

Subpoena Number: 2023/S/0018

Sections 18(c), 26(1) and 26(3) of the *Inquiries Act 1991*

**SUBPOENA TO PROVIDE A WRITTEN STATEMENT**

To: Sarah Pitney

Of: ACT Office of the Director of Public Prosecutions



I, WALTER SOFRONOFF KC, Chairperson of the Board of Inquiry established by the Inquiries (Board of Inquiry – Criminal Justice System) Appointment 2023 (NI2023-49)<sup>1</sup> dated 1 February 2023 require you to give a written statement to the Board of Inquiry pursuant to sections 18(c), 26(1)(b) and 26(3)(b) of the *Inquiries Act 1991* in regard to your knowledge of the matters set out in the Schedule annexed hereto.

**YOU MUST COMPLY WITH THIS REQUIREMENT BY:**

Giving a written statement signed and witnessed in accordance with section 7 of the *Oaths and Affirmations Act 1984* (ACT) to the Board of Inquiry on or before **5:00 pm AEST on 4 April 2023**, by delivering it to Nara House, 3 Constitution Avenue, Canberra City ACT 2601.

A copy of the written statement must also be provided electronically by email at [BOI.Notices@inquiry.act.gov.au](mailto:BOI.Notices@inquiry.act.gov.au) with the subject line "Requirement for Written Statement".

If you believe that you have a reasonable excuse for not complying with this notice, you will need to satisfy me of this by the above date.

**Failure to comply with this notice without lawful excuse is a Contempt of Board and you may be dealt with accordingly.**

Date: 28 March 2023

A blue ink signature of Walter Sofronoff KC.

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Walter Sofronoff KC  
**Chairperson**  
Board of Inquiry

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<sup>1</sup> The terms of reference of the Board of Inquiry, contained in NI2023-49 dated 1 February 2023 are set out as **Annexure A** to this subpoena.

## Notes

### Informal service

1. Even if this notice has not been served personally on you, you must, nevertheless, comply with its requirements, if you have actual knowledge of the notice and its requirements.

### Where the addressee is a corporation or agency

2. If this notice is addressed to a corporation or agency, the corporation or agency must comply with the notice by its appropriate person or proper officer.

### Objections

3. If you object to a document or thing produced in response to this notice being inspected by a party to the proceeding or anyone else, you must tell the Board of Inquiry about your objection and the grounds of your objection either orally on the return date for this notice or in writing before or after the return date.

### Production of copy instead of original

4. If the notice requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.
5. The copy of the document may be—
  - (a) a photocopy; or
  - (b) in PDF format; or
  - (c) in any other electronic form that the issuing party has indicated will be acceptable.

### Contempt of Board of Inquiry

6. A person commits an offence if the person does something in the face, or within the hearing, of a board that would be contempt of court if the board were a court of record (see *Inquiries Act 1991*, s 36 (**Contempt of Board**)).
7. Failure to comply with a subpoena without lawful excuse is a Contempt of Board and may be dealt with accordingly.
8. Failure to comply with a subpoena may also be a criminal offence (see *Criminal Code*, s 719 (Failing to attend) and s 720 (Failing to produce document or other thing)).



**Protections**

9. Where a person is required to produce a document (or other thing) or answer a question to the Board of Inquiry, that person is not able to rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to produce the document or other thing or answer the question (see *Inquiries Act 1991*, s 19 (Privileges against self-incrimination and exposure to civil penalty)).
10. However, anything obtained because of the producing of the document or other thing, or the answering of the question, is not admissible in evidence against that person in a civil or criminal proceeding, except for an offence relating to the falsity or misleading nature of the document or other thing or answer, and for an offence against chapter 7 of the *Criminal Code* (see *Inquiries Act 1991*, s 19 (Privileges against self-incrimination and exposure to civil penalty)).

**ANNEXURE A**  
**Terms of Reference**

1. The Board will inquire into:
  - (a) Whether any police officers failed to act in accordance with their duties or acted in breach of their duties:
    - (i) in their conduct of the investigation of the allegations of Ms Brittany Higgins concerning Mr Bruce Lehrmann;
    - (ii) in their dealings with the Director of Public Prosecutions in relation to his duty to decide whether to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann in relation to those allegations;
    - (iii) in their dealings with the legal representatives for Mr Lehrmann before, during or after the trial in the matter of *R v Lehrmann*;
    - (iv) in their provision of information to any persons in relation to the matter of *R v Lehrmann*.
  - (b) If any police officers so acted, their reasons and motives for their actions.
  - (c) Whether the Director of Public Prosecutions failed to act in accordance with his duties or acted in breach of his duties in making his decisions to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann.
  - (d) If the Director of Public Prosecutions so acted, his reasons and motives for his actions.
  - (e) The circumstances around, and decisions which led to the public release of the ACT Director of Public Prosecutions' letter to the Chief Police Officer of ACT Policing dated 1 November 2022.
  - (f) Whether the Victims of Crime Commissioner acted in accordance with the relevant statutory framework in terms of support provided to the complainant in the matter of *R v Lehrmann*.
  - (g) Any matter reasonably incidental to any of the above matters.
2. The Board will report to the Chief Minister by 30 June 2023.

**Subpoena 2023/S/0018**

**Schedule of Questions for Statement**

**Ms Sarah Pitney**

**Background and Professional History**

1. State your current position within the ACT Office of the Director of Public Prosecutions (ODPP).
2. Outline your tertiary qualifications including when and where you obtained them.
3. Outline your diploma qualifications including when and where you obtained them.
4. What year were you admitted as a lawyer?
5. Outline your work experience since admission as a lawyer, including when you were appointed as a prosecutor at the ODPP and your roles at the ODPP.
6. Outline your current role, when you commenced this role and the job description for your current role. **Attach** a formal job description if one exists.
7. Have you sat, or do you currently sit, on any boards, committees, working groups, or taskforces? If so, provide details of the name of the board, committee, working group, or taskforce, when you started (and finished if applicable) and what role you had/have on the board, committee, working group, or taskforce.

**Duties and Responsibilities – Prosecutor Sex Offences**

8. Outline your role, duties and responsibilities as a prosecutor of sexual assault offences. Include references to the relevant legislation, agreements, policies and/or guidelines.
9. Outline your understanding of the ‘reasonable prospects of conviction’ and ‘public

interest' criteria with respect to prosecution of a sex offence.

### **Sex Offences Prosecutions**

10. State the number (an estimate) of prosecutions related to sex offences you have had primary carriage of (as a prosecutor or defence lawyer) within the ACT jurisdiction to date and the years in which those prosecutions occurred (roughly).
11. Outline any specialist training you have undertaken in relation to the prosecution of sex offences.

### **AFP/ACT Police Roles and Responsibilities and Prior Interactions**

12. From your perspective as a Prosecutor, outline the roles, responsibilities, and duties of the Australian Federal Police (AFP)/ACT Policing officers, in relation to the investigation of, and commencement of proceedings with respect to, a sex offence matter.
13. Describe, from your perspective, the working relationship, between the ODPP and AFP/ACT Policing prior to the matter of *R v Lehrmann*. Include details about whether the relationship was positive or whether you held any concerns about the relationship and the nature of those concerns.
14. For the period between your commencement at the ODPP and your first involvement in the matter of *R v Lehrmann*, describe your views in relation to the conduct of the AFP/ACT Policing officers' investigations of sexual assault offences. Include information about the quality of the investigations, whether your views changed over this period, and the reasons for your views. Include examples where possible.
15. Describe your relationship, generally, and the extent of your prior dealings and/or knowledge (if any) with the AFP/ACT Policing officers involved in the investigation of Ms Brittany Higgins' allegation of sexual assault against Mr Bruce Lehrmann (**Investigation**) prior to the commencement of *R v Lehrmann*, including but not limited

to:

- (a) Detective Superintendent Scott Moller;
- (b) Detective Inspector Marcus Boorman;
- (c) Detective Sergeant Gareth Saunders;
- (d) Detective Sergeant Jason McDevitt;
- (e) Detective Sergeant Robert Rose;
- (f) Detective Sergeant David Fleming;
- (g) Detective Inspector Callum Hughes;
- (h) Commander Joanne Cameron;
- (i) Acting Commander Hall O'Meagher;
- (j) Acting Sergeant James Brown;
- (k) Detective Leading Senior Constable Trent Madders; and
- (l) Senior Constable Emma Frizzell.

In answering this question outline your professional views (if any) about those officers and the basis of those views.

16. State whether, at the time of your allocation as Prosecutor in *R v Lehrmann* (or up until you received this subpoena), you held any professional concerns in relation to the AFP/ACT Policing officers involved in the Investigation. If so, provide details of those concerns, the reasons for those concerns and whether you communicated those concerns to the ACT Director of Public Prosecutions, Mr Neville Shane Drumgold SC (**DPP**) or any other persons. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. To the extent those communications were verbal outline the parties to the communications and the effect of the words spoken (the **usual particulars**).

#### **Involvement in the Matter of *R v Lehrmann***

17. When did you first become aware of Ms Higgins' allegation of sexual assault against Mr Lehrmann? Include details about how you became aware and what you were aware of.

18. When were you allocated to work on the matter of *R v Lehrmann*? What role were you allocated to perform? Provide information about who allocated you to the matter and what you were informed of. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes, calendar invitations, calendar appointments and diary notes. To the extent discussions occurred verbally provide the usual particulars.
  
19. What arrangements did Mr Shane Drumgold SC (**DPP**) put in place for the conduct of the prosecution in the matter of *R v Lehrmann*? For instance, job/task allocations, decision-making in relation to disclosure and whether regular meetings were initiated within the ODPP and/or with any other persons involved, including the AFP/ACT Policing and the ACT Victims of Crime Commissioner (**VCC**). **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes, calendar invitations, calendar appointments and diary notes. In the event discussions occurred verbally, provide the usual particulars.

## **Pre trial**

### *Disclosure generally*

20. Outline the respective responsibilities/roles of the ODPP and AFP/ACT Policing in relation to disclosure of material on the legal representatives for a defendant in a sex offence matter. Provide details of the usual process for the provision of the brief of evidence to the ODPP and the legal representative for a defendant. Include information about the relevant roles/responsibilities of the ODPP and AFP/ACT Policing in this process, the basis for the allocation and whether you perceive there to be any issues, generally, in this allocation. Identify any relevant legislative provisions, **attach** any relevant agreements, policies and/or guidelines or, if already provided, identify the relevant provisions of any such agreements, policies and/or guidelines.

*Disclosure certificate*

21. State whether you were involved in any communications with, or the provision of any written or oral advice to, the AFP/ACT Policing regarding the Disclosure Certificates. In providing your response, describe any communications regarding amendments to the Disclosure Certificates and/or claims of legal professional privilege regarding documents listed in the Disclosure Certificates. Include details about who was involved in those communications, the purpose of the communications, details of the substance of any advice provided and the basis for any advice provided. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

*Counselling records*

22. State whether '*protected confidence*' material within the meaning of s 79A of the *Evidence (Miscellaneous Provisions) Act 1991* (ACT) regarding Ms Higgins was provided to the ODPP (**Counselling Records**). If 'yes', outline:
- (a) your knowledge (if any) as to circumstances in which the Counselling Records were obtained;
  - (b) when the Counselling Records were provided to the ODPP;
  - (c) whether you reviewed the Counselling Records and, if so, when and for what purpose;
  - (d) whether you are aware of the DPP or Skye Jerome reviewing the Counselling Records and, if so, when did this occur and how did you become aware of this; and
  - (e) whether the ODPP retained a copy of the Counselling Records and, if so, why.

*Cellebrite*

23. State whether you were involved in any communications with the DPP, AFP/ACT Policing and/or the legal representatives for Mr Lehrmann in relation to the disclosure of all, or part, of Ms Higgins' and/or Mr Lehrmann's Cellebrite records (**Cellebrite Records**). Include details about who was involved in those communications, the purpose of the communications and what was discussed.

**Attach** copies of relevant communications and documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

24. Outline your involvement (if any) in the preparation or swearing of affidavits relating to an application by the legal representatives for disclosure of Cellebrite Records. Include details of any conversations you had with, or directions you received from, the DPP or Skye Jerome in relation to this.

**Attach** copies of relevant communications and documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

25. Outline your involvement (if any) in the arrangements involving a review of the Cellebrite Records and their redactions by an independent counsel. Include details about who was involved in those arrangements, the purpose of the arrangements, details of the substance of any advice provided by the independent counsel and the basis for any advice provided. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

*Pre Trial dealings with the AFP/ACT Police*

26. In chronological order, outline the meetings and/or discussions you were involved in with ACT Policing officers in relation to the matter of *R v Lehrmann* prior to commencement



of the trial. Include information about:

- (a) the person who initiated the meetings/discussions;
- (b) the purpose of the meetings/discussions;
- (c) where the meetings/discussions took place;
- (d) the people in attendance;
- (e) the briefing material (if any) you were provided, including whether you reviewed the material prior to or following the meetings/discussions;
- (f) if there were dominant speakers, who they were, the basis of that view and what they said;
- (g) the nature of the discussions in relation to the:
  - i. Investigation and the evidence obtained and to be obtained;
  - ii. the DPPs views in relation to the prospects of the matter and the reasons for your views (in particular, in relation to the reasonable prospects of a conviction and whether a prosecution was in the public interest); and
  - iii. views the DPP held in relation to the conduct of the investigation to date, including the reasons for your views.

**Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

Details of the meeting with AFP/ACT Police on 21 September 2022 must be included.

*Pre Trial Conduct of the AFP/ACT Police*

27. Outline your views and experience regarding the conduct of the AFP/ACT Policing officers in relation to the matter of *R v Lehrmann* before the trial of *R v Lehrmann* including:
- (a) in their dealings with the DPP/ODPP;
  - (b) in their dealings with defence lawyers; and
  - (c) in their provision of information to any persons in relation to the matter of *R v Lehrmann*.

Provide details of the relevant officers' names, the basis for your views and provide examples, where appropriate. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

## **The Trial**

### *Arrangements in relation to Ms Higgins*

28. State whether there were any special arrangements requested by Ms Higgins, the VCC, the DPP or ODDP staff regarding Ms Higgins' arrangements for attendances for the trial (for example arrangements relating to accommodation, entering/exiting court and access to, and use of, particular rooms at the court). If so, provide details of any special arrangements requested, who made the requests, whether the requests were accommodated and whether such arrangements were unusual.

### *Recording of Evidence*

29. On what date did you become aware that evidence given by Ms Higgins in court was to be, or was, recorded? Provide details including how you became aware and **attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

### *Unfavourable witnesses*

30. List any unfavourable/hostile witnesses in the trial in the matter of *R v Lehrmann*. Provide details as to why those witnesses were declared unfavourable/hostile, the process of how the witnesses became unfavourable/hostile, any views expressed by the DPP to you in relation to these witnesses and your views in relation to these witnesses (if any). **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

*Fiona Brown*

31. Outline when and how it first came to your attention that Ms Fiona Brown had sent an email to the ODPP indicating that she perceived there to be misrepresentations in evidence during the trial and requesting the ODPP correct those matters or recall her to give evidence on these matters (**Fiona Brown Email**).

**Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

32. When you became aware of the Fiona Brown Email, did you inform anyone within the ODPP of the Fiona Brown Email? If not, why not. If so, provide details including
- (a) who you informed;
  - (b) when you informed them;
  - (c) how you informed them;
  - (d) any further discussions or correspondence you had with anyone you informed; and
  - (e) to the extent not addressed in response to (d) above, any discussions or correspondence that you're aware of between ODPP staff (including between the DPP and Skye Jerome) regarding the Fiona Brown Email.

**Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

33. When and how (if at all) did it come to your attention that Fiona Brown made a telephone call on 14 October 2022 to raise with the ODPP those same issues addressed in the Fiona Brown Email (**Fiona Brown Call**)?
34. When you became aware of the Fiona Brown Call (if you did), did you inform anyone within the ODPP of the Fiona Brown Call? If not, why not. If so, provide details including

- (a) who you informed;
- (b) when you informed them;
- (c) how you informed them;
- (d) any further discussions or correspondence you had with anyone you informed; and
- (e) to the extent not addressed in response to (d) above, any discussions or correspondence that you're aware of between ODPP staff (including between the DPP and Skye Jerome) regarding the Fiona Brown Call.

**Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

35. State your understanding of the relevance/significance of Fiona Brown's evidence in the trial of *R v Lehrmann* to the prosecution/defence case. Did you consider the matters Fiona Brown raised were significant to the matter (from either the prosecution or defence perspective) and/or required correction and/or to be conveyed to the legal representatives for Mr Lehrmann? Provide reasons for your views.

*Dealings with the AFP/ACT Police during the trial*

36. Outline your communications (if any) with AFP/ACT Policing during the trial. Include details about who was involved in those communications, the purpose of the communications, what was discussed, and your impressions of any communications including but not limited to:
- (a) whether you requested tasks to be actioned by any AFP/ACT Policing officers. If so, provide details including to whom the request was made, what the task involved and the approximate date the request was made;
  - (b) any communications from the AFP/ACT Policing in relation to enquiries regarding Ms Higgins' appointments with a Medical Centre;

- (c) interactions between the AFP/ACT Policing and the legal representatives for Mr Lehrmann during the trial;
- (d) the provision of information by the AFP/ACT Policing to any other persons in relation to the matter of *R v Lehrmann*; and
- (e) whether AFP/ACT Policing's communication and involvement with the ODPP during the trial was unusual and the basis of your views. Provide examples where appropriate.

**Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide details the usual particulars.

*Conduct of the AFP/ACT Police during the trial*

37. Outline your views as to the conduct of the AFP/ACT Policing officers during the trial of *R v Lehrmann* including:
- (a) in their dealings with the DPP in relation to his duty to decide whether to continue and to discontinue criminal proceedings against Mr Lehrmann;
  - (b) in their dealings with the legal representatives for Mr Lehrmann; and
  - (c) in their provision of information to any persons in relation to the matter of *R v Lehrmann*.

Provide details of the relevant officers' names, the basis for your views and provide examples, where appropriate. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

**Discharge of Jury and Retrial**

*Discharge of jury*

38. State when and how you became aware of the circumstances giving rise to the discharge of the jury in the trial of *R v Lehrmann*. Include information about who informed you,

what you were informed of, whether you were told not to disclose the information to any persons and whether you disclosed the information to any persons. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

39. Outline when and how you became aware of any persons, apart from the DPP and the legal representatives for Mr Lehrmann, had become aware of the circumstances giving rise to and/or the decision to discharge the jury. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

*Retrial*

40. Outline any discussions or correspondence you had, with the legal representatives for Mr Lehrmann or AFP/ACT Police, regarding the relisting of the trial following the discharge of the jury, including discussions or correspondence in relation to whether the DPP should be the decision maker in relation to whether to proceed with a retrial. If you have had any such discussions provide dates and details in relation to these discussions.

**Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide details of any verbal discussions.

**1 November 2022 Correspondence from the DPP**

41. Were you involved in the preparation of the correspondence from the DPP to the Chief Police Officer, Neil Gaughan dated 1 November 2022 regarding the conduct of the Investigation and trial in the matter of *R v Lehrmann*? If so, include information about:
- (a) who you discussed the contents of the correspondence with;
  - (b) the nature of the discussions (if any);

- (c) your views in relation to the correspondence; and
- (d) the basis for your views.

### **Bail**

42. Outline your involvement in relation to any application regarding bail conditions for Mr Lehrmann following the listing of the matter for retrial including:
- (a) any discussions or correspondence you had with the DPP or ODPP staff regarding bail for Mr Lehrmann and the content of those discussions; and
  - (b) whether you were aware of the AFP/ACT Policing's engagement with the legal representatives for Mr Lehrmann regarding Mr Lehrmann's bail conditions, including how you became aware, what you were aware of, and what your views in relation to this were.

**Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

### **Discontinuance**

43. Outline your involvement (if any) in relation to the DPP's decision to discontinue the criminal proceedings against Mr Lehrmann. Include details about your views in relation to the decision, the basis for your impressions and whether you raised/discussed your views with the DPP. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.
44. To the extent not addressed above, outline any discussions you were involved in regarding the public statement the DPP intended to make about the decision to discontinue criminal proceedings against Mr Lehrmann.

45. Outline whether you had any discussions with the legal representatives for Mr Lehrmann in relation to the possible discontinuance of the matter, prior to the DPP's decision to discontinue the criminal proceedings against Mr Lehrmann. If so, include information about:

- (a) the person who initiated the discussion;
- (b) the purpose of the discussion;
- (c) where the discussion took place;
- (d) the people in attendance;
- (e) if there were dominant speakers, who they were, the basis of that view and what they said;
- (f) the nature of the discussions.

**Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, social media messages, calendar invitations, calendar appointments, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

#### **Dealings with the AFP/ACT Police post trial**

46. Outline your communications (if any) with AFP/ACT Policing after the trial. Include details about who was involved in those communications, the purpose of the communications, what was discussed, and your impressions of any communications.

**Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide details the usual particulars.

#### **Conduct of the AFP and ODDP/DPP during matter generally**

##### *Conduct of the AFP / ACT Policing Officers*

47. To the extent not already addressed in response to the above paragraphs, outline any concerns you have regarding the conduct of the AFP/ACT Police in relation to the



Investigation and/or prosecution of the matter of *R v Lehrmann* including:

- (a) in their dealings with the DPP in relation to his duty to decide whether to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann;
- (b) in their dealings with the legal representatives for Mr Lehrmann before, during or after the trial in the matter of *R v Lehrmann*;
- (c) in their provision of information to any persons in relation to the matter of *R v Lehrmann*; and
- (d) any instances where you believe that conduct of AFP/ACT Policing officers may have been improper or in breach of their duties (provide examples where possible).

Provide details of the relevant officers' names, the basis for your views and any instances where you raised any such concerns with the AFP/ACT Police or DPP/ODPP. **Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

48. Describe your relationship generally, both during the trial and after the trial, with those ACT Policing officers involved in the Investigation and/or the prosecution of the matter of *R v Lehrmann* including but not limited to those officers listed at paragraph 15.

*Conduct of the DPP*

49. To the extent not already addressed in response to the above paragraphs, outline any concerns you have regarding the conduct of the DPP during the course of the matter of *R v Lehrmann* including:
- (a) in his dealings with the AFP/ACT Policing;
  - (b) in his dealings with the legal representatives for Mr Lehrmann before, during or after the trial in the matter of *R v Lehrmann*;

- (c) in his provision of information to any persons in relation to the matter of *R v Lehrmann*; and
  - (d) any instances where you believe that conduct of the DPP may have been improper or in breach of their duties (provide examples where possible).
50. Provide details of the basis for your views and any instances where you raised any such concerns with the DPP/ODPP or the AFP/ACT Policing. **Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.
51. Detail any conversations you had with the DPP, at any point during your involvement in the matter of *R v Lehrmann*, where he expressed a view:
- (a) there was a strong prosecution case; or
  - (b) in relation to concerns he had regarding the prosecution case or the conduct of the prosecution (including any concerns regarding Ms Higgins mental health).

**Attach** any text or chat messages (including messages sent using services such as Whatsapp, Signal etc) between, or including, yourself and the DPP, yourself and ODPP staff, relating to the matter of *R v Lehrmann*.

### **Interactions with Ms Higgins**

52. State whether, in your experience, it is usual for the DPP and/or the ODPP to discuss a sex offence investigation/prosecution directly with the complainant. Provide a basis for your views.
53. Outline whether you are aware of the DPP directly meeting or communicating with Ms Higgins in relation to the matter of *R v Lehrmann* up to, and until the date of this subpoena. If you are aware of any interactions, provide details about those interactions. **Attach** copies of relevant communications or documents including but not limited to

correspondence, emails, text messages, social media messages, calendar appointments / invitations, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

54. In chronological order, outline your direct interactions with Ms Higgins (if any) in relation to the matter of *R v Lehrmann* up to, and until the date of this subpoena. Include information about:
- (a) the person who initiated the meeting/discussion;
  - (b) the purpose of the meeting/discussion;
  - (c) where the meeting/discussion took place;
  - (d) the people in attendance;
  - (e) if there were dominant speakers, who they were, the basis of that view and what they said;
  - (f) the material (if any) you were provided in relation to the meeting/discussion, including whether you reviewed the material prior to or after the meeting/discussion; and
  - (g) the nature of the discussions.

**Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

55. State whether, at any time from your first involvement in the matter until 2 December 2022, you became aware of any issues related to Ms Higgins' mental health. If so, provide details as to the information within your knowledge and outline any steps you took in relation to that information, including, but not limited to any discussions you had at that time with the DPP and/or the AFP/ACT Policing regarding Ms Higgins mental health. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

**Interactions with the Victims of Crimes Commissioner**

56. Outline your professional dealings (if any) with the VCC prior to the matter of *R v Lehrmann*.
57. Prior to the matter of *R v Lehrmann* had you prosecuted any sexual offence matters where the VCC (or her staff) had supported a complainant at court or acted as an intermediary between the police and the complainant or between the ODPP and the complainant? If so, provide details as to the involvement of the VCC (or her staff) in those matters and provide matter citations, if applicable.
58. Outline your observations of the VCC's involvement in the matter of *R v Lehrmann* including but not limited to providing support to Ms Higgins and the evidence provided by the VCC in relation to this matter. Provide details about whether the VCC's involvement was unusual in those instances and the basis of your views. Provide examples where appropriate.
59. In chronological order, outline your interactions with the VCC in relation to the matter of *R v Lehrmann* up to, and until the date of this subpoena. Include information about:
- (a) the person who initiated the meeting/discussion;
  - (b) the purpose of the meeting/discussion;
  - (c) where the meeting/discussion took place;
  - (d) the people in attendance;
  - (e) if there were dominant speakers, who they were, the basis of that view and what they said;
  - (f) the material (if any) you were provided in relation to the meeting/discussion, including whether you reviewed the material prior to or after the meeting/discussion; and
  - (g) the nature of the discussions.

**Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

**Media**

60. Outline your interactions (if any) with the media in relation to the matter of *R v Lehrmann*. **Attach** copies of relevant communications or documents including but not limited to correspondence, emails, text messages, social media messages, calendar invitations, calendar appointments, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

**Miscellaneous***Book*

61. Outline how and when you become aware of Ms Higgins' pre-published book. Provide details as to how and when you/the ODPP obtained possession of the pre-published book.
62. State whether you or someone from the ODPP provided a copy of the pre-published book or any of its contents to the AFP/ACT Policing officers. If so, on what date and to whom was it provided. If not, provide the reasons as to why it was not provided to AFP/ACT Policing.
63. State whether you or someone from the ODPP provided a copy of the pre-published book or any of its contents to the legal representatives for Mr Lehrmann. If so, on what date and to whom was it provided? If no, provide the reasons as to why it was not provided to the legal representatives for Mr Lehrmann.

**Board of Inquiry**

64. State whether you have spoken to the DPP, ODPP staff or any other persons (other than legal advisors you have engaged in relation to your involvement in the Board of Inquiry) in relation to the provision of evidence to the Board of Inquiry under s 26(1)(b) of the *Inquiries Act 1991*, including advice surrounding the provision of information to legal representatives. **Attach** copies of relevant communications or documents including but

not limited to correspondence, emails, text messages, social media messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

65. Outline any other matters you wish to raise with respect to the Terms of Reference of the Board of Inquiry.

## Attachment 14

ACT Public Service

# WORK LEVEL STANDARDS

**Classification: Prosecutor**



**ACT**  
Government

## INTRODUCTION TO ACTPS WORK LEVEL STANDARDS

Work level standards (WLS) describe the distinctive elements of work at each classification level. They are a statement of the broad job requirements and operating context, the typical duties, and the qualifications, skills and experience required of each classification level.

WLS are not supposed to be a comprehensive list of responsibilities and duties for each classification level. Roles will not necessarily involve all of the examples listed in the WLS.

The current WLS have been developed using multiple sources of information to ensure they suitably reflect and are relevant to the operating context within which the classification group is currently operating within.

The descriptions of the functions and characteristics consider the wide-ranging nature of work that occurs within the ACTPS. They should be considered as general in nature and will require some interpretation based on the broad job context and conditions within which the functions and characteristics are performed.

The WLS consist of the following three elements:

1. **Characteristics** contain general statements about the broad job requirements and operating context for each classification level. They are described in *work value* terms, using the four key elements of the ACTPS Work Value Framework:
  - Responsibility and accountability
  - Physical nature of work (where applicable)
  - Cognitive nature of work
  - Social nature of work
2. **Functions** detail the typical duties and provides examples of the types of tasks and/or functions performed at each classification level.
3. **Qualifications, skills, and experience** detail the general type and extent of the qualifications, skills and experience expected at each classification level.

## HOW ARE WORK LEVEL STANDARDS RELEVANT?

The ACTPS WLS:

- Provide a common language across work areas and Directorates within the ACTPS.
- Support sound decision-making for role design and classifications.
- Help employees understand what is expected of them in their role.

The main uses for WLS include:

- **Role classification** – for example, a new role is being created and the WLS are used to determine what classification the role should be.
- **Role design or re-design** – for example, the operating context a role is working within has changed and the role needs to be re-designed to reflect the changes.
- **Evaluation of work value** – for example, when the requirements of a role have changed they should be assessed using the *ACTPS Work Value Assessment Framework* to determine the most suitable classification level.
- **Developing a position description or job advertisement** – for example, when advertising to recruit for a role, the WLS can be used to describe the key requirements associated with the role.



- **Learning and development** – for example, an employee who wants to progress to a higher classification level can use the WLS to identify the areas where they need to gain more experience.
- **Performance management** – for example, a manager can use the WLS to set performance expectations related to the role and classification level with their team members.

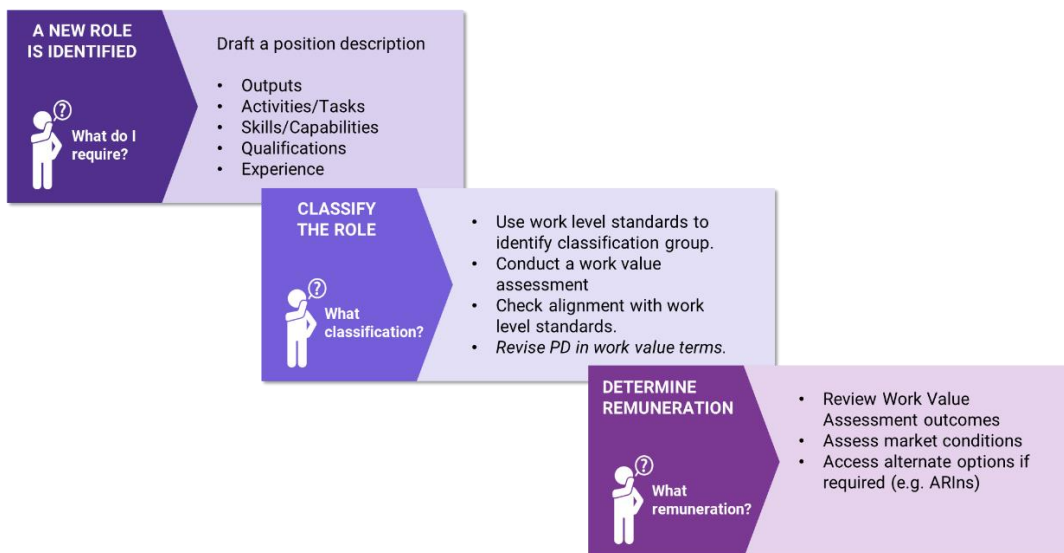
## USING WORK LEVEL STANDARDS AND WORK VALUE ASSESSMENT TOOL FOR CLASSIFYING A ROLE

Assessing a role for the purposes of classification involves objectively evaluating a role based on information and evidence gathering and mapping against the ACTPS Work Value Assessment framework features which can be found in the *ACTPS Work Value Assessment Tool*. Information and evidence gathering includes activities such as reviewing position descriptions and interviewing or surveying individuals within a role and those supervising the role.

It is important to note the *ACTPS Work Value Assessment Tool* provides an assessment of work value only. To determine what classification a role best fits within, a review of relevant work level standards will also need to be undertaken. Work level standards capture the way in which tasks, responsibilities, skills, and experience differ across classifications.

There are also additional considerations, such as market conditions, that are important when it comes to determining remuneration for a role.

An example of how the work value assessment, work level standards, and other considerations all form part of determining the classification for a role is depicted below.



Appendix A of this document provides a set of recommended work value scores for this classification group that should be used in line with the guidance provided in the *ACTPS Work Value Assessment Tool*.

## SUMMARY

### Characteristics

The following table outlines the differences between the Prosecutor Classification levels in terms of the work value factors (*refer to the ACTPS Work Value Assessment Framework for further details*).

WORK VALUE FACTORS	PROSECUTOR 1-2	PROSECUTOR 3	PROSECUTOR 4	PROSECUTOR 5
Organisation of work	Low Responsibility	↑ Limited Responsibility	↑ Moderate Responsibility	→ Moderate Responsibility
Implications of failure	Moderate	→ Moderate	↑ Major	→ Major
Autonomy and decision making	General Supervision	↑ Limited Direction	→ Limited Direction	→ Limited Direction
Accountability	Limited	→ Limited	↑ Moderate	↑ High
Physical environment	Low	→ Low	→ Low	↑ Limited
Degree of physicality	Low	→ Low	→ Low	→ Low
Cognitive complexity	Moderate Complexity	↑ High Complexity	→ High Complexity	→ High Complexity
Application of knowledge and skills	Substantial	→ Substantial	↑ Highly Developed	↑ Advanced
Mental Stress	Moderate Exposure	→ Moderate Exposure	↑ High Exposure	→ High Exposure
Team environment	Moderate Interaction	→ Moderate Interaction	↑ High Interaction	→ High Interaction
Customer and client relationships	Moderately complex and sensitive	→ Moderately complex and sensitive	→ Moderately complex and sensitive	↑ Complex and sensitive

↑ Higher work value than the lower Classification level → Equivalent work value than the lower Classification level

## Functions

There are many typical duties which are similar across the levels, with the key differences relating to the additional supervisory, advisory, and representational activities for the higher-level roles.

Note, whilst many of the duties are the same description, the differences are evident when overlaid with the characteristics of the classification level. For example, the function of *appearing in court in summary hearings, supreme court sentences, appeals and trials* applies to most levels in the classification however the complexity and sensitivity of the matters dealt with increases with level (i.e. a Prosecutor Grade 5 role would be expected to handle the most complex and sensitive matters).

## Qualification, skills, and experience

All classification levels require the following qualifications:

- A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which is appropriate to the duties of the office.
- Admission or eligibility to practice as a legal practitioner in the ACT.

All classifications require similar skills and experience, with the depth and extent of experience increasing with level:

- Knowledge and experience in criminal law and practice, and the laws of evidence applicable to the Territory.
- An understanding of relevant legal statutory, regulatory and policy frameworks.
- Knowledge and experience of criminal law and practice, and the laws of evidence applicable to the Territory and a demonstrated history as an advocate.

There are additional skills and experience related to leadership and management required at the Prosecutor Grade 4 and 5 levels.

## PROSECUTOR GRADE 1-2

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### CHARACTERISTICS

#### Responsibility and accountability

A role at this level would typically:

- Have little or no supervisory responsibilities.
- Have responsibility for use of own resources in line with established procedures and practices.
- Incur moderate consequences arising from failure to effectively undertake the required work because there are some mitigations in place to prevent major consequences occurring.
- Work under general supervision, conducting work independently within established procedures and guidelines.
- In some circumstances, be accountable for setting priorities for the work area, monitoring workflow, and reviewing work of less experienced employees.
- Be accountable to an immediate supervisor for personal and team outcomes to some extent.
- Be accountable for monitoring emerging issues, identifying their impact on tasks, and identifying and mitigating risks that will impact on personal and team outcomes.

#### Cognitive nature of the work

Work at this level would typically:

- Be moderately complex to complex in nature and relate to a range of activities.
- Involve exposure to high pressure or extreme demands and may occasionally be completed in an intense environment.
- Require interpretation, analysis, and some judgement to select an appropriate course of action.

#### Social nature of the work

Work at this level would typically involve:

- Operating within a team where some interaction with and reliance on other team members is required to undertake the work.
- Occasional reliance on other team members to complete simple and straightforward tasks.
- Liaising with a range of stakeholders in relation to difficult or sensitive issues and on moderately complex to complex policy, project, or operational issues.
- Communication with and provision of advice and recommendations to a wide variety of customers and external stakeholders to achieve work area goals.
- Consulting and advising internal and external stakeholders, anticipating, and responding to their needs and expectations.
- Representing the agency by promoting its interest at community and cross-agency levels and undertaking a representation or presentation role on behalf of the immediate work area.

### FUNCTIONS

*Functions for the Prosecutor 1/2 classification fall into two categories: Prosecutor or Research Officer*

#### **Prosecutor**

Typical duties for Prosecutor roles at this work level include:

- Prepare for and appear in court in mention lists, summary hearings and coronial inquests.
- Act as instructing solicitor in trials in superior courts.
- Prosecute summary hearings and committals and undertake case management responsibilities including effective file management.
- Exercise judgement in determining what charges should proceed, whether to oppose bail, what evidence should be led.
- Liaising with Australian Federal Police (AFP), members of the defence, complainants/victims, witnesses, and support agencies where appropriate and providing timely updates on court outcomes through preparing written instructions, submissions, committal documentation as well as formal communications.
- Appearing in court to adduce evidence, advocate for outcomes and correct errors emanating from the bench or defence.
- Instruct Counsel in Supreme Court trials.
- Prepare advices.
- Assist with policy analysis on matters affecting the office's practices and procedure and contribute to team and corporate objectives.
- Maintain records and files in accordance with the *Territory Records Act (ACT) 2002*.

### Research Officer

Typical duties for Research Officer roles at this work level include:

- Providing support with the research and administrative functions of the Director's Office.
- Conduct research relating to policy, practice, and law reform, and produce executive summaries and advices.
- Maintain the internal legislation register.
- Manage and administer research tools for the Office of the Director of Public Prosecutions (DPP).
- Provide secretarial assistance to the Director including work processing of court documents, spreadsheet creation and maintenance, and use of the DPP Case Management System.
- Maintain records and files in accordance with the *Territory Records Act (ACT) 2002*.

## QUALIFICATIONS, SKILLS AND EXPERIENCE

A person in a role at this level is expected to have:

- Knowledge of criminal law and practice, and the laws of evidence applicable to the Territory.
- An understanding of relevant legal statutory, regulatory and policy frameworks.
- A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which is appropriate to the duties of the office.
- A proven knowledge of criminal law and practice, and the laws of evidence applicable to the Territory and a demonstrated history as an advocate.
- Admission or eligibility to practice as a legal practitioner in the ACT.

## PROSECUTOR GRADE 3

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### CHARACTERISTICS

#### Responsibility and accountability

A role at this level would typically:

- Have limited supervisory responsibilities. There may be a requirement to provide advice and guidance on procedural matters.
- Have some direct responsibility for resource management in-line with established procedures and practices.
- Incur moderate consequences arising from failure to effectively undertake the required work because there are some mitigations in place to prevent major consequences occurring.
- Work under limited direction, using professional judgment in determining how objectives are achieved and in interpreting, applying, and modifying policies, practices, and procedures.
- Use professional judgement in evaluating risk in the context of a complex and changing environment.
- Be accountable for setting priorities for the work area, monitoring workflow, and reviewing work of less experienced employees.
- Be accountable for monitoring emerging issues to identify impact on tasks and identifying and mitigating risks that will impact on own and team outcomes.
- Be responsible for managing competing requests, demands, and priorities, and for planning for the achievement of personal or team results.

#### Cognitive nature of the work

Work at this level would typically:

- Be complex and involve various activities involving different, unrelated processes/methods.
- Deal with unfamiliar circumstances, variations in approach and/or sudden changes and depend on analysis of the issues and the selection of an appropriate course of action from several options requiring sound and evaluative judgement.
- Involve exposure to high pressure or extreme demands and work may occasionally be conducted in an intense environment.

#### Social nature of the work

Work at this level would typically involve:

- Operating within a team where some interaction with and reliance on other team members is required to undertake the work.
- Occasional reliance on other team members to complete simple and straightforward tasks.
- Liaising with a range of stakeholders in relation to difficult or sensitive issues and on moderately complex to complex policy, project, or operational issues.
- Communication with and provision of advice and recommendations to a wide variety of customers and external stakeholders to achieve work area goals.
- Consulting and advising internal and external stakeholders, anticipating, and responding to their needs and expectations.
- Representing the agency by promoting its interest at community and cross-agency levels and undertake a representation or presentation role on behalf of the immediate work area.

## FUNCTIONS

Typical duties for this work level include:

- Preparing for and appearing in court in mention lists, summary hearings and committals in the Magistrate's Court and superior courts.
- Acting as instructing solicitor in trials in superior courts.
- Prosecuting summary hearings and committals and undertake case management responsibilities including effective file management.
- Prosecuting trials, sentencing proceedings and appeals in superior courts. Determining what charges should proceed, whether to oppose bail, what evidence should be led.
- Liaising with the AFP, members of the defence, complainants/victims, witnesses, and support agencies where appropriate.
- Providing timely updates on court outcomes through preparing written instructions, submissions, committal documentation as well as formal communications.
- Appearing in court to adduce evidence, advocate for outcomes, and correct errors emanating from the bench or defence.
- Prepare advices.
- Conducting detailed analysis on matters which affect the office's practices and procedures such as policy, practice, and law reform.
- Producing reports which contribute to the development of related policies and procedures as well as contributing to team and corporate objectives.
- Providing assistance to more senior prosecutors.
- Representing the Director on committees dealing with criminal justice issues.
- Provide the Director with policy analysis on matters affecting the office's practices and procedures.
- Act as second in charge ("2IC") of a team of prosecutors, exercise authority outlined in Director's Instructions and otherwise act as mentor to junior prosecutors.
- Maintaining records and files in accordance with the *Territory Records Act (ACT) 2002*.

## QUALIFICATIONS, SKILLS AND EXPERIENCE

A person in a role at this level is expected to have:

- Detailed knowledge of criminal law and practice, and the laws of evidence applicable to the Territory.
- A highly developed understanding of relevant legal statutory, regulatory and policy frameworks.
- A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which is appropriate to the duties of the office.
- A proven knowledge of criminal law and practice, and the laws of evidence applicable to the Territory and a demonstrated proven record as an advocate in criminal proceedings.
- A proven history as an advocate and demonstrated ability to provide high quality legal advice.
- Admission or eligibility to practice as a legal practitioner in the ACT.

## PROSECUTOR GRADE 4

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### CHARACTERISTICS

#### Responsibility and accountability

A role at this level would typically:

- Have responsibility for supervising and organising the day-to-day work of a small number of employees or a small team who carry out similar types of work or has team members undertaking similar tasks or who possess similar skill sets.
- Have direct responsibility for resource management including administering, monitoring, and reporting.
- Incur major consequences arising from failure to effectively undertake the required work though there are some mitigations in place to prevent major consequences occurring.
- Work under limited direction, using professional judgment in determining how objectives are achieved and in interpreting, applying, and modifying policies, practices, and procedures.
- Use professional judgement in evaluating risk in the context of a complex and changing environment.
- Be accountable for developing plans and objectives for short-term tasks and contributing to business improvement strategies.
- Be accountable for monitoring related emerging issues, identifying impact, and conducting risk management activities within a sphere of responsibility.
- Be responsible for providing expertise and technical knowledge across a range of activities, providing technical advice, and ensuring knowledge of and compliance with relevant legislation and policy frameworks.
- Be responsible for setting priorities and ensuring quality of outputs for the work area.

