhibit 46' - email from Tasha Smithies 31 May 2022**
46. On the 6th June 2022 I emailed Ms Smithies enquiring as to whether she was able to find an available time for Ms Wilkinson. **Attached and marked 'Exhibit 47' - email to Tasha Smithies 6 June 2022**
47. On 7th June 2022 I received a reply from Ms Smithies informing me that Ms Wilkinson would be available on Wednesday 15th June 2022 at 4pm. **Attached and marked 'Exhibit 48' - email to Tasha Smithies 7 June 2022**
48. On 14th June 2022 at 11.58am Ms Wilkinson called to speak with Ms Jerome. This call was to inform Ms Jerome that an earlier discussion Ms Wilkinson had with Ms Higgins had been recorded and had only recently been made aware. Ms Wilkinson had further documentation provided by Ms Higgins and would provide this to Police. **Attached and marked 'Exhibit 49' – File Note for Lisa Wilkinson 14 June 2022**
49. On the 15th June 2022 I emailed the DPP with a file note regarding the telephone conversation with Ms Wilkinson. **Attached and marked 'Exhibit 50' - email to the DPP 15 June 2022**
50. At 3.06pm on the same date, I emailed Ms Smithies to inform her that the DPP would be involved in the proofing that afternoon. **Attached and marked 'Exhibit 51' - email to Tasha Smithies 15 June 2022**
51. At 4.00pm on the same date the proofing occurred with Ms Wilkinson.
- a. I initiated the meeting with Ms Wilkinson as requested to by Ms Jerome;
 - b. The purpose of the meeting was to conduct a proofing with Ms Wilkinson;
 - c. The meeting took place via Microsoft Teams and in the DPP's office;
 - d. Ms Wilkinson and Ms Smithies appeared via Microsoft Teams and the DPP, Ms Jerome and myself appeared in the DPP's office;

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- e. I believe the dominant speakers were the DPP and Ms Wilkinson as the DPP asked Ms Wilkinson questions;
- f. The nature of the proofing was to assess Ms Wilkinson's evidence;
- g. On the 17th June 2022 Ms Smithies emailed Erin Priestly and myself email correspondence between Ms Wilkinson and David Sharaz;
- h. My impression was that it was a regular proofing;
- i. I don't recall speaking to anyone about the proofing;
- j. At the end of the proofing, Ms Wilkinson was asked if she had any further questions to which she described the following;
 - i. I am nominated for a Gold Logie for the Brittany Higgins interview;
 - ii. I don't think I will get it, because it is managed by a rival network;
 - iii. I have however prepared a speech in case;
 - iv. Ms Wilkinson read the first line and was stopped by the DPP who said:
 - 1. We are not speech editors;
 - 2. We have no power to approve or prohibit any public comment, that is the role of the court;
 - 3. We can advise however that Defence can re-institute a stay application in the event of publicity.

52. Attached and marked 'Exhibit 52' – Proofing Notes with Lisa Wilkinson 15 June 2022 & Attached and marked 'Exhibit 53' - email from Tasha Smithies 17 June 2022

Proofing of Samantha Maiden

- 53. On 13th May 2022 Senior Constable Emma Frizzell emailed Ms Jerome informing her that Samantha Maiden declined to provide a statement in relation to the matter. I was one of the email recipients. **Attached and marked 'Exhibit 54' - email from ACT Policing 13 May 2022**
- 54. On 16th May 2022 Ms Priestly emailed the DPP asking whether he wanted to subpoena Ms Maiden. The DPP said not yet, wanting to see what evidence she had. Ms Jerome replied to the DPP stating that Ms Maiden had declined to provide a statement to Police

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as she wanted to report on the trial. **Attached and marked 'Exhibit 55' - email from Skye Jerome 16 May 2022**

55. On the 22nd June 2022 Return of Subpoena for Ms Maiden was produced. Due to this material, the DPP decided that Ms Maiden was a witness. **Attached and marked 'Exhibit 56' - email from the DPP 22 June 2022**
56. On the 8th July 2022 I emailed Tom Taylor, Ms Maidens lawyer, requesting a location for Ms Maiden to be provided with her subpoena. **Attached and marked 'Exhibit 57' - email to Tom Taylor 8 July 2022**
57. On the 13th July 2022 I emailed the DPP confirming he wanted to subpoena Ms Maiden, to which he confirmed that he wanted this to happen. **Attached and marked 'Exhibit 58' - email from the DPP 13 July 2022**
58. On the 28th July 2022 I received a phone call from Ms Maiden wishing to speak with someone regarding the subpoena and why she had been subpoenaed. I explained to Ms Maiden that due to the Return of Subpoena material it was identified that she was a Complaint witness. Ms Maiden informed me she was meant to be reporting on the matter and asked whether she would be able to be present at the trial if she was a witness. I informed her that she would not be able to listen to the Trial until she had given her evidence. Ms Maiden wished to have a further conversation about this. Later this same date I emailed Ms Maiden that the DPP would speak with her. I then provided her dates to which the DPP was available to conduct the proofing. Ms Maiden replied saying she was available the coming Friday at 3.30pm. She then informed me she needed to check with her lawyer first, and that she would get back to me. **Attached and marked 'Exhibit 59' – File Note for Samantha Maiden 28 July 2022 & Attached and marked 'Exhibit 60' - email from Samantha Maiden 28 July 2022**
59. On the 10th August 2022, Mr Taylor emailed Ms Priestly regarding a proofing, requesting the topics that were to be discussed, to which Ms Priestly forwarded to the DPP. The DPP replied to Ms Priestly outlining the topics. **Attached and marked 'Exhibit 61' - email from Erin Priestly 10 August 2022**
60. On the 26th August 2022 I emailed Mr Taylor requesting whether Ms Maiden was available to conduct the proofing. **Attached and marked 'Exhibit 62' - email to Tom Taylor 26 August 2022**

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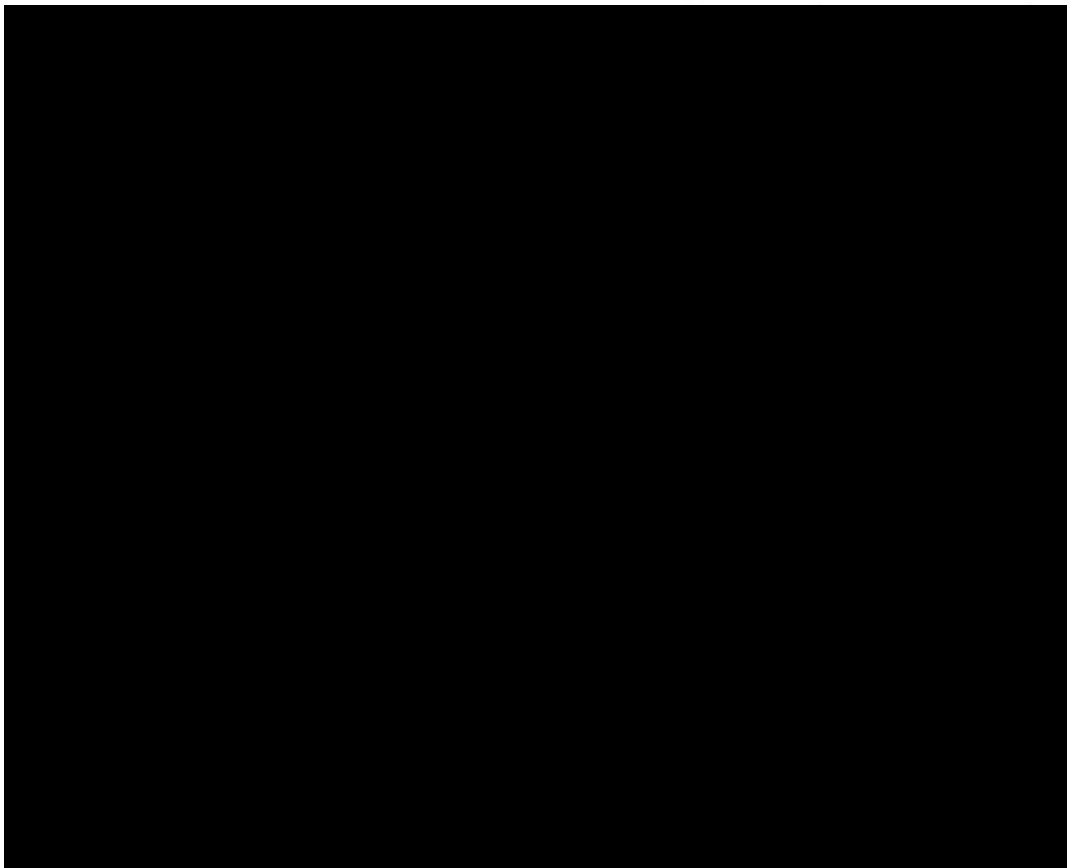
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61. On 1 September 2022, it was confirmed that the proofing with Ms Maiden and the DPP would take place on Friday 9th September at 2pm, with myself and Mr Taylor in attendance. **Attached and marked 'Exhibit 63' - email to Tom Taylor 1 September 2022**
62. Between 6th September 2022 and 9th September 2022 I was unwell and was not able to attend work.
63. On the 7th September 2022 I emailed Ms Jerome to enquire whether she could attend the proofing with Ms Maiden in my place.
64. On the 8th September 2022 Ms Jerome confirmed that she would sit in on the proofing and take notes. **Attached and marked 'Exhibit 64' - email from Skye Jerome 8 September 2022**
65. I did not attend the proofing between the DPP and Ms Maiden.

Pre Trial Dealings with the AFP/ACT Police

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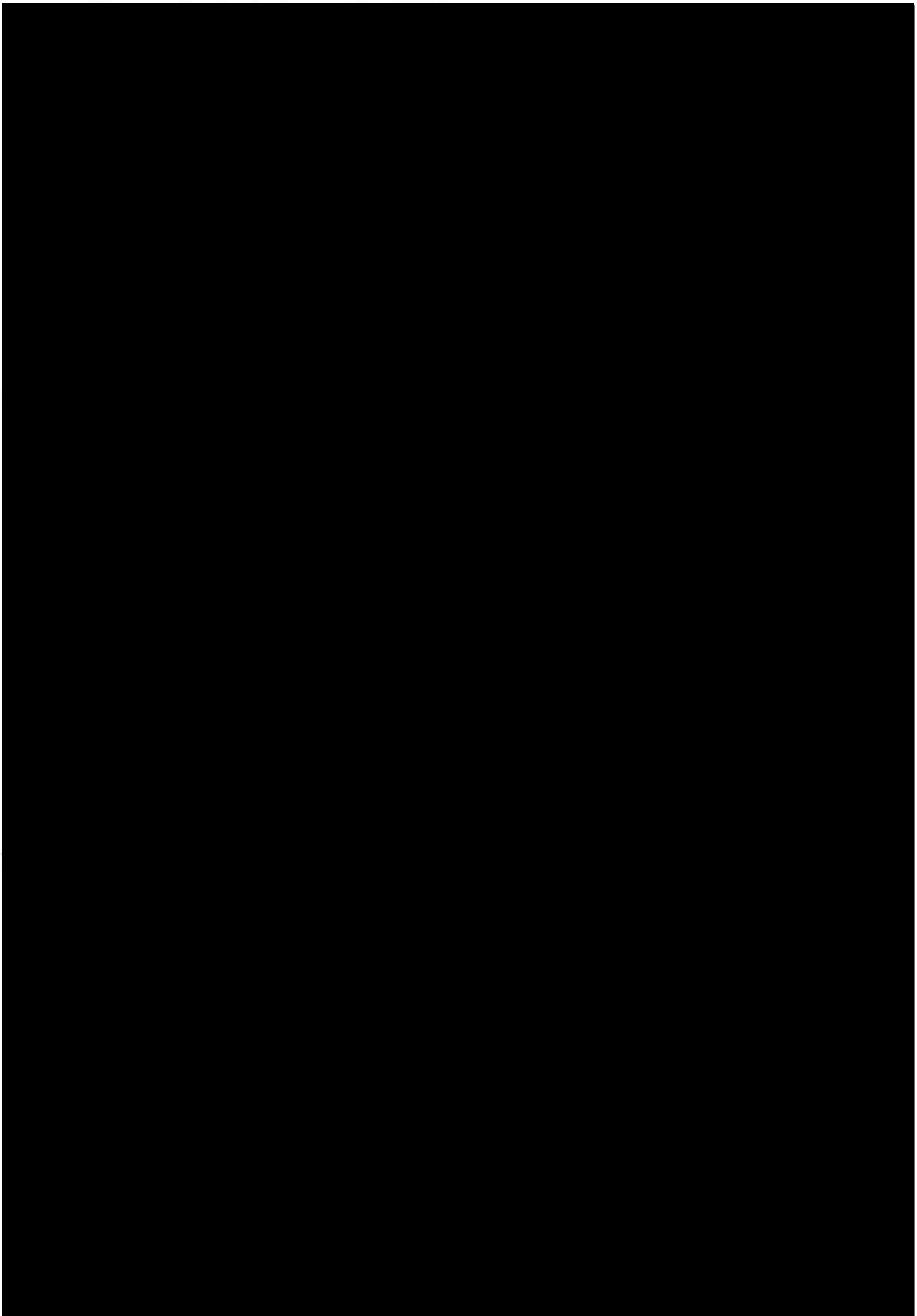
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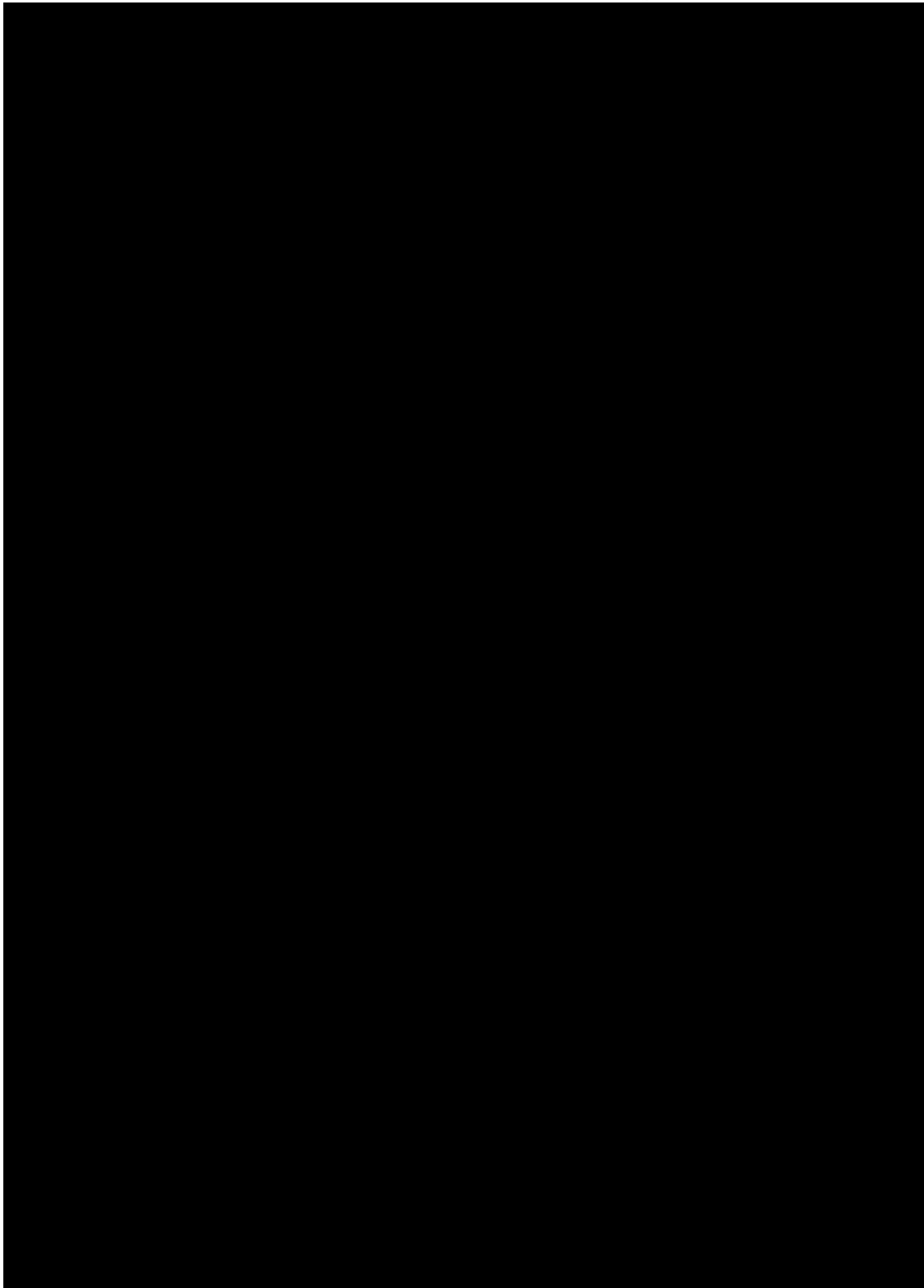