#### Cognitive nature of the work

Work at this level would typically:

- Be complex and involve various activities involving different, unrelated processes/methods.
- Deal with unfamiliar circumstances, variations in approach and/or sudden changes.
- Depend on analysis of the issues and the selection of an appropriate course of action from a number of options requiring sound and evaluative judgement.
- Involve exposure to high pressure or extreme demands and may be conducted in an intense environment. Work may also potentially include exposure to traumatic incidents.

#### Social nature of the work

Work at this level would typically involve:

- Operating within a team with a significant level of interaction with and reliance on other team members being required to undertake the work.
- Cooperation and negotiation to solve problems when interacting with team members.
- A high-level of regular interaction with other teams within the organisation.
- Liaising with a range of stakeholders in relation to difficult or sensitive issues and on moderately complex to complex policy, project, or operational issues.
- Communication with and provision of advice and recommendations to a wide variety of customers and external stakeholders to achieve work area goals.
- Consulting and advising internal and external stakeholders, anticipating, and responding to their needs and expectations.



- Representing the agency by promoting its interest at community and cross-agency levels and undertaking a representation or presentation role on behalf of the immediate work area.

## FUNCTIONS

Typical duties for this work level include:

- Preparing for and appearing in court in summary hearings, Supreme Court sentences, appeals and trials as well as in the Magistrates and Children's Courts.
- Prosecuting trials, sentencing proceedings and appeals in superior courts.
- Leading and managing a team responsible for prosecutions, inquests, and other related matters to ensure prosecutions are conducted fairly and effectively and in accordance with the prosecution policy and guidelines.
- Liaising with the AFP, members of the defence, complainants/victims, witnesses, and support agencies where appropriate.
- Providing timely updates on court outcomes through preparing written instructions, submissions, committal documentation, as well as formal communications. Determining what charges should proceed, whether to oppose bail, what evidence should be led.
- Conducting detailed analysis on matters which affect the office's practices and procedures such as policy, practice, and law reform and directly contributing to the development of criminal law policies and procedures.
- Acting as supervisor and mentor to prosecution staff and giving guidance on difficult questions of criminal law and practice.
- Provide high-level advice and policy analysis to the Director.
- Contribute to the development of criminal law policy.
- Represent the Director on committees and forums dealing with criminal justice issues.
- Contributing to the management of the office as a part of a senior leadership team.
- Maintaining records and files in accordance with the *Territory Records Act (ACT) 2002*.

## QUALIFICATIONS, SKILLS AND EXPERIENCE

A person in a role at this level is expected to have:

- Extensive knowledge of criminal law and practice, and the laws of evidence applicable to the Territory.
- A highly developed understanding of relevant legal statutory, regulatory and policy frameworks and a record in the development, analysis and implementation of criminal justice policy and procedure.
- A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which is appropriate to the duties of the office.
- A proven history as an advocate and demonstrated ability to provide high quality legal advice.
- Admission or eligibility to practice as a legal practitioner in the ACT.
- Leadership and management skills including the ability to: manage staff performance; motivate, encourage, and support the development of staff; lead and manage organisational change; and articulate vision and strategic direction.

## PROSECUTOR GRADE 5

---

### CHARACTERISTICS

#### Responsibility and accountability

A role at this level would typically:

- Have responsibility for supervising and organising the day-to-day work of a small number of employees or a small team who carry out similar types of work or has team members undertaking similar tasks or who possess similar skill sets.
- Have direct responsibility for resource management including administering, monitoring, and reporting.
- Incur major consequences arising from failure to effectively undertake the required work though there are some mitigations in place to prevent major consequences occurring.
- Work under limited direction, using professional judgment in determining how objectives are achieved and in interpreting, applying, and modifying policies, practices, and procedures.
- Use professional judgement in evaluating risk in the context of a complex and changing environment.
- Be accountable for developing plans and objectives for short-term tasks and contributing to strategic planning for longer-term initiatives.
- Be responsible for providing expertise and technical knowledge across a range of programs or activities, providing accurate and specialised advice, and ensuring knowledge of and compliance with relevant legislation and policy frameworks.
- Be accountable for monitoring related emerging issues, identifying impact, and conducting risk management activities within sphere of responsibility.
- Help set priorities and ensure quality of outputs for the work area.

#### Cognitive nature of the work

Work at this level would typically:

- Be complex and involve various activities involving different, unrelated processes/methods.
- Deal with unfamiliar circumstances, variations in approach and/or sudden changes.
- Depend on analysis of the issues and the selection of an appropriate course of action from a number of options requiring sound and evaluative judgement.
- Involve exposure high pressure or extreme demands and may be conducted in an intense environment. Work may also potentially include exposure to traumatic incidents.

#### Social nature of the work

Work at this level would typically involve:

- Operating within a team with a significant level of interaction with and reliance on other team members being required to undertake the work.
- Cooperation and negotiation to solve problems when interacting with team members.
- A high-level of regular interaction with other teams within the organisation.
- Developing and managing relationships with stakeholders, engaging, and collaborating to achieve outcomes and facilitate cooperation.
- Presenting the agency's position in the context of very complex or sensitive issues to key stakeholders within and outside the agency.
- Providing direct customer or client service and support on complex matters and handling customer complaints and problems.

## FUNCTIONS

Typical duties for this work level include:

- Appearing in court in summary hearings, Supreme Court sentences, appeals and trials.
- Prosecute Supreme Court trials and Magistrate Court matters.
- Leading and managing a team responsible for prosecutions, inquests, and other related matters to ensure prosecutions are conducted fairly and effectively and in accordance with the prosecution policy and guidelines.
- Liaising with the AFP, members of the defence, complainants/victims, witnesses, and support agencies where appropriate and providing timely updates on court outcomes through preparing written instructions, submissions, committal documentation as well as formal communications.
- Determining what charges should proceed, whether to oppose bail, and what evidence should be led.
- Contributing to the development of criminal law policies and procedures and formulating internal policies, guidelines and directions, and manuals.
- Acting as supervisor and mentor to prosecution staff and conducting training and performance management.
- Provide high-level advice and policy analysis to the Director.
- Represent the Director on committees and forums dealing with criminal justice issues.
- Management of the office as a part of the senior leadership team.
- Maintaining records and files in accordance with the *Territory Records Act (ACT) 2002*.

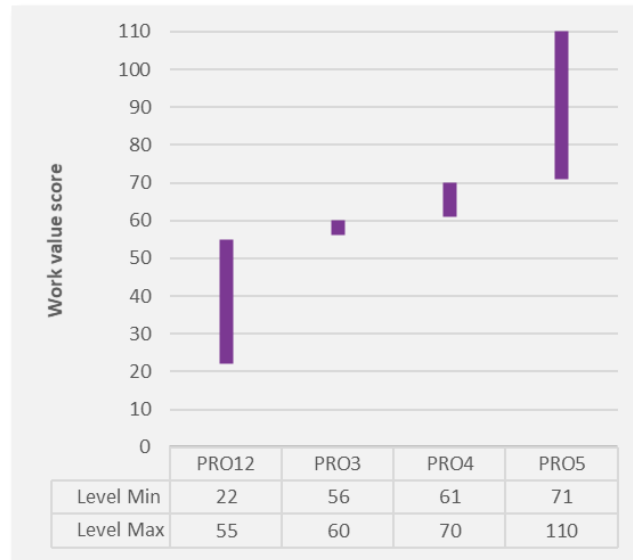
## QUALIFICATIONS, SKILLS AND EXPERIENCE

A person in a role at this level is expected to have:

- Extensive knowledge of criminal law and practice, and the laws of evidence applicable to the Territory.
- A highly developed understanding of relevant legal statutory, regulatory and policy frameworks and a record in the development, analysis and implementation of criminal justice policy and procedure.
- A degree in Laws of an Australian tertiary institution, or a comparable overseas qualification, which is appropriate to the duties of the office.
- A proven knowledge of criminal law and practice, and the laws of evidence applicable to the Territory.
- A proven history as an advocate and demonstrated ability to provide high quality legal advice.
- Admission or eligibility to practice as a legal practitioner in the ACT.
- Strong leadership and management skills including the ability to: manage staff performance; motivate, encourage, and support the development of staff; lead and manage organisational change; and articulate vision and strategic direction.

## APPENDIX A – RECOMMENDED WORK VALUE SCORES

The following graph shows the recommended range of work value scores for the classification group. The vertical axis indicates the work value score range (with the minimum work value score being 22 and maximum 110). The horizontal axis displays each classification level, with the table specifying the minimum and maximum work value score for each classification level. Note these scores should be used in conjunction with the guidance provided in the *ACTPS Work Value Assessment Tool*.



**From:** Drumgold, Shane  
**Sent:** Monday, 22 August 2022 11:07 AM  
**To:** Pitney, Sarah  
**Cc:** Jerome, Skye; Greig, Mitchell; Priestly, Erin  
**Subject:** R v Lehrmann  
**Attachments:** Case Statement.docx; Court Document.docx; Witness List.docx; Opening.docx; Trial Table.docx

**OFFICIAL: Sensitive**

Hi All

With Erin's pending leave, we will be joined in Lehrmann by Sarah Pitney. Sarah works 1.5 days per week from home, but given most of the heavy lifting has been done, I am happy to work around this.

Sarah – welcome on board the H train. It has been some ride so far, and I imagine it will continue its bumpy path to conclusion. I have attached the Case Statement, Court Document, Witness List and opening. I have also attached a document called trial table, that is the exhibit by witness.

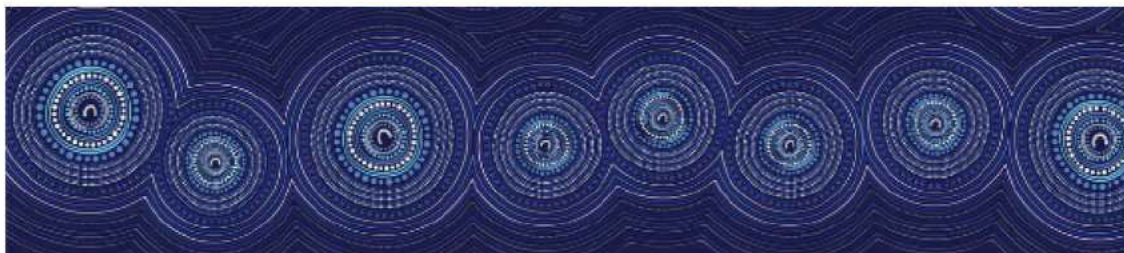
I provide this just to enable you to quickly read into the matter to grab a basic understanding of the case, and we will include you in all future meetings, where we can discuss the more difficult elements of the trial so far, however this should allow you to get a quick understanding of the basis case.



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
M: REDACTED  
E: REDACTED @act.gov.au  
E: REDACTED @act.gov.au (EO)  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

For a full range of victims rights, please go to [www.dpp.act.gov.au](http://www.dpp.act.gov.au) and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



**We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people  
We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region**

Artwork by Ngarrindjeri artist Jordan Lovegrove

IN THE SUPREME COURT OF THE )  
 )  
 AUSTRALIAN CAPITAL TERRITORY ) No. SCC 264 of 2021  
 )  
 CRIMINAL JURISDICTION )

THE QUEEN

against

BRUCE EMERY LEHRMANN

## CASE STATEMENT

### Summary

The accused is charged that on 23 March 2019, he engaged in sexual intercourse with Brittany Mae Higgins, without her consent, and was reckless as to whether she had consented.

### Outline of the Crown case

#### Background:

In late February 2019 the complainant worked as a media advisor for the former Federal Minister for Defence Industry, the Honourable Steven Ciobo, and the accused worked as a political adviser for the Honourable Linda Reynolds.

On 11 April 2019, the Prime Minister called an election for 18 May 2019. In the lead up to this, on around 1 March 2019 Minister Ciobo announced he would not contest the next election. On 2 March 2019, the Defence Industry portfolio transferred from Minister Ciobo to the Honourable Linda Reynolds. The portfolio transfer merged the group of staffers who worked for both Ministers. The accused was amongst the group of staffers originally working for Minister Reynolds and the complainant was amongst the group transferring from Minister Ciobo's office to Minister Reynolds office with the Defence Industries portfolio.

There was a general sense within the government and their staff that the incumbent government would lose the election, and the team would essentially usher the office through to the end of the government at the election on 18 May 2019.

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#### Filed by the Crown:

Director of Public Prosecutions  
 1<sup>st</sup> Floor, Reserve Bank Building  
 20-22 London Circuit  
 CANBERRA ACT 2601

Reference: 202113941  
 Telephone: [REDACTED]  
 Facsimile: [REDACTED]

Against this backdrop, on the evening of Friday 22 March 2019, a group of staffers attended The Dock Restaurant and Bar on the Kingston Foreshore to signify what they thought was the run up to end of the government.

The complainant arrived around 7.19pm and had arranged a date on [REDACTED] [REDACTED] for the evening. The complainant purchased her first drink at 7.24pm attending the bar on her own then returning to table one, before later meeting her date and spending the evening socialising. The accused went out for dinner with a friend [REDACTED] and arrived at The Dock at 8.39pm.

During the evening the complainant's date left and she remained with a group that included the accused. At 11.50pm the group disbursed. The accused, the complainant and two others from the group, [REDACTED] and [REDACTED], then attended another club in Canberra City called 88 mph.

It is unknown whether the complainant drank more alcohol at 88 mph. However as at 11.50pm, when she left The Dock, it is anticipated that she had consumed a large number of alcoholic drinks over the 4.5-hour period.

#### Complainant's Intoxication

[REDACTED] stated that at 88mph *"I remember Brittany [complainant] being really drunk....I remember her falling over. Um, and sort of pulling herself back up onto the couch and I think Bruce [accused] helped her back onto the couch".*<sup>1</sup>

The complainant recalled *"I was drinking consistently throughout the night, so people were buying me drinks"*<sup>2</sup>; *"On leaving the Dock, I would say [my intoxication was] seventy per cent, I was already very drunk at that point"*<sup>3</sup>; *"The next thing I sort of remember was being at 88mph, so like I – yea, I was already leaving the Dock I was really very drunk"*.<sup>4</sup> *"I was pretty embarrassed by falling over. Um, I remember after I fell over. Bruce [accused] helped me up"*.<sup>5</sup> *"I kind of managed to catch myself in terms of hands, like I didn't face plant, but I definitely got my knees, and I was off-road, I had to be helped up...I remember Bruce helped me up."*<sup>6</sup> *"It's as drunk as I've ever been in my life."*<sup>7</sup>

The complainant reported that "he" was buying me a lot of drinks.<sup>8</sup> The complainant does not outline how she knew it was the accused, or how they were paid for etc. However, in his record of interview, the accused produced receipts from bank

<sup>1</sup> ROI Madders/[REDACTED] 24/3/21 - Q32.

<sup>2</sup> EICI Madder/Higgins 24/2/21 Q103.

<sup>3</sup> EICI Madders/Higgins 24/2/21 Q153.

<sup>4</sup> EICI Madders/Higgins 24/2/21 Q151.

<sup>5</sup> EICI Madders/Higgins 24/2/21. Q28.

<sup>6</sup> EICI Madders/Higgins 24/2/21 Q176-177.

<sup>7</sup> EICI Madders/Higgins 24/2/21 Q172.

<sup>8</sup> EICI Madders/Higgins 24/2/21 Q25.

accounts suggesting he spent \$24.20 at the Kingston Hotel and a single transaction of \$16.00 at The Dock. His records showed him spending a further \$40.00 at 88 mph.

The group stayed at 88 mph from around 12.00am until around 1.30am the following morning.

#### Leaving 88mph for Parliament House

The complainant stated that at that time she lived in Woden and recalled the accused suggesting they go together in a cab.<sup>9</sup> They did this, and the complainant stated *"I don't specifically remember sort of the words that were said, but it was sort of something along the lines of, "I have to stop in and pick something up from work." Um, and I – I wasn't really cognizant, I wasn't fully in a state where I was sort of argumentative. I was really open to suggestion. Um, and so, at that point I was broadly – it didn't seem inconceivable to go to Parliament, it felt like a safe space for me, and I didn't say, 'No', to going to Parliament"*.<sup>10</sup>

#### Intoxication on arrival at Parliament House 1.42am

██  
██ noted the complainant had grass stains down one side of her dress.<sup>11</sup> There is no evidence to explain how the stains came to be there.

The complainant attempted to compose herself, and ██████████ noted that she initially triggered the scanner and had to remove her shoes and go through a second ██████████ stated that *"It wasn't until that point in time, when she was trying to get her shoes back on, that I realised how intoxicated she actually was. Um, because she could not get her shoes back on for the life of her."*<sup>12</sup>

In an interview on 18 March 2021, the second guard ██████████ described the complainant as *"Slightly intoxicated, she was not – she was not staggeringly drunk, I know a staggeringly drunk person."*<sup>13</sup> Conversely, ██████████ recorded the following in his original incident report dated 24 March 2019, *"I observed that the female may have been affected by alcohol as she stumbled whilst trying to self-clear through the Walk-through Metal Detector."*<sup>14</sup>

The complainant described herself as *"falling all over the place. I fell over at Parliament. I couldn't sign my own name."*<sup>15</sup>

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<sup>9</sup> EICI Madders/Higgins 24/2/21 Q29.

<sup>10</sup> EICI Madders/Higgins 24/2/21 Q31.

<sup>11</sup> Madders/██████████ 24/4/21 Q53.

<sup>12</sup> Madders/██████████ 24/4/21 Q62.

<sup>13</sup> Madders/██████████ 18/3/21 Q44.

<sup>14</sup> Report of ██████████ 24/03/2019.

<sup>15</sup> EICI Madders/Higgins 24/2/21 Q34.



██████████ escorted the pair to Minister Reynolds office, arriving at 1.48am, and called the control room for the door to be unlocked and allowed them to enter before leaving.

At this point the versions of events differ between the accused and the complainant.

#### Version of Brittany Higgins

On entry to the Minister's Office the complainant stated *"I remember sitting on one of the ledges there. Um, and – and then I don't remember whether I went to the couch myself willingly or if I was guided there or – or sort of what happened. But I remember the ne t thing I sort of remember ██████████*

*██████████ Um, at that point, I felt like a bit of time had passed. I felt like – ██████████ ██████████ "The first thing that I sort of woke up to, was a pain in my leg, that was the first thing that I sort of made me sort of cotton on to the fact or sort of knocked me awake ██████████ ██████████ I said no at least half a dozen times."*<sup>16</sup>

Regarding her clothing, during the sexual assault, the complainant stated, *"My dress was still on my body, um, but it'd had just been really scrunched up, so it was around my waist."*<sup>17</sup> ██████████

██████████ The complainant stated that afterwards, *"He looked at me and he left. ██████████"*<sup>19</sup>

██████████ noted that the accused *"appeared in a hurry and dropped off his pass. I asked him if he was coming back. He didn't stop and hastily replied, 'No.'"*<sup>20</sup>

At 4.15am (around 1 hour 45 minutes after the accused left) ██████████ attended the Minister's Office to check on the welfare of the complainant. ██████████ noted that she was *"lying naked on the lounge that was directly in front of the door. She was on her back....She's looked at me, she's rolled over into the foetal position and has gone back to sleep."*<sup>21</sup>

██████████ noted that she was completely naked, and her dress and shoes were on the floor, and she wasn't wearing a bra.<sup>22</sup>

<sup>16</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>17</sup> EICI Madders/Higgins 24/2/21 Q259.

<sup>18</sup> EICI Madders/Higgins 24/2/21 Q254.

<sup>19</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>20</sup> Report of ██████████ 24/03/2019.

<sup>21</sup> EICI Madders/Higgins 24/2/21 Q79-80.

<sup>22</sup> EICI Madders/Higgins 24/2/21 Q208-213.

The complainant does not remember [REDACTED] attending, as her next recollection is *"Probably about eight o'clock the next day. And I remember hearing a female security guard yelling into the office, asking if I was okay. I didn't see anyone, but, but I heard her yell out".*<sup>23</sup> This is consistent with evidence that at 9.15am, (around 7.5 hours after the complainant first arrived at Parliament House) guard [REDACTED] accompanied by guard [REDACTED] attended the office. When [REDACTED] knocked on the door and called out 'Security' asking if anyone was there, the complainant responded 'Yes.' [REDACTED] asked if everything was 'Okay?', and the complainant responded, 'Yes. Everything's okay.'<sup>24</sup>

After the [REDACTED] exchange, the complainant stated that she sat and ate most of a box of Roses chocolates and was then sick in the Minister's bathroom. She combed her hair and pulled herself together, then retrieved a Carla Zampatti jacket from a box of goodwill clothing and left.<sup>25</sup> [REDACTED]  
[REDACTED]

#### Version of the Accused

[REDACTED] noted that on the pair's entry, he commented *"It's very early in the morning, guys to be working. Are you going to work?" They both replied that they were going to work".*<sup>26</sup>

[REDACTED] recalled the exchange slightly differently, recalling [REDACTED] saying *"Oh, you guys are in here late. Couldn't this have waited – waited until Monday".*

[REDACTED] recalled that the accused seemed to take offence to it and replied that it couldn't have waited. [REDACTED] specifically recalled that the complainant did not say anything.<sup>27</sup>

On Tuesday 26 March 2019, Fiona Brown spoke to the accused about attending the office after hours. Brown recalled that the accused told her *"He just came in to have – to drink his whisky"* and that he said he had *"about two glasses."*<sup>28</sup> Although it does not appear in the complainant's Evidence in Chief Interview, her colleague [REDACTED], recalled whilst disclosing the events to her, the complainant told her on either 27 or 28 March 2019 that *"he wanted to come back here to like show me some whisky or there was something. I remember whisky being mentioned."*<sup>29</sup>

On 19 April 2021, the accused participated in a police recorded interview. The accused stated that he was aware that entering Parliament House after hours was a security breach, and that he was concerned the AFP would become involved for this

<sup>23</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>24</sup> ROC Madders/[REDACTED] 24/3/21 Q54.

<sup>25</sup> EICI Madders/Higgins 24/2/21 Q37.

<sup>26</sup> ROC Madders/[REDACTED] 18/3/21 Q39.

<sup>27</sup> ROC Madders/[REDACTED] 24/4/21 Q130-133.

<sup>28</sup> ROC Madders/Brown 22/3/21 Q128-130.

<sup>29</sup> ROC Madders/[REDACTED] 2/4/21 Q137.

reason.<sup>30</sup> Notwithstanding his knowledge that attending Parliament House after hours constituted a security breach significant enough to draw the attention of the AFP, he then offered two reasons for entering Parliament House:

- Reason one appears to suggest that the late-night entry to Parliament House was planned, because he left the keys to his apartment at Parliament House with a plan to swing by and grab them on his way home.<sup>31</sup>
- Reason two suggests that the accused had a conversation with people from the Department of Defence at The Dock which reminded him that he had to attend the office to do some work. The work specifically involved sticking some tabs on a certain topic on the 'Question Time Brief' for the Minister, and that it could not wait until the following Monday.<sup>32</sup>

The Crown case is that reason two is a lie, as it would be highly unlikely that he would tell his boss that he returned to the office to drink whisky yet told both security on entry and police during a formal interview that he attended Parliament House to do some work. Further, it appears highly unlikely that he would not take his apartment keys with him when he left work on 22 March to go out.

The accused stated that on entering the office, the complainant turned and went into the Minister's suite. He then went to his desk and got what he needed for the weekend, attended to some of the question time folders, ordered himself an uber and left.<sup>33</sup>

As outlined, at 2.33am (45 minutes after entering the office) the accused is seen walking through security. ██████████ noted he *"appeared in a hurry and dropped off his pass. I asked him if he was coming back. He didn't stop and hastily replied, 'No'."*<sup>34</sup>

### Intoxication

The complainant's statements of being highly intoxicated are corroborated by the observations of ██████████, ██████████ and, to a lesser extent, ██████████. It is further corroborated by the fact that on entering Parliament House at 1.42am, she fell asleep and did not become cognizant for over seven hours, when she was roused by ██████████ at 9.15am.

### Complaint

The complainant made a number of disclosures in the days that followed.

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<sup>30</sup> Boorman/Lehrmann 19/4/21 Q725.

<sup>31</sup> Boorman/Lehrmann 19/4/21 Q85.

<sup>32</sup> Boorman/Lehrmann 19/4/21 Q573-583.

<sup>33</sup> Boorman/Lehrmann 19/4/21 Q100-104.

<sup>34</sup> Report of ██████████ 24/03/2019.

On Saturday 23 March 2019, the day of the incident, the complainant had a phone conversation with her friend ██████████ and he noticed she was very cagy, but disclosed that they went back to the Minister's office for drinks, however the complainant said she did not want to talk about it.<sup>35</sup> The following day there was a combination of phone conversations and SMS exchanges in which the complainant told Mr ██████████ that she had woken up in the Minister's office half naked.<sup>36</sup> In an SMS exchange with ██████████ on the following Tuesday 26 March 2019 the complainant said *"I don't remember getting there at all, vaguely remember Bruce being there and then I woke up in the morning half dressed by myself in the Ministers office on Saturday"*. Mr ██████████ asked *"Did you hook up in there or did someone take advantage of you?"* and the complainant responded *"I was barely lucid. I really don't feel like it was consensual at all. I just think if he thought it was okay, why would he just leave me there like that"*. The complainant was concerned the matter would become public, sending a further SMS the same day *"The only thing I really want is for this to not get out and become public knowledge. Besides my parents you're the only person who knows (outside of Fiona and whenever she takes it to the Minister and apparently it has to be reported to PMO)"* The complainant told ██████████ that she did not want to go to the police because she doesn't want to make an issue of it.<sup>37</sup> In text on Monday 26 March 2019, the Complainant sent an SMS to ██████████ saying *"I'm not sure why but I feel super angry at the moment. It's probably misdirected and should be aimed at Bruce but I feel so pissed at the people in the party"*. She further messaged Tuesday 27 March 2019 *"if I want to maintain a job I can't talk about it but I'm still getting follow up calls from the AFP to this dah and I'm just at the end of my rope with it"*.

On either the Tuesday or Wednesday,<sup>38</sup> (which would be either 26 or 27 March 2019), the complainant appeared quite upset<sup>39</sup> when talking to colleague ██████████. During this conversation, the complainant reported that she had been out drinking with the accused and was taken back to Parliament House.<sup>40</sup> She described the incident in some detail including that she ██████████

██████████<sup>41</sup>

On *"probably the Wednesday or the Thursday"*<sup>42</sup> (which would be either 27 or 28 March 2019), the complainant made a disclosure to work colleague ██████████ consistent with her Evidence in Chief Interview saying that she fell asleep on the Minister's couch and woke up and the accused was on top of her.<sup>43</sup> ██████████ stated that

<sup>35</sup> ROC Madders/██████████ 23/2/21 Q23.

<sup>36</sup> ROC Madders/██████████ 23/2/21 Q26.

<sup>37</sup> ROC Madders/██████████ 23/2/21 Q74.

<sup>38</sup> ROC Boorman/██████████ 26/5/21 Q139.

<sup>39</sup> ROC Boorman/██████████ 26/5/21 Q79.

<sup>40</sup> ROC Boorman/██████████ 26/5/21 Q80-83.

<sup>41</sup> ROC Boorman/██████████ 26/5/21 Q130-133.

<sup>42</sup> ROC Madders/██████████ 2/4/21 Q117.

<sup>43</sup> ROC Madders/██████████ 2/4/21 Q138.

over the next four or five months she spoke to the complainant about four times, finally advising her that she had decided not to go further with it anymore.<sup>44</sup>

On the complainant's return to work on Monday 25 March 2019, the accused and the complainant had very limited contact. On Tuesday 26 March 2019, Office Manager, Fiona Brown, arranged to speak with the pair separately about entering Parliament House in the early hours of Saturday morning being 23 March 2019.

The accused met with Ms Brown first and was instructed to leave the office immediately. He was subsequently provided a show cause request and then was formally dismissed on 5 April 2019. The accused was dismissed for two reasons: the first being a previous security incident involving clumsy handling of secure documents; and the second being that on entry to Parliament House in the early hours of Saturday 23 March 2019, he dishonestly told security guards that he was attending to do some work.

The complainant was also spoken to by Ms Brown on Tuesday 26 March. The complainant told Ms Brown that she did not remember accessing the office but said had been out and was inebriated.<sup>45</sup> The complainant also recalled waking up semi-naked,<sup>46</sup> stating *"I'm responsible for my actions."*<sup>47</sup> Ms Brown explained it was a breach of Ministerial Code of Conduct, and that was the end of any disciplinary action with regards to the complainant. Ms Brown was however concerned for her welfare and invited her to work from home for the rest of the day.

Ms Brown organised for a second phone meeting with the complainant and phoned her. The complainant informed her that she had been crying.<sup>48</sup> Ms Brown offered to visit the complainant, but she refused.<sup>49</sup>

A third meeting with the complainant was held on Thursday 28 March 2019.<sup>50</sup> Ms Brown told the complainant that if she was unhappy with anything she would have their support and offered her contact details for the Employment Assistance Program. At this point, the complainant disclosed that *"I recall him being on top of me."*<sup>51</sup> Ms Brown then said if it was something she had not wanted to happen then she should report it. The complainant advised Ms Brown that her father was coming down to spend some time with her and she would consult him.

#### First report to the police

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<sup>44</sup> ROC Madders/ [REDACTED] 2/4/21 Q141.

<sup>45</sup> ROC Madders/Brown 22/3/21 Q164.

<sup>46</sup> ROC Madders/Brown 22/3/21 Q166.

<sup>47</sup> ROC Madders/Brown 22/3/21 Q171.

<sup>48</sup> ROC Madders/Brown 22/3/21 Q218.

<sup>49</sup> ROC Madders/Brown 22/3/21 Q218.

<sup>50</sup> ROC Madders/Brown 22/3/21 Q238.

<sup>51</sup> ROC Madders/Brown 22/3/21 Q293.

On Friday 29 March 2019, Ms Brown reported the incident to the internal Australian Federal Police, and an appointment was made for the complainant to talk to police on Monday 1 April 2019.

A meeting was held at midday on Monday 1 April 2019 between Federal Agents Rebecca [REDACTED] and Katie [REDACTED] in which the complainant disclosed the details of the events.

Federal Agents [REDACTED] and [REDACTED] then referred the matter to ACT Policing Sexual and Child Assault Team (SACAT). A week later on Monday 8 April 2019 the complainant met Detective Senior Constable Sarah Harman and Constable Kristy [REDACTED] at which point she reported the events of the evening in some detail. Police practice is to allow the complainant to retain a degree of control over the progress.

At 1.56pm on 10 April 2019 DSC Harman made a call to the complainant then left an SMS that was not responded to. At 1.28pm on Saturday 13 April 2019 the complainant sent DSC Harman an email stating:

*After careful consideration I have decided not to proceed any further in this regard.*

*I really appreciate your time, professionalism, and assistance with this complaint. You helped me more than you know.*

*It's just not the right decision for me personally, especially in light of my current workplace demands.*

*Thank-you again for your candour and I apologise if I've taken up much of your time.*

#### After first report

The day after this, on 11 April 2019 the Prime Minister called an election for 18 May 2019, and all government offices including Minister Reynolds entered election mode. This resulted in the complainant relocating to Perth to join the campaign of Minister Reynolds between 14 April – 3 May 2019, then again from 6 May 2019 to the day after the successful election being 19 May 2019.

The complainant remained in the employment of Minister Reynolds for another two and a half weeks until 7 June 2019 at which point, she accepted a role in the office of Minister Michaelia Cash.

For the year and a half from June 2019 – January 2021 the complainant remained in the employment of the Office of Minister Cash. The complainant took no further action for the second half of 2019, however, undertook counselling between 17 January 2020 and 11 March 2021.

Second report to the police

After a year of counselling the complainant decided to reinstate the report to police, and in preparation took a number of steps.

The first was to resign her position with Minister Cash, which took a number of attempts, as each time either Minister Cash's Chief of Staff [REDACTED] or Minister Cash talked her into delaying, offering sweeteners like the ability to work from her home on the Gold Coast.

On Friday 29 January 2021, the complainant formally resigned from Minister Cash's office and ceased any engagement with the Federal Government or Parliament House.

There had been some media surrounding the events, and on the following Tuesday 2 February 2021 the complainant gave an interview to a television program, which subsequently aired on 15 February 2021.

Two days after providing the interview on Thursday 4 February 2021, the complainant wrote an email to Federal Agent Rebecca [REDACTED] who had managed the first report on 1 April 2019, stating:

*I'm just reaching out in relation to a sexual assault case that we originally discussed in April 2019.*

*My work situation has changed and I'm looking at pressing forward with a formal statement. Before I make that final decision is there any way for me to review or have a copy of the original case file that exists at the present?*

Federal Agent [REDACTED] referred the matter to SACAT at ACT Policing where police reactivated the investigation.

Investigation

Detective Sergeant Kylie [REDACTED] and Senior Constable Emma Frizzell met with the complainant and the investigation recommenced.

The complainant participated in a recorded interview with police 20 days after the email to Rebecca [REDACTED] on 24 February 2021.

The complainant was very concerned about government interference in the investigation and was hesitant to produce private material that she feared may be used to generate negative publicity. This included a reluctance to produce her phone that contained a large amount of private material including SMS messages between the complainant and her family and boyfriend and private photos including those of family members. On 25 February 2021 Senior Constable Frizzell requested the complainant give police her phone and she raised concerns about Minister Dutton's

media comments indicating a knowledge of matters subject to investigation.<sup>52</sup> Officer Frizzell undertook to discuss the matter and put her at ease. A number of meetings occurred over the following weeks, and on 26 May 2021 the complainant produced her phone and consent for all of her data to be examined.

The accused participated in a record of interview on 19 April 2021.

Due to travel restrictions resulting from various COVID measures, the accused was not summonsed to attend court until 5 August 2021.

### **Elements of the offences and the evidence to be relied upon by the Crown**

The elements of sexual intercourse without consent are:

1. The accused engaged in sexual intercourse with another person;
2. The other person did not consent to the sexual intercourse; and
3. The accused was reckless as to whether the other person was consenting to the act.

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<sup>52</sup> Statement of Senior Constable Emma Frizzell 27/7/21 - paragraph 43-44



Court Document**1) Brittany HIGGINS**

- Kingston – interview 2 March 2019
  - Interview
  - ██████ and Bruce were predominantly asking questions
- Kingston – kiss
  - Wednesday team building dinners
  - Within first fortnight 2-16 March
- One afternoon meeting Kingston
- 22 March – existing group of friends
  - Do not know if they liked me or felt sorry
  - Frosty – contentious
- General tone, government was coming to an end
- Aspiration - remain
- What did you tell Fiona Brown – he was on top of me
- Second hand information about security guards finding me

- 88mph – tray shots
  - Falling over
  - Up stairs as leaving
  - Bruce help me up
- ██████ called me in Uber as leaving parliament house
- Took photo of dress on budget week (+ 1 week)

- Doctor Comment
  - ██████
  - Federal Agent ██████

- 
- Counselling
  - CRCC [7] ██████
  - Her Time [10] ██████

- 

**Maiden Interview 21/1/21****Project Interview 2/2/21 (Aired 15/2/21)**

- [Q1] Steve Ciobo was demoted, and I immediately lost my job.
- [Q2] 3 out of 20 made it to Minister Reynolds existing team.
- [Q5] Went out for Friday night drinks with colleagues in defence, I noticed he was buying me a lot of drinks.

- [Q6] I fell over in front of people. I pretty much face planted. I scuffed my knee. I was like, I have to leave.
- [Q9] He had to pick something up. Some vague, nondescript something. He'd paid the fare. He got out.
- [Q10] We went up the lift to Minister Reynolds suite.
  - I don't know if he guided me there or if I went there myself, but I ended up laying down and passing out on the Ministers couch.

- [REDACTED]
- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [REDACTED]
- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]

- [Q19] When I woke of, they were sort of yelling into the office just checking.
- [Q20] My dress was up around my waist. The straps were kind of down. I was pretty dishevelled.
  - I was scared that I was at work.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
  - [REDACTED]

- [Q28] I felt like I became a political problem.
- [Q51] Essentially I could go home, they'd pay me. I would technically be employed.
  - In 6 weeks-time our contracts are all going to expire anyway.
- [Q54] I was sort of part of Minister Reynolds WA based team.
- [Q57] Did not pursue because I was already coming up against so many blockades and I realised my job was on the line.
- In July 2019 worked for Minister Cash.

**EICI 2.31pm 24/2/21**

Introduction/employment

- [Q14] I had recently joined the new Ministerial office of Linda Reynolds – I'd been there all of 3 weeks.

- [Q389] You can be fired for no reason. It's really strange, the power dynamic, you have no one to go to but the minister.

#### Lehrmann

- [Q22] He had been a long-standing member of Minister Reynolds team and I was really new.
  - He was sort of trying to carve out space in the new office and was quite territorial about new people coming in.
- [Q23] I was the lowest person in the office.
  - Fiona Brown was chief of staff.
- [Q119] He was nice to me sometimes and sometimes buy me coffee, but at the same time he would sort of get me to manage all these bits outside my job and I did them on the basis that being a ministerial staffer, the roles are sort of blurred and you just do what's asked of you.

#### Alcohol purchases

- [Q25] He was buying me a lot of drinks. I thought that we were sort of all drinking the same level or we were having drink for drink. Later I'm not as sure about that account...because I heard he wasn't as inebriated as I was.
- [Q42] Assumption was on the basis that he'd bought the first round, he'd continued.
- [Q102] I looked back on my debit card and I didn't really buy any drinks for myself beyond the first 2.
- [Q103] I was drinking consistently throughout the night, so people were buying me drinks.
- [Q58] I remember we ultimately kind of did the full gauntlet of drinks by the end of the night.
  - I think I was just having Vodka Lime and Sodas
  - Chips to share on the table
  - We didn't order main meals or anything, it was just more like social drinks.
- [Q105] Everything from Rum and Coke all the way through to Soda. I think there was a lot of rounds of a lot of different things.
- [Q200] I potentially could have paid for alcohol in cash, but I don't really carry cash.

#### The Dock

- [Q15] I found ways to connect to these people. We went to a venue called The Dock.
- [Q68] I had a pretty existing group of people who would always go out for drinks – they'd let me sort of join their group on the basis that I didn't really know people.
- [Q48] Event was organised via WhatsApp, Signal, Telegram, Messenger, just all the various sort of devices that random people use.
- [Q54] The first group of 6 people were there.

- [REDACTED]
- [REDACTED]
- [REDACTED]

- Defence industry contacts were all first, then later Bruce and [REDACTED]

Bruce and [REDACTED] arrive.

- [Q62] Maybe 2 hours before Bruce got there.
- [Q94] [REDACTED] and Bruce turned up and I sort of introduced them to one of the long tables of 10-12 people.
- [Q98] I interacted with Bruce.
- [Q99] Je was grateful to be there – he was quite friendly – it was the nicest he'd ever sort of been to me.
- [Q24] Bruce was quite responsive to the fact that I'd invited him along to this opportunity to meet and network with these people.
- [Q16] I [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [Q18] We'd all sort of worked broadly with the Coalition Government at some point in some duration that we were about to lose the election.
- [Q19] We were all about to be unemployed in six weeks and so we were pretty sad.

88 mph

- [Q26] We all went to a second venue, which is called 88 mph.
- [Q168] I just remember the name and I know it wasn't Mooseheads or anything. I knew it was that bar for some reason. I've always had it in my mind and known it was 88 mph.
- [Q159] I don't remember dancing with [REDACTED] or [REDACTED] or Bruce. I remember sort of dancing by myself, just in a crowd.

Falling over

- [Q27] The 4 of us went to 88 mph. At that point I fell over, um, I grazed my knee. And that's kind of when it really hit me how drunk I was.
- [Q176] I kind of managed to catch myself in terms of hands, like I didn't face plant but I definitely got my knees and I was off-road, I had to be helped up.
- [Q28] I was pretty embarrassed by falling over. Bruce helped me up.
- [Q177] Bruce helped me up.

Intoxication

- [Q152-153] On a scale of 1 – 10 I would be 70%.
- [Q172] It's as drunk as I've ever been in my life.

Going to parliament house

- [Q220] I would assume that Bruce had his pass on him.

- [Q184] I don't remember much of the conversation, he had to stop and pick up something. At that point I was kind of focussing on not being sick, I felt really ill.
- [Q151] I don't fully remember the conversation of leaving.
- [Q29] At the time I lived in the outer suburbs of Canberra, [REDACTED] Suggestion was made that Bruce and I should go together – I got in the cab with him.
- [Q30] I don't remember sort of the words but it was sort of something along the lines of, "I have to sop in and pick something up from work". Um, and I - wasn't really cognizant, I wasn't fully in a state where I was sort of argumentative. I was really open to the suggestion. At that point I was broadly, it didn't seem inconceivable to go to Parliament, it felt like a safe space for me and I didn't say, no, to going to parliament house.
- [Q31] He paid the fare – I felt like I was going into work for a second with a colleague and it didn't feel dangerous.

#### Entry into parliament house

- [Q33] We went through the Ministerial entrance.
- [Q34] I was falling all over the place. I fell over at Parliament. I couldn't sign my own name.

#### In the Minister's Office M1-23

- [Q245] The Ministerial office [REDACTED]
- [Q36]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - About 8 o'clock the next day – a female security guard yelling into the office asking if I was OK
  - I didn't see anyone but I heard her yell out.
  - My first instanced of just jogging out of sort of being so heavy and inebriated was just, I'm at work, I'm at works.
- [Q268]. Okay. And you said that his – sorry, was it his leg was on your?
  - A Yeah, so, **he's outside knee** had sort of pinned my leg open.
- [Q269]. Mm-hmm.
  - A Um, so I was kind of in the corner of the couch exposed with **his inside leg** kind of pinning me into the corner. So, I was kind of pushed up and he was on top of me.

- [Q270]. Yep. And what about his hands, do you remember where they were?
  - A I think he was holding himself up on the couch, on the side, he wasn't holding like – he wasn't holding like my chest or anything down, but he was – he was over the top of me, like he was holding onto the couch.
- [Q271]. Okay. Do you remember where his face was in relation to you – when you woke up? A He was hovering above me.
- [Q272]. Okay. A So, yeah, he wasn't looking at me, he was looking over me, yea
- [Q238] I remember being by myself for a while. I remember sitting on the ledge and looking over the Prime Minister's courtyard and feeling really unwell, and was really feeling sick.
  - I felt like I was going to pass out.
  - I felt completely out of it.
  - I felt really tired.
  - I don't remember Bruce being around.
  - I felt like I was by myself for a while, like he was doing or getting something.
  - I wasn't fully aware of his whereabouts when I was in the office at that stage.
- [Q248] I don't know how I got the couch, I was on the couch that was the next thing I sort of knew, I was on the couch.

- [Q249] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Ejaculation

- [REDACTED]
- [REDACTED]
- [Q280] I think he still had a shirt on. He may have his blazer thing on still. He definitely didn't have pants on though.
- [Q293] I remember him getting off me. I kind of remember him maybe getting dressed. I remember he looked at me, and I looked at him, and there was a strange moment of just eye contact. I didn't say anything, he didn't say anything, Then he left the room.

Leaving parliament house

- [Q303] I passed out again.
- [Q380] He was one of the few people that I'd known in the building since I started.
  - He was the one that disclosed to me that I'd been found by the security guard, that they'd actually come into the suite. That was information to me because I didn't know that.
- [Q305] The next thing I remember was the next day when the woman the security guard was calling into the suite asking if I was ok.
- [Q312-314] She did not enter the suite, she said is everything OK in there? And I said I'm fine.
- [Q316] I ended up sitting in the DLO's sort of back corner room – the only room in the office that hasn't got any windows.
  - And I sat in there and I found a box of chocolates and I ate the Roses box of chocolates while I was crying to myself.
- [Q37] [REDACTED]  
[REDACTED]  
■ [REDACTED]  
[REDACTED]
- [Q324] And I booked an Uber.

Afterwards

- [Q38] I lived out at [REDACTED].
  - I saw my roommate and her friend, it was the first time I'd met that friend.
  - I said that I'd been at Parliament, and I'd ended up back at Parliament after a good night out.
  - I spent the entire weekend sort of bunkered down sort of essentially in hysterics crying.
- [Q330] My flatmates name was [REDACTED].
- [Q333] She tried to introduce me like to her childhood friend [REDACTED]. I was quite distressed.
- [Q338] I was by myself and I cried literally the entire weekend. I didn't really come out of my bedroom. I came out for food intermittently, but I didn't do anything else.
- [Q338] That whole day I was just on auto pilot. I was just trying to keep my cool and maintain calm and just sort of figure out what to do next because I didn't know how to navigate it, given who he was and who I was. I just buried that his word carries much more weight than mine.
- [Q349] I just didn't seem myself.
  - I remember [REDACTED] was super excited for me to finally meet her childhood friend she'd talked about so much.
  - I wasn't myself.
  - I was trying to make my way through that social interaction, trying to maintain a sense of pose about it, but I just couldn't

- She kind of read that something weird, there was something different or something had happened.
- She knew I was off.

#### Disclosure

- [Q391] Besides [REDACTED] I don't remember telling anyone else, but I got a message from [REDACTED], who was at the drinks.
- [Q392] She knew about the assault as well and she apologised for not doing more at the time. I don't remember telling her, I don't know how she found out.
- [Q393-395] I also told my ex partner [REDACTED].
  
- [Q354-355] Tuesday I was called into a meeting with former Chief of Staff.
- [Q39] The first person I probably told was Fiona Brown on Tuesday at work.
- [Q41] I was kind of waiting for the other shoe to drop, and it never did on Monday.
  - On Tuesday, Fiona Brown came in.
  - She took Bruce in first, it was probably about 45 min of them speaking.
  - At that point I went into speak to Fiona, and it was the first time that I'd sort of relayed the events.
- [Q43] I re-signed the Ministerial Code of Conduct and she sent me home for the rest of the day.
  - So she was the first person I actually verbalised the rape to.
- [Q361] As soon as I identified it as a rape and that I didn't consent to any of that, I started to cry, and that's when sort of the gears shifted and it became less about me and more political than the actual incident itself.
- [Q375] I am not sure if it was the first or second meeting.
  - Honestly like the first week after the assault, it's kind of like I get confused about what day was what and what day certain things happened.
  - But at a certain point I remember she handed me the EAP brochure and I should call the number.
- [Q386] I said that he was on top of me.
  - I didn't consent
  - I used word assault – had not used word rape yet as too abrasive and not comfortable with it.
- [Q377] In the first week, I spoke to AFP at Parliament House.
- [Q378] The only other person I spoke to was a Department Liaison officer from Department of Defence.
- [Q379] Its his job to monitor a security breach.
- [Q382] [REDACTED].
- [Q380] He was one of the few people that I'd known in the building since I started.
  - He was the one that disclosed to me that I'd been found by the security guard, that they'd actually come into the suite. That was information to me because I didn't know that.
- [Q386] I said that he was on top of me, that I didn't consent, I said consent.



- I hadn't used the word rape yet – I wasn't comfortable with it – it felt really abrasive.
- [Q390] You can be fired for no reason – the only person you have to get to is the Minister.
  - Every time I tried to raise it with her, it became this really difficult issues.
  - The chief of staff was Fiona, and I had only known her for about 3 weeks.
  - I have so many holes in my memory, I was really a ten.

### EICI 9.55am 26/5/21

#### Start at office

- [Q138] I was like the baby new person.
- **[Q276] In my first week, Bruce tried to kiss me.**
- **[Q278] It was at the Kingo.**
- **[Q280] Tried to kiss me.**
- **[Q296] He was leaving, he was about to get into a taxi and he tried to kiss me, I kind of was a bit shocked.**
  - **I'd just broken up with [REDACTED].**
- [Q286] I was aware he was having issues. Sort of internal conflicts. I knew there was some sort of security breach.
- [Q287] I knew there were issues starting to be raised. Fiona talked to me about the bullying, him bossing me around unduly in the office and a lot of people noticing.

#### Drinks

- [Q42] My assumption was on the basis that he'd bought the first round. That he'd continued to buy rounds after that.
- [Q43] Whether it was the other gentleman who was there, [REDACTED], or whether it was Bruce – I don't feel like it was [REDACTED] who was buying me drinks.
- [Q45] I think there were vodka lime and sodas. I think there were other different more sort of elaborate drinks that I wouldn't pick for myself.
- [Q49] As the night wore on he sort of found or made his way sort of more into my space. I remember being cognizant of that. I don't specifically really remember at that second venue.
- [Q58] I had a bad habit when I'm working of not eating all the time, so I'm sure that made it worse.

#### Security - CCTV

- [Q158] I remember seeing the two security guards.
  - I don't remember having trouble with my shoes, but I've since heard that I was having trouble with my shoes.
  - I just remember going from signing my name to being in sort of the suite.
  - I don't remember being escorted.
- [Q159] I always thought he had his pass.

- [Q169] At that point I can't stand – walk, it wasn't standing, I was walking.
- [Q170] Kind of you know, falling over. Can't put on my shoes, barely sign my own name.
- [Q180] Signature not my writing.
- [Q219] Obviously very clarifying.

#### Next day

- [Q118] I didn't really actively try and approach him for any related stuff. I remember he brought me a coffee of something, and I thanked him. It was this weird day. I hadn't really fully processed what had happened.

#### Dr comment

- [Q70] I don't specifically remember where or when. I remember buying a pregnancy test in Pert. I don't really remember when the doctor thing sort of happened.
- [Q71] A convenience store not far from my hotel.
- [Q72] Do not remember going for the morning after pill – that is why I took the pregnancy test.
- [Q73] I didn't seek a rape examination.
- [Q74] ██████████.
- [Q76-77] SMS from ██████████ – [Q78] I was placating him. He was stressed about me and I don't think I went to a GP at that stage.
- [Q94] Just feeling reassured.
- [Q98] Federal Agent ██████████ “Phillip Medical Centre awaiting results” – maybe going to go there, but I never ended up going there.

#### Conversations

- [Q116] Fiona Brown hadn't gotten there, I was in a state of shock. I was scared, (Accused) I perceived at that time was sort of in this position of power over me.
- [Q240-242] SMS messages put to her.
- [Q252] I didn't disclose the assault, you know, any intercourse, just the fact that we had gone and ended up back at the Minister's office.
- [Q254] SMS vaguely remember being there with Bruce.
- [Q265] SMS I think I may not continue to be employed
- [Q266] I was scared I was going to lose my job.

### The Dock / 88 mph

#### 2) ██████████ (ROC13/5/21 7.20pm)

- Started with Minister Reynolds around October 2018
- Worked in Perth Office and would travel to Canberra for sitting weeks
- Bruce Lehrman started in Canberra office 3-4 weeks earlier
- Brittany came across from Minister Ciobo to Reynolds Canberra Office after election called

- Day Minister Reynolds sworn in, she took us to lunch then with Bruce and others went to Kingston
- Bruce made comments about Brittany being good looking
- Asked [REDACTED] to invite her
- Brittany turned up, and said she couldn't stay long
- Went to courtyard for chat
- Brittany there for 2 hours odd, and had one drink

- [Q9] Worked with Bruce for last few years.
- [Q17] Since I joined the office at the beginning of November the prior year
- [Q10] No first-hand knowledge of events, only heard from other people
- [Q19] Did not spend a lot of time in Canberra

#### Bruce at work

- [Q59] Bruce was quite lazy
  - Renowned for palming off as much of his responsibilities as he could

#### Alcohol at the office

- [Q55] Bruce had a collection of whiskeys at the office
- [Q56] Was very visible

#### Kingston Pub after swearing in

- [Q25] Swearing in at Government House late in the morning
  - Had a few celebratory drinks
- [Q27] There was an amalgamation between Ciobo and Reynolds office
- [Q29] Bruce said it would be good to meet
  - Also made a comment to [REDACTED]
  - Saying she was good looking
  - He was interested to see whether she would join our office.
- [Q30] Brittany only had one drink but Bruce, [REDACTED] and myself had a few
- [Q23] Probably a Saturday – at Kingston Hotel
  - Believe it was the first time Bruce and Brittany had met
  - Bruce had asked me to reach out to Brittany via Instagram
  - Technically she was facing unemployment
  - She came to the pub
  - Said she couldn't stay too long because she had another engagement
  - Ended up saying she had to leave
  - Got her phone out to get an Uber
  - Predominantly Bruce egged on by [REDACTED]
  - Wanted her to stay and were taking her phone out of her hand
  - Went on for quite a few minutes
  - Brittany was a bit flustered
  - She actually needed to go

- I intervened and told them to give her phone back
- We got in a bit of an argument
- Had all had a bit to drink
- I ultimately resigned over it
- [Q31] I felt uncomfortable
  - It was inappropriate and made me feel uncomfortable
  - I felt like I'd been ganged up on by the boys
- [Q34] Confrontation with Bruce put me over the edge
  - I wasn't happy so ceased my employment

Perth election campaign

- Brittany missing a fair bit in Perth
- Was quite absent
- [Q46] Was in Brittany with Perth during election campaign
  - She would take quite a few sick days off
- [Q70] She would take days off quite frequently
  - Would take a 2-hour lunch break and eat by the river

3) [REDACTED] (ROC 6.11pm 24/3/21)

- Dept of Defence
- Canberra – at Russell Office
  - [REDACTED]
- From left to right clockwise
  - ?? partner of ??? (Defence)
  - [REDACTED] (Defence)
  - [REDACTED] (Defence)
  - [REDACTED] (Defence)
  - Brittany (Minister Reynolds)
  - [REDACTED] (Defence)
  - [REDACTED] (Defence)
  - [REDACTED] (Defence)
  - ??? (Defence)
- Worked with Brittany in Ciobo office
- Quite intoxicated
- Brittany intoxication “very drunk”
- Remember she fell and fairly certain Bruce helped her up
- Brittany invited me to a Halloween party (October)
- In January SMS saying she wanted to let me know she had been assaulted
- [Q89] I was working remotely from the Gold Coast where she was a Canberra-based staffer.
- [Q90] Brittany was a hard worker, very diligent. She was always positive. She just wanted to learn.

The Dock / 88 mph

- [Q18] I went to the Dock with my colleagues.
  - I had previously worked with Brittany at the Minister for Defence Industry's office.
- [Q23] We generally knew each other.
  - Our tables merged and we all sort of caught up.
  - I remember Brittany arriving with a man, I can't remember his name, he was a [REDACTED]
- [Q70] I remember him [REDACTED] wearing a really cheap suit.
  - Brittany got there and tried to do her best to move away from him.
- [Q26] I remember talking to Bruce and thinking he was a typical kind of staffer, a lot of bravado, quite arrogant.
- [Q27] I don't think I'd actually ever met him before.
- [Q28] [REDACTED]  
[REDACTED]  
[REDACTED]
- [Q31] I don't remember leaving the Dock to go to 88 mph, but I remember not drinking very much at 88 mph. I remember sitting down in one of the booths, me and a guy called [REDACTED], with Bruce and Brittany.
- [Q133] I remember her wearing a white dress, and the same heels.

Intoxication.

- [Q99] I remember thinking to myself, I really need to slow down with the drinks.
  - I remember Brittany was coming back from the bathroom, she was coming back to the couches.
- [Q100] I remember thinking, oh god, we all really need to slow down.
  - I remember her taking a selfie.
- [Q102] I remember them kissing.
- [Q32] I remember Bruce and Brittany being quite close.
  - I remember Brittany being really drunk as well
  - I remember her falling over.
  - Sort of pulling herself back up onto the couch
  - I think Bruce helped her back onto the couch as well.
  - I remember her taking selfies of them.
- [Q130] It was not a trip, she's not clumsy.
- [Q33] I remember them kissing on the couch.
  - I don't think that we stayed for very long.
  - We did have a lot of alcohol to drink on that night.
  - I don't remember getting in an uber or cab.
- [Q34] I do remember stand out bits.
  - I remember chatting to a friend.
  - I remember saying I can't believe she went for him, because he's so gross.
- [Q110] I don't remember any other interactions.

Disclosure

- [Q141-142] I can't remember any messages the following day.
- [Q153] I got a message from [REDACTED], I said how was 88mph and I said Brittany hooked up with Bruce, and she goes, oh nice.
- [Q13] I think it was 10<sup>th</sup> February. [Q17] I heard it on the media the following Monday.
- [Q158] She messaged me on 10 February [Q159] [REDACTED] don't feel like you have to respond to this, this is monthly just cathartic for me to get it off my chest. I was so ashamed for so long and I've finally moved on.
  - Bruce ended up taking me back to Parliament house.
  - I ended up passed out in the office, and when I woke up he was sexually assaulting me.
  - I'm OK now but it really messed with me for the longest time.
  - I wrote back please saying I just want to be supported and feel confident that you're doing the right thing.
- [Q14] Brittany messaged me to let me know that on the night we went to The Dock and 88 mph – Bruce had taken me back to Parliament House and sexually assaulted her.
- [Q15] I responded that I had received message and happy to support her.

**4) [REDACTED] (ROC 10.26am 28/3/21)**

- Minister Dutton (Media advisor)
- Met Lehrmann - 2 years prior (both worked at Parliament.
- 2019 - Lehrmann worked for Reynolds as Home Affairs
- 2019 – Higgins worked for Ciobo in Defence Industries
- 22 March 2019 – Lehrmann invited me to dinner
- Planned to head home – as not initially aware of drinks
- Met [REDACTED]
- Vaguely remember meeting people from defence
- Best of recollection, travelled together to 88 mph
- Recall having a drink at 88 mph but don't recall how many or what they were
- [Q47] Remember when Brittany Higgins started working for Minister Ciobo.
- [Q22] I was invited to a Friday night drinks with several people I knew.
- [Q24] Bruce Lehrmann invited me.
- [Q27] I had dinner with Lehrmann.
- [Q31] Went to dinner 6.30 – 7.00
- [Q35] Went to The Dock about 8.30.
- [Q36] Don't have a great recollection, other than having drinks and talking to people.
- [Q45] Said hello and chatted to Brittany Higgins.
- [Q52] Stayed at the dock for 2 – 2.5 hours.
- [Q535] Went to 88 mph with [REDACTED], Bruce and Brittany.
- [Q58] I remember the bar being pretty busy.
- [Q63] I don't have any recollection other than people talking – nothing out of the ordinary.
- [Q63] I don't remember but I would imagine there was a bit of a shout – I don't have any recollection of particular drinks or rounds.

- [Q64] I remember leaving and heading home to [REDACTED] and shared transport with [REDACTED]. [Q65] I think it was an Uber.
- [Q76] Next day I sent a message to Bruce thanking him for inviting me, how did you pull up - it was a big night.
- [Q77] He replied yeah, a great night, thanks for coming.

### Parliament House Security

5)

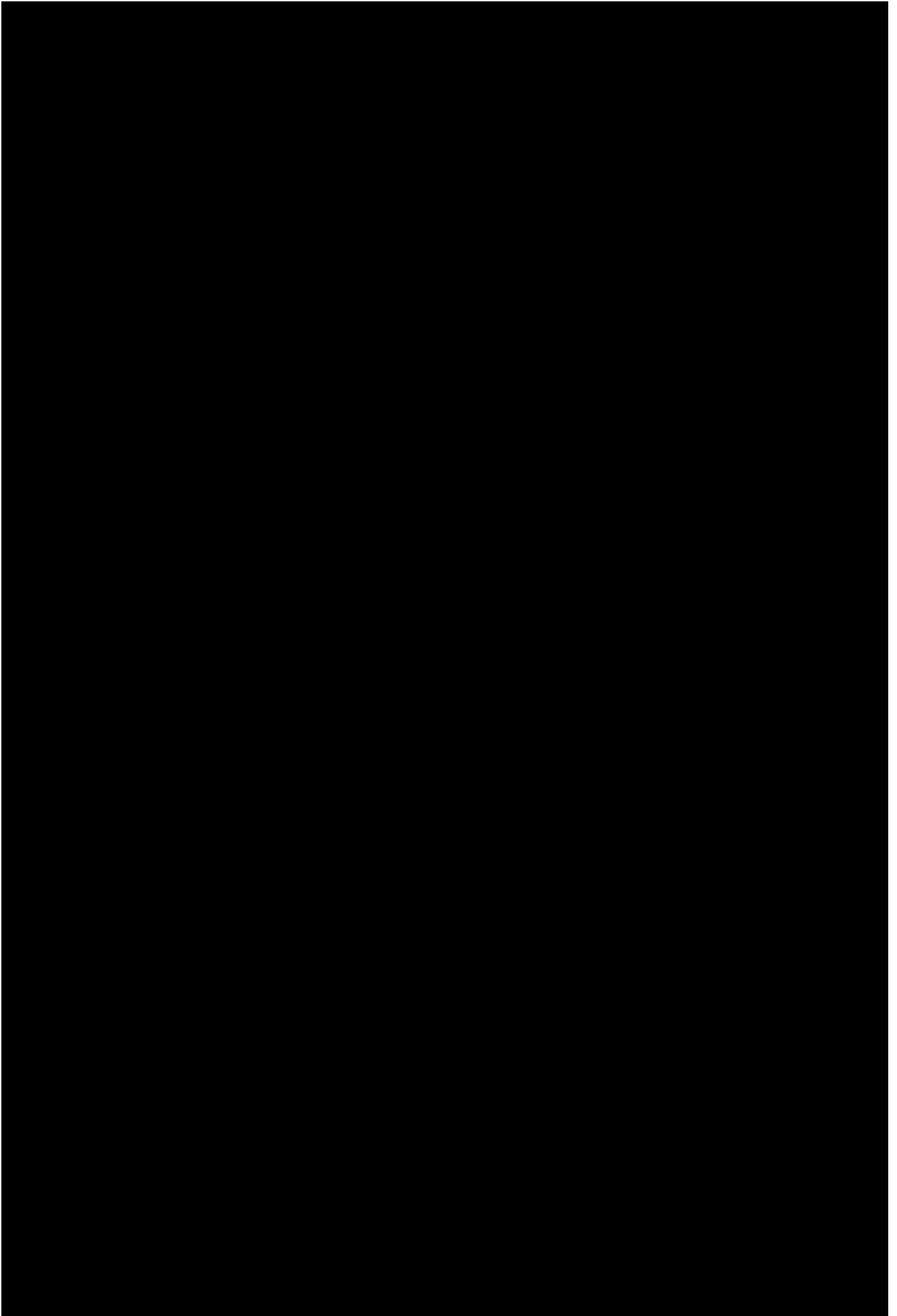
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### 4 Corners 22 March 2021

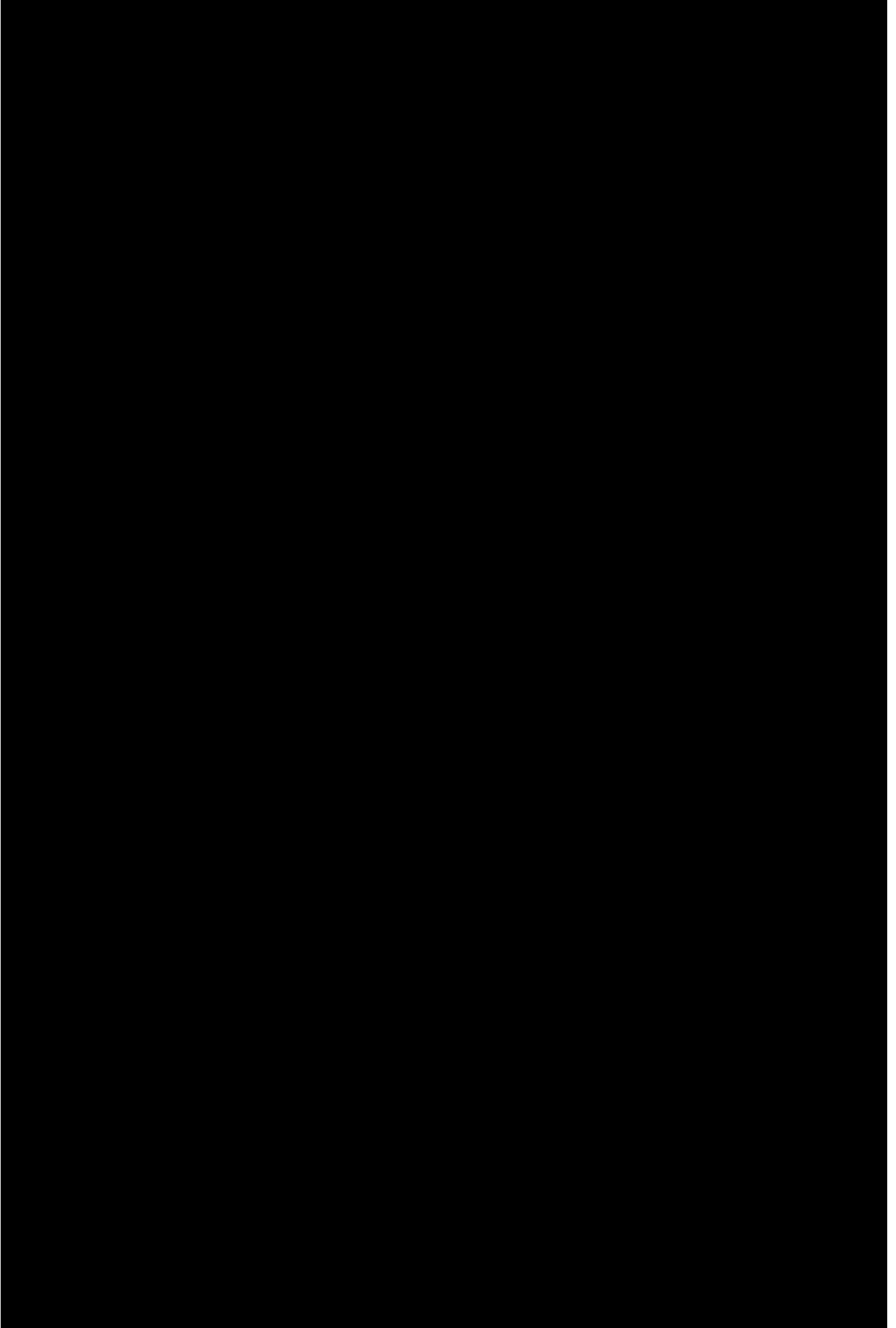
- [Pg 4]
  - My colleague made a comment “Jeez guys, couldn’t this have waited till Monday” and the man replied “Oh not really”
  - I realised it was her shoes setting the machine off, and she took them off and went back through
  - She’s gone to put her shoes back on after she cleared herself and couldn’t get them on.
  - That’s how I realised how intoxicated this girl was, because she just could not get her shoes on for the life of her.
  - I told her to make sure you put your shoes on when you get to the suite.
  - We stood there for about 5 minutes waiting to try and get her shoes on.
- [Pg 5]
  - I’ve opened the door.
  - I’ve noticed the female lying on her back, completely naked on the lounge adjacent to the door.
  - The female opened her eyes, looked and me, then she’s rolled over onto her side.
- [Q6]
  - I told my team leader, and asked – would you like me to waker her up.
  - His call was – let her sleep it off.
- [Q7] What was the security breach?
- [Q8] He’s been given false information, nobody asked me anything.

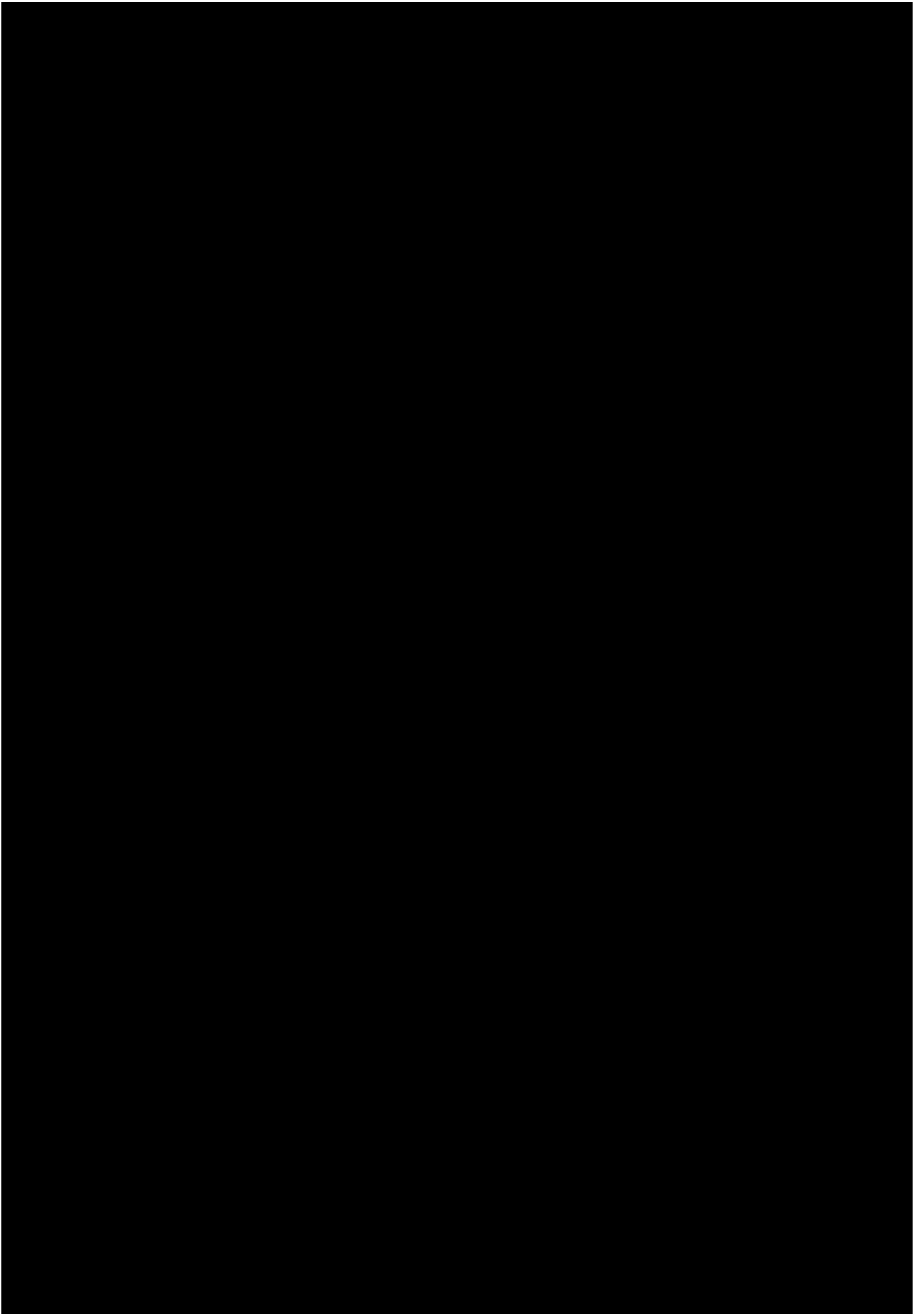
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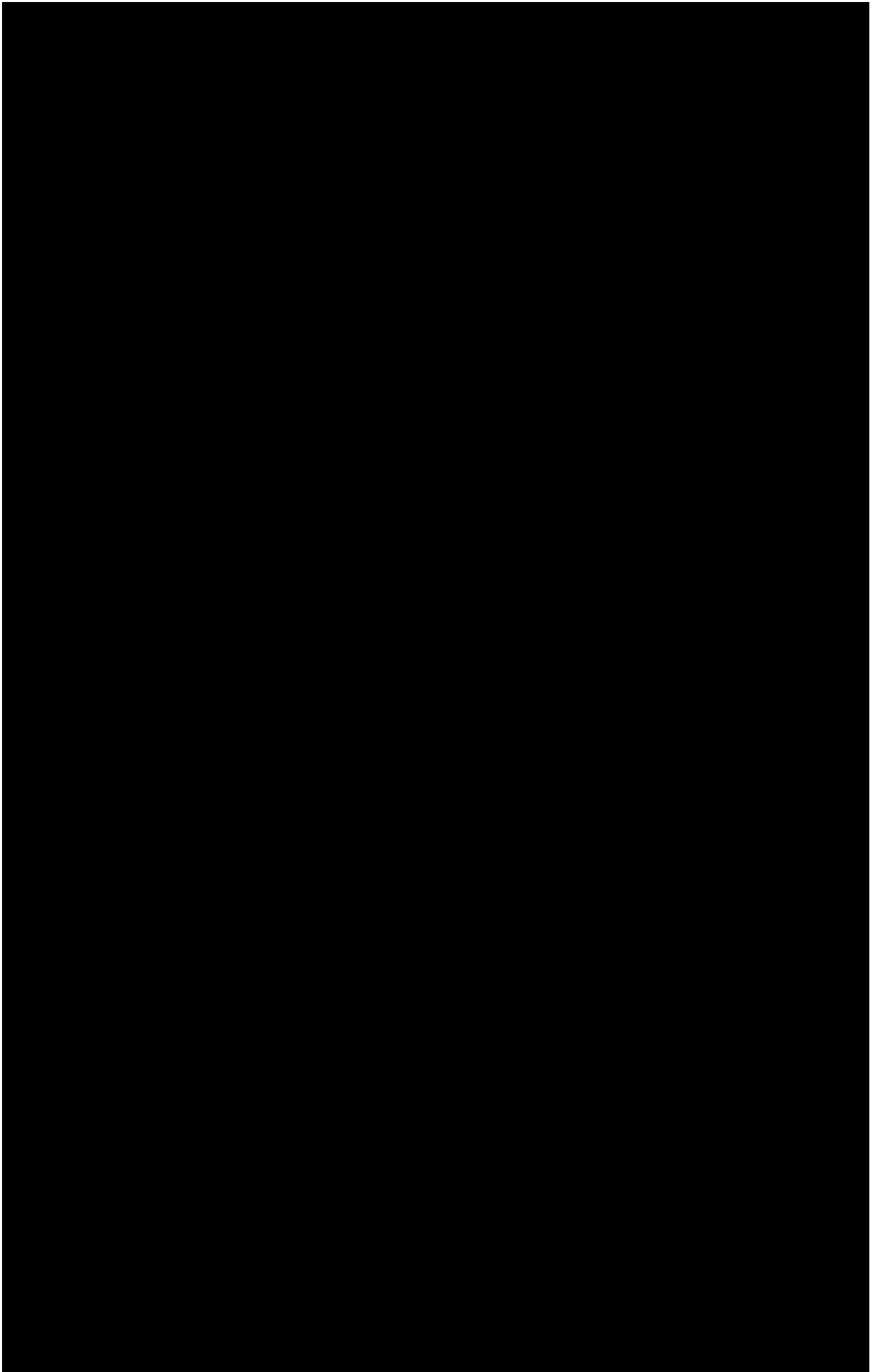
- [Q20] Do 8-hour shifts