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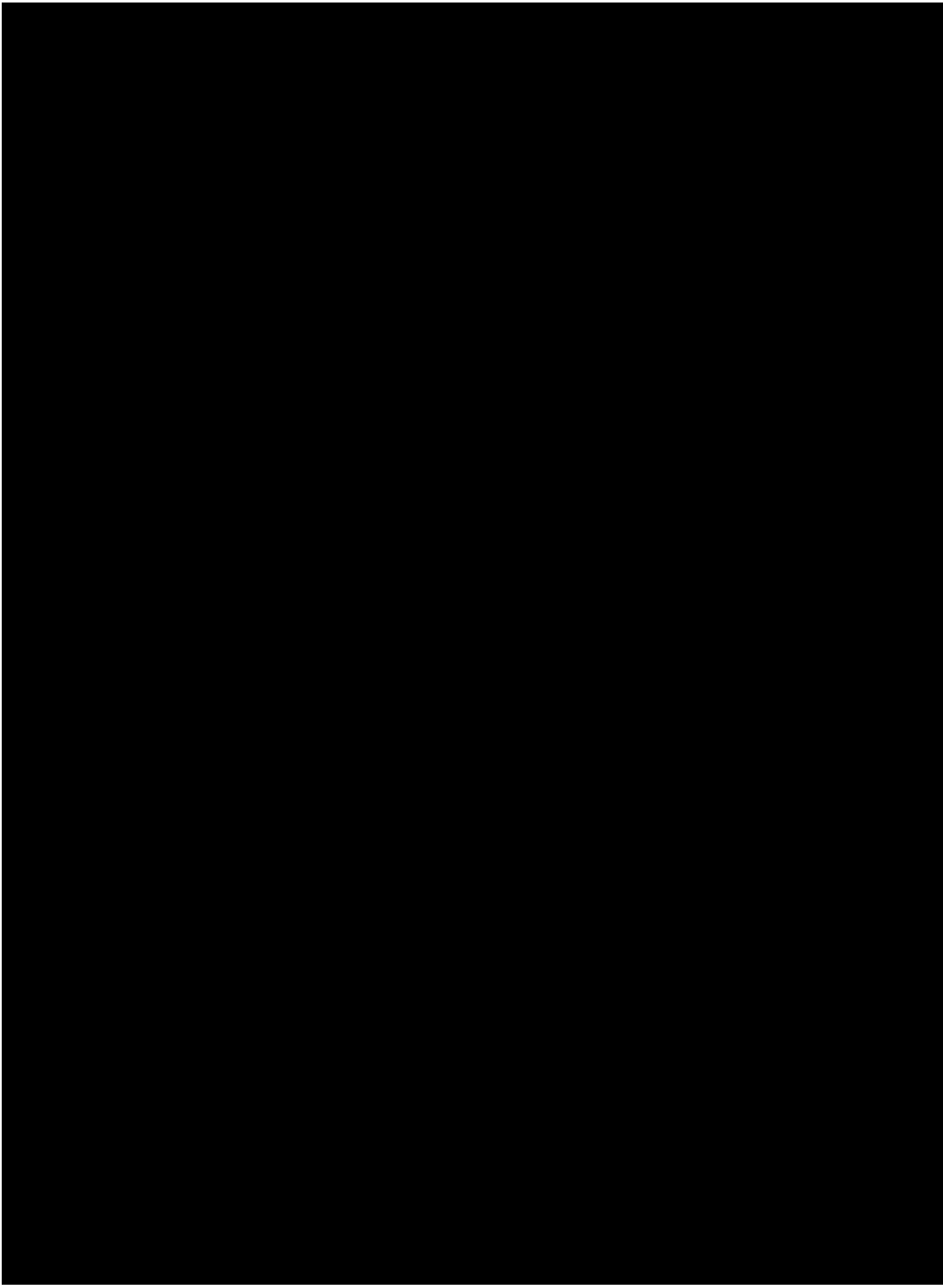
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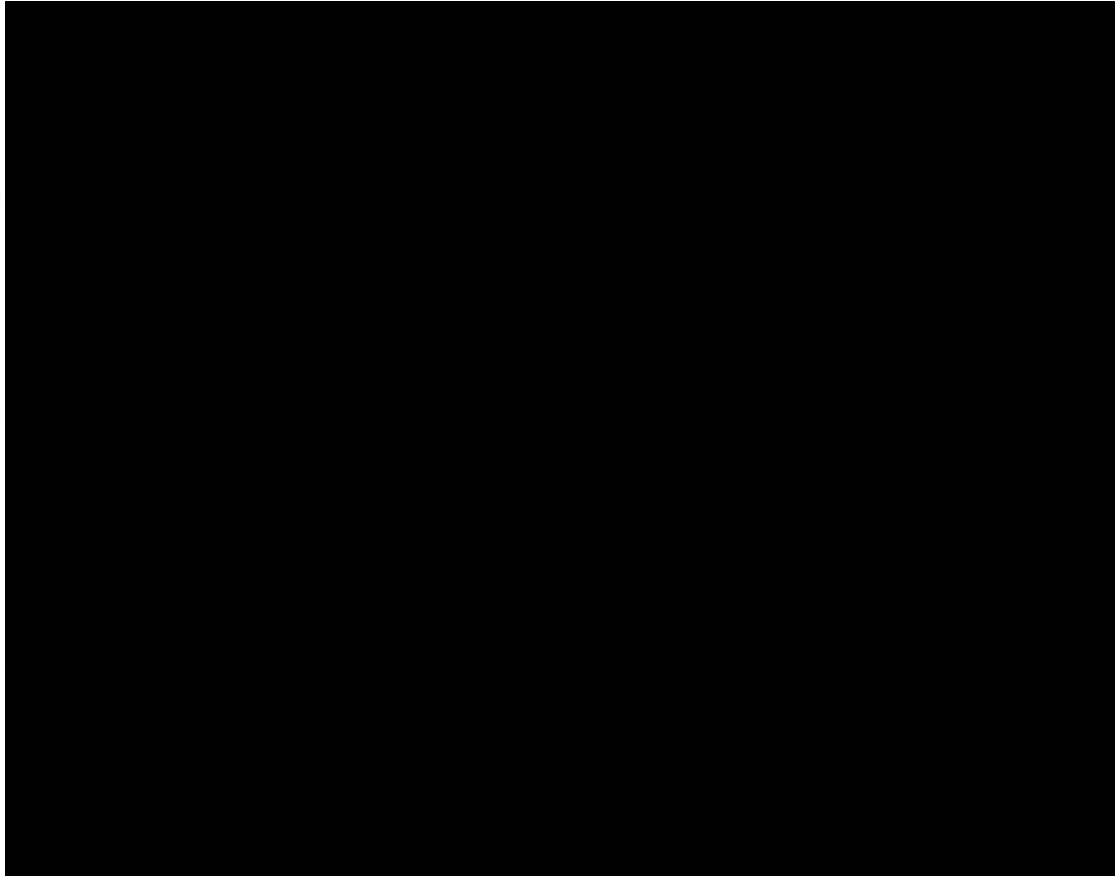
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78.