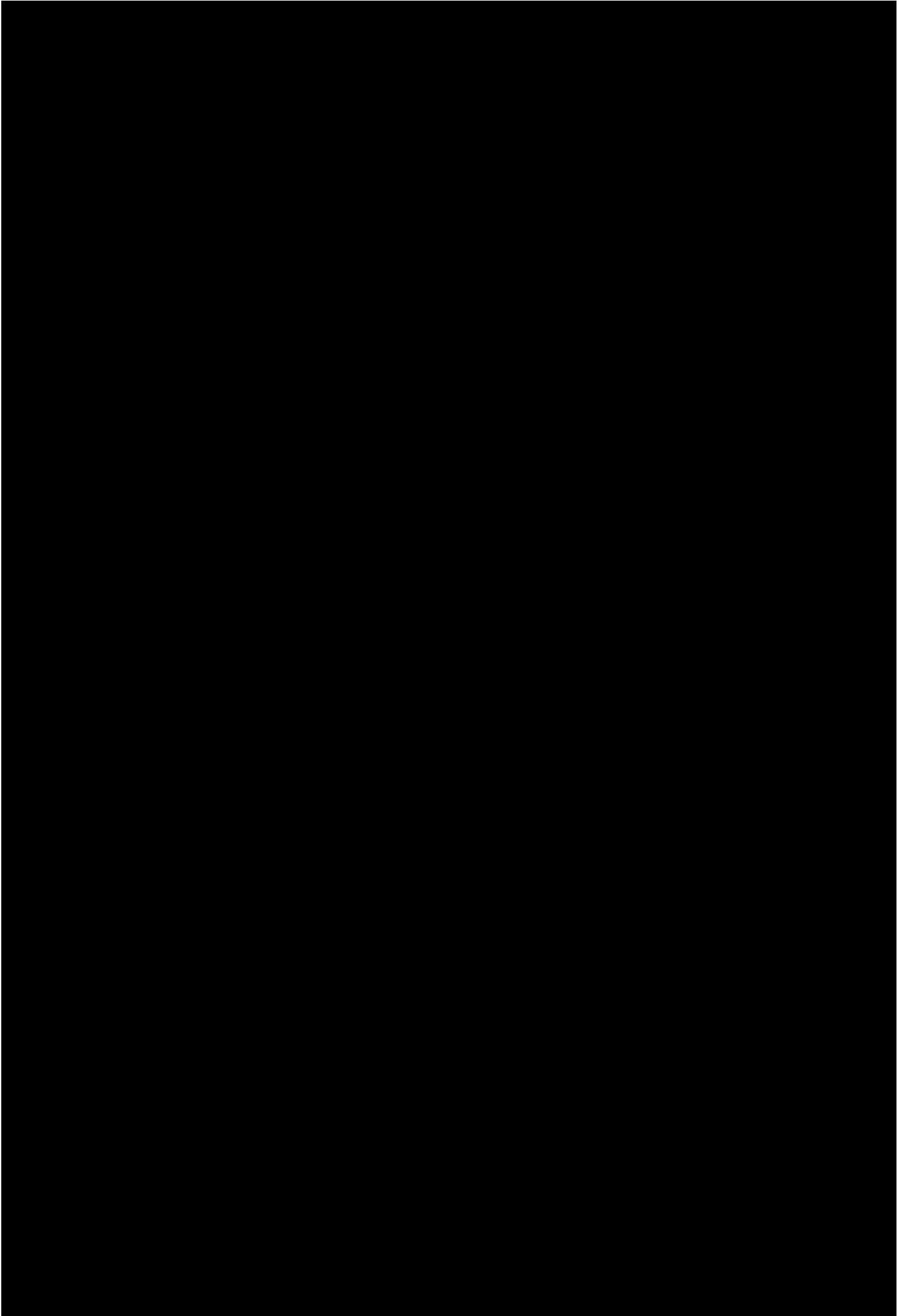


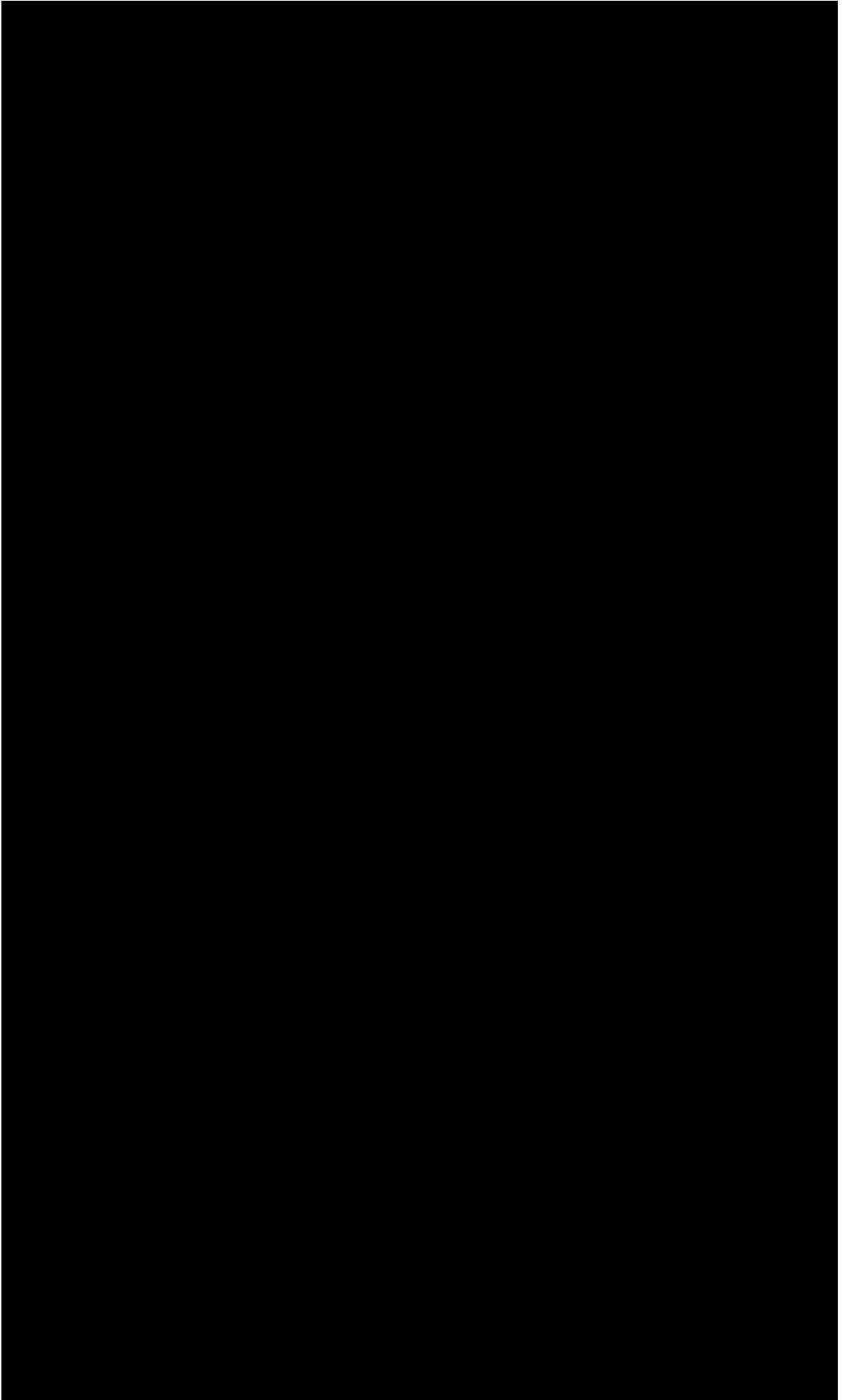


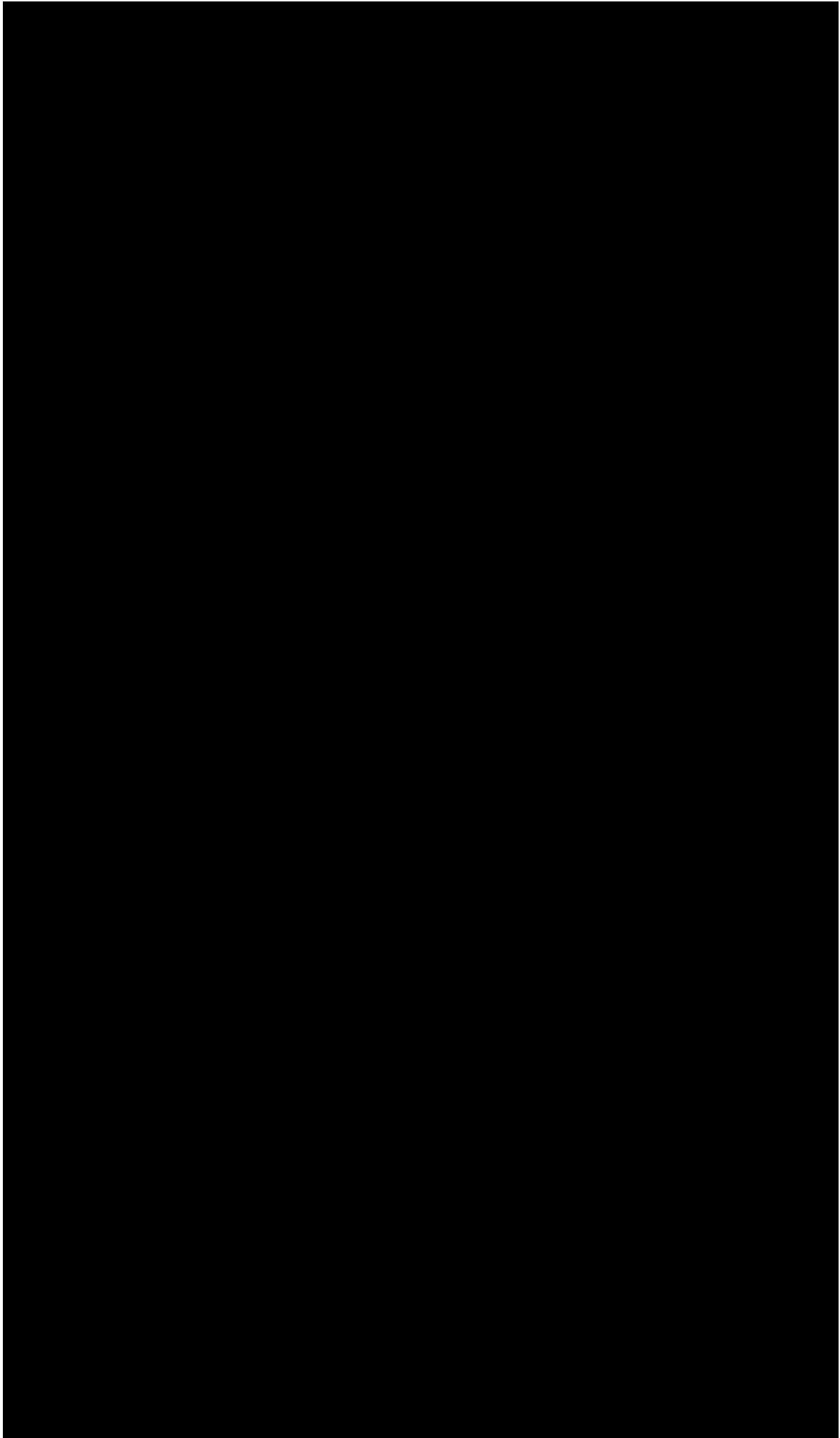


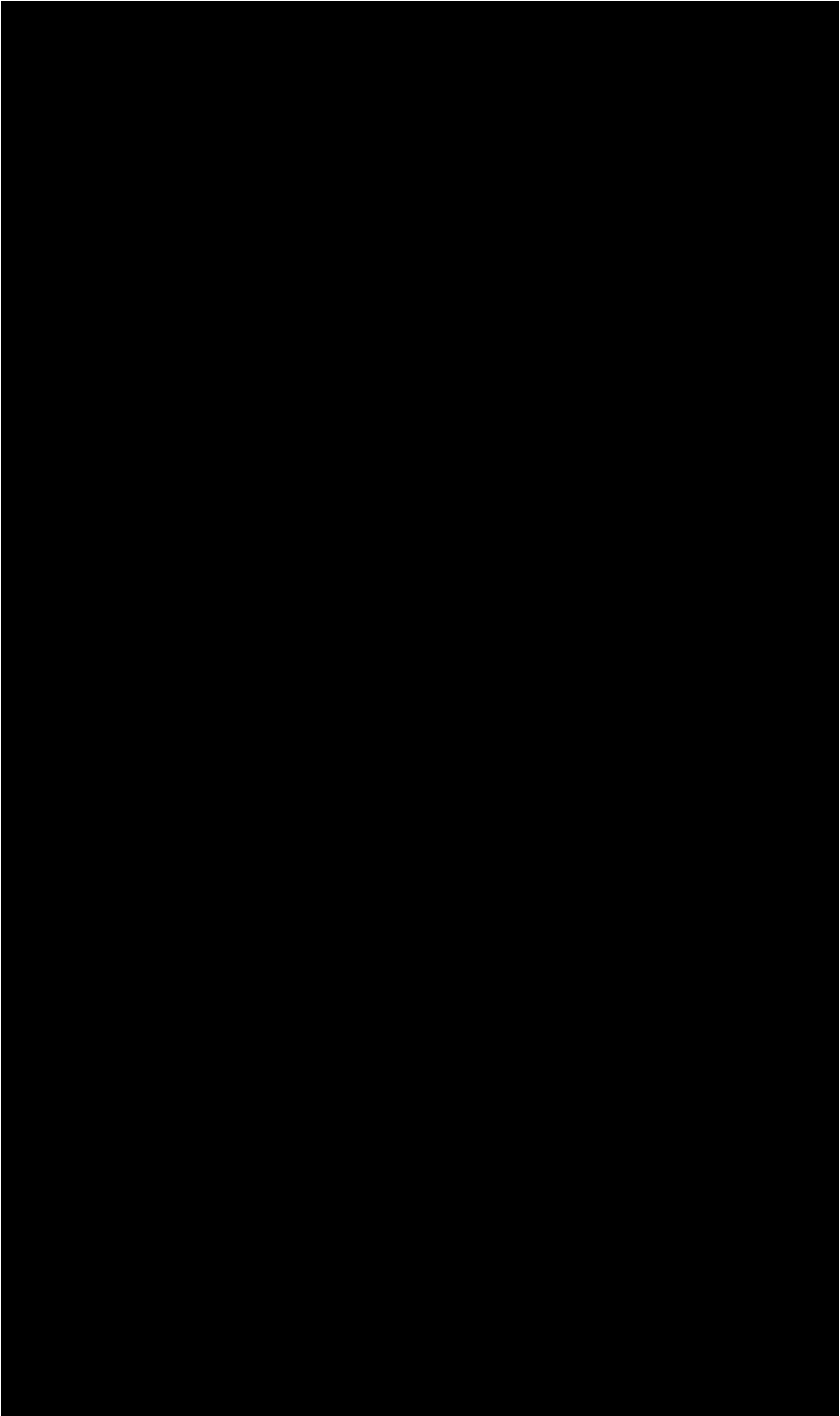


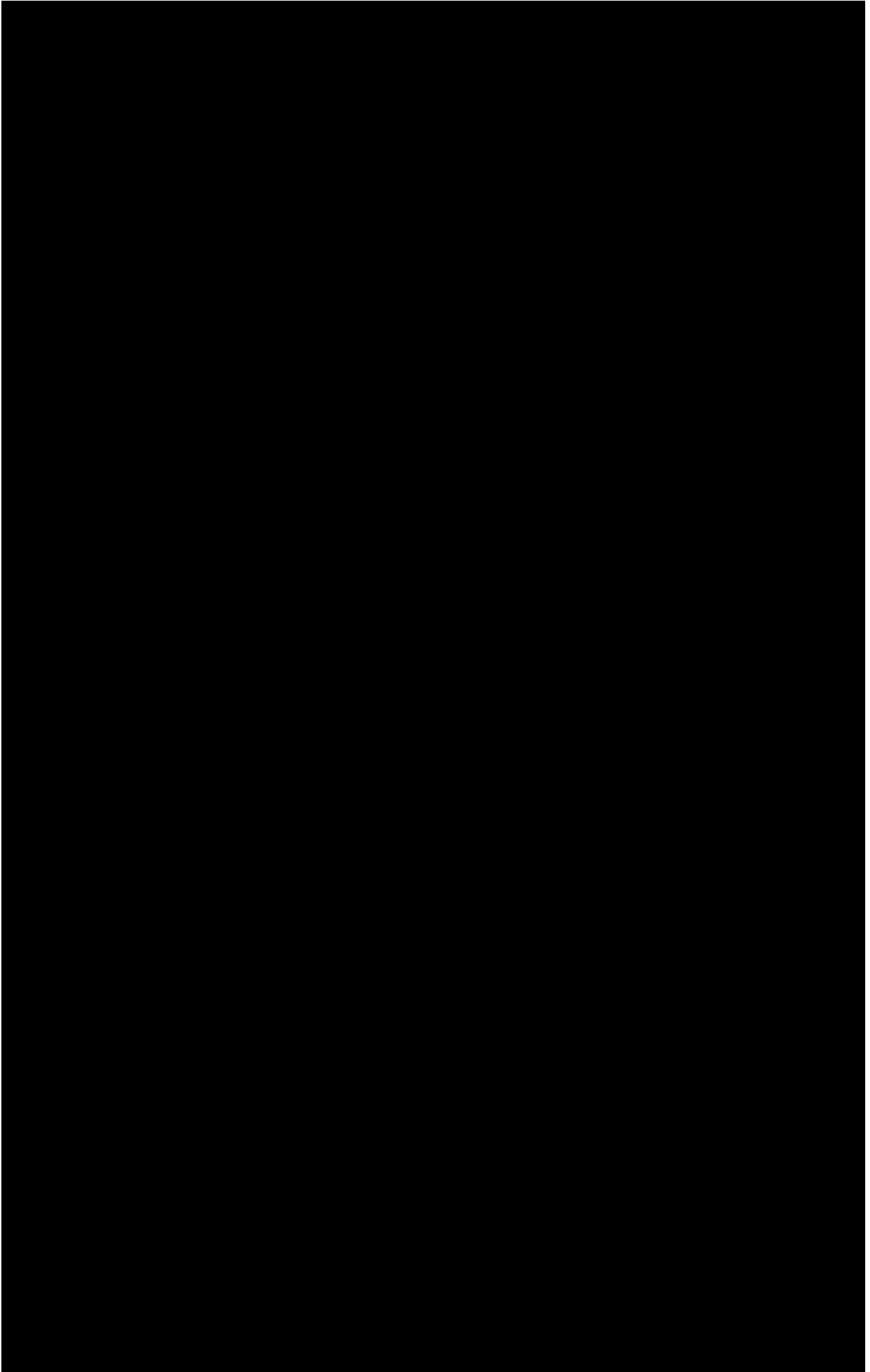




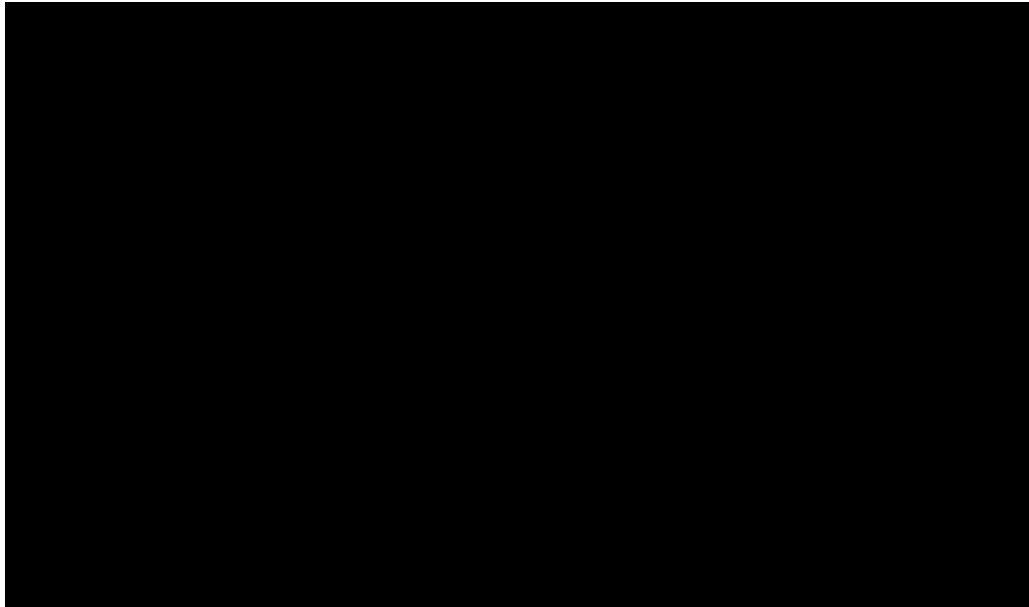












Disclosure

14) [REDACTED] (1.56pm 25/2/21)

- Brittany moved to Canberra for a job that likely only had 6 months lifespan, that is how much she loved the job.
- [REDACTED]
- On Saturday 23 March 2019 conversation – [REDACTED]
- In Melbourne for 26 March 2019 SMS exchange
- Returned to Canberra evening of Thursday 28 March 2019 and caught up with Brittany
  - She was very broken
  - Shaken to the core
  - I did not want to push her
- Did not tell me details of room
- After a week or two after the event she told me she had spoken to police
- [Q18] I met Brittany when she started in our office, I think was November or October 2019 (Q20 -should be 2018).
  - She was kind of a receptionist/admin, but also assisting on media and social media role.
  - I was the senior media advisor.
  - I wouldn't say we were boyfriend and girlfriend, we were kind of seeing each other.
- [Q22] We worked together until Minister Ciobo's office disbanded –
  - I guess at that time in March, you wouldn't say we were like going out.
  - I didn't even know she had gone out on a date with another guy until the TV interview.
- [Q11] Beginning of March Ciobo announced he was not going to contest the next Federal election – and Brittany ended up on Minister Reynold's Office.
- [Q12] She would not have known anyone in the office.

- [Q12] Brittany was probably one of the hardest or best workers.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [Q48] They've got the jobs because they're young Liberals.

#### **Friday 22 March 2019**

- [Q5] Friday night 22 March I spoke to Brittany and she mentioned she was going out for drinks.
  - I was driving the next day from Gold Coast to Orange and had to get up at 4.00am to drive.
- [Q6] I went to bed at 8.00pm or 9.00pm to get up at 3.00am-4.00am.

#### **Saturday 23 March 2019**

- [Q6] I called Brittany on the phone – it took a while for her to answer the phone.
  - Saturday 23 or Sunday 24 March 2019.
  - About mid-morning
  - I could tell something was off, she was very cagey.
  - She said she went out and had drinks and kind of went back to the Minister's office.
  - I tried to ask more and she said "I don't want to talk about it"
- [Q23] I remember thinking it didn't make any sense, they were out, then went back to a minister's office to have drinks.
  - I probed and she shut it down – look I don't want to talk about it.
  - Not sure if she hung up or the conversation just ended abruptly.
  - Her demeanour was a bit different, she's usually like a very bright and bubbly positive person.
- [Q24] They'd been out drinking and gone back to the minister's office to kind of party there.
  - I was like, who? I can't remember at the time of her telling me who.
- [Q25] I read the message back "Sorry I didn't mean to upset you."
  - I called her to check how she was doing, and she became pretty emotional
  - I recall saying to myself something like, were you raped?
  - I'd sent a message saying sorry, I didn't mean to upset you.
- [Q33] We went back to the minister's office – was cagey, and said "look, I don't feel well, I might lay down. I don't want to talk about it. Bye.

#### **Tuesday 26 March 2019**

- [Q6] She sent me a text message and she was concerned about her job and said something had happened that night.
- [Q6-8] Goes through messages.
- [Q12] I think she was going to get an STD check at the Doctors.

#### **Phone conversations during SMS messages**

- [Q25] There was some phone conversations during the messages.
- [Q26] What made you ask that question
  - She'd said she woken up there in a state of undress or something like that.
  - She said something like it wasn't consensual.
  - I already had that vibe that something was off.
  - She basically said she had woken up in the minister's office half naked.
- [Q27] She said what happened wasn't consensual.
- [Q12] She had spoken to the AFP and was like – Oh, you know, I don't really want to pursue it.
- [Q57] Brittany thought that would jeopardise her job, because she didn't want to be known as the girl that was raped in parliament.
  - There was Federal election that was due to be called in 3-4 weeks.
  - I didn't really care about the government. I'm like, we're losing the election anyway.
- [Q58] Brittany raised concerns about her job, and disclosed the assault at the same time.
- [Q60] I remember telling her multiple times, you're not going to get in trouble for this. You are the victim here.
- [Q63] She was very focused on not getting into trouble.
- [Q74] I think the person had already been fired.
  - I'm not sure your office will be aware of this.
  - The person doesn't work anymore.
  - Brittany said she doesn't want to go to the police, she doesn't want to make an issue of this.
  - She can't get counselling and she needs counselling.
- [Q76] We were talking and I directly raised this in very blunt terms, and she broke down and it upset her.
  - How are you doing?
  - She would vent to me a few times.

### **Wednesday 3 April 2019**

- [Q16] I reached out to [REDACTED] said "Hey mate, can I grab five with you today. Wanted to raise a pretty serious issue that I think needs PMO's attention, intervention to stop it becoming something worse.
  - So I went down that morning 3 April, met with [REDACTED] in one of the offices, basically told him that Brittany had been raped in the minister's office.
  - I said to him she has spoken to the police, but she's not looking to pursue it.
  - [REDACTED] was kind of, I think shocked would be the right word.
  - She's also keen to get back to the Gold Coast.
  - Her new boss was WA minister.
  - She's facing the prospect of going over to WA for 6-8 weeks in an election.
  - The Federal election campaign was being run out of Brisbane.
  - She was manning polling booths etc and some subsequent messages during the time of the election.

## 15) [REDACTED] (26/7/21)

- Managed Perth Senate Office for Reynolds for 9 years
- 2 March 2019, Senator Reynolds became Minister for Defence Industries
- Former Minister Ciobo staff go into deferral period, and can
  - Apply for job with new Minister
  - Take Payout
  - Go to a department
- As at 2/3/19 – Brittany Higgins was a candidate for a role in Reynold’s office
  
- [3] Linda Reynolds Office Manager for electoral office [4] 7 years.
- [7] Feb/March 2019 Office Manager for Perth and team included
  - Bruce Lehrmann (Bruce) Advisor
  - [REDACTED] (Jesse) Assistant Advisor
  - [REDACTED] (Nicky) Media Officer
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [8] Reynolds was in transition to Minister for Defence industries and Defence Industry staff working in the portfolio (Ciobo)
- [9] COS Fiona Brown
  - Deputy COS [REDACTED]
  - Brittany Higgins Assistant Media Advisor
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- [11] 2/3/19 Reynolds sworn in as Minister for Defence Industry at Parliament House
- [12] As office manager, on 2 March 2019 I arranged a post event lunch at Agostino’s Italian Restaurant, East Hotel Canberra [13] 1.15pm [15] immediately opposite Kingston Hotel.
- [13] Family and friends of Senator Reynolds, and staff including [REDACTED], Bruce and myself.
- [15] With [REDACTED] and Bruce we went to Kingston Hotel for drinks and played pool.
- [16] I remained at bar until 5.00pm, then returned to Kurrajong Hotel - [REDACTED] and Bruce stayed.
- [17] 7.30pm I received a call from [REDACTED] – of 3-4 mins.
- [18] He wanted to report an incident – and agreed to him meeting me at the Restaurant at Kurrajong Hotel to discuss – saying they had a few drinks but wanted to “place on the record that an incident had happened”
- [20] [REDACTED] told me

- They agreed to invite Brittany for a drink and that she attended and was talking to █████ re job prospects at Reynolds portfolio
- [21] Brittany indicated that she had to go and meet a friend, and they had tried to convince her to stay for more drinks, but she left the hotel
- [22] He believed that █████ was offended and had accused him and Bruce of pressuring Brittany to stay, and █████ was upset.
- [23] I was of the opinion that there may have been gender issues between █████ and Bruce.
- [27] Later that night I received a call from Senator Reynolds advising that █████ had offered her resignation.
- [29] I told Senator Reynolds that 3 staff had words with each other at the hotel, and she asked me to discuss with them individually.
- [34] Senator Reynolds had stern advice for █████ and Bruce about behaviour.

**16) █████ (ROC 3.00pm 15/3/21)**

- Flat mate the friends
- Start of year 2019 overseas on a holiday
- Whilst overseas Brittany moved into house
- Worked shift work would see Brittany in morning 7.00am – when she would leave
  
- Would have coffee / dinner
- Weekly or bi-weekly boardgame nights
- She would attend some
- Happy bubbly and interacting
  
- Noticed Brittany was off just before she went to WA April 2019
- Stopped going to social things
- Locked herself in her room
- Became messy
- Threw bowls out that could have been cleaned
- Assumed it was work related
- Loved her job – was committed
- Around the time she changed, she got call from AFP – in the hall / kitchen area
- [Q111] 1 week – a few days before she went to Perth
  
- Sunday 14 April 2019 – went to Perth
- When she returned she was much the same
- One night I was drunk and entered her room to socialise, snap her out, and she was asleep with a movie on.
- Remember I watched an ABC story about sexual misconduct and asked Brittany about it, and she said it was “too close to home”
- She was like this until she moved out
- She lived there for 6 months – 1 year

- She worked for Michaelia Cash whilst living at the house
- After she moved out – kept in touch
- 16 January 2020 she told me about the rape
  - Uber with Bruce
  - Went through security
  - Raped on lounge
- Spent most of the day crying
  
- [Q100-102] Its meant to be about what I remember, not what she remembers.
  - I haven't really ever talked to her about it, because I thought that might skew my memory.
  - I remember her telling me that apparently, she had a conversation with me.
- [Q106] I was standing in the hallway and she got a call, I asked her what it was about and she said it was the police, they're following something up with me.
- [Q111] It may have been a week after, it would have been a week or a couple of days before we went to Perth.
- [Q113] I finally got her to say – like what's going on and she said I'm going to Perth, and I said election stress.
  - She's just like, Yeah, they've got me doing all this stuff and they're ferrying me over there.
- [Q32] She's normally quite responsive and happy, and she didn't want to do much.
  - I think I offered her to go out for dinner, and she hadn't really responded to any of it.
  - I was meant to go to a party with three of us.
- [Q35] 16 January she told me she got raped in Parliament.
- [Q116] By the time the Four Corners report came out (Nov 2020), I had gotten the gist that something had happened.
- [Q26] I knew in a vague sense that she'd been assaulted in some way, based on small things that she'd said, but to the extent to which she had, I wasn't sure.
  - Then went the Four Corners story came out, which wasn't related to her.
- [Q27] I remember having a chat to her about it at the time, because obviously she'd worked in that sphere.
- [Q45] Said she'd gone to call an Uber and Bruce told her, don't worry you can get my Uber, we'll drop you home.
- [Q47] She'd spent most of the day crying in her room at home. – Apparently, I asked her something mundane. I don't remember.
- [Q50] She wasn't social like, our friendship group. They all love her.
- [Q56] When she moved out, I knew something wasn't right.
  - She'd lost lots of weight.
  - Her room was messy with rubbish on the floor.
  - I was like, ooh that' not like Brit.
- [Q131] She had moved out at the end of 2019 or 2020 – you would have to ask [REDACTED]

## 17) [REDACTED] (TROC 24/2/22 – 1.11pm) (Unavailable 20-24 June)

- Tender Text Messages
- [REDACTED]
- Met Brittany Higgins when she wanted to work in politics and came and worked in his office to get experience.
- Eventually got a job in Canberra and stayed in contact
- Friend of Brittany Higgins
- [Q12] Last time I physically caught up with her was Sep/Oct 21.
- [Q37] had disclosed sexual assault many years prior [inadmissible]
  
- [Q7] I believe it was about 3 weeks after it occurred.

29 March 2019

- [Q19] Text messages 29 March
  - She said on the off-chance you've heard anything, I would appreciate the heads up
  - I can't even convey how intense it's been.
  - Trust me, it's best left alone, but if you hear anything particularly pointed, you know where to direct it.
  - The past 6 weeks have been absolutely brutal.
- [Q10] Brittany said "*this super fucked up thing happened a little while ago, and I've just lost my fire*".
  - I said – how fucked up are we talking and she said – pretty shitty, it's been rough.
  - I asked when it happened, and she said about 4 weeks ago.
  - On 19<sup>th</sup> I said I as really worried about you after last night, I am here if you need me.

Between 29 March 2019 – 19 April 2019

- [Q6] Late March 2019, had a conversation with Brittany. We actually discussed in conversation on 19 April, and would talk regularly over the phone.
- [Q21-22] April 2019 we would talk pretty regularly

19 April 2019

- [Q23] Disclosed [Q38] 19 April 2019.
  - Been out with other staffers
  - One adviser from Queensland named Bruce
  - They had been out
  - He had taken her back to Parliament House
  - He raped her in the Minister's Office
  - Her focus shifted to what she was going to do – the fallout – how worried she was about this becoming public.
- [Q31] He said – I'll give you a lift home, but just need to drop by the office.

- [Q32] Her recollection was hazy
- [Q39] SMS 20 April.
  
- [Q44] Up until late January 21 – she was seeking advice about talking to the police
  - I think she did begin an investigation, but was concerned about it coming out – from other figures within government
  - Was concerned about her job
- [Q45] Was concerned what becoming public would mean
- [Q46] She worked for Linda Reynolds and went to WA
  - Not many people expected the government to be re-elected
  - She was to stay on and had a call from a quite senior staff member in PM's office, which was unusual for them to call an assistant media adviser
- [Q52] Brittany was very upset with how Linda Reynolds hadn't shown empathy towards her
  - They handled her appallingly
- [Q53] Was concerned about how it would impact her working in the job
- [Q54] We definitely discussed her pursuant the police investigation
  - We were talking about options
- [Q62] She was actually also concerned about the likelihood of success
- [Q100] It shook her whole view of the job.

**18) [REDACTED] (ROC 3.52pm 25/2/21)**

- [Q5] I think around the weekend of 31<sup>st</sup>, it might have been a Wednesday, Thursday or Friday - she wanted to see her dad.
- [Q15] She sounded distressed.
- [Q17] She us usually really bubbly and happy and talking about Parliament House.
- [Q6] I flew down – she was very sad and withdrawn.
  - She kind of said to me, something had happened with a work colleague, but did not want to go into details.
- [Q24] We were talking and she said she could not talk about stuff with the Defence Department.
- [Q56] I definitely noticed over a period that she'd really withdrawn
- [Q57] I would ring her and ask how are you? and she'd say – very busy at work.
- [Q59-60] Brittany had said a little bit, and I said – probably best to talk to the right people. I'm her dad, I love her and I'm here supporting her.
  - The more information I know, the harder it is – like I wish I was strong and could say – I cant talk her through it.
- [Q63] She didn't tell me much – it had happened, something had happened. Just exactly what, like I said, I cant really go into the details.
- [Q68] She's my little girl, and its very very hard to listen to all of that – then keep going.

**19) [REDACTED] (ROC12.06pm 4/8/21)**

- Brittany Grew up on Gold Coast
- After leaving school, went to university at Griffith / Bond / Griffith



- Changed courses a few times – Psychology / Law / Media
- Sent to Canberra late 2018 – had just turned 23
- Worked for Minister Clobo
- Shortly after 2 March 2019, moved to Linda Reynolds office
- Was absolutely elated
- Immediately after 23 March, stopped communicating – seemed sad
- Around April/May, she said something happened, was attacked, but didn't want to talk about it.
- Lost a lot of weight
- I had a conversation with her father, we were both worried
- End of January 2021, she said she had to go public
- Said she had spoken to Cash about leaving, and she said Cash tried to convince her to stay
- Moved back to Brisbane, 13 February

- [Q15] Brittany was so young and so far from home.
- [Q13] Did not disclose what had happened
- [Q11] Had stopped communicating with her dad and I
- [Q14] Several months after the incident
- [Q16] January 2020 received a Facebook message
- [Q17] I asked Brittany why she was away from work
- [Q19] Eventually came home to Brisbane and we went to dinner and she finally opened up about what happened [Q43] 21/11/19
- [Q20] Waking up there and she was terrified.
- [Q57] Passed out and next thing I remember was pain in my leg, with him on top, raping her.
- [Q86] He was senior to her, but not significantly older, had a similar role.
- [Q47] She was extremely intoxicated.
- [Q58] Grabbed clothing from box in Minister's office.
- [Q59] Couldn't find the confidence to leave.
- [Q60] Sat there and ate some chocolates.
- [Q48] She said I think I even tripped on a step.
- [Q22] She said she could not disclose it until months later.
- [Q23] She had internalised it for a long time.

20) [REDACTED] (ROC9.15am 6/5/21)

- Bruce was an adviser in the now moved, Home Affairs portfolio.
- I was DLO with the Dept of Defence
- Minister Reynolds for **Emergency Management Portfolio** – is portfolio agency of home affairs
- Higgins in same office
- Same office – Ministers changes

- Defence and Defence Industries have generally same question time brief
- May have been generated or requested – generated electronically Parliamentary Document Management System PDMS
- DLO can access them
- Minister Reynolds would prefer hard copy
- Generally, advisers or chief of staff would have that folder
- Overnight Question Time brief would generally be stored in the vault with sypher lock
- Significant amendment would return to appartement – once emailed can be amended.
  
- Became aware that Mr Lehrmann left some sensitive document (Home Affairs) on another DLO's (Home Affairs) desk
- I walked into room as Mr Lehrmann was walking out and saw the documents
- Raised it with both COS and Lehrmann
- Individual meetings with Brown then Lehrmann
- At her direction prepared security incident report
- Spoke to Lehrmann – he requested that I return the document to him – and did so
- Lehrmann took document from office and gave to DLO for owning agency of office.
- Should not have been hard form and exposed.
  
- Heard about events during that week
  - Advised a security incident happened within the office
  - Brittany found in a state of undress
  - Heard from Fiona Brown
  - She came to me because she was seeking advice
  - Drew a position that not a matter for the Department
  
- Conversation with Brittany Higgins that week
  - She came into DLO room, and shut door
  - Visibly upset
  - What is wrong – you already know
  - Had arrived at Parliament House
  - Entered through security
  - Hazy from that point forward
  - Woke up in Minister's Office with Bruce on top of her
- After election, moved office because appointed Minister for Defence (not Defence Industries)
- A week or two after election – transferred to another area.
  
- [Q8] Departmental Liaison Officer (DLO) at Department of Defence
- [Q9] Out-posted to Minister Reynolds.
  
- [Q170] DLOs are paid executive allowance in lieu of overtime.
- [Q10] Approximately 8 months [Q11] prior to 23 March.
- [Q145-146] Working in officer were

- Minister Reynolds
  - Fiona Brown
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - Bruce Lehrmann
  - [REDACTED]
  - [REDACTED]
  - [REDACTED] (another DLO)
  - [REDACTED] (ADC)
- [Q150] There were tensions between those that came from Minister Ciobo and those in Minister Reynolds' office [Q152] although it did lessen over time.
  - [Q153] Not overt – at least in presence of DLO [Q155] but there were terse conversations that were evident.
  - [Q104-105] Usually work 9-5 Mon-Fri, on a sitting week hours were slightly longer.
  - [Q108] My desk was right next to the ministerial suite.
  - [Q19-20] I don't recall specifically what I was working on.

#### Brittany Higgins

- [Q26-27] I had worked with Ms Higgins for about 6 months in Minister Ciobo then Minister Reynolds at that stage.
- [Q29] She was an assistant media adviser.
- [Q31-34] Knew Bruce Lehrmann for a matter of weeks, after defence moved from Ciobo to Reynolds.
- [Q41-42] Both Higgins and Lehrmann sat in the large open area.
- [Q53-54] Cannot comment on drinking in office, but sometimes would be social drinks in afternoon or evenings.
- [Q59] Had not seen hard spirits in office after it moved to Minister Reynolds.
- [Q67-70] Heard about the incident from Fiona Brown.
- [Q91] Fiona was using me as a sounding board.
- [Q96] Did not observe anything unusual.
- [Q98] During the week, Lehrmann ceased employment.

#### Question time brief

- [Q119-122] Question Time briefs are prepared by the Department, for use by the Minister - I pass them onto the relevant adviser.
- [Q160] Role is to give Minister talking points.
- [Q161] Question Time briefs are very factual.
- [Q163-165] Each adviser had their own patch, Bruce was primarily in the Home Affairs portfolio, not the Defence portfolio.
- [Q124-125] If an adviser wanted it amended, normally the task would come back to me.
- [Q127] It wasn't common practice to stick notes or handwritten notes on the brief.

#### Disclosure

- [Q75] Had a conversation with Brittany during that week.
- [Q76-77] Brittany came into the room I worked in, when I was the only person present.
- [Q85] It was either Tuesday or Wednesday.
- [Q139] It was during that week immediately after the weekend.
- [Q79] She was quite upset about it.
- [Q80-83] She named Mr Lehrmann, and said she had been drinking with him, that she had been taken back to Parliament House in an Uber and didn't remember much after that.
- [Q130-133] She did describe the incident to me in some details
  - Consistent with reports in media
  - She woke up on couch in minister's office
  - Lehrmann was on top of her
  - Having sexual intercourse with her.
- [Q135-137] She was very upset at the time.
  - I asked very directly – did he rape you.
  - She said yes.
- [Q178] After the conversation, I said Look, if you want my advice, you need to go to see a doctor, you need to speak to the police.

21) ██████████ (ROC 4.13pm 2/4/21)

- Based in Parliament House as Aide-de-camp to Minister
- From left to right clockwise
  - ?? partner of ??? (Defence)
  - ██████████ (Defence)
  - ██████████ (Defence)
  - ██████████ (Defence)
  - Brittany (Minister Reynolds)
  - ██████████ (Defence)
  - ██████████ (Defence)
  - ██████████ (Defence)
  - ??? (Defence) (██████████)
- In Brisbane Monday/Tuesday, returned Wednesday 27<sup>th</sup>
- ██████████ closed the door and told me there was an incident between Brittany and Bruce
- Noticed Brittany was down.
- Was going to the passport office and asked her what happened.
- She told me about the rape.
- Had 4-5 conversations with her, the last one was in Perth.
- [Q12] Was Aide-de-camp for Minister Marise Payne
- [Q23] Assist with her personal care.
- [Q15] August 2018 -June 2019 with Minister Ciobo
- [Q26] Ciobo was very low maintenance.

- [Q29] Different ministers use ADC very differently.
- [Q16] Ciobo resigned from cabinet and Reynolds was promoted [Q18] 28/2/19.
- [Q175] Brittany was dating media adviser ██████████ – he was an arsehole.

#### The Dock

- [Q51] I can't remember who invited me, but my friend ██████████ and I went to the Dock.
- [Q52] Either my friend ██████████  
██████████
- [Q78] She had a ██████████. [Q80] but it was really sad because she just left him, and we had to maintain a conversation – he sort of looked over and left.
- [Q84] She left him with us, and went to the other table.
- [Q86] I think I left probably close to closing-ish time, like 11ish. [Q87] 11.30 maybe.
- [Q89] I walked home.
- [Q90] I wasn't written off, but I'd had a few drinks by that stage.
- [Q91] ██████████ said "we're going to 88 do you want to go, and I said no I don't want to go.
- [Q92] She was with Brittany, Bruce and ██████████.

#### Disclosure

- [Q189-191] ██████████ told me they'd kissed on the dance floor.
- [Q154] Bruce had already done something he was getting in trouble for – ██████████ told me he was quitting anyway.
- [Q170] ██████████ and I talk regularly, we're quite good friends. I can't remember if she told me that.
  - Fiona said "look there's already been a security breach, so it wasn't hard to get rid of him.
- [Q106] The first time I heard of anything serious happening was when we were at cabinet. I got a call from Fiona Brown and said asked are you and the Minister out yet, and I said no, she's still in.
- [Q107] I said Fiona needs to speak to you.
- [Q117] Would have been probably Wednesday or Thursday.
- [Q120] I went to the passport office that afternoon and I invited Brittany to come for a walk.
- [Q137] She said on the weekend Bruce and I went to 88, got a taxi and he wanted to come back here and like show me some whisky or there was something. I remember whisky being mentioned.
- [Q169] I was so drunk I barely could stand up. He pretty much had to carry me through security.
- [Q138] I fell asleep on the minister's couch and I woke up and he was on top of me.
  - Like I was meaning like was it rape. But I didn't say that.
  - I said who else have you told – have you told the Minister yet.
  - I don't think she spoke to the police yet.
  - She spoke about CCTV vision of her like falling over or stumbling.
  - Not being conscious enough to walk and stand up and stuff.
- [Q139] I said do you want to press this to police. **[First conversation**

- I was a bit more empathetic.
- She was “oh year and the election”
- I was like, fuck the election, they’re going to lose anyway.
- [Q141] I probably spoke to her about four times – to check in on her.
  - She told me she’d decided not to go further with it anymore.

#### Going to Perth

- [Q148] Spoke to Fiona Brown when at the [REDACTED]
- [Q156] We spoke and like – should Brittany come to Perth? And she was like “Yea, she can go to Perth”.
- [Q158] I spoke to Linda Reynolds on the plan, we sat next to each other and I just said, “Oh Brittany told me what happened, like I’ve offered her support” and she said “I’m physically sick because there’s nothing like this has ever happened to me before”.
- [Q165] I went to pert and asked Brittany, do you want to come to dinner with us tonight or get a coffee – and she was like “Look, I’m not really up to it. Like I don’t want to be around people.
  - Technically Brittany outranked me.
  - Brittany got a new job with Mikaela Cash.

#### **22) Fiona BROWN (ROC 11.59am 21/3/21)**

- 2 March 2019 – Reynolds moved from Home Affairs to Defence Industries – putting all staff on deferment.
- Lehrmann was wanting to go to Home Affairs and was on deferment, last day in office Wednesday 27 March 2019.
- Higgins was coming into office.
- Lehrmann had mishandled classified documents
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Tuesday 26 March 2019 11.00am– had meeting with Lehrmann about departure following day Wednesday 27 March 2019.
- Found out afterwards about entry on Saturday 23 March 2019..
- Net with Lehmann and spoke to him about it – asked where in the office he went – said he didn’t want to discuss it – I tied it to security issue.
- Said he should finish today – and he asked pack some things
- I told him to come see me before he left – to reason
  - Get his pass
  - Check what he was taking
- Meeting with Brittany
  - Tuesday 26 March
  - Wednesday 27 March
  - Thursday 28 March – Code of Conduct – he was on top of me
  - Friday 29 March

- Had a heated conversation with Reynolds who told me to report to police
  - I sought advice from [REDACTED] Dept Finance
  - Did not know what to report
- Monday 1 April (Brown / Reynold / Higgins) referred to AFP
- [Q11-12] In PM's Office for about 10 years
- [Q13] Director of Operations
- [Q14] Minister Reynolds promoted [Q15] trying to stand up an office.
- [Q37] Outgoing staff of previous incumbent staff have a choice to stay or apply for a job with the new minister.
- [Q38] If they leave, they get a discretionary payment.
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Tuesday 26 March 2019.

- [Q80] Tuesday 26 March
- [Q81] I'd been speaking to Bruce around 11.00am – as Minister decided he probably didn't need to continue
- [Q83] We made sure there was time to hand everything over – there was really no need for him to stay anymore – OK well come back and we'll have an afternoon tea.
- [Q84] At 11.45 I spoke to Bruce for 10 minutes max.

Aware of incident

- [Q85-6] Then about 11.45 I got a call from [REDACTED] from Dept Finance
- [Q87] To tell me there had been an incident.
- [Q89] She characterised it by saying two starfers entered through security checkpoint
- [Q90] Bruce Lehrmann and Brittany Higgins
- [Q91] Bruce had left office around 2.30.
- [Q94] Brittany was naked and passed out.
- [Q95] [REDACTED] said Brittany was offered an ambulance and medical assistance and declined and left building 10.00am.
- [Q96] [REDACTED] took me through the protocols and procedures.
- [Q98] It was a breach of ministerial staff code of conduct.
- [Q99] I had to offer them EAP.
- [Q101] Give them time to respond and offer to work from home – but Bruce was leaving anyway.

Lehrmann

- [Q60] Bruce Lehrman had been working for Minister Reynolds
- [Q66] His role was estimates etc but he wanted more.

- [Q70] [Estimates] is getting the paperwork sorted, make sure the processes were followed. Getting the minister briefed in time for estimates. Any media appearances.
- [Q103] Since I got there, 2 weeks earlier, I have a recollection that Bruce wasn't happy with the role that was on offer.
- [Q104] He wanted to stay with Home Affairs [Q105] but minister was no longer there.
- [Q111] Got everything ready
- [Q112] Got [REDACTED]
- [Q114] Bruce came in
- [Q119] I told him that I'd been advised that he and another person had arrived in the early hours of Saturday
- [Q120] He was inebriated and could he please explain.

#### Lehrmann response

- [Q120] He didn't agree they were intoxicated.
- [Q123] I asked why he attended the office
- [Q124] He told me was to drink his whisky
- [Q125] I challenged why he would do that
- [Q126] I said, well you know you've breached the min-wing security protocol and the Ministerial Standards which I had to report – he denied this. I referred to the Staff Code of Conduct and the secured area in which he worked.
- [Q128] He said he just came in to drink his whisky.
  - He denied going and accessing anything else during this time.
- [Q130] I asked how much he had, and he said about two glasses.
- [Q133] In the suite you have a credenza.
- [Q141] I asked if he'd accessed any documents in the secured area, he said no. I asked what time he left the office, he thought it was about 2.15 but couldn't be sure.
- [Q142] I asked which exit he used, he said min-wing basement – ordered an Uber to go home.

#### Lehrmann departure.

- [Q148] He asked if he could collect his personal belongings, - I said yes but he had to see me immediately as soon as he finished.
- [Q150] he disappeared and I rang his several times [Q151] at 1.14pm I texted him [Q152] he advised me he left his pass at the ministerial wing entrance – I told him I was disappointed he failed a direction.

#### Higgins

- [Q46-47] Miss Higgins expressed an interest to stay on in the office.
- [Q49] She had been on reception for Minister Ciobo [Q50] which is band one.

#### Higgins response Tuesday 26 March 2019

- [Q160] I had a meeting with Brittany Higgins about 1.30pm.
- [Q164] I asked what time she arrived at the office – she said she didn't remember accessing the office – she had been out and was inebriated (my word)



- [Q165] She remembered coming through the security checkpoint in the min-wing basement
- [Q166] She remembered being woken up, but didn't know what time and she was semi-naked
- [Q167] She remembered waking up again about 8.00am, Saturday on the couch.
- [Q189] She wasn't very forthcoming with information.
- [Q171] I asked was there anything else she recalled – she shook her head and said "I'm responsible for my actions.
- [Q191] I said that's fine – and offered her did she want to go home to the Gold Coast.
- [Q194] I asked if there was anything I could do and she said no, she'd spoken to her father.
- [Q197] I offered I was available anytime to talk to her.
- [Q201] It wasn't a long meeting. I said you've breached the Ministerial Staff Code of Conduct, and I explained what that was.
- [Q205] The issue was they told DPS staff they were there for urgent business.
- I asked her to take the afternoon off- she said that fine – I said leave me the USB because of her workload was time pressure.

Higgins response Wednesday 27 March 2019

- [Q215] I went out to see her the next day and she wasn't there.
- [Q216] She had not left the USB and I was concerned so I rang her.
- [Q218] She told me she had been crying – I offered to come down and see her and she didn't want me to.
- [Q222] I did follow-up with her at the end of the day – I called her.
- [Q223] went to voice mail - 5.05pm I texted her.
- [Q213-233] I briefed up to [REDACTED].

Higgins response Thursday 28 March 2019 (Possibly Wed 27<sup>th</sup>)

- [Q238] The next conversation I have with Brittany is Thursday 28 March.
- [Q239] I asked her to come and see me about her statement of private interests.
- [Q240] [REDACTED] wrongly states Thursday 27<sup>th</sup> [Q262] She then says 27<sup>th</sup>
- [Q267] I said to her that whilst I was unaware of exactly what occurred at the office [Q268] if something happened, she wasn't happy with or felt wasn't right, that had upset her [Q269] she had every right to lodge a complaint.
- [Q270] I said there would be no trouble, no trouble would be caused, she should know she was supported and within her rights to lodge any report.
- [Q271] She said she was fine.

Higgins response definitely Thursday 28 March 2019

- [Q279] Move to Thursday 28<sup>th</sup>.
- [Q281] I followed up on her Statement of Private Interests.
- [Q287] She signed and dated 28<sup>th</sup> March.
- [Q288] She gave that to me and I said thanks – If you're unhappy with anything you always have our continued report.

- [REDACTED]
- [REDACTED].
- [Q293] When I said I was really happy with that – she sort of turned around and out of nowhere said “I recall him being on top of me”
  - [Q305] She had stood up.
- [Q296] At first I didn’t know what to say, so I said “if it is something you had not wanted to have happened, then you should think about reporting it.
- [Q297] She said her dad was coming down on the weekend. I asked if she wanted to go home, and she said no, and I said if you change your mind, let me know.
- [REDACTED]
- [REDACTED]
- [Q300] She asked to tell colleagues she was working from home.

Reporting to AFP from Friday 29 March 2019.