79. Next was a second discussion with Emma Frizzell, 4th July 2022, 2.00pm:
- a. Ms Frizzell wanted to speak to me, so I organised a time to talk to her;
 - b. The purpose was to discuss Police availability, noting some would be on Recreation Leave at the time of the listed trial;
 - c. The conversation took place via phone;
 - d. Ms Frizzell and I were in attendance;
 - e. No briefing material;
 - f. Both Ms Frizzell and I were the dominant speakers. The basis for this is that there were only the two of us. It was a discussion to ensure that the ODPP was aware of Police members who were unavailable during the trial. I informed Ms Frizzell I was aware and would make contact with Defence whether they required the witnesses.
 - g. **Attached and marked 'Exhibit 72' – Email from ACT Policing 4 July 2022**

80. There was an AFP/ACT Police Meeting, 15th September 2022, 3.00pm:

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- a. I am uncertain who initiated the meeting as I was requested by the DPP at the last minute to attend the meeting;
- b. The purpose of the meeting was a discussion of the Disclosure request from Defence;
- c. The meeting took place at the ODPP;
- d. Peter Crozier, Joanne Cameron, Helen [REDACTED], Shelley [REDACTED], Stephanie [REDACTED], Callum [REDACTED] Joanne Cameron's EO, DPP and myself were in attendance;
- e. I was not provided any briefing material;
- f. From my recollection the dominant speakers were the DPP, Peter Crozier, Joanne Cameron and Helen [REDACTED];
- g. Nature of the discussions:
 - i. **Investigation and the evidence obtained and to be obtained:** There was a discussion surrounding Point 1c) of Defence Application, Joanne Cameron indicated that there may be further investigative documents that had not previously been provided. Further discovery was going ahead. The AFP would advise once completed and would provide the necessary information surrounding any investigative documents.
 - ii. **The DPP's views in relation to the prospects of the matter and the reasons for your views:** Don't recall a discussion of the DPP's views.
 - iii. **Views the DPP held in relation to the conduct of the investigation to date, including the reasons for your views:** The DPP informed the AFP in attendance that Steven Whybrow SC informed him at the bar table that he had discussed the Disclosure document with Scott Moller. Ms Cameron said that Mr Moller had previously informed her that he had said no comment when spoken to by Defence surrounding the Disclosure documents.
 - h. **Attached and marked 'Exhibit 26' - email to the DPP 15 September 2022;**

81. There was an AFP/ACT Police Meeting, 21st September 2022, 4.00pm:

- a. On 5th September 2022, Ms Frizzell emailed Ms Jerome, Ms Pitney and myself requesting to arrange a meeting between the AFP and DPP;

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- b. The original purpose of the meeting was to ascertain/finalise if there were any outstanding tasks that required attention and what would be required throughout the trial. This purpose changed after Defence's application regarding the Disclosure Documents, it turned into a discussion surrounding the LPP claims and disclosure of the documents. The meeting was to take place on the 20th September 2022, but was asked to be put on hold by Callum [REDACTED] until after the completion of Defence's application. Mr [REDACTED] then emailed me on the 21st September requesting the meeting to occur that day.
- c. The meeting took place via Microsoft Teams (AVL);
- d. Joanne Cameron, Helen [REDACTED], Callum [REDACTED], Emma Frizzell, Trent Madders, DPP, Skye Jerome, Sarah Pitney and myself were in attendance;
- e. No briefing material was provided;
- f. Dominant speakers were the DPP, Joanne Cameron, and Helen [REDACTED]. The basis of this view is because it was a discussion surrounding the documents that would be disclosed to Defence as the AFP would not be claiming LPP;
- g. The nature of the discussions:
- i. **Investigation and the evidence obtained and to be obtained:** There was no discussion surrounding the actual investigation, the discussion surrounded the disclosure of documents the DPP had thought were not disclosable due to LPP;
 - ii. **The DPPs views in relation to the prospects of the matter and the reasons for your views:** No discussion surrounding the prospects of the matter;
 - iii. **Views the DPP held in relation to the conduct of the investigation to date, including the reasons for your views:** I don't recall the DPP expressing his views in relation to the conduct of the investigation.
- h. Attached and marked 'Exhibit 27' - email from Sarah Pitney 21 September 2022 & Attached and marked 'Exhibit 28' - email from Skye Jerome 21 September 2022

82. There was an ACT Police Meeting, 30th September 2022, 9.00am:

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- a. I don't recall exactly who initiated the meeting. I believe it had been discussed in a previous meeting with the AFP regarding Police Presence during the trial and an email from Callum [REDACTED] on the 21st June 2022 regarding whether ACT Police would need some form of presence due to the publicity of the trial. I emailed Callum [REDACTED] on 20th September 2022 asking whether ACT Police would still be able to assist;
- b. The purpose was to discuss Police presence during the trial, specifically for 4 witnesses: Brittany Higgins, David Sharaz, Fiona Brown and Linda Reynolds;
- c. The meeting took place at ACT Police City Station;
- d. The people in attendance were Acting Inspector Branko [REDACTED], Trent Madders and myself;
- e. No briefing material provided;
- f. Brank [REDACTED] and myself were the dominant speakers. Branko had informed me that he would be organising for ACT Police Beat members to be present during the trial and would adjust the numbers depending on how the trial progressed and if there were any threats made. I agreed with his proposal as I had an understanding of General Duty and Beat numbers throughout the day and didn't think it was appropriate to take General Duty Police officers off the road/responding to jobs when there were Beat members available.

Pre Trial Conduct of the AFP/ACT Police

83. Prior to the trial in *R v Lehrmann* I dealt primarily with Emma Frizzell, Trent Madders and on a few occasions with Callum [REDACTED]. My view is that all three were very helpful to me and would always assist as soon as they could when I requested something from them. I have no complaints with the way that they assisted me before the trial. I never knew them to have any dealing with Defence Lawyers and did not know that they had provided information to any persons in relation to the matter of *R v Lehrmann*.