- [Q411] I was concerned that if I was to speak with Bruce, I would interfere with anything
- [Q413] So I called [REDACTED] about 1.25pm Friday (29 March 2016) [Q414] and asked if there would be a problem with me speaking to Bruce. [Q417] I was trying to set a time to talk to him about his termination.
- [Q321] I would have told Minister Reynolds whether it was on Thursday 28<sup>th</sup> or Friday 29<sup>th</sup> – I didn’t keep notes of what I told the Minister.
- [Q329-330] I did not go to the police, because at that point I didn’t have any allegations.
- [Q332] I phoned [REDACTED] in Dept of Finance [Q333] and sought guidance – I was concerned for Brittany’s welfare.
- [Q340] Minister said to see if Brittany wants to make a report.
- [Q343] I believed her when she said him being on top of her and when didn’t want to make any further allegations.
- [Q344] I’ve never dealt with a matter like this.
- [Q346-351] Did not go to police, she said she didn’t want that – she wanted to see her dad.
- [Q360] I called Minister and said Brittany didn’t want to report the incident.
- [Q377] It was important she made decisions and took control.
- [Q379] I came out of that meeting and I got the details of the AFP liaison.
- [Q385] I called AFP liaison Paul [REDACTED] and Rebecca [REDACTED]
- [Q386] I called and set up a meeting.
- [Q389] I offered to stay and she said she was fine.
- [Q390-391] She came back and said she wasn’t going to pursue anything.
- [Q394] I was comforted that she’d gone to the police.

Monday 1 April 2019

- [Q410] Brittany had been to the AFP on 1 April.

Wednesday 3 April 2019

- [Q422] Minister advised me prior to the AFP meeting with [REDACTED] that Close had advised her that Brittany had made an allegation of Sexual Assault against Bruce.

Thursday 4 April 2019

- [Q402] On Thursday 4 April 2019 I recall the minister meeting with Assistant Commissioner [REDACTED]. [Q405] I was only brought in at the **very end to just exchange details**.
- [Q431] Sought a non-standard workbase for Brittany Higgins.
- [Q434] Wanted to go up to the family on the Gold Coast and work. If she wanted to go on campaign to WA she could.

Monday 8 April 2019

- [Q426] Brittany made an appointment with SACAT on Monday 8 April 2019 at 5.00pm.
- [Q463-464] I have a vague recollection a couple weeks into the campaign that Britany wasn't going to pursue it.

Brittany Left Office 7 June

- [Q459-459] 7 June she sent me a message asking if there was anything she needed to do to transition her office – and I was surprised.

Return to Lehrmann

- [Q395] I was looking at issues around Bruce Lehrmann's appointment.
- [Q396] And what it meant because he had two security breaches, one was document handling, which was quite serious.
- [Q399] Minister wanted to terminate Lehrmann for these two matters.

Role model

- [Q301] Brittany had an interest in media, and I thought I would get another young woman in the office as a role model.

**23) Senator Linda Reynolds (17/6/21)**

- [3] 2/3/19-29/5/19 – Minister for Defence Industry et al
  - 29/5/19-30/3/21 – Minister for Defence
- [5] 1/3/19 became aware that Minister Steven Ciobo would not seek re-election
  - Higgins was receptionist for Ciobo as Minister for Defence Industry
- [6] PM asked me to accept Defence Industry portfolio sworn in 2/3/19
- [7] Members of Parliament (Staff) Act 1984 (MOPS Act)
  - Higgins would normally have received deferral period then terminated
  - I decided to employ Higgins with several other members of Ciobo staff
- [9] 2/3/19 I was told by [REDACTED] that [REDACTED] and Lehrmann went to Kingston Hotel
  - I received an email from [REDACTED] about an altercation and she resigned
  - I spoke to [REDACTED] next morning and she withdrew her resignation
- [10] 5/3/19 former Ciobo staff (including Higgins) accepted employment offer with me
- [13] Lehrmann was on list of included staff, but proposed commencement date was not included against his name.

- I had become aware of one or more alleged security breaches by him.
- [15] Lehrmann remained on the deferral period and was not appointed.
- [16] Still considering my view of Lehrmann due to earlier security breach.
- [17] Practice
  - Last staff member locked door
  - My office was generally unlocked with door closed
  - Security would do a sweep of suites
  - Suite could be accessed with swipe card

25/3/19

- [19] I was aware of a security breach

25/3/19

- [20] In communication with Brown and advised
  - She had been contacted by Dept Security Services re security breach Saturday 23/3/19
  - Had met with Higgins and Lehrmann
  - She told Lehrmann to leave office permanently as still in deferral period
  - Engaged Dept Finance in relation to discipline

28/3/19

- [30] Brown in regular contact
  - Brown became concerned about event involving Higgins
  - Worried about her lack of recall
  - [32] Higgins had become distressed during conversation

29/3/19

- **[36] I became concerned for Higgins wellbeing because of Brown's reports of increasing level of distress**
  - **I became eager to catch up with her**

1/4/19

- [39] Met with Higgins and Brown
  - I was not aware of any other incident other than unauthorised access
  - Told her I wanted to hear her perspective
  - She was extremely apologetic
  - **[44] She became increasingly distressed and visibly upset attempting to recall events**
  - [46] She said she had no recollection, other than woke up in the morning **got dressed and left**
  - [47] Never used word rape
  - [49] I recall feeling uncomfortable having such a sensitive and personal conversation with Higgins
  - **[50] Asked if she was open to talking to AFP**
    - Recall Brown agreed to facilitate a meeting

- [51] Recall Higgins initially reluctant to talk to AFP, but did agree to do so
- [54] Spoke to her after the meeting and she said it was very helpful
- [57] Did not discuss in detail

4/4/19

- [59] Had conversation with Ass Commissioner [REDACTED]
- [61] Told Higgins intended to progress a complaint
- [62] Asked how I could best support, and told take cues from Higgins
- [63] 10-15 minute discussion

Termination of Lehrmann

- [64] 4-5/4/19 Brown engaged Govt Standing Committee
- [66] I had conversation with [REDACTED] re breach
- [67] Issued a show cause letter
- [68] 5/4/19 received reply
- [70] Recommended he be terminated
- [72] Recall Brown telling me she had conversation with AFP re impact of termination on investigation or whether Higgins should be told – do not recall outcome.
- [74] 5/4/19 Approved and signed termination letter

Election

- [79] 11/4/19 PM called election for Sat 18/5/19
- [81] I believe Brown provided Higgins option of staying in Canberra or returning to Gold Coast and assisting me with campaign
- [82] Higgins joined my team in Perth 14/4/19-3/5/19 then 6/5/19-19/5/19
- [85] After election had conversation with staff about what they wanted to do
- [86] Sworn in as Minister for Defence 29/5/19
- [88] Recall asking Higgins what she wanted to do and she told me she had been offered role with Michaelia Cash and was going to accept it
- [90] 4/6/19 Gave Higgins letter of thanks
- [91] Friday 7/6/19 Higgins last day in my office
- [93] Became aware of media interest and passed it onto Cash office.

**24) [REDACTED] (6.03pm 12/8/21)**

- [Q11] I was chief of staff to Special Minister of State Alex Hawke
- [Q21] Aware two people had come into Parliament House.
- [Q32-38]
  - Phone call with Fiona Brown who took note
  - I recall him saying he came into Parliament House for the purpose of drinking whisky from memory
  - It wasn't for the purpose of doing work.
  - It would be unusual to terminate, but it was his second offence in what was a relatively short period of time.

Report 1

## 25) Federal Agent Rebecca Anne [REDACTED]

[10/5/21]

- [4] 9.45am Monday 1/4/19 commenced APH.
- [6] Had a conversation with Higgins on mobile phone.
  - Agreed to meet her in our office.
- [7] Approx 12.00pm escorted Higgins to PL office and introduced her to FA Kate [REDACTED].
- [8] Had conversation with Higgins
  - Friday 22/3/19 met at The Dock.
  - 10.30pm she and a group of 4 went to bar in Civic.
  - Began feeling excessively intoxicated – disproportionate to amount of alcohol she believed she consumed.
  - Fell over twice and decided to return home.
  - Escorted to rear of Uber.
  - Short time later dropped at Parliament House – very confused as to why.
  - Male told her to play along.
  - Remembered being in Minister's Suite, did not recall how she got there.
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - Did not recall anything further until waking next morning.
  - Sick in Minister's bathroom, returned home via Uber.
- [10] Wed 3/4/19 [REDACTED]
- [13] Thur 4/4/19 had conversation with SACAT – assisted facilitation of meeting between them.
- [15] Mon 8/4/19 provided with [REDACTED].
- [16] Tues 16/4/19 viewed CCTV with Sergeant Paul [REDACTED].

[21/7/21]

- [4]-[6] 8.30am 4/2/21 checked email and saw email from Brittany Higgins advising
  - Reaching out in relation to discussion April 2019
  - Work situation has changed and looking at pressing forward
  - Before making final decision, can I have a copy of original case file
- [8] Forwarded to [REDACTED] and responded to Higgins.

## 26) Federal Agent [REDACTED] (29/4/21)

- [3] [REDACTED] had a conversation with [REDACTED] advising they would be speaking to a member of staff who wanted to report a sexual assault that had occurred in Parliament House.
- [4] 12.00pm with FA [REDACTED] met with Higgins and had conversation recorded in diary.
  - 6.30 arrived at Dock and drank about 4 Gin and Tonics.

- Left about 10.30
- A few of us left.
- Date bought maybe 2 drinks.
- Group of 4 went to the city.
- Knew other 2
- Considered Bruce a friend
- Things got a little hazy
- Did have a few drinks but can't remember
- Former [REDACTED] – Bruce
- Sitting with [REDACTED] discussing post-election job plans
- Dancing then fell over
- Felt embarrassed then sat down
- Bruce was sitting with me and got quite handsy
- I felt like I got super inebriated
- I lost it on the stairs again
- [REDACTED]
- Bruce and I got in a taxi
- I have my address to Bruce
- Next thing I remember was being at the bottom of Parliament House
- Talking about storm in Nth Queensland
- Couldn't write my name
- I don't remember getting up to the suite
- Remember being on Minister's couch
- Remember him being on top of me
- Bruce saying something about finished
- I said something like, no don't
- He left
- I just stayed
- Vaginal/penile sex
- When I woke up it was morning – I remember thinking its almost 8 O'clock
- I was thinking, why and I here
- I felt grossed out, as I could smell what had happened to me
- I went to the Minster's bathroom and used her deodorant
- Got sick
- I borrowed a jacket from the good will box
- Saw stains all over my shirt / dark stains
- I then called an Uber
- My dress has not been washed
- Have known Bruce for about a month
- I put what happened away so it wouldn't be a narrative to my life story – I am quite good at doing this
- I had cordial dealings with Bruce on Monday and Tuesday
- Chief of Staff received a report from PM's office for accessing Ministerial Suite
- Incident was a factor in Bruce's termination
- Had an interview with Minster and explained what happened

- I do not want to report this officially – just off the record
- Minister and Chief of Staff Know
- Went to the Phillip Medical Centre to get tests done – no results yet

**27) Detective Sergeant Robert Heath LANGLANDS (22/7/21)**

- [3]-[4] 11.25am Friday 3/5/19 asked by [REDACTED] to make contact with Brittany Higgins to ensure she was not under duress not to proceed with complaint.
- [5]-[6] 11.57am contacted Brittany Higgins and she said she the decision was her own choice of her own free will.
  - She would consider her options after the election when things had slowed down.

**28) Detective Senior Constable Kristy [REDACTED] (27/8/21)**

- 5.00pm Monday 8 April 2019 – with Sarah Harman, met Brittany Higgins.
- Recorded complaint pages 218-220 diary.
  - At the Dock
  - Then another venue I hadn't been to before
  - Uber together to city
  - Another Uber from Civic to Parliament house
  - Lehrmann got the Uber
  - Not 100% sure it was an uber
  - Sign into Parliament House
  - Buzzed in on door
  - Didn't have my work pass on me
  - Left about 0800
  - Security guard that yelled out
  - Work started dealing with security breach on Mon day
  - Bruce was fired on Wednesday
  - They spoke to me
  - I blocked him on social media

**29) DSC Sarah Elizabeth HARMAN (23/7/21)**

- [3] Thursday 4/4/19 working at SACAT and advised that Higgins had made complaint.
- [5] Friday 5/4/19 arranged to meet Higgins on 8/4/19.
- [36] 4/5/19 Conducted research re Uber and told there was no offence so could not produce
- [37] 9/5/19 advised by [REDACTED] that [REDACTED] would not be released until after election
- [50] 4/12/19 [REDACTED]

8/4/19

- [8] 12.02pm Monday 8/4/19 spoke with FA [REDACTED].
- [9] 3.17pm called Higgins and introduced herself and confirmed would collect her at 5.00pm.



- [11] 5.00pm collected Higgins from Parliament House and took her to Winchester.
- [12] 5.25pm Kristy [REDACTED], Higgins and myself were met by [REDACTED] from Canberra Rape Crisis Centre for a meet and greet.
- [13] Higgins raised concerns regarding upcoming election and the replaceable nature of her position.
- [13]-[14] Made complaint
- [15] Higgins expressed concerns that the defendant would be able to access information as she heard he was getting a new job at another Government Department.
- [17] She did not know if protection was used
  - She stated she had not been to a doctor
  - She was open to a referral to a sexual health clinic
  - She had taken photos on her phone
- [20] 7.19pm took her back to Parliament House
- [23] 12.43pm Tuesday 9/4/19 made enquiries to FAMSAC re services and opening hours and [24] 1.32pm phoned Higgins and told her.

#### Not proceed

- [27] 1.56pm 10/4/19 made a call to Higgins and left a message – 2.00pm sent text
- [31] 1.28pm Sat 13/4/19 received an email from Higgins stating she did not wish to proceed.
- [33] Responded Mon 15/4/21
- [34] Tuesday 23/4/19 sent email to VLO advising she did not wish to proceed.

#### Post contact

- [45] 5.50pm Sunday 20/10/19 requested by Mick Chew to contact Higgins and inform her of a media enquiry that may be raised at Senate estimates.
- [46]-[47] 5.53pm left message and returned 6.00pm – notified and she became increasingly distressed and very upset, such that she was unable to speak – said she would call in a couple of days and hung up.

#### **30) [REDACTED] (20/7/21)**

- [3] Aug 2014 commenced as Policy Adviser for Michaelia Cash in Canberra [4] late 2017 promoted to Senior Policy Adviser.
- [5] July 2019 following Federal Election, Brittany Higgins joined our office as assistant media advisor – came from Minister Reynolds office.
  - We got along very well.
  - She was a committed and hard working member of the team.
  - We travelled together as a result of our roles.
  - Helped any time I needed anything.
- [7] October or November 2019 I noticed Brittany seemed a bit down and suggested we go for a coffee.
  - Walked to Queens Terrace Caffe and she mentioned an incident whilst at Reynolds Office.

- [8] Said she had been assaulted by adviser.
  - Been drinking
  - Accepted a lift home
  - Woke up alone with clothes in disarray
- [9] She was rather upset
  - I asked if she had support
  - She told me he had been let go
  - Asked if there was anything I could do

31) [REDACTED] (19/7/21)

- [3] 2 January 2019 commenced working for Cash.
- [4] Following election on 18 May 2019 Higgins commenced.
- [5] Late November 2019 with Higgins, attended a Coalition Senators and Staff Christmas Party with about 60-80 other people
- [6] Early in the evening in conversation with Brittany about our careers.
  - Both driven and held junior roles.
  - Both hoped for long term careers as staffers.
  - Formed a pact to support each other.
  - Asked if I knew Bruce Lehrmann and I said I did not know him well, but worked in the same building.
  - She disclosed to me that she had been assaulted by him in Minister Reynolds Office in lead up to May 2019 election.
- [7] Cognisant surround by people and tried to keep conversation discrete – and did not go into specifics. – seemed ill-at-ease but not too upset.
- [8] Expressed concerns about media trying to publish story.
- [9] I asked if she was receiving support.
- [11] Later than night I returned to office to collect my bag and noticed Brittany in meeting room off reception area crying, being comforted by [REDACTED].
- [12] I told [REDACTED] and she would look after her.

32) [REDACTED] (9.34am 19/5/21)

- [Q11] Chief of Staff from Mikaela Cash
- [Q12] Prior to that, worked for a number of members and senators.
- [Q15] Brittany Higgins started in office June 2019, just after election. [Q17] maybe 4<sup>th</sup> June.
- [Q25] Linda Reynolds called and said someone from her office was about to come around.
- [Q16] We hired her as assistant media advisor. Had been through PAC and we needed a media advisor.
- [Q19] I understood she had only been in the building a short time.
- [Q20] I wasn't aware of the incident whatsoever.
- [Q22] She was in office from June 2019 until she resigned.
- [Q110] I always thought she did a very good job.

Resignation

- [Q23] In October 2019, what happened in 2019 was publicly discussed.
- [Q27] There'd been a media inquiry relating to the incident.
- [Q30] From memory, called Brittany in and told her someone from Reynold's office is coming around, apparently there had been a media inquiry.
  - Brittany was quite upset when I told her.
- [Q52] Told [REDACTED] was the journalist.
- [Q33] They had a conversation, then [Q34] I had a brief conversation.
- [Q38] We told Minister Cash.
- [Q45] Brittany was adamant that she didn't want to go any further – didn't want it to be a media story.
- [Q46] This was October 2019.
- [Q48] I could tell it upset her.
- [Q68] Her main concern was that she'd be able to be identified.

Initial rejection

- [Q87] Tendered her resignation on 5<sup>th</sup> February [Q89] We said take a few days to think about it.
- [Q54] She gave me her resignation letter – wanted to resign her position.
- [Q56] I basically said, look you know, we really don't want you to resign, you know, I don't want to process this.
- [Q57] you know, take a week off to think about, and she took a week of.
  - Minister spoke to her the next Friday
  - She told us a lot more details about the incident that we did not know.
- [Q 92] She told us a lot more of the detail, basically about the night.
- [Q93] Remembered waking up with a person on top of her.
- [Q99] She'd had a lot to drink, and basically woke up with him on top of her.
- [Q100] A guy called Bruce Lehrmann.
- [Q146] I probably learnt a lot from what was on TV to be honest.
- [Q91] She said she wanted to get out of politics.
- [Q161] We offered her to go to the police, and she said no.
  - I gave her extra time to change her mind, just in case she did.
- [Q58] We offered to go to the police.
  - Offered for her to do the job remotely.
  - I sent her a message the next week basically saying we'll process it on Friday.
- [Q64] I didn't really feel it was appropriate to press her for details.

**33) Michealia CASH (3.52pm 21/5/21)**Work History

- [Q64-65] She applied for the job
  - My understanding is based on what I learnt, she applied for three jobs – she was given approval for all three jobs she chose to come to my office.

- [Q70] All I knew it was a step-up in my office.
- [Q77] For me, an election been held – I'm looking for a media adviser.
- [Q137-138] Sometimes the older you get, the more wisdom you get – there's a hierarchy even in this place. You're on the blue carpet at a very young age.

#### Media enquiry

- [Q85-86] Around October 2019.
- [Q83] Brit said I don't want to take a call from Canberra Times anymore.
  - A journalist has been inquiring about me personally.
  - About an incident that occurred in Linda's office.
  - I don't want to talk about it anymore.
  - Another staffer and I went out drinking, got really drunk and came back really late to Parliament House.
  - I remember waking up on the minister's couch and security found me.
- [Q91] OK that's fine. I'm thinking it's a security breach, and I'd be pretty embarrassed myself.
- [Q102] In the second conversation – the following Friday the media adviser comes to me and says "Holy shivers, we've just got questions about Brittany, she was raped"
- [Q106] Brittany never mentioned rape, she never mentioned sexual.

#### Report

- [Q25] Already knew some of it – but then a little bit shocked because its gone from a security incident and now she's telling us a little bit more about what occurred.
- [Q29-30] Never used the words sexual or rape – she used assault.
- [Q32] She recalls he was on top of her, and that she struggled with him.
- [Q45-46] She has gone from – we came back drunk, I fell asleep in the ministers office, I was caught by security – to the person that she has gone out with is now assaulting her.
- [Q48] And just pushing – was it a sitting day – no its not a sitting day – well it was a sitting day in the last conversation.
- [Q51] This is the first time that Miss Higgins mentioned the person being on top of her – other than a drunken night.

#### Phone conversation

- [Q40] Jump forward a year and a half, she is now in this phone call. She'd prefer to resign, she doesn't want to stay in Canberra.
  - We pressed her, she really doesn't want to talk about it.
  - It was taken care of at the time, we think the security incident was taken care of.
- [Q10-11] Phone conversation took place Friday 5 February 2021, it could have been in the afternoon.
- [Q13] I had spoken to Brittany and she informed me she wanted to resign.
  - The following Friday, the 12 February 2021 my office received a list of questions from a journalist.
- [Q14] The first time I ever heard the word rape – was about 5 February 2021.
- [Q15] The conversation builds on a conversation we had the previous week.



- [Q35] He was buying a lot of drinks for the table
- [Q37] They moved to a second venue
- [Q40] There was a guy called [REDACTED] who now works for Peter Dutton
- [Q43] She invited him with the group and didn't want anything romantic to do with him.
- [Q46] She was drunk and got in a cab thinking he is my superior, my boss
- [Q48] It get kind of hazy but she does remember certain things
- [Q49] At security he said something along the lines Shut up, I'll do the talking. Just be quite, I'll get us in.
- [Q55] She remembers being on the couch, feeling trapped.
  - He was on top of her, sweaty and nearly finished
  - She woke up from the pain
  - Just having sex with her
  - Asked at least half a dozen times for him to stop, and he just didn't stop.
- [Q56] Waking up next day in Minister's office
- [Q57] She didn't actually use the word rape until later on.
- [Q70] She told me not long after the incident, she ran into him running along Kingston and saw him from a distance – I don't think he saw her – she panicked and ran home.
- [Q76] She started to get these anonymous emails from fake accounts saying "you're a slut, you're a whore"
- [Q83] She started getting those photos of likes and un-likes around the time of Senate Estimates in 2019 – she was concerned about the sort of stuff and raised it with her boss Mikaela Cash.
- [Q101] She really opened up at Christmas and was [REDACTED].

## Report 2

### **35) Samantha MAIDEN**

- Recorded interview 21/1/21
- Email exchanges 11/2/21-17/2/21

### **36) Lisa WILKINSON (TROC 18/5/22)**

- Email exchange with Sharaz 18-21 January 2021.
- Phone conversation with Higgins around 22 January 2021.
- Meeting at Star 9.20am 27 January 2021 (timeline handed over)
- Recording of interview 2 February 2021.
- Did not get paid for the interview.

### **37) Detective Sergeant Kylie [REDACTED] (26/7/21)**

- [3]-[5] Shortly after 4.00pm Fri 5/2/21 accompanied Constable [REDACTED] and Brittany Higgins to a private room to get details.
- [7] Advised that she had reported a matter to Rebecca [REDACTED] but understood she had since left.
- [8] Said she was sexually assaulted in Defence Ministers office by staff member in 2019.

- [9] Said at the time of the 2019 election there was a lot of pressure on her not to report it and there had been ongoing pressure since not to speak out.
- [11] Said she tried to resign three times in the last month and had been declined.
  - Resigned once and for all last week and they told her she could just work from Queensland and they'd pay her.
- [12] [REDACTED].
- [15] She was quite emotional but composed throughout the conversation.
- [19] Contacted CI reception Officer D/Sgt Lauren Gilliland and briefed her.
  - Also advised D/A Sgt [REDACTED] and D/Sgt [REDACTED].

### 38) Senior Constable Emma Louise FRIZZELL

#### Statement 27/7/21

- [3] Friday 5/2/21 D Sgt [REDACTED] advised me that request to reactivate report had come in.
- [6] 8.31am Sat 6/2/21 with D Sgt [REDACTED] met Brittany Higgins and David Sharaz at Belconnen Police Station.
- [13]-[14] Offered Higgins EICI, and she said she wanted to but wanted media releases to play out first and asked if she could do in a week around Sunday 21/2/21.
- [16] Advised investigation would not commence until she provided a statement, and advised that media coverage could jeopardise any evidence.
- [20] 4.05pm met Higgins and Sharaz at [REDACTED] and she provided a dress.
- [24] Wed 17/2/21 sent SMS to Higgins to discuss [25] later responded via SMS and Email in which Higgins asked when she could book a date to provide a statement and reactive investigation.
- [26]-[27] 11.53am Friday 19/2/21 had phone conversation with Higgins and discussed travelling interstate and said I would email her with a suitable date for Police to travel.
- [31] 1.00pm Wed 24/2/21 with Madders, met Higgins, Sharaz, [REDACTED] and [REDACTED] at AFP Gold Coast office, and conducted EIC.
- [57] Thurs 4/3/21 had conversation with Her Time Counselling [REDACTED] and said patient notes were data corrupted but would provide what records she had.
- [76] 4.59pm Wed 10/3/21 sent Higgins SMS and made arrangements for Higgins to meet at Woden Police Station on 12/3/21.
- [80] 10.00am Fri 12/3/21 Myself, Madders and [REDACTED] from CRCC met at Woden Police Station to meet Higgins but did not attend – arrangement made to meet Mon 15/3/21 at Belconnen, noting examination of phones.
- [82] 9.00am Mon 15/3/21 myself, Madders and [REDACTED] from CRCC met at Belconnen PS with DF [REDACTED].
- [83] 9.34am sent SMS to Higgins.
- [84] 9.55am Higgins answered phone and call had bad connection and ended.
- [85] Shortly after 10.00am left.
- [86] Shortly thereafter saw Higgins on TV at March for Justice.
  - 17/3/21 emailed and Higgins responded that investigation was now her priority.

- [92] 6.08pm Mon 29/3/21 did ROC with [REDACTED], at conclusion told things she did not want included in her statement.
  - [94] Stated Higgins reported to her chief of staff that she had seen a member of her team kiss a member of the media behind a post at the War Memorial.
  - Higgins later was allegedly confronted and admitted to lying.
  - [REDACTED] also reported an in-office rumour that Higgins and [REDACTED] were seeking each other.
- [100] 11.08 Sat 10/4/21 met with [REDACTED] at Belconnen PS and provided a statement
  - [104] Advised that Higgins had previous relationships with [REDACTED]  
[REDACTED]  
[REDACTED]
- [109] 9.52am Fri 16/4/21 with Boorman and Brown attended [REDACTED]  
[REDACTED]
- [126]-[130] 2.55pm Mon 19/4/21 met defendant with his legal representative at AFP Sydney Office.
  - Boorman asked if there was any material on his mobile phone and he said no.
  - Retained his mobile phone and short time later entered interview room.
- [134] During course of ROI provided banking information and document containing social media accounts.
- [146]-[147] 6.00pm Wed 21/4/21 spoke to [REDACTED], but refused a statement – saying he was a horrible prick and was coercive and controlling.
- [155]-[160] 7.12pm Wed 28/4/21 spoke to [REDACTED] who said
  - [156] Not unusual for Higgins to go out on a Wed night and hook up.
  - [160] Saw defendant had alcohol stash primarily whisky and wine.
- [163]-[164] 12.15pm Thurs 29/4/21 contacted Philip Medical and Dental Centre – and was advised Higgins attended on 28/2/19 and not on any other occasions.
- [175] 9.30am Wed 26/5/21 met Higgins and Yates at Belconnen Police Station for 2<sup>nd</sup> EIC.

#### 1 March 2019 incident

- [155] 7.12pm, Fri 23/4/21 had a phone conversation with [REDACTED].
- [162] Incident when Higgins and defendant first met in March 2019.
  - Defendant and [REDACTED] were at Kingston Hotel.
  - Defendant wanted [REDACTED] to message Higgins to invite her.
  - Higgins attended saying she could not stay.
  - Preparing to leave and males wouldn't let her leave and took her phone as she attempted to order an Uber.
  - When defendant was intoxicated and pushed his weight around.
  - Matter resolved next day.
  - [REDACTED] resigned.
- [182] 2.28pm Thurs 3/6/21 had a conversation with [REDACTED] for Reynolds in Perth.
  - [184] [REDACTED] smoke [REDACTED] regarding resignation letter.



- [185] Said all went out for lunch.
  - Heard of incident on 1/3/19.
  - █████ rang her to tell her what happened.

#### Phone

- [38] At conclusion of EICI Wed 24/2/21 asked Higgins about old mobile phone and discussed her written consent to conduct a data examination.
- [39] Said had not brought her old mobile and made arrangement to contact her at 9.00am next day.
- [41] 9.05am Thurs 25/2/21 attempted to contact her re phone and had no answer.
- [43]-[44] 9.37am contacted Sharaz and he raised *“concerns about Minister Peter Dutton’s knowledge of the matter as per a media report that same morning. I advised Sharaz that I would discuss both subjects with Higgins.*
- [45]-[48] 9.42am Higgins called and said she would allow me to download her mobile, and I said we would also need to compile a timeline of disclosure of witnesses.
  - Higgins raised concern and sounded upset.
  - Media article same morning involving Minister Dutton
  - Raised concerns that she first met with me and Saunders about information sharing between AFP and APH.
  - Wasn’t aware of what information would be provided to Minister Dutton and was very overwhelmed and not confident in the investigation process.
- [51] Declined to provide her consent to police citing that she was not confident her records would be kept confidential.
- [53]-[56] 1.46pm met with █████ – sought consent to examine data and he declined saying he would sent relevant correspondence between himself and Ms Higgins to me.
- [63]-[64] 9.15am Fri 26/2/21 with Madders attended Higgins’ home.
  - Obtained consent to obtain medical records.
  - Madders discussed her current and old phone and asked her to consider providing her mobile phones to police before returning to Canberra.
- [175] 9.30am Wed 26/5/21 met Higgins and Yates at Belconnen Police Station.
  - [176] Higgins provided consent for police to examine data from her mobile phone.
  - [181] 12.51pm █████ provided a USB with phone data on it.

#### **Statement 27/7/21**

- [4] 3.55pm Thursday 29/7/21 – had a phone conversation with █████
- [21] Wednesday 15/12/21 had a conversation with █████
- [33-34] Friday 18/2/22 had a conversation with █████ regarding inability to extract single thread

#### **39) Detective Inspector Marcus Colin BOORMAN (29/7/21)**

- [3] About 2.00pm Friday 5/2/21 D Supt Rowena █████ advised that a previous report in 2019 may need to be reactivated as the victim now wished to proceed.

- [5] 2.10pm spoke to D Sgt Gareth Saunders and provided him with a briefing.
- [6] 9.55a, Sat 6/2/21 contacted by D Sgt Saunders in relation to a meeting he had with Higgins.
- [7] During meeting Higgins disclosed a number of matters inferring a cover up at the time of the incident and impropriety of Senior Office holders.
- [47] 10.19am Saturday 17/4/21 received a call from Korn and made arrangements to meet accused at AFP Sydney office.
- [49] 2.45pm met accused with Korn and conducted TROI – and [53] 3.20pm seized mobile phone.
- [60]-[61] Advised by S/Con ██████ that images of Miss Higgins found on mobile phone.
- [73] 11.33am Thursday 29/4/21 obtained CCTV from Parliament House.
- [80]-[81] 2.24pm Wed 5/5/21 received call from Heidi Yates asking all communication to go through her.
- [88]-[89] 1.00pm Tuesday 11/5/21 attended Dept of Def and spoke to ██████ and advised that Higgins email only held for 45 day and they attempted a Ghost identification
  - No information re Higgins on 23/3/19
  - 3 emails sent by Lehrmann 23/3/19

#### Phone

- [97] 2.15pm Friday 21/5/21 – received call from Yates re EIC with Higgins
- [99] 2.41 Higgins advised that Higgins coming in and would bring her phone.
- [105] Phoned Yates and requested Higgins bring her current and old phone.

#### **40) Detective Leading Senior Constable Trent Robert MADDERS**

##### **Statement - 19/2/21**

- [4] 8.00am Wed 24/2/21 commenced at Winchester – 10.30am flew to ██████
- [5] 1.11pm met Brittany Higgins and conducted EIC interview.
- [7] 8.00am Thur 25/2/21 – Higgins advised that she “no longer” wished to provide her mobile phone for Cellebrite data extractions.
- [9] 1.50pm Thurs 25/2/21 spoke to ██████ – asked for mobile and declined stating he had conversations with Ministers of Parliament on his phone.
- [12] 8.00am Friday 26/2/21 commenced duty.
  - 9.13am attended an address in ██████ and spoke to comp.
  - Stated to her that we would need to conduct a data extraction on her phone to ensure a thorough investigation, but we would revisit the discussion when she was in the ACT.
- [28] 8.00am Friday 12/3/21 commenced duty.
- [28] 10.00am Frizzell and I attended Woden Police Station for meeting organised by rape crisis centre.
- [29] After 30 minutes Higgins contacted Frizzell via SMS stating she would not be attending – due to pending civil legal announcement in the media – requested a change in time.
- [30] Requested that she attend Woden at 3.00pm – SMS response that she was not mentally prepared to attend for the meeting.

- [91] 8.00am Mon 15/3/21 commenced duty. 9.00am attended Belconnen PS to meet Higgins with Digital Forensics.
- [35] 9.20am Frizzell called Higgins and left message to call her back.
  - 9.58am Frizzell called again and she answered but dropped out.
  - Called again but no answer
- [36] 12.50am observed Sky News and Ms Higgins at March4Justice at Parliament House.
- [91] 8.00am 26/5/21 commenced duty.
  - 9.35am with Frizzell met Higgins and Heidi Yates at Belconnen.
  - 9.40am Higgins signed consent to examine phone.
  - 9.53am conducted EICI

**Statement 4/8/21 (signed 10/11/21)**

- [18] 8.00am Wednesday 13/10/21 secured Apple iPhone belonging to Bruce Lehrmann
- [28] 8.00am **Tuesday 1/3/22** – spoke to [REDACTED], who downloaded CCTV footage from Parliament House

**41) Detective Sergeant Gareth John Miles SAUNDERS (6/11/21)**

- [3] 8.00am Friday 5/2/21 commenced work at SACAT, and informed of matter.
- [10]-[11] 8.30am met Higgins and Sharaz for EIC
  - Higgins alleged information leaks and raised concerns about the flow of information between AFP and APH.
- [21] 9.33am Friday 26/2/21 enquired with [REDACTED] and [REDACTED] re [REDACTED]
- [25] 1.25pm Friday 5/3/21 received call from D/Sup Rowena [REDACTED] and informed [REDACTED].
- [36]-[37] 9.25am Wed 26/5/21 met with Higgins and Yates.

**42) Senior Constable James Ross [REDACTED] (22/7/21)**

- [16] 8.30am Monday 19/4/21 with Boorman and Frizzell attended AFP Sydney and bet defendant.
- [22] Shortly after ROI commenced, previewed phone and saw
  - Photos
  - Higgins matter blue notebook

**43) Detective Sergeant Jason McDEVITT (27/10/21)**

- [19] Took images of the Minister's Office and couch

**44) Sergeant Sonia Nadia [REDACTED] (15/12/21)**

- [4] 25/2/21 12.40pm assisted McDevitt progress a request to [REDACTED]
- [5] Friday 26/2/21 9.30am handed [REDACTED] to Sergeant Saunders.

**45) Peter John [REDACTED]**

28/7/21



- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] -

50) [REDACTED] (22/4/22)

- [REDACTED]
- [4] 11/5/21 reviewed data from [REDACTED] pertaining to Higgins and Lehrmann.
- Lehrmann
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
- Higgins
  - No data

Accused

[REDACTED]

52) [REDACTED] 2.12pm 30/7/21)

- [Q3] 38 years old

- [Q8] Close friend of Bruce Lehrmann
- [Q10] Became close late 2018 through our girlfriends
- [Q12] Regularly seen each other throughout middle 2019
- [Q111] [REDACTED]

■ [REDACTED]

#### Knowledge of incident

- [Q134] I heard from [REDACTED] columnist Daily Telegraph.
- [Q22] Four Corners story about Christian Porter and [REDACTED] + gossip from journalists
- [Q23] Remember like yesterday 9.00am journalist called me and I said Bruce will know
- [Q25] About 15 minutes later Bruce rang me in tears saying The Australian called his office asking his boss if he was the person named – was incredibly distressed – said Mate, I need a lawyer.
- [Q28] It was a difficult few weeks – we got Bruce a lawyer – [REDACTED]  
[REDACTED]
- [Q29] [REDACTED]
- [Q31] Told media, Bruce is not going to talk to you.

#### Lehrmann version

- [Q37] He wasn't particularly drunk
  - At some point he's gone to go home
  - He told her I'm going back to parliament house
  - I can give you a lift there
  - I'd gone through this hole period assuming it would essentially come down to a question of consent
- [Q38] Said he turned in one direction and that was the last time he saw Brittany
- [Q172] Opened up Question Time folders – put something in the folder
  - Like 10-15 minutes.
- [Q175] Went home and got in bed with [REDACTED] – did not have a shower or anything.
- [Q39] That floored me
  - He was taking some notes on what the guys he'd met out were talking about
  - Defence guys
  - For Question Time next week
  - He run out to get an Uber
- [Q186] Weird that a security guard could walk into a Ministers Office – could be a Minister in there.
- [Q188] David Sharaz contacted me 3-4 months ago.

#### Departure from Job at Parliament House

- [Q49] He said "they just called me and they got rid of me over nothing
  - Well screw them, I have a job anyway.
- [Q64]-[67] Got rid of him because her office was to be filled up with brasses, and he didn't get along with his new bosses.

- [Q71] Some issues with document management or something.
- [Q72] Given his third and final warning.
- [Q78] He told me on the Monday or Tuesday he got called in and was filed, and had to pack up his desk.
- [Q50] I said, didn't you miss out on the payout
  - Yeah, but if I'd waited for the payout I was going to lose out on a massive job
- [Q79] Got called into a second interview ([Q89] With ██████████) – Bruce said he was really belligerent, saying you sacked me a week ago, I'm under no obligation to talk to you.
- [Q51] PM was saying that sacked him over a security breach
- [Q47] Straight after NSW election - he started his new job at ████████ – two weeks after that.

### 53) Bruce LEHRMANN (TROI 3.36pm 19/4/21)

#### Current situation

- [Q35] ██████████
- [Q37] ██████████
- [Q57] I have wanted to cooperate, that is why I am more than happy to cooperate.
- [Q9] Outset reject allegation
- [Q68] Simply didn't happen.
- My phone number [Q326] Phone REDACT [Q36] REDACTED
- [Q736] REDA [Q740] ██████████ mobile phone
- [Q676] Was in a relationship with ██████████ for [Q678] 5 months.
- [Q694-695] I was not wedded to Canberra – we were going to Sydney – the relationship would just be long distance.

#### History at Parliament House

- [Q162] Had worked at Parliament House for 6 years
  - Soon after the 2013 election.
- [Q362] Was with Bridget McKenzie [Q364] ██████████
- [Q681] I moved to Reynold's office about 6 months.
- [Q174-175] Group of Ministers indicated they were not contesting the election, Julie Bishop, Christopher Pyne, Steve Ciobo
  - PM phoned Minister Reynolds offering the Defence Industry Portfolio
- [Q186] I was the only staffer based in Canberra
- [Q73] I was Linda Reynold's most senior staffer.
  - We inherited a number of Steve Ciobo's staff.
- [Q198] When we moved offices to the Defence Industry portfolio, I moved out of the Senate wing.
- [Q207] Fiona Brown was acting Chief of Staff/
- [Q166-168] I had oversight of staff who were hiring and firing
  - Liaising with your commissioner at AFP, ████████ handling estimates processes.

- Parliamentary Policy
- National Security
- Signing for [REDACTED] and Home Affairs briefs.
- [Q156] I didn't know Brittany very well – she moved to that portfolio we inherited.
- [Q157] Brittany was one of the few that was allowed to stay.
- [Q302] On a sitting week, we had a social event at Parliament House and they would get quite rowdy.
- [Q303] We'd often end up back invariably with your minister in the office drinking more.
- [Q359] People would have been angling for my job there.

#### After hours at Parliament House

- [Q484-486] It is incredibly common for work or socialising purposes to attend Parliament House after hours.
  - In my case, the majority time is for work.
- [Q488] I've been back with my minister for example and the whole office had drinks.
- [Q489] There is alcohol left there.
- [Q505] Brittany was the media adviser and there was quite a bit going on, it didn't shock me the timing that she had to do that.

#### Alcohol at Parliament House

- [Q615] I didn't have any alcohol hidden in my office.
- [Q754] To the best of my knowledge there was no alcohol there.

#### Leaving work

- [Q319-321] I had to go back to Parliament to get my keys.
  - This was normal practice.
- [Q322] I would often just leave them on my desk.
  - I wouldn't have a lot of things in my pocket.
  - My briefcase would be shoved under my desk somewhere.
  - Often, I've forgot things.
- [REDACTED]
- [REDACTED]
- [Q643] I didn't have my usual purpose pass.

#### The Dock

- [Q110-111] Friday 22 March 2019.
- [Q117] [REDACTED]
- [Q119] [REDACTED]
- [Q71] I can't remember whether Brittany invited me or the invite went to [REDACTED] – [REDACTED].
  - [REDACTED] and I went to Kinston Hotel – Kingo and had a steak and a beer.
- [Q267-268] Walked from the Kingo to the Dock because it was close.
- [Q72] One of us indicated to Brittany that we would pop down later to The Dock and join her and her defence colleagues.



- [Q284] The event had the front tables.
- [Q298-299] My recollection was that Brittany Higgins was there, but I'm not 100% sure.
- [Q74] We were there for a couple of hours I suppose.
- [Q75] I was not carrying on or anything, because there was the Dept of Defence, [REDACTED].
- [Q77] [REDACTED].
- [Q453] I recall [REDACTED] telling me that days after, they were quite close that night.
- [Q454] At the Dock they were quite close, sort of touching and things like that.
- [Q455] Just sort of with hands you know.

#### 88 mph

- [Q79] Brittany, [REDACTED] and [REDACTED] wanted – all sort of said, well lets keep us keeping having a drink.
- [Q381] From my recollection it was Brittany, [REDACTED] and [REDACTED], because he was rather close with [REDACTED].
- [Q121] There was a discussion to proceed on as the Dock booking was ending.
- [Q80] I have really enjoyed 88mph – it's a favourite of mine.
- [Q376] Would have been an Uber.
- [Q81] I said let's go there. I was not intoxicated, particularly in the company I was in at the Dock.
- [Q83] It was my recollection that [REDACTED] was sort of leading the group.
- [Q388] We went in and had a boogie. Its good music.
- [Q401] The four of us would have been dancing. We have got to know each other as I said beforehand.
- [Q408] I can't recall Brittany being on the dance floor.
- [Q409] I was always on the dance floor.
- [Q413] I can't be sure if we were in a booth. [Q414] I'm relatively confident we would have got a table.
- [Q452] Interactions would have been close – not in a romantic or intimate way. We'd known each other from the night and went out in public.

#### Leaving 88mph for Parliament House

- [Q415-417] I definitely would have told [REDACTED] I recall definitely telling Brittany [Q418] and [REDACTED] as well.
- [Q85] I had to go back to Parliament House to get my keys to get back into my apartment where I was living with my girlfriend.
- [Q86] Brittany also indicated that she had to attend Parliament for something, I didn't enquire as to what.
- [Q89] I made an indication that I was ready to go, and I had to pop back to Parliament to get my keys, she indicated as well as part of that discussion.
  - I said, well, you know, I'm already going there, if you wanted to share an Uber there and I've got to pop up.

- [Q481] I indicated to the group that I was heading off, and I needed to stop by Parliament. Brittany had indicated that she also needed – I offered her a lift because I was already going there.
- [Q486] I said I've got to go and get my keys, and we left.
- [Q428-429] She indicated she also had to pop back there – then I said, well I'm getting an Uber.
- [Q431] Then I indicated that once I've picked up, gone to Parliament, I'm probably going back home.
- [Q662] I did say I'll get my keys and I'm just going to poke around the Question Time folders based on what we discussed tonight.

#### Purchasing Drinks.

- [Q305] I was probably in a shout – I only recall buying a couple of rounds. I can't be sure.
- [Q334] I had two accounts in my name that have a credit card.
  - This is the more relevant one – this is my spending account.
- [Q336] The Dock \$16
- [Q337] Kinston Hotel \$24.20
- [Q83-84] I'm happy to provide my bank statements – I actually only spent \$40 at 88mph,

#### Intoxication

- [Q132] I was moderate – I was certainly able to – I was functioning.
- [Q134] from my observations, Brittany was also.
- [Q402] I didn't observe people to be so drunk that the night was over, they couldn't function, they couldn't talk to each other.
- [Q411] I didn't observe any of us being grossly intoxicated that we were not functioning or anything.
- [Q73] I believe I only bought one or two rounds of drinks – I was not intoxicated at all.
- [Q444] I wasn't in a state that I was not able to function.
- [Q445] 1 – 10 probably a 7 [Q446] Brittany probably the same.
- [Q532] We were all intoxicated [Q533] ;ole the same as me.
- [Q534] We were discussing ██████ and ██████ being drunk and them hooking up, potentially hooking up.
- [Q535] I mean we were not at an intoxicated level like they were.

#### Arriving at Parliament House

- [Q90] We didn't have our passes on us. I don't know why she didn't have hers, I think I probably just forgot about mine.
  - I didn't have my keys and belongings because I wasn't expecting a big night.
- [Q91] I thought I'll just pop back up if its before 10.00 or whatever and get my things.
- [Q93] ████████████████████ [Q94] Gave my name and indicated I was with Brittany.
- [Q96] The best I can recall is I've provided all the things I needed to positively ID – ██████████
- [Q635] She indicated that she needed to so something as well, which were related to her work, and I don't talk about people going into other people's work business.

In Ministers Office

- [Q100] I entered the office and turned left to my desk.
  - Brittany turned right into the Minister's suite, which is opposite the chief of staff suite.
  - I didn't see her again.
  - I went to my desk
  - My brief case was there
  - I've got what I needed to for the weekend.
- [Q562] I turned left at my desk.
- [Q664] I didn't see her after we went in.
- [Q141] I don't believe I got my briefcase. I just got what I needed for the weekend.
- [Q138] It is possible Brittany went through the Minister's Officer and then to the media
  - I can't see any other people's desks.
- [Q620] I was at my desk probably 20 minutes or so.
- [Q660] I did not see her – I don't know what she was doing.

Question time folders

- [Q577] Paper-based
- [Q649] We have four at the time.
- [Q652] If it was not a controversial item, the DLO can edit it.
  - Minister Reynolds likes to have what we call a pink slip above the top of the department provided briefs.
  - Pink slip is a politically made document, either typed or hand-written whereby there was no mention to the department.
  - Quite often there were lots of them pink notes on top of the department notes in the folder.
- [Q101] I attended to some Question Time folders.
  - **Through the course of the evening, the discussions we were having with Defence officials.**
  - While it was on my mind, I attended to some Question Time folders.
  - We had a new minister heading into her first Questions Time.
  - I wanted to ensure that – was part of my role to look after her.
- [Q102] While it was still on my mind.
  - The discussions that we'd have.
  - Particularly about some of the industry programs, particularly the Air Force.
- [Q573] Question Time brief – the big folders we have probably 4-5 of them.
- [Q576] Moving a lot of industry matters to the front that could have been controversial, submarine program was certainly one of them which was a focus of mind.
- [Q582] a lot of it was, um, sticking tabs to certain topics that I recall from discussing with the guys at The Dock.
- [Q587] We were theorising that the Labor Party might ask questions on Question Time, I was just there, writing notes on the submarine issue and ensuring that the folder was in a way that the minister was happy, it was readily accessible to her.

- Because you're asked a question in Question Time, you have a matter of seconds to find the relevant part.
- [Q602] I do remember doing a lot of writing, so, its also possible I didn't (access computer) because I was just writing notes on – while I was thinking of it.
- [Q584] We won't alter them, we put a tag on them with our notes.
- [Q585] And the DLO can change them, we can redo them ourselves, but it was better to do them through the department, so they can see the changes, then they wouldn't send up a brief that was the same, they would very likely.
- [Q443] I certainly recall fixing up the Question Time folders properly, and Monday they were all fine.
- [Q609] I never left my desk [Q610] Or my own corner.
- [Q611] From memory I exited out the back door [Q612] Because my desk is up that end.

#### Potential use of computer whilst in Minister's Office

- [Q589] It's possible that I logged into my Parliament House computer.
- [Q590] There is a rule within the Coalition that if were doing political work, its to be done on the APH network, because it can't be FOI'd.
- [Q591] Because I was working on the Question Time folders, if I was making notes, political notes for the Minister, it would have been on the system like.
  - The other system had Defence Top Secret and had these Top Secret as well.
  - They were useless devices anyway.

#### Leaving Minister's Office

- [Q628-631] Communication with Brittany
  - On entry said I'll get what I need to do
  - I'm getting what I need, and I'll head off.
  - Didn't get a response
  - Possibly a response but I was on my way to my desk.
  - I was leaving yelled "I'll head off
  - Don't recall a response
- [Q441] Somewhere between 1.15-1.40 we would have left.
- [Q570-571] From entry to exit – probably 45 minutes.
- [Q104] I ordered myself an Uber.
  - I left the building through the car park.
- [Q442] Then I ordered the Uber from my desk in Parliament House 2.20-2.25am.

#### Leaving employment

- [Q867] It was dealt with as a security breach, I was certainly concerned about AFP involvement.
- [Q725] I was quite concerned it thought well, I come back to Parliament and everyone does often.
  - I was actually concerned that you know, the AFP would be involved that week for the security breach.
- [Q245] I had a discussion with Fiona Brown chief of staff.

- [Q246] Because when a new portfolio happens all the staff are essentially fired.
  - [Q248] I was offered a position to stay on, but I indicated then to Fiona Brown that I was actually looking at jobs in Sydney
    - Because my girlfriend was taking a role in the NSW Parliament there.
  - [Q249] I indicated that I would be leaving Parliament.
  - [Q249-250] She pulled me aside in the hallway
    - The minister wanted to thank you for the service briefs.
    - We would be offering your position to someone else.
    - I thought fine, whatever.
  - [Q251] I'll stay on until you find someone, and I'll help you prepare the minister or whatever.
  - [Q252] We didn't settle on the date.
    - When you find that person, I'll do a handover.
    - I understood the gravity of my role.
    - Politicians care about their public image.
    - It was her first question time.
  - [Q706] I can recall that meeting was, she'd been informed by security that Brittany and I accessed the officer after hours, constituting a security breach.
  - [Q707] It was against the Ministerial Staffing Code of Conduct.
  - [Q708] I said that I had to get my keys, I was only in there for a short period – it was a rather brief meeting.
  - [Q709] She told me not to bring any phones in. I was also not allowed to bring any notepad or pen.
  - [Q712] She said for security breach – look this is quite serious.
  - [Q711] She indicated that I was already leaving, I think from my recollection we actually agreed that Friday that week would be my last day.
  - [Q243] I don't have any records, but my recollection is that a week or more prior to these events.
  - [Q715] She said its probably best if you just pack up your things and go now.
  - [Q716] I packed up my personal belongings.
  - [Q722] It was a security breach – like you know, I was leaving.
    - It didn't make much of it – I hadn't been formally terminated.
    - I was waiting for something to happen, which did happen eventually.
  - [Q896-910] The week after the meeting with Fiona, there was another round of discussions I had with her
    - And a gentleman called [REDACTED] via telephone
    - He now works at the Prime Minister's office with Special Minister of State
    - I wasn't allowed notes
  - [Q914-915] I got my notice from the Department of Finance which detailed security breach.
- Inconsistencies put to him
- [Q762-767] Put to him that he told Fiona Brown he went to drink whisky and asked to offer an explanation.

- No, I'm sorry.
  - It was certainly not the reason for going back to the office.
- [Q773-776] ██████████ said you were kissing and Higgins slipped over
  - I can't recall it
- [Q800-803] Can you offer me an explanation why Miss Higgins would make this statement
  - I have no idea. I have suspicions certain things that happened to me in January
  - On reflection appear to have a connection
  - Two emails from a domain name not owned by me
  - [Q814] Twitter friend request from David Sharaz
  - [Q829] There were disgusting things on tweets using my photo
- [Q860] Can you offer any explanation at all why Miss Higgins would make up this allegation
  - I don't know, but I suspect it goes beyond just me.

## OPENING

In the early hours of Saturday 23 March 2019, after a drunken night out, the complainant Brittany Higgins and the accused Bruce Lehrmann stopped by Parliament House where they both worked for a Government Minister, for what the complainant thought was a brief stopover on her way home.

She was extremely intoxicated and quickly fell asleep on the lounge in the Minister's Office, to be awoken a short time later by the pain of the accused knee sticking heavily into her thigh, when she realised the accused was having sex with her.

Arising out of this, the accused is charged with one count of engaging in sexual intercourse without consent and being reckless as to whether she was consenting.

My task is to outline the case as I anticipate the evidence will follow. During my address, I will refer to Bruce Lehrmann as the accused, and Brittany Higgins as the complainant.

### My role

First – I would like to outline my role in this court.

My role is to put before you, evidence the Crown says discloses that the accused committed the single offence set out in the indictment.

This evidence is in the form of oral evidence of what people saw and heard. There will be also some photos and plans of the scene, as well as some CCTV from the place they drank at, and the [REDACTED] of Parliament House.

We each have a role in this court, as I said my role is to present the case before you.

H Honours role is to make decisions on the law. To that end, H Honour is the final word in this courtroom on the law. This is an important point, because during the course of my submissions I may suggest a particular interpretation of the law, but if H Honour says the law is something different to what I say it is, I am wrong and H Honour is right. You don't have discretion as to who to believe.

Your role is to make factual findings, and to that end, you have the final word in deciding what factually occurred on the day in question. Others, including myself may suggest how you make certain factual findings, but it is you and you alone that make the factual determinations.

In assessing the facts, each of you brings to the courtroom many and varied life experiences, and you are entitled to use those life experiences in making your factual findings.

Using your common sense and life experiences, I suggest you have some very useful tools in interpreting evidence or versions of evidence.

These include;

Firstly, standing back and objectively looking at what is being suggested and ask yourself – does that sound right?

Secondly, you need to look at where the particular witness fits into the picture. Are they likely to give evidence that is totally impartial, or possibly have a particular interest, or indeed has their evidence been influenced by someone else.

Thirdly, anyone can say anything - so I urge you to compare things people say in the witness box or during an interview, to objective evidence that cannot be made up – evidence set in concrete, such CCTV or audio evidence, or evidence of things people said earlier in time.

Finally, the Freudian slip – the things we say that reveal what we were really thinking – what was really on our mind.

I will say much more about this after you have heard the evidence and attempt to assist you through the interpretation process.

Whatever the evidence - you are required to make your findings based solely upon the evidence led before this court, that is, under no circumstances should you conduct individual investigation or research in relation to the questions or people before you. This is because the fruits of such research are frequently incorrect, misleading or at odds with the law

#### Elements of the offence:

As I said, the charge is that the accused Bruce Lehrmann engaged in sexual intercourse with the complainant Brittany Higgins, without her consent, and being reckless as to whether she was consenting.

There are three elements of this offence:

- 1) The accused engaged in sexual intercourse, defined as “*penetration to any extent of the genitalia of a person by any part of the body*” – in this case we say penetration of the complainant’s vagina with his penis.
- 2) The complainant did not consent, and you will hear evidence that she did not consent, and indeed she was not conscious at the time the intercourse commenced.
- 3) The accused was reckless as to whether the complainant was consenting.

Recklessness comes in three alternative forms:

- a) Knowledge on the part of the accused that the complainant was not consenting, or;



- b) He was aware that there was a possibility that she was not consenting, yet engaged in sex anyway, or;
- c) He failed to even consider whether or not she was consenting, and just went ahead anyway, when it would have been obvious to someone of the accused mental capacity that she was not consenting, had he turned his mind to it. This reflects an indifference as to whether or not she was consenting.

How to approach the evidence:

You will be given some directions on how to assess the evidence at the conclusion of this trial, however I will lay some foundations at this stage so you can approach how you digest the evidence as you hear the evidence.

I expect the evidence in this case will come down to, the complainant saying sexual intercourse occurred, and the accused saying that it did not occur. That is, I expect you will hear evidence of him saying that he did not even have sex with the complainant.

We will ultimately argue that you should not accept the accused evidence and will outline reasons why in due course. Before you hear the evidence and submissions on it however, it is important that you understand that if you do ultimately not accept the accused evidence, you do not proceed to simply find him guilty on that basis.

If you do not accept the accused evidence, you must simply put his evidence to one side, and consider the Crown evidence independently. In other words, this is not a case of two versions, with you choosing which one to accept, and you must not engage in this type of reasoning. As a question of law, we must prove the case beyond reasonable doubt, and do so on the Crown evidence, and a rejection of the accused evidence must not, as a question of law, be used to in some way strengthen the Crown case (Liberato).

On the next point, everyone in this courtroom speaks with one voice. You must completely put out of your mind, anything you may think you may know about this case or the parties involved. As a question of law, you must decide this case on the evidence lead, and your observations in this courtroom, during this trial.

There has been much reporting on this case, however the actual evidence will demonstrate that almost all of it has contained significant and very important errors. So you should put anything you have read on this case, completely out of your minds, and base your findings exclusively on the evidence led in this trial.

So, let's move to the case. Firstly, what I am about to say to you is not evidence. You will hear a lot of evidence in this case, some central to the case and some peripheral. My task is to now outline what our ultimate case is, both in fairness to defence, and to enable you to focus on the particularly important central evidence, because we say that evidence will assist you most in your findings on the actual elements of the offence required for a verdict.

Background:

In late February 2019 the complainant worked as a media advisor for the former Federal Minister for Defence Industry Hon Steven Ciobo, and the accused worked as a political adviser for the Hon Linda Reynolds, who was then Assistant Minister for Home Affairs.

On 11 April 2019 the Prime Minister called an election for 18 May 2019. In the lead up to this, on around 1 March 2019 Minister Ciobo announced he would not contest the next election. On 2 March 2019, the Defence Industry portfolio shifted from Minister Ciobo to the Hon Linda Reynolds, with her portfolio of Assistant Minister for Home Affairs shifting to another member of the then government. This created something of a merged office with the accused amongst a group of staffers who were already working for Minister Reynolds in Home Affairs, and the complainant was amongst a group transferring from former Minister Ciobo's office to Minister Reynolds office with the Defence Industries portfolio.

Indeed, the accused was employed in the Minister's former portfolio of Home Affairs, and did not have a role in her new Defence Industries portfolio and was due to finish on Wednesday 27 March 2019. So, as at the time of the incident, the accused was effectively in his last few days in the office and the job.

There was a general sense within the government and their staff that the incumbent government would lose the election, and the remaining team would essentially usher the office through to the end of the government at the election on 18 May 2019.

Against this backdrop, on the evening of Friday 22 March 2019, a group of staffers from both the Minister's Office and the Dept of Defence attended The Dock Bar and Restaurant on the Kingston Foreshore to signify what they thought was the run up to end of the government.

The evidence in this trial will include CCTV from inside the Dock Bar and Restaurant, and you will see the activity inside for yourself. But in short, it shows:

The complainant arrived around 7.19pm and had arranged a date [REDACTED] [REDACTED] for the evening.

The complainant purchased her first drink at 7.24pm attending the bar on her own then returning to table one.

At 7.50pm, a male from the table purchased a drink and placed it in front of her.

At 7.56pm the complainant is seen messaging her [REDACTED] at which time she is seen with two drinks in front of her.

At 8.03pm, the complainant is seen leaving the table and going to the front of the location to meet her date, then returning inside where the pair immediately went to the bar then returned with a drink each. The complainant introduced her date to the group where they sat talking.

At 8.34pm the complainant's date returns from the bar with another two drinks and gave one to the complainant.

The accused went to dinner at the Kingston Hotel with another advisor [REDACTED], then the two men made their way to the Dock in Kingston arriving at 8.39pm and joining the group, initially standing around the vicinity of table one, then moving to a different table to the one the complainant was sitting at.

At 8.41pm the complainant went to the toilet and the accused is seen attending the bar with another person, where they purchased two drinks with the other person paying, then the accused and the male he was with sat at the second table, we will call table two.

On leaving the bathroom at 8.48pm, the complainant is seen attending the bar, greeting another male who purchased three drink with the male paying, giving the complainant one of the drinks. When they returned to the table at 8.52pm, the complainant walked past table one and joined table two where the accused was seated, leaving her date alone at the table one.

At 9.32pm, the complainant and the accused attend the bar and chatted for a while, and the accused was possibly in a shout as he purchased three beers and a clear drink for the complainant with **the accused seen handing a card to the bar staff at 9.34.44pm** and she is seen tapping it for payment at **9.34.54pm**, before they returned and re-joined table two. I will call this accused purchase 1.

On her return, her date appears to have left.

At 10.07pm the complainant is seen returning to the bar alone, and whilst waiting to be served, at 10.08.29pm the complainant is seen searching her phone and partially stumbling backward. She eventually purchases a single drink and pays for it before returning to the second table. We say the effects of her alcohol consumption was showing.

At around 10.34pm the people from the table 2 including the accused and complainant leave that table and join table one and the two tables effectively merged into one.

At around 10.34pm the complainant went to the toilet, and when she returned, the accused is seen handing her one of three drinks sitting on the table.

At 11.08pm the accused and the complainant return to the bar and purchase more drinks one of which was for the complainant and the **accused is seen handing a card to the wait staff at 11.09.45pm and her tapping it at 11.09.55pm**. I will call this accused purchase 2.

At 11.22pm the complainant is seen sitting at the table with two drinks in front of her, and there appears to be a conversation with others about which drink is hers, before she is seen drinking from them alternately.

At 11.50pm the group begin to disburse. As she was about to leave, the complainant is seen to pick up a full drink and scull it, then leave with the accused. The accused, the complainant and two others from the group, [REDACTED] and [REDACTED] then attended another club in Canberra City called 88 mph. The complainant recalls having at least a further shot at 88 mph, but unsurprisingly her recollection is extremely vague.

Accordingly, as at 11.50pm, over a period of 4 and a half hours, the complainant had consumed around 10 drinks and a further shot at 88 mph.

### Complainant's Intoxication

[REDACTED], who was very intoxicated herself, recalls that at 88mph the complainant was really drunk and falling over, pulling herself back up onto the couch, and she thought the accused helped her back onto the couch.<sup>1</sup>

The complainant recalls she was drinking consistently throughout the night, and people were buying her drinks.<sup>2</sup> On leaving the Dock, she places her intoxication at about seventy per cent, adding she was already very drunk at that point.<sup>3</sup> The next thing she remembers is being at 88mph and remembers a tray of shots from which she drank at least one.<sup>4</sup> She remembers falling over towards the end, and remembers that she was embarrassed by falling over and the accused helping her up.<sup>5</sup> She describes that she managed to catch herself on her hands and didn't face plant, but fell on her knees before the accused helped her up.<sup>6</sup> She says that was the point she knew she had to leave, and it was as drunk as she had ever been in her life.<sup>7</sup>

The complainant reports at one point in her interview that he was (referring to the accused) buying her a lot of drinks.<sup>8</sup> She says he bought her a first round, and it was only an assumption that he'd continued, but accepted it may have been the others there including [REDACTED] and [REDACTED].<sup>9</sup> As outlined, CCTV shows various people handing the complainant drinks throughout the evening.

In his record of interview, the accused produced receipts from bank accounts suggesting he spent \$24.20 at the Kingston Hotel (whilst at dinner with [REDACTED]) and suggests there

<sup>1</sup> ROI Madders/[REDACTED] 24/3/21 - Q32.

<sup>2</sup> EICI Madder/Higgins 24/2/21 Q103.

<sup>3</sup> EICI Madders/Higgins 24/2/21 Q153.

<sup>4</sup> EICI Madders/Higgins 24/2/21 Q151.

<sup>5</sup> EICI Madders/Higgins 24/2/21. Q28.

<sup>6</sup> EICI Madders/Higgins 24/2/21 Q176-177.

<sup>7</sup> EICI Madders/Higgins 24/2/21 Q172.

<sup>8</sup> EICI Madders/Higgins 24/2/21 Q25.

<sup>9</sup> EICI Madders/Higgins 26/5/21 Q43-43

was only a single transaction of \$16.00 at The Dock. This is inconsistent with CCTV evidence, that shows purchases at 9.34.54pm and 11.09.55pm. His records show him spending a further \$40.00 at 88mph. As outlined, CCTV shows the complainant attending the bar on her own and with others numerous times, and at other times others placing drinks in front of her consuming around 10 drinks over 4 and a half hours and at least one more at 88mph.

The group stayed at 88 mph from around 12.00pm until around 1.30am the following morning.

#### Leaving 88mph for Parliament House

The complainant says that at that time she lived in [REDACTED] and she recalls the accused suggesting they go together in a cab.<sup>10</sup> They did this, and the complainant does not specifically remember the words used, but it was along the lines of, I have to stop in and pick something up from work. She says she was not really cognizant, or in a state where she was argumentative, saying she just went along with it. She adds that at that point, it didn't seem inconceivable to go to Parliament, because it felt like a safe space so didn't say no to going to Parliament.<sup>11</sup> She will further add that being at Parliament House late, particularly on sitting days was not unusual.

#### Arrival at Parliament House 1.40am

The complainant and accused arrived at Parliament House at around 1.40am, and [REDACTED]

This is the first of various versions of why the accused says he attended Parliament House on the morning, with him saying *"Oh hi mate, Bruce Lehrmann here with Minister Reynolds, we've been requested to pick up some documents, I've forgotten my pass...we're just at the Ministerial entrance."* You will hear the recording from Parliament House, and these words from the accused own mouth for yourself.

[REDACTED] notes the complainant had grass stains down one side of her dress<sup>12</sup> and there is no evidence showing how these came to be there.

The complainant attempted to compose herself, and [REDACTED] notes that she initially triggered the scanner and had to remove her shoes and go through a second time. [REDACTED] notes that it wasn't until that point in time, when she was trying to get her shoes back on,

<sup>10</sup> EICI Madders/Higgins 24/2/21 Q29.

<sup>11</sup> EICI Madders/Higgins 24/2/21 Q31.

<sup>12</sup> Madders/[REDACTED] 24/4/21 Q53.

that she realised just how intoxicated she actually was, saying she could not get her shoes back on for the life of her<sup>13</sup>

In an interview on 18 March 2021, the [REDACTED] describes the complainant appeared to him as slightly intoxicated, not staggeringly drunk,<sup>14</sup> however he recalls in his original incident report prepared on 24 March 2019 that he reported *"I observed that the female may have been affected by alcohol as she stumbled whilst trying to self-clear through the Walk-through Metal Detector"*<sup>15</sup>

The complainant describes herself as falling all over the place, adding that she couldn't sign her own name<sup>16</sup> consistent with stumbling whilst attempting to put her shoes on. Indeed, when entering Parliament House without a pass, staff are required to sign the Parliament House Visitor Pass Register, and the accused signed for both himself and the complainant, writing his name first and the complainants name next.

[REDACTED] observation of grass stains on the complainant's dress, are unlikely to have been the result of the fall at 88mph as it was inside a club, and it is unknown where these came from.

[REDACTED] escorted the pair to Minister Reynolds office, arriving at 1.48am, and called [REDACTED]

At this point the versions of events differ between the accused and the complainant.

#### Version of Bruce Lehrmann

[REDACTED] notes that on entry he commented to the accused *"It's very early in the morning, guys to be working. Are you going to work?"* and the accused said *"Yes, they're going to work"*.<sup>17</sup> He notes they both smelled heavily of alcohol.

[REDACTED] recalls the exchange slightly differently, recalling [REDACTED] saying *"Oh, you guys are in here late. Couldn't this have waited – waited until Monday and the guy seemed to take offence to it and he's like, No, it couldn't wait."* [REDACTED] specifically recalled that the complainant did not say anything.<sup>18</sup>

Contrary to what he told security on the morning of the event, when spoken to by Chief of Staff at Minister Reynolds office, Fiona Brown on Tuesday 26 March 2019, she recalls that the accused told her *"He just came in to have – to drink his whisky"* and that he said he had

<sup>13</sup> Madders/[REDACTED] 24/4/21 Q62.

<sup>14</sup> Madders/[REDACTED] 18/3/21 Q44.

<sup>15</sup> Report of [REDACTED] 24/03/2019.

<sup>16</sup> EICI Madders/Higgins 24/2/21 Q34.

<sup>17</sup> ROC Madders/[REDACTED] 18/3/21 Q39.

<sup>18</sup> ROC Madders/[REDACTED] 24/4/21 Q130-133.

*“about two glasses”*.<sup>19</sup> Although it does not appear in her EICI, colleague ████████ recalls whilst disclosing the events to her, the complainant told her on either 27 or 28 March 2019 that *“he wanted to come back here to like show me some whisky or there was something. I remember whisky being mentioned.”*<sup>20</sup>

In a letter from Minister Reynolds on 4 April 2019 advising the accused that he had been dismissed she states *“I am advised that when you sought entry to parliament house after hours, you did so by reporting to security that you were required to attend my office for important official business.”*<sup>21</sup> In response to this letter, at which point he may not have been aware of the intercom recording, the accused responded to Senator Reynolds writing *“I offer no excuses and accept that entering the office after hours is a breach no matter what the reason. I do however refute the claim that I informed security it was for official purposes.”*<sup>22</sup> As I have said, you will hear him doing so in his own voice, on the intercom recording.

In his record of interview with police conducted 19 April 2021, the accused admits he was aware that entering parliament house after hours was a security breach, and that he was concerned the AFP would become involved for this reason.<sup>23</sup> Notwithstanding his knowledge that attending parliament house after hours constituted a security breach significant enough to draw the attention of the AFP, in his police interview of 19 April 2021 he then offers police investigators two reasons for entering Parliament House.

Reason one appears to suggest that it was planned, because, notwithstanding the fact that he was going out drinking with his colleagues, for some reason he left the keys to his apartment at his office in Parliament House with a plan to swing by and grab them on his way home.<sup>24</sup> Yet, of note, he did not appear to have his security pass to get back in to get his keys.

Reason two returns to the previously suggested official business reason, where he now suggests that he had a conversation with people from the Defence Department whilst at The Dock (prior to continuing onto 88mph) that reminded him that he had to attend the office to do some work that night, specifically sticking some tabs on a certain topic on the question time brief for the Minister, and notwithstanding the fact it was 1.40am on a Saturday morning, it could not wait until the following Monday.<sup>25</sup> It is of interest that all of the people from Defence appeared to be sitting at a different table to the accused.

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<sup>19</sup> ROC Madders/Brown 22/3/21 Q128-130.

<sup>20</sup> ROC Madders/██████ 2/4/21 Q137.

<sup>21</sup> Letter from Senator Linda Reynolds to Bruce Lehrmann 4/4/19.

<sup>22</sup> Email from Bruce Lehrmann to Fiona Brown / Sen Reynolds Friday 5/4/19 9.28am.

<sup>23</sup> Boorman/Lehrmann 19/4/21 Q725.

<sup>24</sup> Boorman/Lehrmann 19/4/21 Q85.

<sup>25</sup> Boorman/Lehrmann 19/4/21 Q573-583.

The second of these we say is a lie. It would be highly unlikely that he would tell his boss that he returned to the office to drink whisky yet told both security on entry and police during a formal interview that he attended parliament house to do some work. Further, we say it appears highly unlikely that he would not take his apartment keys with him when he left work at the end of the day on Friday 22 March to go out drinking, yet not his pass to enable him to get in to collect them.

He states in his record of interview that on entering the office, the complainant turned and went into the minister's suite and he went to his desk and got what he needed for the weekend, attended to some of the question time folders, ordered himself an uber and left.<sup>26</sup>

[REDACTED]

Intoxication

As outlined, the complainant's statements of being highly intoxicated is corroborated by CCTV of her alcohol consumption at the Dock as well as the observations of [REDACTED], [REDACTED] [REDACTED] Specifically, the CCTV from The Dock in Kingston showing her drinking consistently as discussed. As I will get to shortly, it is further corroborated by the fact that on entering parliament house at 1.42am, she fell asleep and, except for the incident, she did not become cognizant for over seven hours, when she was roused by Parliament House security at 9.15am.

Version of Brittany Higgins

In light of her alcohol consumption, the complainant is unsurprisingly patchy on detail. On entry to the Minister's Office the complainant says she remembers sitting on one of the ledges in the office overlooking the courtyard in the support staff area, then ended up on the couch in the Minister's office. She doesn't remember whether she went to the couch willingly or was guided there, but you will see there is a direct passage between the Support Staff area and the Minister's office. [REDACTED]

[REDACTED]

<sup>26</sup> Boorman/Lehrmann 19/4/21 Q100-104.  
<sup>27</sup> Report of [REDACTED] 24/03/2019.



[REDACTED]  
[REDACTED] You will see a photo the complainant took of a bruise on her thigh, left by the accused knee.

Interestingly, she thought her head was laying on the side of the couch facing the door, and recalls waking up the next morning that way, yet as I will get to, a security guard that saw her a few hours later, thought she was laying the other way, with her head facing the window. So one of them is mistaken, but ultimately it will not be something that you need to resolve absolutely, as not every fact will require resolution.

Regarding her clothing, she states that during the sexual assault her dress was still on her body but scrunched up was around her waist.<sup>29</sup> [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] attended the Minister's Office to check on the welfare of the complainant, noting she was

[REDACTED] thought [REDACTED]  
[REDACTED] This is a greater state of undress than reported by the complainant during the sexual assault, which we can place somewhere between 1 hour 45 minutes and 2 hours 30 minutes earlier and appears consistent with the dress being further removed after the complainant had fallen back asleep. The complainant will say she thought the dress was still partially on her when she was woken up the next morning, so there are clearly some inconsistencies with some detail between security and the complainant. In either case, whatever the direction of her head or state of her undress, this is all corroborative that sexual intercourse occurred.

The complainant does not remember [REDACTED] attending at all, as her next recollection is late that morning, when she remembers hearing a female security guard yelling into the

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<sup>28</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>29</sup> EICI Madders/Higgins 24/2/21 Q259.

<sup>30</sup> EICI Madders/Higgins 24/2/21 Q254.

<sup>31</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>32</sup> EICI Madders/Higgins 24/2/21 Q79-80.

<sup>33</sup> EICI Madders/Higgins 24/2/21 Q208-213.

office, asking if she was okay, adding she didn't see anyone, but heard her yell out.<sup>34</sup> This is consistent with other evidence that at 9.15am, around seven and a half hours after the complainant first arrived at Parliament House, [REDACTED], accompanied by [REDACTED] [REDACTED] attended the office, when [REDACTED] knocked on the door and called out "Security" asking if anyone was there, and the complainant responded "yes". [REDACTED] asked if everything was Ok, and the complainant responded Yes, everything's okay.<sup>35</sup>

After the [REDACTED] exchange, the complainant says she sat and ate most of a box of Roses chocolates and was sick in the Minister's bathroom. She combed her hair and pulled herself together, then retrieved a Carla Zampatti jacket from a box of goodwill clothing and left,<sup>36</sup> and [REDACTED].

### Complaint

The complainant made a number of disclosures in the days that followed.

On Saturday 23 March 2019, the day of the incident, the complainant was in the Uber leaving Parliament House and had a phone conversation with her friend [REDACTED] and he noticed she was very cagy, but she disclosed that they went back to the Minister's office for drinks, however the complainant said she did not want to talk about it.<sup>37</sup> The following day there was a combination of phone conversations and SMS exchanges in which the complainant told Mr [REDACTED] that she had woken up in the Minister's office half naked.<sup>38</sup>

On her return to work on Monday 25 March 2019 the accused and complainant had very limited contact. On Tuesday 26 March 2019, office manager Fiona Brown, who was aware of the complainant and accused entering the previous Saturday morning from Parliament House security organised to talk to both of them. As discussed, the accused was due to finish the following day, and had an earlier meeting to discuss the final details, so this was his second meeting.

The accused met with Ms Brown again, first and was instructed to leave the office and was subsequently provided a show cause request, then was formally dismissed on 5 April 2019 for a combination of two factors, the first being a previous security incident involving clumsy handling of secure documents, and the second being that on entry to Parliament House in the early hours of Saturday 23 March 2019, he dishonestly told security guards that he was attending to do some work. A proposition he subsequently denied, but as I have said, you will hear a recording of him doing so. A claim he subsequently repeated in the police interview.

<sup>34</sup> EICI Madders/Higgins 24/2/21 Q36.

<sup>35</sup> ROC Madders/[REDACTED] 24/3/21 Q54.

<sup>36</sup> EICI Madders/Higgins 24/2/21 Q37.

<sup>37</sup> ROC Madders/[REDACTED] 23/2/21 Q23.

<sup>38</sup> ROC Madders/[REDACTED] 23/2/21 Q26.

The complainant was also spoken to by Fiona Brown on Tuesday 26 March, and she stated that she did not remember accessing the office but said she had been out that evening and was inebriated<sup>39</sup> and recalled waking up semi-naked<sup>40</sup> stating “I’m responsible for my actions”<sup>41</sup> Fiona Brown explained it was a breach of Ministerial Code of Conduct, and that was the end of any disciplinary action with regards to the complainant. Fiona Brown was however concerned for her welfare and invited her to work from home for the rest of the day.

Ms Brown organised for a second phone meeting and phoned her and she had been crying<sup>42</sup>. Fiona Brown offered to visit her, and the complainant refused.<sup>43</sup>

In an SMS exchange with ██████ at 12.57pm on Tuesday 26 March 2019, just after the meeting with Fiona Brown, the complainant said *“I don’t remember getting there at all, vaguely remember Bruce being there and then I woke up in the morning half-dressed by myself in the Ministers office on Saturday”*. Mr ██████ asked *“Did you hook up in there or did someone take advantage of you?”* and the complainant responded *“I was barely lucid. I really don’t feel like it was consensual at all. I just think if he thought it was okay, why would he just leave me there like that”*.

The complainant was concerned the matter would become public, sending a further SMS the same day *“The only thing I really want is for this to not get out and become public knowledge. Besides my parents you’re the only person who knows (outside of Fiona (Office Manager) and whenever she takes it to the Minister and apparently it has to be reported to PMO)”* The complainant told ██████ that she did not want to go to the police because she doesn’t want to make an issue of it.<sup>44</sup>

On either the Tuesday or Wednesday<sup>45</sup>, which would be either 27 or 28 March 2019, the complainant appeared quite upset<sup>46</sup> when talking to colleague ██████ when she told him she had been out drinking with the accused and was taken back to Parliament House<sup>47</sup>. She described the incident in some detail including that she woke up on the Minister’s couch with the accused on top of her, having sex with her.<sup>48</sup>

On *“probably the Wednesday or the Thursday”*<sup>49</sup> which would be either 27 or 28 March 2019, the complainant made a disclosure to work colleague ██████ consistent with her evidence in chief interview saying she fell asleep on the Minister’s couch and woke up and

<sup>39</sup> ROC Madders/Brown 22/3/21 Q164.

<sup>40</sup> ROC Madders/Brown 22/3/21 Q166.

<sup>41</sup> ROC Madders/Brown 22/3/21 Q171.

<sup>42</sup> ROC Madders/Brown 22/3/21 Q218.

<sup>43</sup> ROC Madders/Brown 22/3/21 Q218.

<sup>44</sup> ROC Madders/██████ 23/2/21 Q74.

<sup>45</sup> ROC Boorman/██████ 26/5/21 Q139.

<sup>46</sup> ROC Boorman/██████ 26/5/21 Q79.

<sup>47</sup> ROC Boorman/██████ 26/5/21 Q80-83.

<sup>48</sup> ROC Boorman/██████ 26/5/21 Q130-133.

<sup>49</sup> ROC Madders/██████ 2/4/21 Q117.

the accused was on top of her.<sup>50</sup> [REDACTED] states that over the next four or five months she spoke to her about four times, finally telling her that she had decided not to go further with her police report.<sup>51</sup>

A third meeting was held with Fiona Brown on Thursday 28 March 2019<sup>52</sup> and Ms Brown told the complainant that if she was unhappy with anything she would have their support and offered her contact details for the Employment Assistance Program. At this point, the complainant disclosed that “I recall him being on top of me”<sup>53</sup> Ms Brown then said if it was something she had not wanted to happen she should report it, and she said her father was coming down to spend some time with her and she would consult him.

We say, it will be highly relevant that the complainant made consistent disclosures to a number of people in the immediate period following the events.

#### First report to the police

On Monday 1 April 2019 Ms Brown referred the incident to the internal Australian Federal Police, and an appointment was made for the Complainant to talk to them on the same day.

A meeting was held at midday on Monday 1 April 2019 between Federal Agents Rebecca [REDACTED] and Katie [REDACTED] in which the complainant disclosed the details of the events.

Federal Agents [REDACTED] and [REDACTED] then referred the matter to ACT Policing Sexual and Child Assault Team (SACAT). A week later on Monday 8 April 2019 the complainant met Detective Senior Constable Sarah Harman and Constable Kristy [REDACTED], at which point she reported the events of the evening in some detail. Police practice is to allow the complainant to retain a degree of control over the progress of such complaints.

At 1.56pm on 10 April 2019 DSC Harman made a call to the complainant then left an SMS that was not responded to. At 1.28pm on Saturday 13 April 2019 the complainant sent DSC Harman an email stating:

*After careful consideration I have decided not to proceed any further in this regard.*

*I really appreciate your time, professionalism and assistance with this complaint. You helped me more than you know.*

*It's just not the right decision for me personally, especially **in light of my current workplace demands.***

*Thank-you again for your candour and I apologise if I've taken up much of your time.*

<sup>50</sup> ROC Madders/[REDACTED] 2/4/21 Q138.

<sup>51</sup> ROC Madders/[REDACTED] 2/4/21 Q141.

<sup>52</sup> ROC Madders/Brown 22/3/21 Q238.

<sup>53</sup> ROC Madders/Brown 22/3/21 Q293.

After first report

Two days before this, on 11 April 2019 the Prime Minister called an election for 18 May 2019, and all government members and staff including Minister Reynolds entered election mode. This resulted in the complainant relocating to Perth to join the campaign of Minister Reynolds between 14 April to the day after the successful election being 19 May 2019, with a brief break on 4-5 May.

She messaged Mr [REDACTED] on 6 May 2019 at 10.05am ***“if I want to maintain a job I can’t talk about it but I’m still getting follow up calls from the AFP to this dah and I’m just at the end of my rope with it”***.

The complainant remained in the employment of Minister Reynolds for another 2 and a half weeks until 7 June 2019 at which point she accepted a role in the office of Minister Michaelia Cash.

For the next year and a half from June 2019 – January 2021 the complainant remained in the employment of the office of Minister Cash. The complainant took no further action in relation to the complaint for the second half of 2019, [REDACTED]

Second report to the police

After a year of counselling the complainant decided to reinstate the report to police, and in preparation took two steps.

The first was the ventilation of the issue publicly through the media, to ensure that whatever followed from the potential embarrassment of the Federal Government, would be publicly visible. To that end, she engaged two journalist, one print and one television. Firstly, she participated in a sit-down interview with journalist Samantha Maiden on 21 January in preparation for a newspaper article that would follow after she reinstated the complaint. Secondly, she had a phone conversation with a second journalist Lisa Wilkinson on 22 January in preparation for a sit-down interview that would be held on 2 February and subsequently aired on 15 February.

The second was to resign her position with Minister Cash before any media broke, which took a number of attempts, as each time either Minister Cash’s chief of staff [REDACTED] or Minister Cash talked her into delaying, offering sweeteners like the ability to work from her home on the Gold Coast.

On Friday 29 January 2021 the complainant formally resigned from Minister Cash’s office and ceased any engagement with politics, politician or Parliament House.

Two weeks after sitting down with Samantha Maiden and 2 days after sitting down and recording the interview with Lisa Wilkinson, on Thursday 4 February 2021, the complainant wrote an email to Federal Agent Rebecca [REDACTED] who had managed the first report back on 1 April 2019, stating:

*I'm just reaching out in relation to a sexual assault case that we originally discussed in April 2019.*

*My work situation has changed and I'm looking at pressing forward with a formal statement.*

Federal Agent [REDACTED] referred the matter to SACAT at ACT Policing where police reactivated the investigation.

#### Investigation:

Detective Sergeant Kylie [REDACTED] and Senior Constable Emma Frizzell met with the complainant and the investigation recommenced.

The complainant participated in a recorded interview with police 20 days after the email to Rebecca [REDACTED] on 24 February 2021.

The complainant was very concerned about government interference in the investigation and was hesitant to produce private material that she feared may be used to attack her personally. This included a reluctance to produce her phone that contained a large amount of private material including SMS messages between the complainant and her family and boyfriend and private photos including those of family members. On 25 February 2021 Senior Constable Frizzell requested the complainant give police her phone and she raised concerns about Minister Dutton making media comments strongly suggestive of a knowledge of confidential matters, she feared may suggest some political interference.<sup>54</sup> Officer Frizzell undertook to discuss the matter and put her at ease. A number of meetings occurred over the following weeks, and on 26 May 2021 the complainant produced her phone and consent for all of her data to be examined.

The accused participated in a record of interview on 19 April 2021.

Due to travel restrictions resulting from various COVID measures the accused was not summonsed to attend court until 5 August 2021.

#### Conclusions

So that is the case as we anticipate the evidence will flow. At the conclusion of the case, as I have said you will have the benefit of submissions from both the Crown and Defence, and more importantly directions from HH, who will sum the case up, and give you some very

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<sup>54</sup> Statement of Senior Constable Emma Frizzell 27/7/21 - paragraph 43-44

important directions on the law. It is important that you keep an open mind on your verdicts until you hear all of the evidence, as well as the closings, summing up and directions on law from HH.