The Trial

Arrangements in Relation to Ms Higgins

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84. On 29th September 2022 Ms Yates emailed me, enquiring as to whether there would be a Police presence for when Ms Higgins entered the Court. I informed her that the Police planned to have uniform Police officers present at the Court entry during the first week of the trial. **Attached and marked 'Exhibit 73' - email from the VCC 29 September 2022**
85. The Police presence wasn't made just for Ms Higgins, it was also for the safety of Fiona Brown, Linda Reynolds and David Sharaz. A Police presence was unusual, but due to the public nature of the trial and the witnesses that were intended to be called, I thought it was a good idea.

Recording of Evidence

86. I was informed by the DPP after the Trial that Ms Higgins' evidence had been recorded, but I don't recall exactly when this occurred.

Unfavourable Witnesses

87. There were 3 witnesses who were unfavourable in the trial:
- a. Michaelia Cash:
 - i. The DPP made an application pursuant to s38 *Evidence Act* 2011 as Ms Cash said that she didn't know anything about the sexual element of an incident until 5 February, and that there was political interference surrounding the alleged incident. Whereas, Ms Higgins had previously informed the Court that Ms Cash had already been aware of the sexual element;
 - b. Daniel Try:
 - i. The DPP made an application pursuant to s38 *Evidence Act* 2011 as Ms Higgins believed that Mr Try had known about the alleged sexual incident in October 2019;
 - c. Linda Reynolds:
 - i. The DPP made an application pursuant to s38 *Evidence Act* 2011 as Ms Higgins believed that Ms Reynolds was aware of the alleged sexual assault and that there was political interference from the government.

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Fiona Brown

88. On 14th October 2022 I received a message via Webex from Izzi Johnstone stating that she just had a call from Fiona Brown and was wondering when I would be available to speak with her as she was quite worried. I said I may be able to speak to her after lunch. **Attached and marked 'Exhibit 74' – Webex message from Izzi Johnstone 14 October 2022**
89. I emailed Ms Pitney enquiring as to whether she could give Ms Brown a call as I couldn't at the time as I was currently in Court. **Attached and marked 'Exhibit 75' – Email to Sarah Pitney 14 October 2022**
90. Ms Brown then emailed both Ms Pitney and myself outlining that the statements made by Ms Higgins were false and misleading. **Attached and marked 'Exhibit 76' – Email from Fiona Brown 14 October 2022**
91. I then emailed Ms Pitney not to worry to call her back due to the email, as I expected that would be replied to. **Attached and marked 'Exhibit 77' – Email to Sarah Pitney 14 October 2022**
92. Ms Pitney forwarded Ms Brown's email to the DPP, Ms Jerome and myself, where she has proposed not to respond to the email unless there was anything that she should respond with. There was no response to this email. **Attached and marked 'Exhibit 78' – Email from Sarah Pitney 14 October 2022**
93. When I first received the email I did not inform anyone as it was sent to Ms Pitney and myself. Ms Pitney had been dealing with Ms Brown throughout the trial so I was only going to reply if Ms Pitney was not going to deal with the correspondence.
94. My understanding was that Ms Brown's evidence was complainant evidence in the fact that Ms Higgins stated that she had informed Ms Brown of the sexual assault and Ms Brown had assisted her at the time. I did not consider the matters Ms Brown wished to have corrected as they were brought to the attention of the DPP and he had not requested for anything to happen surrounding them.

Dealings with the AFP/ACT Police during the Trial

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95. On 30th September 2022, Emma Frizzell requested that I provide a daily update of the trial. I did this throughout the entirety of the trial. These emails were sent through to Emma Frizzell and Trent Madders. Ms Frizzell had requested the update to provide the following information:
- a. List of witnesses who provided evidence that day;
 - b. List of witnesses expected to provide evidence for the following two days;
 - c. Trial Update from that day.

96. **Attached and marked 'Exhibit 79' – Email from ACT Policing 30 September 2022**

97. On 3rd October 2022 Emma Frizzell emailed me that she had received a request from Steven Whybrow SC regarding further information:
- a. Trying to get a hold of contact ID of various numbers in Ms Higgins Call Charge Records (CCR);
 - b. Seems she has deleted every text from her phone the night but they show up in the CCR as numbers;
 - c. Query if can give us numbers and get the ID would be helpful, noting beyond privacy issues when it's people she contacted and then deleted texts.

Ms Frizzell stated that they wouldn't be providing any information directly to Defence and would require DPP to confirm the information is required. She also stated that she responded to the initial query and advised that she would be passing the request on. Mr Whybrow responded and advised they've ID'd a number in particular as [REDACTED] and asked if they had been spoken to? Ms Frizzell had not responded.

I forwarded this email to the DPP to which he replied that he thought this data was redacted data from the Cellebrite report, which would amount to going behind the application.

I then asked whether he would like me to reply to Ms Frizzell and tell her not to do anything and if Mr Whybrow would like to discuss he can email us directly as it is going beyond the application.

The DPP confirmed this and said that our position is that this is part of the application, ground 1a), which is being dealt with by Keegan Lee. Any request for redacted {11340616.docx}

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information from the Cellebrite report or Cellebrite data should be requested through him as part of the application.

I relayed this information to Ms Frizzell who informed me she notified Mr Whybrow of the information provided.

Attached and marked 'Exhibit 80' – Email from ACT Policing 3 October 2022

98. On 4th October 2022 Ms Frizzell emailed Ms Pitney and I, relating to a request made by Ms Jerome on the 27th September 2022 for redactions to be made to the Record of Interview. Ms Frizzell informed us that the redactions requested by Ms Jerome had been completed and could be made available. If there was to be further redactions required, it would be preferred that it was provided as one lot of redactions rather than numerous requests. I informed Ms Frizzell that I couldn't provide an update regarding this at the time and would let her know when I had further information.

Attached and marked 'Exhibit 81' – Email to ACT Policing 4 October 2022

99. On this same date Ms Frizzell emailed me regarding the previous days correspondence surrounding Mr Whybrow's request. Ms Frizzell stated that Defence were also seeking clarification as to whether a particular person that they had identified, [REDACTED] was ever spoken to by anyone. Ms Frizzell wasn't sure that this fitted into the 1a) aspect of the response. Ms Frizzell then requested that our office advise Mr Whybrow that [REDACTED] was not identified, nor spoken to by Police, and to confirm that the advice had been provided.

I informed the DPP/Ms Jerome (I do not recall which) regarding this and was asked to reply to Ms Frizzell to the effect that Ms Frizzell/ACT Police should not be communicating with Defence directly, if he wants to discuss he would need to go through our office and that we hadn't informed Mr Whybrow and there was no need for her to inform him either.

Ms Frizzell replied confirming she was not communicating with Mr Whybrow outside of the advice given and did not intend to.

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Attached and marked 'Exhibit 82' – Email to ACT Policing 4 October 2022

100. On 5th October 2022 Her Honour ordered that the only redactions to be made to the Evidence in Chief Interview # 2 was Question and Answer 287. I emailed Ms Frizzell and Mr Madders this information and asked if they could make the redaction and have it brought over to court that morning.
101. Ms Frizzell replied saying that they would tend to the request, but couldn't confirm whether it would be available that morning. Later this day, Ms Frizzell informed me that the redaction was complete and Mr Madders was transferring it to a disc and would drop it off to the ODPP reception.

Attached and marked 'Exhibit 83' – Email to ACT Policing 5 October 2022

102. On 6th October 2022 I emailed Ms Frizzell and Mr Madders requesting subscriber checks for a number of phone numbers that was requested by Defence urgently. Ms Frizzell actioned the request but was not able to provide an ETA.