## R v LERHAMANN

## Witness &amp; Exhibit List

	Witness	Type	Produced Exhibit	Trial Exhibit
1.	Brittany Higgins	Complainant	EICI - #1 Audio CP Pedestrian Gate ██████████ CCTV Footage APH Pass Register Photos of Ministers Office Plan of Ministers Office Photo of bruised Right Leg Photo of dress Comp's email to Def on 26.03.19 Code of conduct form Text message to ██████████ Text messages to Brown Whatsapp to Brown Email of withdrawal complaint Email of resignation to ██████ Email to reactivate complaint	
2.	██████████	The Dock 88 MPH Complaint witness	CCTV Footage	
3.	██████████	The Dock 88 MPH	CCTV Footage	
4.	██████████	The Dock Complaint Witness	CCTV	
5.	██████████	Security Guard	CCTV Footage APH Pass Register Conversation – <i>going to work</i> Filenote 24.03.19 ██████████	
6.	██████████	Security Guard – ██████████	CCTV Footage ██████████ <i>Diary note</i> <i>Plan of Ministers Office</i> <i>File note</i> <i>Transcript FourCorners</i> <i>Letter to Police</i> ██████████	
7.	██████████	Security Guard	Plan of Ministers Office	
8.	██████████	Security Guard		
9.	██████████	Director Security AFP	Door Activity ██████████	
10.	██████████	Cleaner		



11.	Fiona Brown	Chief of Staff Minister Reynolds	File note dated 26.03.19 – 12pm meeting Defendant Docs Relating Lehrmann – denies stating he told security he was there on official work business. Filenote re Higgins	
12.	[REDACTED]	Complaint witness	Text messages <i>ADF Asked video phone as Dilaway doesn't want to hand over phone.</i>	
13.	[REDACTED]	Complaint Witness	Text messages	
14.	[REDACTED]	Chief of Staff to Minister Hawke	Listened to phone call btn brown and defendant	
15.	[REDACTED]	Took compliant 3.4.19	Notes	
16.	[REDACTED]	PMO		
17.	Minister Reynolds	Complaint witness		
18.	Rebecca [REDACTED]	Complaint witness	Notes	
19.	[REDACTED]	Complaint Witness Dept Liaison Officer - Employee Reynolds Office	Notes	
20.	Det Sgt LANGLANDS	Comp withdrew	Promis Notes Police notes	
21.	[REDACTED]	Colleague	Def had alcohol at office	
22.	[REDACTED]	Complaint Witness	Oct/Nov 2019	
23.	[REDACTED]	Complaint witness	Nov 2019	
24.	David Sharaz	Complaint witness		
25.	[REDACTED]	Complaint witness	April 2020	
26.	[REDACTED]	Complaint witness	August 2020	
27.	[REDACTED]	Complaint witness	August 2020 (Shiraz told her)	
28.	[REDACTED]	Complaint witness	Cash – June 2019 onwards.	
29.	[REDACTED]	Complaint Witness flatmate	16.01.20	
30.	[REDACTED]	Complaint witness Cash's office	28.01.21	
31.	Michaela Cash	Complaint witness	Oct 2020 – security incident Jan/Feb 2021 - assault	
32.	[REDACTED]	Complaint Witness	January 2021	
33.	[REDACTED]	Computer Tech		
34.	[REDACTED]	Complaint witness	03 April 2019  Email from B.HIGGINS	
35.	Katie [REDACTED]	Complaint witness	April 2019	
36.	DSC Kristy [REDACTED]	Complaint Witness	08.04.2019	
37.	SC HARMAN	Complaint Witness	April 2019	

			Email of withdrawal 13.04.19	
38.	Dsgt [REDACTED]	Complaint witness	05.02.2021	
39.	SC Emma FRIZZEL	Informant		
40.	Inspector Marcus Boorman		ROI – 19.04.21 Defendant's drawing Security Sign In Sheet Hand written notes about complainant on Def phone.60 <i>Do we want clarification of items handed to police?</i>	
41.	DetSgt Trent Madders			
42.	Jennifer [REDACTED]	DNA	No semen dedected on dress Nil samples taken for DNA Analysis <i>Agreed fact?</i>	

## Other exhibits:

1. Complainant's medical records
2. The Dock Reciepts – who produces?
3. Def Emails sent to Comp on 23.03.19 between 1 and 5 am.
4. Private email on 24.03.19 Def to Comp – Boorman para 91
5. Const [REDACTED] views folder on Def's phone – Higgins matter Blue Notebook

**R V LEHRMANN**

**No. SCC 264 of 2021**

**LIST OF WITNESSES**

Witness List A – witnesses the Crown will call to give evidence at trial

1. Brittany HIGGINS
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]
17. [REDACTED]
18. [REDACTED]
19. [REDACTED]
20. [REDACTED]
21. [REDACTED]
22. Fiona BROWN
23. Linda REYNOLDS
24. [REDACTED]
25. Federal Agent Rebecca Anne [REDACTED]
26. Federal Agent Katie Anne [REDACTED]
27. Detective Sergeant Robert Heath LANGLANDS
28. Detective Senior Constable Kristy [REDACTED]
29. Detective Senior Constable Sarah Elizabeth HARMAN
30. [REDACTED]
31. [REDACTED]
32. [REDACTED]
33. Michealia CASH
34. David SHARAZ
35. Samantha MAIDEN
36. Lisa WILKINSON

37. Detective Sergeant Kylie [REDACTED]
38. Senior Constable Emma Louise FRIZZELL
39. Detective Inspector Marcus Colin BOORMAN
40. Detective Leading Senior Constable Trent Robert MADDERS
41. Detective Sergeant Gareth John Miles SAUNDERS
42. Senior Constable James Ross [REDACTED]
43. Detective Sergeant Jason McDEVITT
44. Sergeant Sonia Nadia [REDACTED]
45. [REDACTED]
46. [REDACTED]
47. Jennifer [REDACTED]
- [REDACTED]
- [REDACTED]
50. [REDACTED]
51. [REDACTED]
52. [REDACTED]

Witness List B – witnesses whose statements the Crown will tender or whose evidence will be called through the informant unless notified by defence that the witness is required

1. Detective Leading Senior Constable Kirsten Ellen [REDACTED]
2. Federal Agent Hugh [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. Detective Leading Senior Constable Michael [REDACTED]

Witnesses who have not provided a statement and in relation to whom it is unknown if they will be called to give evidence

1. Detective Superintendent Scott MOLLER
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]

**From:** Drumgold, Shane  
**Sent:** Tuesday, 23 August 2022 12:51 PM  
**To:** Priestly, Erin  
**Cc:** Jerome, Skye; Pitney, Sarah; Greig, Mitchell  
**Subject:** RE: REQUEST FOR DISCLOSURE: LEHRMANN

OFFICIAL

Hi All

Is it possible to have a meeting on this tomorrow? I have estimates in the morning, but could squeeze in a quick meeting around 11.00am?



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: [REDACTED] (Direct line)  
T: [REDACTED] (Executive Officer Katie Cantwell)  
M: [REDACTED]  
E: [REDACTED]@act.gov.au  
E: [REDACTED]@act.gov.au (EO)  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

For a full range of victims rights, please go to [www.dpp.act.gov.au](http://www.dpp.act.gov.au) and follow the Witnesses and Victims link.

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We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people  
We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

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**From:** Priestly, Erin <[REDACTED]@act.gov.au>  
**Sent:** Tuesday, 23 August 2022 12:28 PM  
**To:** Drumgold, Shane <[REDACTED]@act.gov.au>  
**Cc:** Jerome, Skye <[REDACTED]@act.gov.au>; Pitney, Sarah <[REDACTED]@act.gov.au>; Greig, Mitchell <[REDACTED]@act.gov.au>  
**Subject:** FW: REQUEST FOR DISCLOSURE: LEHRMANN

OFFICIAL

Hi Shane



Please see below from defence.

Can you please confirm:

1. Does the below change our position that the full unredacted Cellebrite will not be disclosed?
2. Are you happy for me to request any PROMIS records in this matter that pre-date 1 April (although I suspect there are none)?
3. Does the below change our position that the full PROMIS file, Google drive data and iCloud data will not be disclosed?

Mitchell is going to speak with Rachel about the assertion we have not provided the material provided to us by the AFP – it has been disclosed twice now.

Kind regards



**Erin Priestly**  
 Senior Prosecutor  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: REDACTED (Direct)  
 T: (02) 6207 5399 (Reception)  
 E: REDACTED@act.gov.au  
 W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

For a full range of victims rights, please go to [www.dpp.act.gov.au](http://www.dpp.act.gov.au) and go to the Witnesses and Victims link.

Please consider the environment before printing this e-mail

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**From:** Rachel Fisher <REDACTED@kslawyers.com.au>  
**Sent:** Tuesday, 23 August 2022 12:05 PM  
**To:** Priestly, Erin <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>  
**Subject:** REQUEST FOR DISCLOSURE: LEHRMANN

**Caution:** This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Dear Erin,

## Cellbrite

We request that the Cellbrite report is unredacted and provided. We understand that personal contact details have been redacted for but that is not the only material redacted. The Cellbrite is heavily redacted, over 4,500 pages just completely blacked out. This cannot be attributed to personal information. This seems to include communications prior to 23 April 2019. Additionally, the Cellbrite does not provide

images shared or movies on the phone, just thumbnails (some of which are redacted). There appears from the report to be hypertext links to the actual images and movies, none of which have been disclosed.

We press for the production of the complete and unredacted cellbrite report which is not “locked down” so as to not be searchable or able to have excerpts extracted from, and notwithstanding the personal information such as contact detail etc. If that cannot be blacked out to allow us to access the cellbrite in a practical way, we will give undertakings to ensure that the material is not disseminated outside the legal team. We note in the course of examining various other material disclosed or produced in this matter personal information in the form of mobile numbers, email addresses and other personal information has already been disclosed to the defence – and we of course respects the private nature of such information.

## **PROMIS**

We have no disclosure of PROMIS entries or police diaries relating to anything done or conducted at Australian Parliament House before 1 April. We press for that material. This material is particularly important given the repeated assertions by the complainant that she first spoke with police at APH on 26 or 27 March 2019.

Additionally, the AFP have confirmed the material disclosed to the DPP in relation to my subpoena contained:

- Case note entries between Ms Higgins or her representatives and the AFP;
- Email correspondence between AFP Members and Ms Higgins or her representatives; and
- SMS correspondence between AFP Members and Ms Higgins.

We do not have such material. We request this material be disclosed forthwith and placed on a USB with all material provided by the AFP to your office in response to that subpoena in June 2022. It is now almost 8 weeks since that subpoena was returnable but not called on after discussions with the AFP and on the understanding that the material set out in the Schedule had been provided to your office and would be disclosed to the defence.

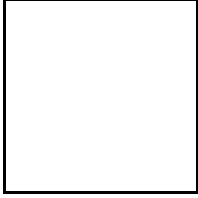
I note that an additional USB was prepared on Friday which contained additional material that we had not yet been provided and I have requested an updated disclosure record request because it is very difficult to ascertain what has and has not been disclosed in this matter. If the material is on that USB, as it contains over 2000 documents, I am still making my way through it - please advise and outline its location.

Further, the PROMIS file as well as the icloud and google data is stated to be too voluminous to disclose. We do not understand that to be a valid basis to refuse disclosure of any of that material. We request disclosure of all the material already provided to the DPP by the AFP and we can reconsider whether it is necessary to press for further disclosure.

Please advise whether your office intends to comply with this request and if it will be done a timely manner, failing which we will request a listing in front of the Chief Justice.

Kind regards,

**Rachel Fisher**  
Lawyer



1 University Ave  
Canberra ACT 2601

T: (02) 6230 6600  
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**From:** Drumgold, Shane  
**Sent:** Monday, 12 September 2022 8:32 AM  
**To:** Greig, Mitchell; Pitney, Sarah  
**Subject:** Could we squeeze in a quick meeting this morning

UNOFFICIAL



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
M: REDACTED  
E: REDACTED@act.gov.au  
E: REDACTED@act.gov.au (EO)  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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to the life of this city and this region**

Artwork by Ngarrindjeri artist Jordan Lovegrove

**From:** Drumgold, Shane  
**Sent:** Saturday, 24 September 2022 7:44 AM  
**To:** Jerome, Skye; Greig, Mitchell; Pitney, Sarah  
**Subject:** Last meeting

**UNOFFICIAL**

Hey All

Following last week's directions, can we have a quick meeting Monday to discuss

- 1) Hard copies of exhibit for the jury
- 2) One hard copy of exhibits for myself and Skye (tabbed as per exhibit running sheet)
- 3) Final prep

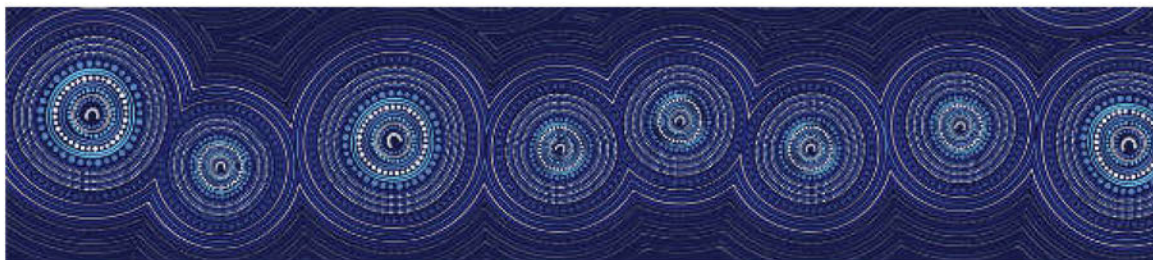
I was thinking 10ish if that suits everyone



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: **REDACTED** (Direct line)  
T: **REDACTED** (Executive Officer Katie Cantwell)  
M: **REDACTED**  
E: **REDACTED**@act.gov.au  
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**From:** Drumgold, Shane  
**Sent:** Tuesday, 27 September 2022 11:18 AM  
**To:** Greig, Mitchell; Jerome, Skye; Pitney, Sarah  
**Cc:** SVC\_DPPCases  
**Subject:** RE: Sam Maiden Statement (202113941)

OFFICIAL

Hi All  
These can be disclosed



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
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Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Greig, Mitchell <REDACTED@act.gov.au>  
**Sent:** Tuesday, 27 September 2022 9:47 AM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>  
**Cc:** SVC\_DPPCases <REDACTED@act.gov.au>  
**Subject:** Sam Maiden Statement (202113941)

OFFICIAL

Dear all,

Attached transcript taken of Samantha Maiden. The AFP has sent me a link that may allow me access to the audio, if not they will provide it via USB.

Kind regards,



**Mitchell Greig**

Prosecutor Associate

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: (02) **REDACTED**

W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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**From:** Drumgold, Shane  
**Sent:** Wednesday, 28 September 2022 9:34 AM  
**To:** Pitney, Sarah; Jerome, Skye  
**Cc:** Greig, Mitchell  
**Subject:** RE: Documents for review of disclosure [SEC=RESTRICTED]

OFFICIAL

I think we should disclose these on defence



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
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---

**From:** Pitney, Sarah <REDACTED@act.gov.au>  
**Sent:** Wednesday, 28 September 2022 9:06 AM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>  
**Cc:** Greig, Mitchell <REDACTED@act.gov.au>  
**Subject:** FW: Documents for review of disclosure [SEC=RESTRICTED]

OFFICIAL

FYI

---

**From:** Madders, Trent  
**Sent:** Wednesday, 28 September 2022 8:56 AM  
**To:** Greig, Mitchell <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>

Cc: Frizzell, Emma [REDACTED] Hughes, Callum [REDACTED]

Subject: Documents for review of disclosure [SEC=RESTRICTED]

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**RESTRICTED**

Morning Mitch and Sarah,

The attached documents have been sent to us by AFP Legal regarding disclosure. In regards to the documents:

The document titled SKM\_C554e19040720320 is in the brief as part of the APH documents.

The document titled scan\_afp11737\_2019-05-15-09-21 (Security protocols) we have but haven't disclosed as they are administrative. It explains the security procedures of APH.

The document titled CRM2021-488 (clean) (Senate Estimates briefs) we have not seen before.

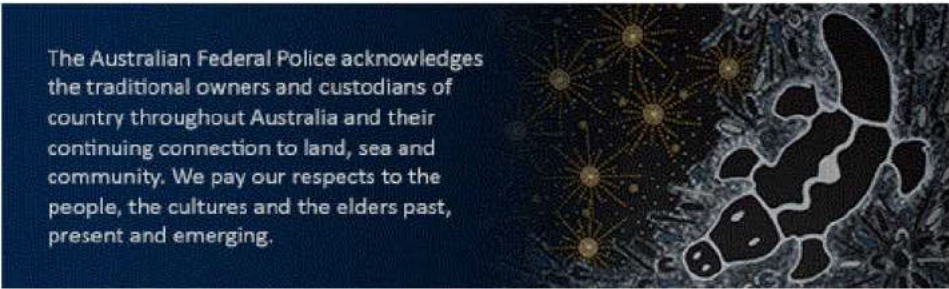
We are sending them to your office so you are aware of their existence and whether they should be part of the disclosure.

Regards,  
Trent

**DLSC TRENT MADDERS**  
CRIMINAL INVESTIGATIONS - JACET  
ACT POLICING  
Tel: [REDACTED] [REDACTED]  
[www.afp.gov.au](http://www.afp.gov.au)



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**From:** Drumgold, Shane  
**Sent:** Monday, 10 October 2022 7:38 AM  
**To:** Jerome, Skye; Greig, Mitchell; Pitney, Sarah  
**Subject:** FW: URGENT STATEMENT - [REDACTED] (202113941) [SEC=OFFICIAL]  
**Attachments:** [REDACTED]09102022A.m4a; ROC Precis.docx

OFFICIAL

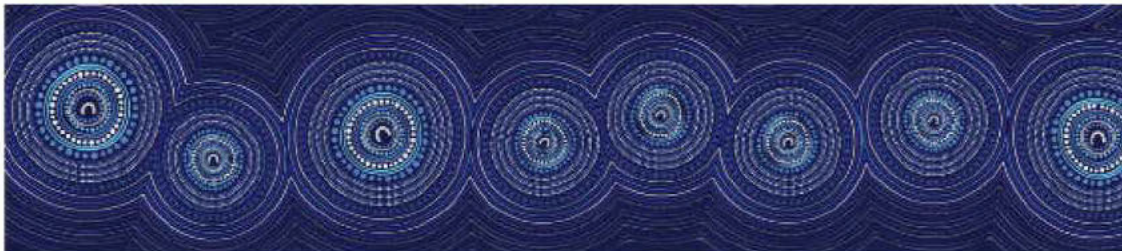
Thanks Mitch – this can go to defence



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: [REDACTED] (Direct line)  
T: [REDACTED] (Executive Officer Katie Cantwell)  
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---

**From:** Greig, Mitchell <[REDACTED]@act.gov.au>  
**Sent:** Monday, 10 October 2022 5:55 AM  
**To:** Drumgold, Shane <[REDACTED]@act.gov.au>; Jerome, Skye <[REDACTED]@act.gov.au>  
**Cc:** SVC\_DPPCases <[REDACTED]@act.gov.au>  
**Subject:** Fwd: URGENT STATEMENT - [REDACTED] (202113941) [SEC=OFFICIAL]

OFFICIAL

Hi Shane and Skye,

Attached audio statement from [REDACTED] Waiting upon the transcript.

Mitch



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**From:** REDACTED Adam <[REDACTED]@afp.gov.au>  
**Sent:** Sunday, October 9, 2022 8:47:54 PM  
**To:** Greig, Mitchell <[REDACTED]@act.gov.au>; Pitney, Sarah <[REDACTED]@act.gov.au>  
**Cc:** SVC\_DPPCases <[REDACTED]@act.gov.au>; Frizzell, Emma [REDACTED] Madders, Trent [REDACTED] Moller, Scott [REDACTED]  
**Subject:** RE: URGENT STATEMENT - Alex [REDACTED](202113941) [SEC=OFFICIAL]

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**OFFICIAL**

Mitchell,

We located [REDACTED] today. Unbeknown to us, he now works with ACT Police at Woden Police Station. He had never disclosed his contact with Ms Higgins to any member of the investigation team or were the investigation team aware. The first we became aware was today when members from CI contacted him.

Attached is an audio recording of a record of conversation with [REDACTED] I have attached a precis that the interviewer prepared for your reference as well. I have arranged for a same day transcript which should be available tomorrow. I will be present in court tomorrow and once it is available I will print it off at City Police station and provide it to you.

Mr [REDACTED] states he still has the phone he used to communicate with Ms Higgins. He believes the messages with her should still be on it and I will arrange the investigation team to collect it tomorrow and obtain images of those messages.

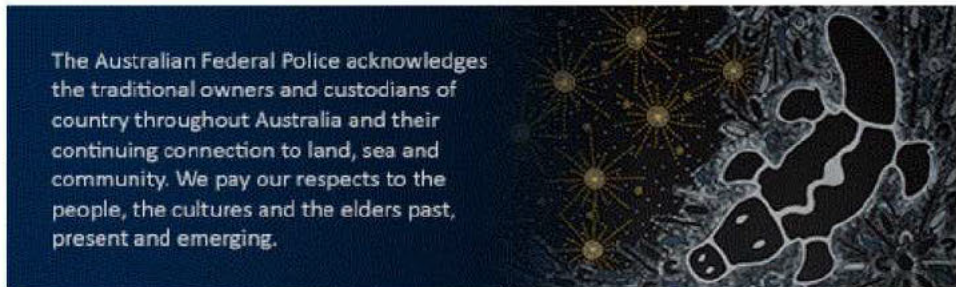
Should you require anything further please do not hesitate to contact me.

Adam

**DETECTIVE A/INSPECTOR ADAM [REDACTED]**  
CRIMINAL INVESTIGATIONS - SEXUAL OFFENCES & CHILD ABUSE  
ACT POLICING  
Tel: [REDACTED]  
[www.afp.gov.au](http://www.afp.gov.au)



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**From:** Greig, Mitchell <[REDACTED]@act.gov.au>  
**Sent:** Sunday, 9 October 2022 1:18 PM  
**To:** [REDACTED] Adam [REDACTED] Pitney, Sarah <[REDACTED]@act.gov.au>  
**Cc:** SVC\_DPPCases <[REDACTED]@act.gov.au>  
**Subject:** RE: URGENT STATEMENT - [REDACTED] (202113941) [SEC=OFFICIAL]

OFFICIAL

Dear Adam,

If it is possible for the statement to be taken today it would be appreciated. I suspect Defence require it for the continuation of Ms Higgins Cross Examination tomorrow.

Kind regards,



**Mitchell Greig**  
Prosecutor Associate  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: (02) [REDACTED]  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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**From:** [REDACTED] Adam <[REDACTED]>  
**Sent:** Sunday, 9 October 2022 1:01 PM  
**To:** Greig, Mitchell <[REDACTED]@act.gov.au>; Pitney, Sarah <[REDACTED]@act.gov.au>  
**Subject:** RE: URGENT STATEMENT - [REDACTED] (202113941) [SEC=OFFICIAL]

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Mitchell,

Can you confirm you want this taken today? If so I will task another member of criminal investigations with no background knowledge of the investigation to contact and attempt to obtain the statement from Mr [REDACTED] if it can wait till tomorrow I will ensure members of the investigation team. Emma or Trent obtain it.

Thanks in advance,

Adam

**DETECTIVE A/INSPECTOR ADAM [REDACTED]**  
CRIMINAL INVESTIGATIONS - SEXUAL OFFENCES & CHILD ABUSE  
ACT POLICING  
Tel: [REDACTED]  
[www.afp.gov.au](http://www.afp.gov.au)





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**From:** Frizzell, Emma [REDACTED]  
**Sent:** Sunday, 9 October 2022 12:53 PM  
**To:** REDACTED Adam <Adam.REDACTED@act.gov.au>  
**Subject:** Fwd: URGENT STATEMENT - [REDACTED] (202113941) [SEC=OFFICIAL]

D/A/Ins REDACTED

As discussed, request to obtain statement. Let me know if you want [REDACTED] contacted today to arrange a statement tomorrow or if addressing tomorrow morning suffices.

Kind regards,  
Em

**From:** Greig, Mitchell <REDACTED@act.gov.au>  
**Date:** 9 October 2022 at 12:33:51 pm AEDT  
**To:** Frizzell, Emma [REDACTED] Madders, Trent [REDACTED]  
**Cc:** Pitney, Sarah <REDACTED@act.gov.au>, SVC DPPCases <REDACTED@act.gov.au>  
**Subject:** Fwd: URGENT STATEMENT - [REDACTED] (202113941)

OFFICIAL

Hi Em and Trent,

Can you please action the request from Mr Whybrow.

Thank you.

Kind regards,



**Mitchell Greig**  
 Prosecutor Associate  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: (02) REDACTED  
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**From:** Steven Whybrow <[REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)>

**Sent:** Sunday, October 9, 2022 9:17:44 AM

**To:** Greig, Mitchell <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>; Rachel Fisher <[REDACTED@kslawyers.com.au](mailto:REDACTED@kslawyers.com.au)>; Frizzell, Emma

**Cc:** Drumgold, Shane <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>; Jerome, Skye <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>; Kamy Saeedi <[REDACTED@kslawyers.com.au](mailto:REDACTED@kslawyers.com.au)>; Katrina Musgrove <[REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)>; Pitney, Sarah <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>; SVC\_DPPCases <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>; Ben Jullienne <[REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)>

**Subject:** URGENT STATEMENT - [REDACTED]

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Dear Greig,

Thankyou for the subscriber details for Mr [REDACTED]

In light of the evidence that:

- Ms Higgins knew him to be a security guard at APH
- APH records indicate Mr [REDACTED] entered APH at about 8am on 23 March
- The pair were in sms communications on and around 23 March 2019
- Those messages are no longer on Ms Higgins phone

We request the AFP to urgently to seek a statement from Mr [REDACTED] and endeavour to find out what these messages were and what if any contact he had with Ms Higgins on 23 March 2019 and the days following.

Given the time issues and urgency, I have CC Detectives Madders and Frizzell into this email.

We note we are still awaiting details of the subscriber checks for National Press Club and another number.

Regards

Steve Whybrow

**Steven Whybrow**

**Barrister**

(e) [REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)

(f) [REDACTED]

(direct) [REDACTED]

(f) [REDACTED]



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**From:** "Greig, Mitchell" <[REDACTED]@act.gov.au>  
**Date:** Saturday, 8 October 2022 at 3:17 pm  
**To:** Rachel Fisher <[REDACTED]@kslawyers.com.au>  
**Cc:** "Drumgold, Shane" <[REDACTED]@act.gov.au>, "Jerome, Skye" <[REDACTED]@act.gov.au>, Kamy Saeedi <[REDACTED]@kslawyers.com.au>, Katrina Musgrove <[REDACTED]@keychambers.com.au>, "Pitney, Sarah" <[REDACTED]@act.gov.au>, SVC\_DPPCases <[REDACTED]@act.gov.au>, Steven Whybrow <[REDACTED]@keychambers.com.au>, Ben Jullienne <[REDACTED]@keychambers.com.au>  
**Subject:** RE: Subscriber Checks (DPP Ref: 202113941)

OFFICIAL

Dear Rachel,

The AFP have provided the attached documents relating to your request and the following message

*Please find attached two PDF's containing the TPG records of the messages exchanged between Ms Higgins and telecommunications service number [REDACTED] on 23 to 26 March 2021. I have also attached the subscriber results for that number in the name of [REDACTED]*

*The first copy has all the columns of data and the second copy has the last 11 columns deleted as they are all empty and I thought this might make it easier to read if it needs to be printed.*

Kind regards,



**Mitchell Greig**  
 Prosecutor Associate  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: (02) [REDACTED]  
 W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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**From:** Rachel Fisher <[REDACTED]@kslawyers.com.au>  
**Sent:** Friday, 7 October 2022 8:16 PM  
**To:** Greig, Mitchell <[REDACTED]@act.gov.au>



Cc: Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>; Kamy Saeedi <RED@kslawyers.com.au>; Katrina Musgrove <REDACTED@keychambers.com.au>; Pitney, Sarah <REDACTED@act.gov.au>; SVC\_DPPCases <REDACTED@act.gov.au>; REDACTED@keychambers.com.au; REDACTED@keychambers.com.au  
**Subject:** Re: Subscriber Checks (DPP Ref: 202113941)

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Dear Mitchell,

Can you please urgently request the Police obtain/disclose any TPG records of the messages exchanged between Ms Higgins and Mr [REDACTED] on 23 to 26 March 2021?

Kind regards,

Rachel Fisher

On Fri, 7 Oct 2022 at 5:11 pm, Greig, Mitchell <REDACTED@act.gov.au> wrote:

OFFICIAL

Dear Defence,

Attached two subscriber results provided by the AFP.

The other checks are still being conducted. Regarding the process for obtaining the subscriber checks I have been informed the following:

- AFP have to obtain a IPND on the number to determine the carrier;
- Once an IPND has been obtained AFP request the historic subscriber from ACTP Intelligence;
- Once a request is completed it is sent to the investigator with the authorisation.

Kind regards,



**Mitchell Greig**  
Prosecutor Associate  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
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W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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Rachel Fisher  
Lawyer



1 University Ave  
Canberra ACT 2601



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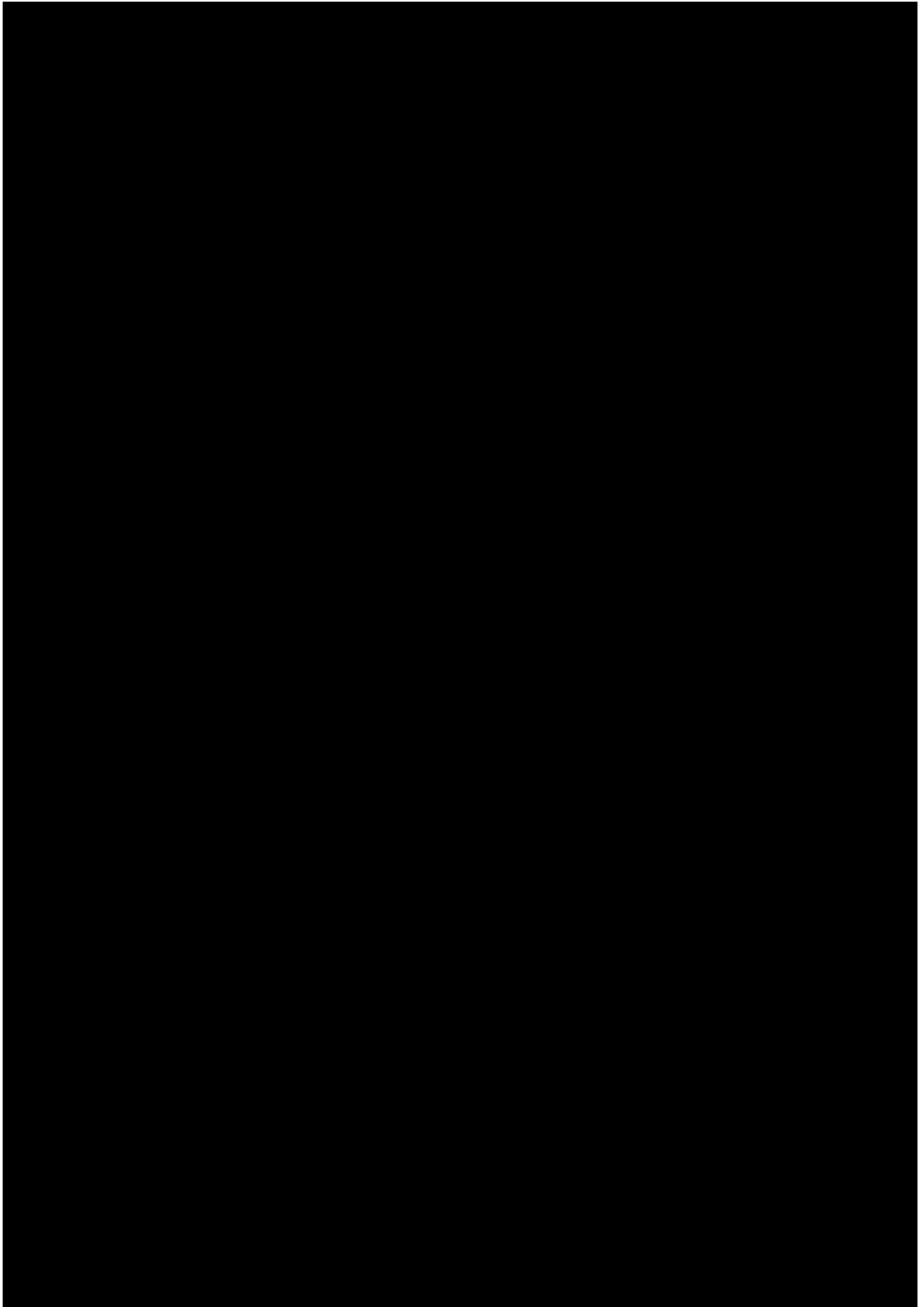
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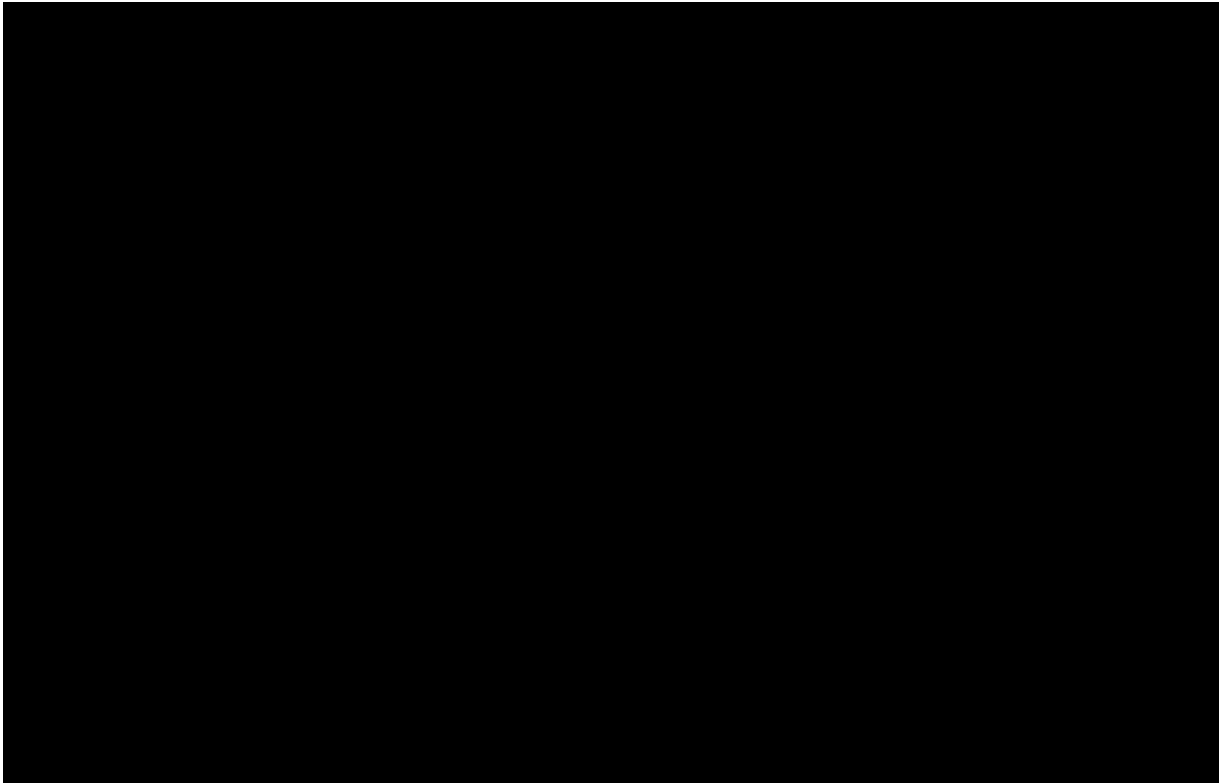
inbox.

AFP Web site: <http://www.afp.gov.au>

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**From:** Jerome, Skye  
**Sent:** Wednesday, 28 September 2022 4:46 PM  
**To:** Steven Whybrow; Greig, Mitchell; Pitney, Sarah  
**Cc:** Katrina Musgrove; Ben Jullienne; Rachel Fisher  
**Subject:** RE: Phone Records for Mr Lehrmann

Dear All

We have requested from AFP the unredacted and unlocked copy of the Mr Lehrmann's celebrite extraction report, as my office does not have an unlocked copy.

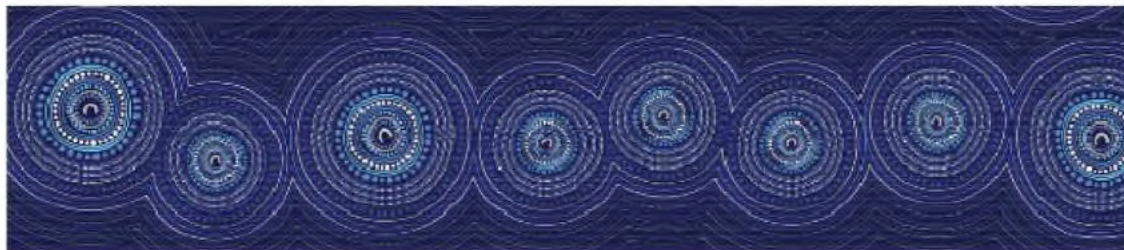
Regards

Skye



**Skye Jerome**  
Prosecution Counsel  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: **REDACTED** (Direct line)  
E: **REDACTED**@act.gov.au  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region**

**Artwork by Ngarrindjeri artist Jordan Lovegrove**

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---

**From:** Jerome, Skye  
**Sent:** Wednesday, 28 September 2022 4:29 PM  
**To:** Steven Whybrow <**REDACTED**@keychambers.com.au>; Greig, Mitchell <**REDACTED**@act.gov.au>; Pitney, Sarah <**REDACTED**@act.gov.au>  
**Cc:** Katrina Musgrove <**REDACTED**@keychambers.com.au>; Ben Jullienne <**REDACTED**@keychambers.com.au>; Rachel Fisher <**REDACTED**@kslawyers.com.au>  
**Subject:** RE: Phone Records for Mr Lehrmann

Dear Steve

I have arranged for a copy of Mr Lerhmann's unredacted cellebrite report to be disclosed to you. I understood that it had already been provided.

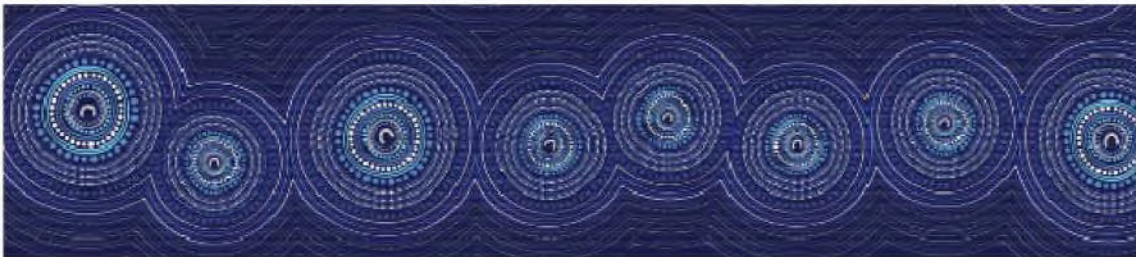
The attachment that I referred to in my email below is in regards to the Optus CCR and RCCR of Mr Lerhmann's phone. Mr Lerhman is asked about the phone calls in his police recorded interview and he identifies the number as belonging to his girlfriend at QA 733 – 740.

Skye



**Skye Jerome**  
 Prosecution Counsel  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: (02) REDACT (Direct line)  
 E: REDACTE@act.gov.au  
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Artwork by Ngarrindjeri artist Jordan Lovegrove

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---

**From:** Steven Whybrow <REDACT@keychambers.com.au>  
**Sent:** Wednesday, 28 September 2022 3:41 PM  
**To:** Jerome, Skye <REDACTE@act.gov.au>  
**Cc:** Katrina Musgrove <REDACT@keychambers.com.au>; Ben Jullienne <REDACT@keychambers.com.au>; Rachel Fisher <RED@kslawyers.com.au>  
**Subject:** Re: Phone Records for Mr Lehrmann

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Skye,

In future can you please CC Katrina, Ben and Rachel in to these type of emails. This is a massive case and there is a team here working on the defence. This will also reduce the chances you don't get a timely response and if I mistakenly assert something (like the fact we do have an unredacted copy of Mr Lehrmann's phone) for that to be identified quickly.

I do not agree to any of this at this stage.



The prosecution has only provided the defence a **heavily redacted Cellebrite of Mr Lehrmann's own phone**. Apparently he or even his lawyers are not entitled to know what was on his phone when extraction occurred.

We are not even able to see who his contacts were let alone match them to any phone numbers such as the one in this 'cleaned' spreadsheet. The timeline, all images and nearly everything else has been withheld from Mr Lehrmann and his lawyers.

As a matter of urgency, can you disclose a full and unlocked and unredacted copy of the Cellebrite of Mr Lehrmann phone as well as the data extracted (images, files, voice messages etc).

I am not in a position to consent to this material being tendered at this stage when as a consequence of the lack of proper disclosure I cannot even identify who any of these frequently called numbers belong to.

Please advise whether if prosecution intends not to disclose this material as it is something we will have to raise with the Court.

Steve

**Steven Whybrow**

**Barrister**

(e) [REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)

(t) [REDACTED]

(direct) REDACTED

(f) REDACTED



**Level 5, 54 Marcus Clarke Street  
GPO Box 2011  
CANBERRA ACT 2601  
DX 5653 Canberra**

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---

**From:** "Jerome, Skye" <[REDACTED@act.gov.au](mailto:REDACTED@act.gov.au)>  
**Date:** Wednesday, 28 September 2022 at 2:53 pm  
**To:** Steven Whybrow <[REDACTED@keychambers.com.au](mailto:REDACTED@keychambers.com.au)>  
**Subject:** Phone Records for Mr Lehrmann

Dear Steve

The prosecution intends to tender only a relevant excerpt of the CCR & RCCR phone record for Mr Lehrmann. Please see attached. The document will be tendered through Optus Tel Co, [REDACTED] who can speak to the document. However, AFP Officer [REDACTED] changed the time from UCT to AEDT. Do you take issue with the stated time on the attached document?

Please advise if you take issue with this course or wish for more of the record to be tendered.

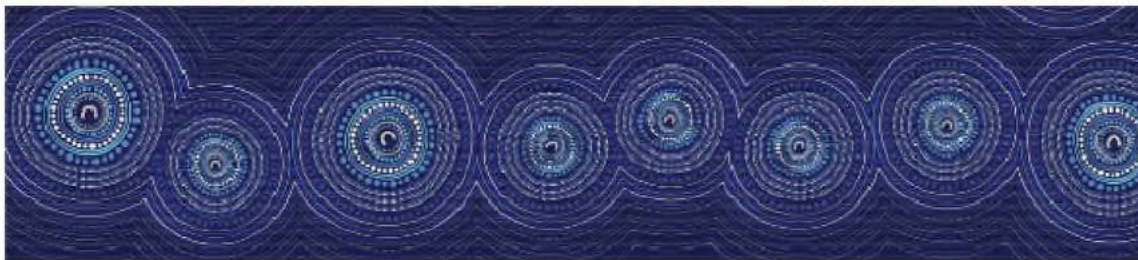
Kind regards

Skye



**Skye Jerome**  
Prosecution Counsel  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: [REDACTED] (Direct line)  
E: [REDACTED]@act.gov.au  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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*Artwork by Ngarrindjeri artist Jordan Lovegrove*

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-----

**From:** Greig, Mitchell  
**Sent:** Friday, 30 September 2022 8:48 AM  
**To:** Rachel Fisher  
**Cc:** Jerome, Skye; Pitney, Sarah; [REDACTED]@keychambers.com.au; Katrina Musgrove; [REDACTED]@keychambers.com.au; SVC\_DPPCases  
**Subject:** Full Data Extraction - Mr Lehrmanns Mobile - (202113941)

**OFFICIAL**

Dear Rachel,

The full data extraction and unredacted version of Mr Lehrmann's mobile has been uploaded to Sharepoint.