Attached and marked 'Exhibit 84' – Email to ACT Policing 6 October 2022

103. On 7th October 2022, Mr Madders provided subscriber checks for 2 of the numbers requested.

Attached and marked 'Exhibit 85' – Email from ACT Policing 7 October 2022

104. On this same date Ms Frizzell requested to speak to me after Court that day. She informed me that she had been outside Supreme Court Room 4 when Mr Whybrow stopped while walking by and queried whether she would be in the Courts on Monday and if it would be possible to conduct enquiries in relation to the results of the subscriber checks. She informed Mr Whybrow that she was happy to undertake enquiries, but requested that he forward any requests to our office to forward to the AFP. Ms Frizzell then emailed this information confirming this communication. I thanked Ms Frizzell for providing the information and informed the DPP and Ms Jerome.

Attached and marked 'Exhibit 86' – Email from ACT Policing 7 October 2022

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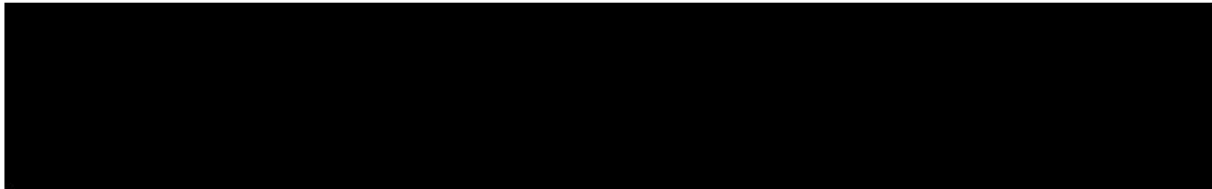
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105. On 9th October 2022, I received an email from Mr Whybrow relating to the subscriber checks of [REDACTED] and had requested that the AFP urgently seek a statement from [REDACTED]. Mr Whybrow had included Ms Frizzell and Mr Madders in the correspondence. I then emailed Ms Frizzell and Mr Madders requesting them to action the request from Mr Whybrow.

Attached and marked 'Exhibit 87' – Email to ACT Policing 9 October 2022



107. On this same date, I requested a copy of the Redacted Record of Interview to be provided to our office that morning. I had previously been informed that it was completed.

Attached and marked 'Exhibit 89' – Email from ACT Policing 10 October 2022

108. On this same date I requested from Ms Frizzell and Mr Madders the original CCR from Optus, provided to the AFP for Mr Lehrmann. The version that had not been edited regarding timings from UTC. Mr Madders then emailed through the original CCR.

Attached and marked 'Exhibit 90' – Email from ACT Policing 10 October 2022

109. On this same date I requested Ms Frizzell to make contact with “Dr Walsh” to identify whether he had any relevant information. This Dr Walsh had previously made contact with the office, saying he had information relating to the matter. Ms Frizzell attempted to contact the number for “Dr Walsh”, however the number went to a busy number and was then turned off.

Attached and marked 'Exhibit 91' – Email to ACT Policing 10 October 2022

110. On 11th October 2022, Mr Madders contacted me regarding whether Fiona Brown was giving evidence that day, or had already been called. I informed him that she was currently giving evidence and I wasn't sure when she had arrived that morning. I

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informed Mr Madders to contact [REDACTED], the Security and Intelligence Officer of the Courts to correspond with regarding Ms Brown as we couldn't speak to her as she was in the middle of cross-examination.

Attached and marked 'Exhibit 92' – Email from ACT Policing 11 October 2022

111. On 12th October 2022, I requested Ms Frizzell and Mr Madders to make contact with two Police witnesses to enquire whether they could attend Court that afternoon. I was not able to make contact with them. Mr Madders was able to get a hold of both and had them attend Court at 2.00pm that afternoon.

Attached and marked 'Exhibit 93' – Email to ACT Policing 12 October 2022

112. On this same date Ms Frizzell emailed me requesting to discuss what evidence would be required to be led through her. I forwarded this email to Ms Jerome who emailed Ms Frizzell requesting her to bring a copy of every document/exhibit that she produces in her statement and police notes. Ms Frizzell contacted me about this, regarding the nature and difficulties getting all this material at short notice. I explained this to Skye, and confirmed for Ms Frizzell that she was not required to bring any exhibits or documents the next day, just her statement and notes. A time to speak with Ms Frizzell was organised for the following morning.

Attached and marked 'Exhibit 94' – Email from ACT Policing 12 October 2022

113. On this same date Ms Frizzell emailed me regarding a query she had received from Mr Whybrow, as to whether she would speak with them that afternoon. I replied to Ms Frizzell via text after speaking to the DPP. I informed her that it would be fine to speak with Defence, she just wouldn't be able to discuss any request for advice on brief or any response given.

Attached and marked 'Exhibit 95' – Email from ACT Policing 12 October 2022

114. On the 13th October 2022, Ms Jerome, Ms Frizzell and I had a meeting in Ms Jerome's office. The meeting discussed the evidence that was likely to be tendered through Ms

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Frizzell that day and when it was expected she would be called as a witness. Ms Frizzell informed Ms Jerome and I that she had been requested to follow up a question that Mr Whybrow had pertaining to the Philip Medical Centre and whether Ms Higgins had made a booking here. Ms Jerome informed Ms Frizzell to wait to complete the request, until the DPP had been notified of it.

115. Later this same date, after giving evidence, Ms Frizzell emailed Ms Jerome and I, informing us that she had contacted the Phillip Medical Centre regarding Mr Whybrow's queries and provided the information in an email to Ms Jerome and myself.

Attached and marked 'Exhibit 96' – Email from ACT Policing 13 October 2022

116. On 14th October 2022 Mr Madders emailed Ms Pitney and I, requesting the usual daily update and stating that the bosses wanted to know whether the email Emma had sent through regarding the Philip Medical Centre enquires had been seen and passed on to Defence. Mr Madders has attempted to recall this email, then sent through another email. This email again requested the daily update, and then stated that he was checking as to whether the email regarding the Philip Medical Centre had been received and passed on to Defence.

Attached and marked 'Exhibit 97' – Email from ACT Policing 14 October 2022, Attached and marked 'Exhibit 98' – Recall Email from ACT Policing 14 October 2022 & Attached and marked 'Exhibit 99' – Email from ACT Policing 14 October 2022

117. On 20th October 2022 Ms Frizzell emailed me, requesting to notify herself and Mr Madders as soon as the verdict was in so that they could duck into Court.

Attached and marked 'Exhibit 100' – Email from ACT Policing 20 October 2022


Conduct of the AFP/ACT Police during the Trial

118. I can only speak to the conduct of Ms Frizzell and Mr Madders as they were the AFP/ACT Police members I dealt with throughout the trial. They were very helpful throughout the trial and would action requests as soon as they could.

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 Mitchell Lawton Greig



 Witness

119. Ms Frizzell informed me a couple of times that Defence had contacted her, but she would inform me of the occurrence and would state that she had requested Mr Whybrow to go through the ODPP for any requests.
120. The only negative situation was when Ms Frizzell actioned the request of Mr Whybrow regarding the Philip Medical Centre before Ms Jerome and I had an opportunity to discuss with the DPP regarding the request.
121. From the information I have, both officers would go through our office first, before having it provided to Defence.
122. I did observe Mr Moller and Mr Boorman speaking to Mr Whybrow outside the Court Room on a couple of occasions. I don't recall dates. I didn't observe Ms Frizzell or Mr Madders speaking directly with Mr Whybrow.

Discharge of Jury and Retrial

Discharge of jury

123. I did not know about the discharge of the Jury until Her Honour Chief Justice McCallum provided the information in Court as to what had occurred.

Retrial

124. On 31st October 2022 I received an email from Ms Frizzell asking if I could advise if the re-trial would be going ahead in February and if so, what were the dates.

Attached and marked 'Exhibit 101' – Email from ACT Policing 31 October 2022

125. On 4th November 2022 I received another email from Ms Frizzell advising how long the re-trial would go for and what police witnesses would be required. I informed Ms Frizzell that the following witnesses would be required: FA [REDACTED], FA [REDACTED], SC Frizzell (noting I had informed Counsel that she would likely be on [REDACTED]), D/SC Harman, Dr Jennifer [REDACTED], Peter [REDACTED], D/LSC Madders and D/Ins Boorman. Ms Frizzell replied, confirming that she commenced [REDACTED] leave on 16 January 2023 and had reached out for unavailable dates of the listed members.

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Attached and marked 'Exhibit 102' – Email from ACT Policing 4 November 2022

126. On the 8th November 2022, I emailed Ms Fisher to confirm whether her office was continuing to act for Mr Lehrmann. Ms Fisher confirmed this, so I emailed through the filed witness list for the re-trial.

Attached and marked 'Exhibit 103' – Email to Rachel Fisher 8 November 2022

127. On the 30th November 2022, I emailed Ms Fisher attaching an electronic copy of the DPP written Submissions for the Pre-Trial Application for the 2nd December 2022.

Attached and marked 'Exhibit 104' – Email from ACT Policing 30 November 2022**1 November 2022 Correspondence from the DPP**

128. I was not involved in any correspondence or preparation of the letter to the Chief Police Officer from the DPP.

Bail

129. On the 24th October 2022 Ms Jerome emailed me asking whether Mr Lehrmann had been on bail. I informed her that I didn't believe so, as I couldn't locate anything on CASES to say he was on bail and he was initially summonsed. ICMS didn't have any information regarding bail for Mr Lehrmann either.

Attached and marked 'Exhibit 105' – Email from Skye Jerome 24 October 2022

130. On 27 October 2022, after the Jury had been discharged, at the Bar table Ms Jerome requested me to speak with Mr Madders regarding Bail conditions for Lehrmann, including surrendering his passport, however I didn't have an opportunity as the matter was mentioned and Bail was discussed directly with Her Honour. I was not aware of the AFP/ACT Policing's engagement with the legal representatives for Mr Lehrmann.

Discontinuance

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131. On 30th November 2022 I was attaching the Application of Ms Fisher electronically to CASES. I observed a Notice Declining To Proceed (NDTP) had been created by Ms Jerome on the matter. I have then spoken with Ms Jerome who confirmed that the DPP had decided that our office would be filing a NDTP. I then assisted with the correct formatting for the Notice as Ms Jerome had not completed one before.
132. I never had any discussions with any of Mr Lehrmann's legal representatives relating to the discontinuance of the matter.

Dealings with the AFP/ACT Police Post trial

133. I have had a large amount of unrelated dealings with the AFP/ACT Police post-trial due to my role in the list team. I have not had any dealings with AFP/ACT Police post-trial in respect of the *R v Lehrmann* matter.

Conduct of the AFP and ODDP/DPP during matter generally

Conduct of the AFP/ACT Policing Officers

134. I don't have any concerns regarding the AFP/ACT Police in relation to the matter of *R v Lehrmann*. I have set out my comments in relation my relationship with the ACT Policing Officers involved in my previous answers.

Conduct of the DPP

135. I don't have any concerns regarding the DPP in relation to the matter of *R v Lehrmann*.
136. I do not recall having any specific conversation with the DPP where he expressed a view as to the strengths or otherwise of the prosecution case.
137. I did not have any text or chat messages with the DPP or Skye Jerome, other than 1 text I sent to the DPP on 4 August 2022 informing him which Courtroom we were in.


Interactions with Ms Higgins

138. I can't provide a comment whether it is usual for the DPP and/or the ODPP discussing sexual offence investigations/prosecutions directly with the complainant as I had never previously been involved with a sexual offence investigation/prosecution.

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139. On the 27th September 2022 the DPP emailed Ms Jerome, Ms Pitney and myself two emails relating to an update regarding a Professional Standards Investigation that were sent from Ms Higgins to the DPP. I made no response to this email.

Attached and marked 'Exhibit 106' – Email from the DPP 27 September 2022 & Attached and marked 'Exhibit 107' – Email from the DPP 27 September 2022

140. I don't recall having any direct interactions with Ms Higgins, though I was involved in 3 Proofings with Ms Higgins:

- a. On 17th May 2022, a proofing with Ms Higgins was organised, which took place in the board room at the ODPP. This proofing was organised by Ms Priestly. The DPP and Ms Priestly were involved with this proofing throughout the entire day. Ms Jerome and myself were not involved with the proofing all day;
- b. I organised a proofing with Ms Higgins for the 23rd September 2022 through Heidi Yates. This proofing was conducted via Webex. In attendance was Ms Higgins, Ms Yates, the DPP and myself. I believe the dominant speakers were the DPP and Ms Higgins as the DPP would ask Ms Higgins questions relating to her evidence;
- c. A third meeting with Ms Higgins was organised to occur on 3rd October 2022 in the proofing on 23rd September 2022. I don't recall who specifically requested it. I emailed the calendar invite for this meeting after the proofing. In attendance for the 3rd October 2022 meeting was Ms Higgins, Ms Yates, Mr Zwier, the DPP, Ms Jerome, Ms Pitney and myself. No evidence was discussed in this meeting. I believe it was just a discussion surrounding how Ms Higgins felt with the trial set to commence the next day and to provide information about how the trial was expected to unfold. This was described by the DPP.

Interactions with the Victims of Crime Commissioner

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142. I had never had any dealings with the VCC prior to the matter of *R v Lehrmann*.
143. I had never prosecuted any sexual offence matters before *R v Lehrmann*, so cannot provide any information relating to question 58.
144. The VCC was involved with the matter before I was one of the instructing prosecutors on the matter of *R v Lehrmann*. The VCC did not provide any evidence to me surrounding the matter.
145. I had a number of interactions with the VCC:
- a. On 19th September 2022 I emailed the VCC to organise a proofing time with Ms Higgins. The VCC replied and informed me that Ms Higgins would be available on the 23rd September to have a proofing with the DPP; **Attached and marked 'Exhibit 108' – Email from the VCC 19 September 2022**
 - b. On 21st September 2022 I emailed the VCC to ensure that David Sharaz would not be a part of the proofing as he was a witness in the trial. The VCC informed me that Ms Higgins and Mr Sharaz understood this and Mr Sharaz was not invited to the meeting on 23rd September 2022; **Attached and marked 'Exhibit 109' – Email from the VCC 21 September 2022**
 - c. On 21st September 2022 the VCC emailed Ms Pitney requesting on the behalf of Ms Higgins to have a second support person, Emma Webster. Ms Pitney replied noting previous communications contained in the Cellebrite that it would not be appropriate for Ms Webster to be a support person; **Attached and marked 'Exhibit 110' – Email from the VCC 21 September 2022**
 - d. On 29th September 2022 I emailed the VCC requesting her to confirm with Ms Higgins as to whether she consents to her name being published pursuant to s74 *Evidence (Miscellaneous Provisions) Act*. The VCC replied informing me that Ms Higgins confirmed she consented to her name to be published, including Ms Higgins in the reply email. The VCC then requested information surrounding if Police would be in attendance on Tuesday (commencement of Trial). I replied and informed the VCC that Police planned to have uniform officers present at the Court entry during the first week of the trial and would then reassess the situation the remainder of the trial. Police would be co-ordinating with Court security surrounding the matter. The VCC then informed me that Ms Higgins

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- was seeking an update in relation to Defence disclosure applications, to which I replied that the DPP would give her a call that afternoon; **Attached and marked 'Exhibit 111' – Email to the VCC 29 September 2022**
- e. On 6th October 2022 the VCC emailed Ms Pitney and myself asking whether the booking at the Nishi for Ms Higgins could be extended due to her requirement in Court the following week. I informed the VCC that it had been extended and Ms Pitney would send through the confirmation later that night; **Attached and marked 'Exhibit 112' – Email from Sarah Pitney 6 October 2022**
- f. On 7th October 2022 I requested the VCC mobile number so that I could contact her immediately if urgent. The VCC provided her number and said that it could be shared with Ms Pitney. I then provided my number for Ms Yates. Ms Yates replied, thanking Ms Pitney and myself for our work throughout the week; **Attached and marked 'Exhibit 113' – Email to the VCC 7 October 2022**
- g. On this same date, the VCC texted me to confirm that they were directly outside when the Court was ready;
- h. On 10th October 2022 the VCC emailed Ms Pitney and myself regarding extending the accommodation for Ms Higgins and Mr Sharaz noting that both would be required later throughout the week. Ms Pitney replied informing the VCC that the booking had been extended until 15 October 2022; **Attached and marked 'Exhibit 114' – Email from Sarah Pitney 10 October 2022**
- i. On 12th October 2022 the VCC emailed Ms Pitney, including me in the email, requesting for the accommodation to be extended again. Ms Pitney replied informing the VCC that the booking was extended until Tuesday; **Attached and marked 'Exhibit 115' – Email from Sarah Pitney 12 October 2022**
- j. On 13th October 2022 the VCC texted me asking whether Ms Higgins would be required at 10am the following morning. I replied, informing her that Ms Higgins would need to be there ready to commence at 10am; **Attached and marked 'Exhibit 116' – Screenshot of text message from the VCC 13 October 2022**

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- k. On 14th October 2022 the VCC texted me to say that they were directly outside the Court Room, ready when required. At 11:10am, the VCC asked for me to let her know when morning break will be done. I replied informing her that Her Honour had indicated Court will resume at 11.30am; **Attached and marked 'Exhibit 117' – Screenshot of text message from the VCC 14 October 2022**
- l. On 17th October 2022 the VCC left a voice message to thank Ms Pitney and I for our work during the trial;
- m. On this same date, the VCC emailed Ms Pitney and myself describing why Mr Sharaz had sent the email that he had to Ms Pitney and to thank both Ms Pitney and I for the hard work we had been doing; **Attached and marked 'Exhibit 118' – Email from the VCC 14 October 2022**
- n. On this same date, the VCC forwarded an email that had been sent through to her office from a member of the public outlining comments that Federal MLA Andrew Laming had posted; **Attached and marked 'Exhibit 119' – Email from the VCC 14 October 2022**
- o. On this same date, the VCC emailed Ms Pitney and I indicating that the ODPP had not provided credit card authorisation to cover the dog fee for their hotel room. The Hotel was going to contact the ODPP about covering this fee. Ms Pitney confirmed that it should have been covered and Corporate from our office would follow up with the hotel; **Attached and marked 'Exhibit 120' – Email from the VCC 14 October 2022**
- p. On 19th October 2022 I emailed the VCC to inform her that Defence had finished their closing and Her Honour was giving Jury Directions. I texted the VCC at 2.58pm that the Jury had been sent out; **Attached and marked 'Exhibit 121' – Email from the VCC 19 October 2022**
- q. On 20th October 2022, the VCC emailed Ms Pitney and myself asking whether we would be able to reserve six seats immediately behind us in Court for the Jury verdict. I informed her I would do my best to reserve the seats. **Attached and marked 'Exhibit 122' – Email to the VCC 20 October 2022**

Media

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Witness

146. I did not have any correspondence with anyone from the media in relation to the matter of *R v Lehrmann* apart from Ms Wilkinson and Ms Maiden in organising of their proofings.

Higgins Book

147. I became aware of Ms Higgins pre-published book when Defence subpoenaed the material from Penguin Publishing. I obtained possession of the pre-published book when the subpoena material was returned on 15th August 2022 and I collected it on 16 August 2022. **Attached and marked 'Exhibit 123' – Email from the DPP 15 August 2022**

148. I never provided a copy of the pre-published book or it's contents to the AFP/ACT Policing officer as I was never told to by the DPP or Ms Jerome.

149. On 15th August 2022, Registrar Jayne Reece made an in chambers order that both parties had immediate access to uplift and copy the material produced on subpoena by Network Ten, Lisa Wilkinson and Penguin Random house. I contacted Ms Fisher on 16th August 2022 to enquire whether she would object to me making contact with the registry to uplift and copy the USB's containing the subpoena material and to provide her with a copy of the material on a USB. Ms Fisher replied informing me she would have her paralegal [REDACTED] attend and come back with me to my office to wait for the copy. I emailed the Registry and [REDACTED] replied providing an appointment time of 3.30pm to collect the USB's. I collected the USB's at 3.30pm from the Registry with [REDACTED] and I returned to the ODPP where I copied the material to the ODPP's computer system and then copied everything on the USB's on to a USB for [REDACTED] I then provided [REDACTED] with this USB. The Pre-Published book and contents were contained in the material provided by Penguin Publishing and was all provided to Mr Lehrmann's legal representatives via this USB. **Attached and marked 'Exhibit 124' – Email from Rachel Fisher 16 August 2022,** **Attached and marked 'Exhibit 125' – Email from Rachel Fisher 16 August 2022, &** **Attached and marked 'Exhibit 126' – Email from Rachel Fisher 16 August 2022**

Board of Inquiry

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150. On 7th February 2023 the DPP forwarded a subpoena for documents from the BOI and requested that we provide the requested documents. **Attached and marked 'Exhibit 127' – Email from the DPP 7 February 2022**
151. On 10th February 2023 I provided the requested documents to the DPP in a folder in the ACT Government directory: E:\eBriefs_Secure_005_WHoG\Mitchell's Subpoena Material. **Attached and marked 'Exhibit 128' – Email to the DPP 10 February 2022**
152. I have spoken to the DPP regarding the Board of Inquiry when I was informed the BOI wanted to speak with me. I wanted an understanding of the process for the BOI and if he had an idea of how quickly it would take for a Legal Representative to be approved. The DPP gave me a brief description of how the BOI would want to discuss what I knew about the inquiry and that they may ask for a statement. The DPP informed me that he believed that the Government would likely be quite quick at approving a lawyer. **Attached and marked 'Exhibit 129' – Email to the DPP 10 March 2022**
153. Ms Pitney and I have spoken to one another after receiving notification that the BOI wanted to speak one another. Our correspondence related to how we each would go about getting legal representation, and how each of us were feeling.
154. I have no other matter that I wish to raise with the Board of Inquiry.

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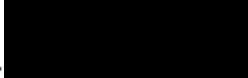
 Mitchell Lawton Greig

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 Witness

AFFIRMED before me at Canberra in the Australian Capital Territory on the 11th day of April 2023.


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MITCHELL LAWTON GREIG


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Signature of witness

Margaret Smith (Lawyer)
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Name of Witness