Kind regards,



**Mitchell Greig**  
Prosecutor Associate  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: (02) [REDACTED]  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

For a full range of victims rights, please go to [www.dpp.act.gov.au](http://www.dpp.act.gov.au) and go to the Witnesses and Victims link.

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**From:** Drumgold, Shane  
**Sent:** Tuesday, 23 August 2022 12:51 PM  
**To:** Priestly, Erin  
**Cc:** Jerome, Skye; Pitney, Sarah; Greig, Mitchell  
**Subject:** RE: REQUEST FOR DISCLOSURE: LEHRMANN

OFFICIAL

Hi All

Is it possible to have a meeting on this tomorrow? I have estimates in the morning, but could squeeze in a quick meeting around 11.00am?

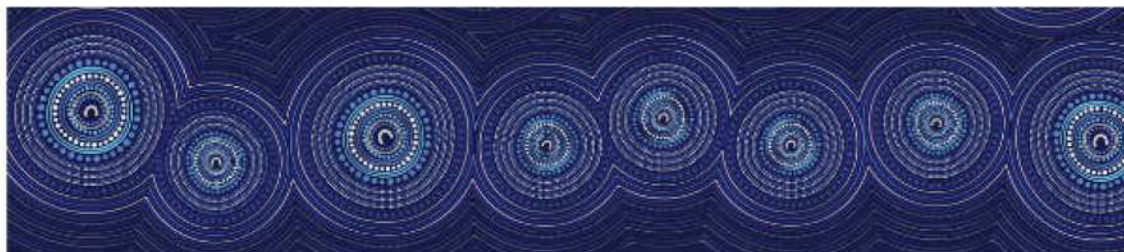


ACTDPP

**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
M: REDACTED  
E: REDACTED@act.gov.au  
E: REDACTED@act.gov.au (EO)  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Priestly, Erin <REDACTED@act.gov.au>  
**Sent:** Tuesday, 23 August 2022 12:28 PM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>  
**Cc:** Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>  
**Subject:** FW: REQUEST FOR DISCLOSURE: LEHRMANN

OFFICIAL

Hi Shane



Please see below from defence.

Can you please confirm:

1. Does the below change our position that the full unredacted Cellebrite will not be disclosed?
2. Are you happy for me to request any PROMIS records in this matter that pre-date 1 April (although I suspect there are none)?
3. Does the below change our position that the full PROMIS file, Google drive data and iCloud data will not be disclosed?

Mitchell is going to speak with Rachel about the assertion we have not provided the material provided to us by the AFP – it has been disclosed twice now.

Kind regards



**Erin Priestly**  
 Senior Prosecutor  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: **REDACTED** (Direct)  
 T: (02) 6207 5399 (Reception)  
 E: **REDACTED**@act.gov.au  
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**From:** Rachel Fisher <**RED**@kslawyers.com.au>  
**Sent:** Tuesday, 23 August 2022 12:05 PM  
**To:** Priestly, Erin <**REDACTED**@act.gov.au>; Greig, Mitchell <**REDACTED**@act.gov.au>; Jerome, Skye <**REDACTED**@act.gov.au>  
**Subject:** REQUEST FOR DISCLOSURE: LEHRMANN

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Dear Erin,

### Cellbrite

We request that the Cellbrite report is unredacted and provided. We understand that personal contact details have been redacted for but that is not the only material redacted. The Cellbrite is heavily redacted, over 4,500 pages just completely blacked out. This cannot be attributed to personal information. This seems to include communications prior to 23 April 2019. Additionally, the Cellbrite does not provide

images shared or movies on the phone, just thumbnails (some of which are redacted). There appears from the report to be hypertext links to the actual images and movies, none of which have been disclosed.

We press for the production of the complete and unredacted cellbrite report which is not “locked down” so as to not be searchable or able to have excerpts extracted from, and notwithstanding the personal information such as contact detail etc. If that cannot be blacked out to allow us to access the cellbrite in a practical way, we will give undertakings to ensure that the material is not disseminated outside the legal team. We note in the course of examining various other material disclosed or produced in this matter personal information in the form of mobile numbers, email addresses and other personal information has already been disclosed to the defence – and we of course respects the private nature of such information.

## **PROMIS**

We have no disclosure of PROMIS entries or police diaries relating to anything done or conducted at Australian Parliament House before 1 April. We press for that material. This material is particularly important given the repeated assertions by the complainant that she first spoke with police at APH on 26 or 27 March 2019.

Additionally, the AFP have confirmed the material disclosed to the DPP in relation to my subpoena contained:

- Case note entries between Ms Higgins or her representatives and the AFP;
- Email correspondence between AFP Members and Ms Higgins or her representatives; and
- SMS correspondence between AFP Members and Ms Higgins.

We do not have such material. We request this material be disclosed forthwith and placed on a USB with all material provided by the AFP to your office in response to that subpoena in June 2022. It is now almost 8 weeks since that subpoena was returnable but not called on after discussions with the AFP and on the understanding that the material set out in the Schedule had been provided to your office and would be disclosed to the defence.

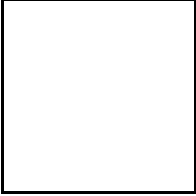
I note that an additional USB was prepared on Friday which contained additional material that we had not yet been provided and I have requested an updated disclosure record request because it is very difficult to ascertain what has and has not been disclosed in this matter. If the material is on that USB, as it contains over 2000 documents, I am still making my way through it - please advise and outline its location.

Further, the PROMIS file as well as the icloud and google data is stated to be too voluminous to disclose. We do not understand that to be a valid basis to refuse disclosure of any of that material. We request disclosure of all the material already provided to the DPP by the AFP and we can reconsider whether it is necessary to press for further disclosure.

Please advise whether your office intends to comply with this request and if it will be done a timely manner, failing which we will request a listing in front of the Chief Justice.

Kind regards,

**Rachel Fisher**  
Lawyer



1 University Ave  
Canberra ACT 2601



[www.kslawyers.com.au](http://www.kslawyers.com.au)

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**From:** Drumgold, Shane  
**Sent:** Tuesday, 23 August 2022 1:50 PM  
**To:** Priestly, Erin  
**Cc:** Jerome, Skye; Pitney, Sarah; Greig, Mitchell  
**Subject:** RE: REQUEST FOR DISCLOSURE: LEHRMANN

**OFFICIAL**

Hi All

In preparation for tomorrows meeting, it appears the following 6 items are sought

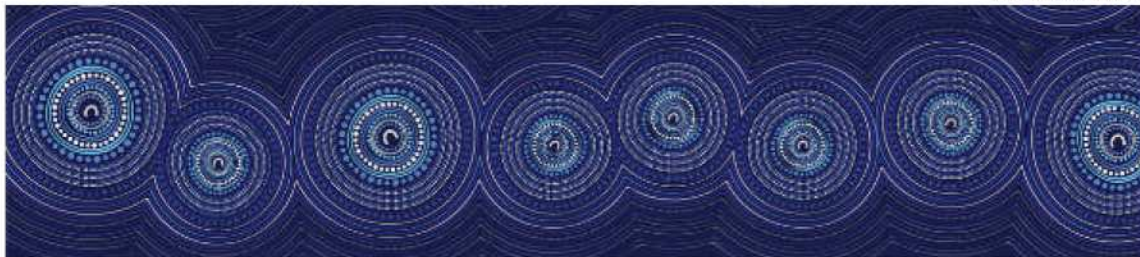
- 1) Unredacted Cellebrite report
  - a. I think this extends beyond disclosure and I would resist it, but will formulate a response after our meeting
- 2) In the alternative or possibly in addition, images shared or movies on the phone that are not thumbnails.
  - a. It appears this is well beyond disclosure obligations and I would resist this also.
- 3) All case notes, email and SMS correspondence between Higgins and AFP
  - a. Do we have these?
- 4) PROMIS file
- 5) iCloud
- 6) Google data
  - a. Although this appears to be supplemented by the phrase "all material already provided to the DPP by AFP" which appears to suggest that the PROMIS, iCloud and Google data files have been provided.
  - b. It seems for reasons outlined, the entire cloud nor the entire PROMIS file can be captured in a servable format, and further the entire PROMIS file would have items that are protected, but I will formulate a response after our meeting.



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: REDACTED (Direct line)  
T: REDACTED (Executive Officer Katie Cantwell)  
M: REDACTED  
E: REDACTED@act.gov.au  
E: REDACTED@act.gov.au (EO)  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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Artwork by Ngarrindjeri artist Jordan Lovegrove

**From:** Priestly, Erin <REDACTED@act.gov.au>  
**Sent:** Tuesday, 23 August 2022 12:28 PM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>  
**Cc:** Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>  
**Subject:** FW: REQUEST FOR DISCLOSURE: LEHRMANN

OFFICIAL

Hi Shane

Please see below from defence.

Can you please confirm:

1. Does the below change our position that the full unredacted Cellebrite will not be disclosed?
2. Are you happy for me to request any PROMIS records in this matter that pre-date 1 April (although I suspect there are none)?
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Mitchell is going to speak with Rachel about the assertion we have not provided the material provided to us by the AFP – it has been disclosed twice now.

Kind regards



**Erin Priestly**  
 Senior Prosecutor  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
 T: REDACTED (Direct)  
 T: (02) 6207 5399 (Reception)  
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**From:** Rachel Fisher <REDA@kslawyers.com.au>

**Sent:** Tuesday, 23 August 2022 12:05 PM

**To:** Priestly, Erin <REDACTE@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>

**Subject:** REQUEST FOR DISCLOSURE: LEHRMANN

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Dear Erin,

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We press for the production of the complete and unredacted cellbrite report which is not “locked down” so as to not be searchable or able to have excerpts extracted from, and notwithstanding the personal information such as contact detail etc. If that cannot be blacked out to allow us to access the cellbrite in a practical way, we will give undertakings to ensure that the material is not disseminated outside the legal team. We note in the course of examining various other material disclosed or produced in this matter personal information in the form of mobile numbers, email addresses and other personal information has already been disclosed to the defence – and we of course respects the private nature of such information.

## PROMIS

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Additionally, the AFP have confirmed the material disclosed to the DPP in relation to my subpoena contained:

- Case note entries between Ms Higgins or her representatives and the AFP;
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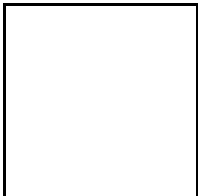
I note that an additional USB was prepared on Friday which contained additional material that we had not yet been provided and I have requested an updated disclosure record request because it is very difficult to ascertain what has and has not been disclosed in this matter. If the material is on that USB, as it contains over 2000 documents, I am still making my way through it - please advise and outline its location.

Further, the PROMIS file as well as the icloud and google data is stated to be too voluminous to disclose. We do not understand that to be a valid basis to refuse disclosure of any of that material. We request disclosure of all the material already provided to the DPP by the AFP and we can reconsider whether it is necessary to press for further disclosure.

Please advise whether your office intends to comply with this request and if it will be done a timely manner, failing which we will request a listing in front of the Chief Justice.

Kind regards,

**Rachel Fisher**  
Lawyer



1 University Ave  
Canberra ACT 2601



[www.kslawyers.com.au](http://www.kslawyers.com.au)

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**From:** Priestly, Erin  
**Sent:** Wednesday, 24 August 2022 1:09 PM  
**To:** Pitney, Sarah  
**Cc:** SVC\_DPPCases  
**Subject:** RE: Draft email to informant [202113941]

OFFICIAL

Thanks Sarah, I agree with your assessment regarding the wording. I would re-word as follows, just to be sure the AFP doesn't get the requests confused:

Dear Senior Constable Frizzell

We have received a further request from defence asking for:

- an unredacted copy of the Cellbrite report
- ~~"PROMIS entries or police diaries relating to anything done or conducted at Australian Parliament House before 1 April ... given the repeated assertions by the complainant that she first spoke with police at APH on 26 or 27 March 2019"~~
- The full PROMIS file
- the complainant's iCloud and Google data

Could you please confirm that, on a sensible appraisal of the case, there is nothing in the redacted elements of the Cellebrite report, the full PROMIS file, and the iCloud and Google data not already disclosed, that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?

Further, can you please confirm if there are any PROMIS entries or police diary notes of anything done in Australian Parliament House before 1 April 2019?

Kind regards



**Erin Priestly**  
Senior Prosecutor  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
T: **REDACTED** (Direct)  
T: (02) 6207 5399 (Reception)  
E: **REDACTED**@act.gov.au  
W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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---

**From:** Pitney, Sarah <**REDACTED**@act.gov.au>  
**Sent:** Wednesday, 24 August 2022 12:18 PM  
**To:** Priestly, Erin <**REDACTED**@act.gov.au>



Cc: SVC\_DPPCases <[REDACTED]@act.gov.au>  
Subject: Draft email to informant [202113941]

OFFICIAL

Dear Erin

Can you please check the below captures today's discussion?

I note that the wording in 4.1 of the Prosecution Policy (which in turn is taken from *R v Brown* referred to in *Tahche v Abboud*) goes a little beyond "fact in issue" ("raise or possibly raise a new issue ... ; or hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters") – but I think it would become too convoluted if I included all that?

Thanks

Dear Senior Constable Frizzell

We have received a request from defence asking for:

- an unredacted copy of the Cellbrite report
- "PROMIS entries or police diaries relating to anything done or conducted at Australian Parliament House before 1 April ... given the repeated assertions by the complainant that she first spoke with police at APH on 26 or 27 March 2019"
- the complainant's iCloud and Google data

Could you please confirm that, on a sensible appraisal of the case, there is nothing in the redacted material or PROMIS that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?

Kind regards



**Sarah Pitney**

Prosecutor

Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED]

T: (02) 6207 5399 (Reception)

E: [REDACTED]@act.gov.au

W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

**Please note that I do not work Thursday mornings or Fridays.**

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**From:** Drumgold, Shane  
**Sent:** Wednesday, 24 August 2022 3:11 PM  
**To:** Pitney, Sarah; Jerome, Skye  
**Cc:** Priestly, Erin; Greig, Mitchell  
**Subject:** RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

OFFICIAL

Maybe the following as a follow up

Thanks for your response, we confirm our view remains the same. However in light of the further somewhat clarified request, can you confirm that in your view, on a sensible appraisal of the case, there is nothing in the redacted elements of the Cellebrite report, the full PROMIS file, or the iCloud and Google data not already disclosed, that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
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T: REDACTED (Executive Officer Katie Cantwell)  
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W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

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Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Pitney, Sarah <REDACTED@act.gov.au>  
**Sent:** Wednesday, 24 August 2022 3:05 PM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>  
**Cc:** Priestly, Erin <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>  
**Subject:** FW: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]



OFFICIAL

FYI

**From:** Frizzell, Emma [REDACTED]  
**Sent:** Wednesday, 24 August 2022 3:01 PM  
**To:** Pitney, Sarah <[REDACTED]@act.gov.au>  
**Cc:** SVC\_DPPCases <[SVC\_DPPCases@act.gov.au]>; Priestly, Erin <[REDACTED]@act.gov.au>; Madders, Trent [REDACTED]; [REDACTED] Callum [REDACTED]; [REDACTED] Stephanie [REDACTED]; [REDACTED] Helen [REDACTED]  
**Subject:** RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

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OFFICIAL

Good afternoon Sarah,

On 16 June 2022, the AFP and DPP held a meeting in relation to disclosure matters in relation to R v LEHRMANN. Following the meeting, there was email correspondence between Stephanie [REDACTED] of AFP Legal and Erin Priestly on 16 and 17 June 2022 whereby Erin confirmed that DPP advised Defence the iCloud and Google drive data, as well as the PROMIS investigation files would not be disclosed unless they narrowed their request. Defence were also advised the DPP could not provide the un-redacted Cellebrite report for privacy reasons.

Noting DPP's advice that the reports would not be disclosed due to either privacy reasons or, unless Defence refined their request, given the request below from Defence appears to be unchanged, can I confirm DPP's advice remains the same? If not, please advise and I will arrange a meeting to discuss further.

Furthermore, in relation to your request seeking to confirm whether there are any PROMIS entries or diary entries of anything done in APH prior to 1 April 2019, I confirm you have all relevant material held by the investigation team.

Kind regards,  
Em

**ACTING SERGEANT EMMA FRIZZELL**  
 CRIMINAL INVESTIGATIONS - SACAT TEAM 1  
 ACT POLICING  
 Tel: [REDACTED]  
[www.afp.gov.au](http://www.afp.gov.au)



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From: Pitney, Sarah <REDACTED@act.gov.au>  
Sent: Wednesday, 24 August 2022 1:25 PM  
To: Frizzell, Emma [REDACTED]  
Cc: SVC\_DPPCases <REDACTED@act.gov.au>; Priestly, Erin <REDACTED@act.gov.au>  
Subject: Disclosure - R v Lehrmann [202113941]

OFFICIAL

Dear Senior Constable Frizzell

We have received a further request from defence asking for:

- an unredacted copy of the Cellbrite report
- the full PROMIS file
- the complainant’s iCloud and Google data

Could you please confirm that, on a sensible appraisal of the case, there is nothing in the redacted elements of the Cellebrite report, the full PROMIS file, and the iCloud and Google data not already disclosed, that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?

Further, can you please confirm if there are any PROMIS entries or police diary notes of anything done in Australian Parliament House before 1 April 2019?

Kind regards



**Sarah Pitney**  
 Prosecutor  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
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 T: (02) 6207 5399 (Reception)  
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AFP Web site: <http://www.afp.gov.au>

\*\*\*\*\*



**From:** Drumgold, Shane  
**Sent:** Wednesday, 24 August 2022 4:00 PM  
**To:** Pitney, Sarah; Jerome, Skye  
**Cc:** Greig, Mitchell; Priestly, Erin; SVC\_DPPCases  
**Subject:** RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

OFFICIAL

Thanks – that will allow me to formulate a response – and I will do so early next week



**Shane Drumgold SC**  
Director  
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GPO Box 595, Canberra ACT 2601 (DX 5725)  
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to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Pitney, Sarah <REDACTE@act.gov.au>  
**Sent:** Wednesday, 24 August 2022 3:56 PM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTE@act.gov.au>  
**Cc:** Greig, Mitchell <REDACTED@act.gov.au>; Priestly, Erin <REDACTE@act.gov.au>; SVC\_DPPCases  
<REDACTED>  
**Subject:** FW: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

OFFICIAL

Further response

---

**From:** Frizzell, Emma [REDACTED]  
**Sent:** Wednesday, 24 August 2022 3:42 PM

To: Pitney, Sarah <REDACTED@act.gov.au>  
Cc: SVC\_DPPCases <REDACTED>; Priestly, Erin <REDACTED@act.gov.au>; Madders, Trent  
REDACTED, Callum REDACTED, Stephanie  
REDACTED, Helen REDACTED  
Subject: RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

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**OFFICIAL**

Hi Sarah,

I confirm that the AFP has provided all documentation that was deemed to be relevant by the investigation team.

Of note, in relation to the complainant’s celebrite report, I confirm that DPP has been provided the following copies and may be well placed to also provide advice to Defence’s query in support of our position:

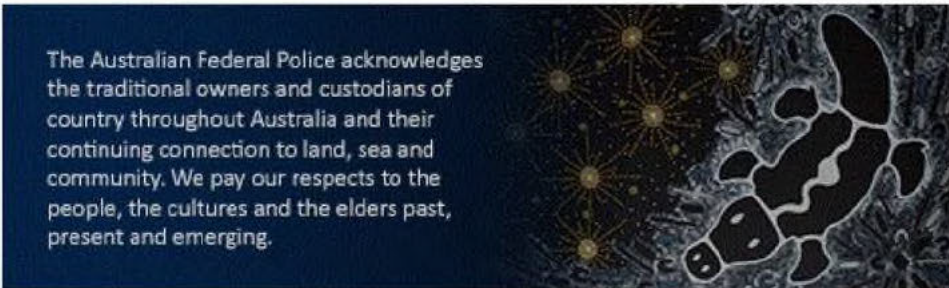
- Content deemed relevant to the investigation within the brief;
- Redacted full celebrite report – redactions relate only to personal information ie phone numbers, email address etc;
- Un-redacted full celebrite report.

Kind regards,  
Em

**ACTING SERGEANT EMMA FRIZZELL**  
CRIMINAL INVESTIGATIONS - SACAT TEAM 1  
ACT POLICING  
Tel: REDACTED  
[www.afp.gov.au](http://www.afp.gov.au)



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From: Pitney, Sarah <REDACTED@act.gov.au>  
Sent: Wednesday, 24 August 2022 3:13 PM  
To: Frizzell, Emma REDACTED  
Cc: SVC\_DPPCases <REDACTED>; Priestly, Erin <REDACTED@act.gov.au>; Madders, Trent  
REDACTED, Callum REDACTED, Stephanie  
REDACTED, Helen REDACTED  
Subject: RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

**OFFICIAL**



Good afternoon

Thank you for your response.

We confirm that our view remains the same.

However, in light of the further somewhat clarified request, can you please confirm that in your view, on a sensible appraisal of the case, there is nothing in the redacted elements of the Cellebrite report, the full PROMIS file, or the iCloud and Google data not already disclosed, that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?

Kind regards



**Sarah Pitney**

Prosecutor

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

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**From:** Frizzell, Emma [REDACTED]  
**Sent:** Wednesday, 24 August 2022 3:01 PM  
**To:** Pitney, Sarah <**REDACTED**@act.gov.au>  
**Cc:** SVC\_DPPCases <[REDACTED]>; Priestly, Erin <**REDACTED**@act.gov.au>; Madders, Trent [REDACTED]; Callum [REDACTED]; Stephanie [REDACTED]; Helen [REDACTED]  
**Subject:** RE: Disclosure - R v Lehrmann [202113941] [SEC=OFFICIAL]

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**OFFICIAL**

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Furthermore, in relation to your request seeking to confirm whether there are any PROMIS entries or diary entries of anything done in APH prior to 1 April 2019, I confirm you have all relevant material held by the investigation team.



Kind regards,  
Em

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**From:** Pitney, Sarah <**REDACTED**@act.gov.au>  
**Sent:** Wednesday, 24 August 2022 1:25 PM  
**To:** Frizzell, Emma <**REDACTED**>  
**Cc:** SVC\_DPPCases <**REDACTED**>; Priestly, Erin <**REDACTED**@act.gov.au>  
**Subject:** Disclosure - R v Lehrmann [202113941]

OFFICIAL

Dear Senior Constable Frizzell

We have received a further request from defence asking for:

- an unredacted copy of the Cellbrite report
- the full PROMIS file
- the complainant's iCloud and Google data

Could you please confirm that, on a sensible appraisal of the case, there is nothing in the redacted elements of the Cellebrite report, the full PROMIS file, and the iCloud and Google data not already disclosed, that could be seen to be relevant or possibly relevant to a fact in issue, or to the credibility or reliability of a witness?

Further, can you please confirm if there are any PROMIS entries or police diary notes of anything done in Australian Parliament House before 1 April 2019?

Kind regards



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Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)

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AFP Web site: <http://www.afp.gov.au>

**From:** Drumgold, Shane  
**Sent:** Monday, 29 August 2022 9:09 AM  
**To:** Jerome, Skye; Pitney, Sarah; Priestly, Erin; Greig, Mitchell  
**Subject:** My proposed response - for your views  
**Attachments:** Disclosure response.docx

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**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
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Thank you for your email of 23 August 2022 in relation to disclosure in the R v Lehrmann matter seeking the following:

- 1) Unredacted Cellebrite report.
- 2) Images shared or movies on the phone that are not thumbnails.
- 3) All case notes, email and SMS correspondence between Higgins and AFP.
- 4) PROMIS file.
- 5) iCloud and Google data.

The Prosecutions duty of disclosure is outlined at section 4 of the Prosecution Policy as follows:

#### 4. DISCLOSURE

*4.1 The prosecution is under a continuing obligation to make full disclosure to the accused in a timely manner of all material known to the prosecution which can be seen on a sensible appraisal by the prosecution:*

- *to be relevant or possibly relevant to an issue in the case;*
- *to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use; or*
- *to hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters.*

*4.2 The prosecution is also under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example:* • *a relevant previous conviction or finding of guilt;*

- *a statement made by a witness which is inconsistent with any prior statement of the witness;*
- *a relevant adverse finding in other criminal proceedings or in non-criminal proceedings;* • *evidence before a court, tribunal or Royal Commission which reflects adversely on the witness;*
- *any physical or mental condition which may affect reliability;*
- *any concession which has been granted to the witness in order to secure their testimony for the prosecution.*

*4.3 The prosecution must fulfil its duty of disclosure as soon as reasonably practicable. The prosecution's duty of disclosure continues throughout the prosecution process and any subsequent appeal.*

*4.4 In fulfilling its disclosure obligations the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone*



*number of any person unless that information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.*

*4.5 The prosecution's duty of disclosure does not extend to disclosing material:*

- relevant only to the credibility of defence (as distinct from prosecution) witnesses;*
- relevant only to the credibility of the accused;*
- relevant only because it might deter an accused from giving false evidence or raising an issue of fact which might be shown to be false; or*
- for the purpose of preventing an accused from creating a forensic disadvantage for themselves, if at the time the prosecution became aware of the material it was not seen as relevant to an issue in the case or otherwise disclosable.*

*4.6 The prosecution may refuse to disclose material on the grounds of public interest immunity or legal professional privilege.*

*4.7 Where material has been withheld from disclosure on public interest grounds, the defence should be informed of the claim of immunity and the basis for the claim in general terms unless to do so would reveal that which it would not be in the public interest to reveal. In some cases it will be sufficient to delay rather than withhold disclosure. For example, if disclosure might prejudice ongoing investigations, disclosure could be delayed until after the investigations are completed.*

*4.8 Legal professional privilege will ordinarily be claimed against the production of any document in the nature of an internal DPP advice or opinion. Legal professional privilege will not be claimed in respect of any record of a statement by a witness that is inconsistent with their previous statement or adds to it significantly, including any statement made in conference and any victim impact statement, provided the disclosure of such records serves a legitimate forensic purpose.*

*4.9 The duty on the prosecution to disclose material to the accused imposes a concomitant obligation on the police and other investigative agencies to notify the prosecution of the existence and location of all such material. If required, in addition to providing the brief of evidence, the police or other investigative agency shall certify that the prosecution has been notified of the existence of all such material.*

*4.10 Where known, in accordance with Director's disclosure guideline which has been in effect since 3 August 2020 (see Annexure 1), the prosecution is under a duty to disclose the existence of:*

- (a) Relevant protected material that is subject of a claim of privilege or immunity;*
- (b) Relevant material that is subject of a statutory publication restriction;*
- (c) Relevant unprotected material that is not subject to a claim of privilege or immunity or a statutory publication restriction*

This disclosure policy is consistent with the authority on disclosure.

Further, as outlined in *Mallard v The Queen* (2005) 224 CLR 157 at [17] it is a duty to disclose all relevant evidence that a failure may result in a quashing of a conviction.

We also acknowledge that the duty applies to all material in possession of the prosecution and material which it should obtain: the prosecutorial “obligation to disclose includes, in an appropriate case, an obligation to make enquiries” (see *AJ v The Queen* [2010] VSCA 331 at [22])

**With regards to both the material sought, and evidence in general, I confirm that all material and evidence falling within the duty to disclose both within the possession and to the knowledge of the Crown has been disclosed in full.**

**I further confirm that I have received a declaration, supplemented by a further enquiry that has received investigators confirmation on 24 August 2022, that all material both in the possession and to the knowledge of investigators has been disclosed in full.**

**From:** Drumgold, Shane  
**Sent:** Monday, 29 August 2022 10:14 AM  
**To:** Priestly, Erin; Jerome, Skye; Pitney, Sarah; Greig, Mitchell  
**Subject:** RE: My proposed response - for your views

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No I think that suffices



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
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**From:** Priestly, Erin <REDACTED@act.gov.au>  
**Sent:** Monday, 29 August 2022 10:04 AM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>  
**Subject:** RE: My proposed response - for your views

UNOFFICIAL

Thanks Shane.

I don't believe anyone from our office has read/reviewed the full unredacted Cellebrite report. Emma Frizzell stated the following:

"I confirm that the AFP has provided all documentation that was deemed to be relevant by the investigation team.

Of note, in relation to the complainant's celebrite report, I confirm that DPP has been provided the following copies and may be well placed to also provide advice to Defence's query in support of our position:

- Content deemed relevant to the investigation within the brief;
- Redacted full celebrite report – redactions relate only to personal information ie phone numbers, email address etc;
- Un-redacted full celebrite report"

Would you like someone from our team to separately review it, or are you happy to proceed on the basis that AFP have reviewed/redacted the Celebrite and signed the disclosure certificate?

Kind regards



**Erin Priestly**  
 Senior Prosecutor  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
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**From:** Drumgold, Shane <**REDACTED**@act.gov.au>  
**Sent:** Monday, 29 August 2022 9:56 AM  
**To:** Priestly, Erin <**REDACTED**@act.gov.au>; Jerome, Skye <**REDACTED**@act.gov.au>; Pitney, Sarah <**REDACTED**@act.gov.au>; Greig, Mitchell <**REDACTED**@act.gov.au>  
**Subject:** RE: My proposed response - for your views

UNOFFICIAL

I think we should confirm that there is nothing disclosable in the celebrite report, and declare as such. At this stage, there is no specific LPP claim – as this is a claim made by the AFP rather than the DPP – but the position is that there is nothing disclosable.



**Shane Drumgold SC**  
 Director  
 Office of the Director of Public Prosecutions (ACT)  
 GPO Box 595, Canberra ACT 2601 (DX 5725)  
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Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Priestly, Erin <REDACTED@act.gov.au>

**Sent:** Monday, 29 August 2022 9:49 AM

**To:** Drumgold, Shane <REDACTED@act.gov.au>; Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>

**Subject:** RE: My proposed response - for your views

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Thanks Shane.

Do you think we should specifically address:

- That we are in possession of the full unredacted Cellebrite report?
- That there is a claim of LPP over the investigation file, previously requested?

Or is the above sufficiently addressed by your statement that anything in our possession, that is disclosable, has been disclosed?

Kind regards



**Erin Priestly**

Senior Prosecutor

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

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**From:** Drumgold, Shane <REDACTED@act.gov.au>

**Sent:** Monday, 29 August 2022 9:09 AM

To: Jerome, Skye <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>; Priestly, Erin <REDACTED@act.gov.au>; Greig, Mitchell <REDACTED@act.gov.au>  
Subject: My proposed response - for your views

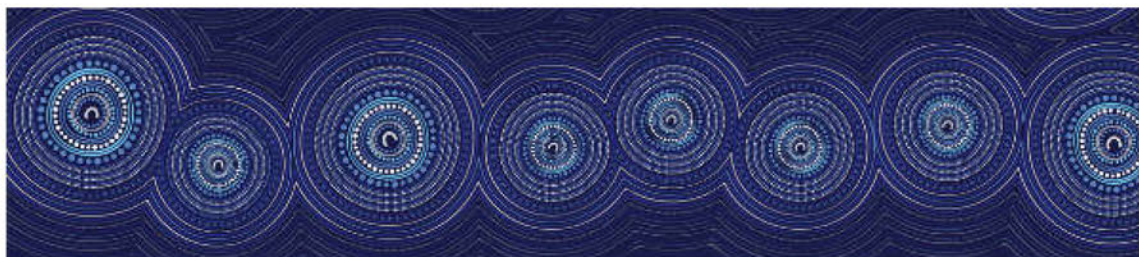
UNOFFICIAL



**Shane Drumgold SC**  
Director  
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We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region**

**Artwork by Ngarrindjeri artist Jordan Lovegrove**

**From:** Drumgold, Shane  
**Sent:** Tuesday, 30 August 2022 7:14 AM  
**To:** Priestly, Erin; Pitney, Sarah; Greig, Mitchell; Jerome, Skye  
**Subject:** Disclosure response  
**Attachments:** Disclosure response.docx

OFFICIAL

Hi All

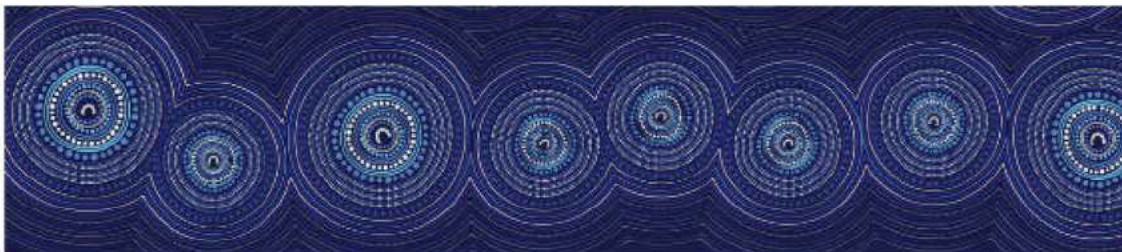
I have reconsidered this response in light of the comments about the Cellebrite report and have included specific mention to it, for your views.



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Thank you for your email of 23 August 2022 in relation to disclosure in the R v Lehrmann matter seeking the following:

- 1) Unredacted Cellebrite report.
- 2) Images shared or movies on the phone that are not thumbnails.
- 3) All case notes, email and SMS correspondence between Higgins and AFP.
- 4) PROMIS file.
- 5) iCloud and Google data.

The Prosecutions duty of disclosure is outlined at section 4 of the Prosecution Policy as follows:

#### *4. DISCLOSURE*

*4.1 The prosecution is under a continuing obligation to make full disclosure to the accused in a timely manner of all material known to the prosecution which can be seen on a sensible appraisal by the prosecution:*

- to be relevant or possibly relevant to an issue in the case;*
- to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use; or*
- to hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters.*

*4.2 The prosecution is also under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example: • a relevant previous conviction or finding of guilt;*

- a statement made by a witness which is inconsistent with any prior statement of the witness;*
- a relevant adverse finding in other criminal proceedings or in non-criminal proceedings; • evidence before a court, tribunal or Royal Commission which reflects adversely on the witness;*
- any physical or mental condition which may affect reliability;*
- any concession which has been granted to the witness in order to secure their testimony for the prosecution.*

*4.3 The prosecution must fulfil its duty of disclosure as soon as reasonably practicable. The prosecution's duty of disclosure continues throughout the prosecution process and any subsequent appeal.*

*4.4 In fulfilling its disclosure obligations the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone*



*number of any person unless that information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.*

*4.5 The prosecution's duty of disclosure does not extend to disclosing material:*

- relevant only to the credibility of defence (as distinct from prosecution) witnesses;*
- relevant only to the credibility of the accused;*
- relevant only because it might deter an accused from giving false evidence or raising an issue of fact which might be shown to be false; or*
- for the purpose of preventing an accused from creating a forensic disadvantage for themselves, if at the time the prosecution became aware of the material it was not seen as relevant to an issue in the case or otherwise disclosable.*

*4.6 The prosecution may refuse to disclose material on the grounds of public interest immunity or legal professional privilege.*

*4.7 Where material has been withheld from disclosure on public interest grounds, the defence should be informed of the claim of immunity and the basis for the claim in general terms unless to do so would reveal that which it would not be in the public interest to reveal. In some cases it will be sufficient to delay rather than withhold disclosure. For example, if disclosure might prejudice ongoing investigations, disclosure could be delayed until after the investigations are completed.*

*4.8 Legal professional privilege will ordinarily be claimed against the production of any document in the nature of an internal DPP advice or opinion. Legal professional privilege will not be claimed in respect of any record of a statement by a witness that is inconsistent with their previous statement or adds to it significantly, including any statement made in conference and any victim impact statement, provided the disclosure of such records serves a legitimate forensic purpose.*

*4.9 The duty on the prosecution to disclose material to the accused imposes a concomitant obligation on the police and other investigative agencies to notify the prosecution of the existence and location of all such material. If required, in addition to providing the brief of evidence, the police or other investigative agency shall certify that the prosecution has been notified of the existence of all such material.*

*4.10 Where known, in accordance with Director's disclosure guideline which has been in effect since 3 August 2020 (see Annexure 1), the prosecution is under a duty to disclose the existence of:*

- (a) Relevant protected material that is subject of a claim of privilege or immunity;*
- (b) Relevant material that is subject of a statutory publication restriction;*
- (c) Relevant unprotected material that is not subject to a claim of privilege or immunity or a statutory publication restriction*

This disclosure policy is consistent with the authority on disclosure.

Further, as outlined in *Mallard v The Queen* (2005) 224 CLR 157 at [17] it is a duty to disclose all relevant evidence that a failure may result in a quashing of a conviction.

We also acknowledge that the duty applies to all material in possession of the prosecution and material which it should obtain: the prosecutorial “obligation to disclose includes, in an appropriate case, an obligation to make enquiries” (see *AJ v The Queen* [2010] VSCA 331 at [22])

**With regards to both the material sought, and evidence in general, we confirm that all material and evidence falling within the duty to disclose both within the possession and to the knowledge of the Crown has been disclosed in full.**

**We further confirm that we have received a declaration, supplemented by a further enquiry that has received investigators confirmation on 24 August 2022, that all material both in the possession and to the knowledge of investigators has been disclosed in full.**

**With specific regard to the redacted Cellebrite report, we confirm that we have received a declaration, supplemented by a further enquiry that has received investigators confirmation on 24 August 2022, that not disclosable material has been redacted.**

**From:** Drumgold, Shane  
**Sent:** Monday, 12 September 2022 3:06 PM  
**To:** Pitney, Sarah; Greig, Mitchell  
**Subject:** Submissions  
**Attachments:** Legal submission.docx

**OFFICIAL: Sensitive**

Hi All

Can I get you both to proof read the attached submissions, and could I ask you to form them up into the appropriate form Mitch?



**Shane Drumgold SC**  
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Artwork by Ngarrindjeri artist Jordan Lovegrove

**Application**

The application in proceedings filed 7 September 2022 seeks two orders:

The first order sought is for *“The Crown disclose to the Accused’s legal representatives”*

- a) *A complete, unlocked and unredacted electronic copy of the Cellebrite extraction of the complainant’s phone;*
- b) *The ‘Investigative Review Document’ referred to at page 18 of RFI 1;*
- c) *All material relating to any investigations undertaken by the Australian Federal Police between 23 March 2020 and 31 March 2021 in relation to a security breach 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.*

The second order sought is outlined in the alternative to order one, being a temporary stay of the prosecution of the Accused until the material in Order 1 is disclosed.

**Primary comments on orders sought****Order 1b)**

As outlined in the Affidavit of Mitchell Greig affirmed 12 September 2022, the document entitled “Investigative Review Document” is one of two documents provided by the Australian Federal Police to the Director of Public Prosecutions on 21 June 2021, seeking legal advice.

This document falls within the definition of “Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing” listed in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022.

Accordingly, the document listed at order 1b) is subject to a claim of legal professional privilege by the Australian Federal Police.

**Order 1c)**

Although no formal leave to amend was sought, at the bar table on Thursday 8 September 2022, counsel advised that the dates in order 1c) should read “23 March 2019 and 31 March 2019”, with the final date being “23 March 2019”.

As outlined in the Affidavit of Mitchell Greig affirmed 12 September 2022, there is no material meeting the description:

*All material relating to any investigations undertaken by the Australian Federal Police between 23 March 2019 and 31 March 2019 in relation to a security breach 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 2019.*



Order 2)

As outlined in these submissions, in light of the courts power to order disclosure, there is an obvious remedy available to overcome any alleged unfair trial other than a stay of prosecution, and the grounds are not made good. In light of this, other than to outline the law in this area, we will make no further submission.

**Submission**

These submissions will address three points:

- 1) The court's power to grant a temporary stay:
- 2) The court's power to order disclosure of documents:
- 3) Whether the court should order disclosure of documents:
  - a. When documents meet the test of being disclosable:
  - b. Competing privacy law impacting disclosure:
  - c. When documents are protected under legal professional privilege.

**Power to grant a temporarily stay**

It is clear the court has power to grant a conditional stay in the appropriate circumstances, the question is when it should order such.

For example, in the case of *R v Trong Bui* [2011] ACTSC 102, Refshauge J ordered a conditional stay until the Crown served a prior criminal record for a witness in proceedings. It is noteworthy that the Crown already had a clear obligation to disclose the prior criminal record of a witness, both under section 4 ACT Prosecution Policy and supported by common law. It is unclear in this particular matter why the learned judge did not rely on the power to order disclosure directly, however the power clearly exists.

In *R v Swingler* [1996] 1 VR 257; (1995) 80 A Crim R 471 (CA) the court said in a joint judgment (at 264–265; 479):

It is by now well accepted that a superior court can, in the exercise of its supervisory jurisdiction, stay a prosecution if it is satisfied that, in the circumstances, it would be oppressive to allow the prosecution to proceed.

As I will address next, the court has a power to order disclosure of evidence so it cannot be said that it would be oppressive to allow the prosecution to proceed, and accordingly the grounds for a conditional stay is not satisfied.

**Court has power to order production generally**

The court has power to order the production to the defence of material in the prosecution's possession or power if the interests of justice so require: *Clarke* (1930) 22 Cr App R 58; *Mahadeo* [1936] 2 All ER 813; *Hatt* (1958) 43 Cr App R 29; *Xinaris* (1955) Crim LR 437; *Charlton* [1972] VR 758.

It will often be necessary, or at least desirable, in the interests of a fair trial that the defence have access to the statements of witnesses and other evidentiary material in the possession of the prosecution in advance of trial in order to prepare for cross-examination of prosecution witnesses and to prepare the defence generally. As these submissions will address, the question before the court is whether the documents sought are disclosable.

**Judge's power to order disclosure**

In *R v Brown* [1998] AC 367; [1998] 1 Cr App R 66; [1997] 3 All ER 769 (HL) Lord Hope of Craighead said (at 380; 76; 778):

If fairness demands disclosure, then a way of ensuring that disclosure will be made must be found.

In *Carter v Hayes* (1994) 61 SASR 451; 72 A Crim R 387 (FC) King CJ said (at 456; 392): Disclosure by those conducting a prosecution of material in the possession or power of the prosecution which would tend to assist the defence case, is an important ingredient of a fair trial (*Clarkson v DPP* [1990] VR 745 at 755), and is an aspect of the prosecution's duty to ensure that the "Crown case is presented with fairness to the accused": *Richardson* (1974) 131 CLR 116 at 119; *Apostilides* (1984) 154 CLR 563; 15 A Crim R 88.

**The duty to disclose is a duty owed to the court, not to the accused**

In *Cannon v Tahche* (2002) 5 VR 317 (CA) the court said in a joint judgment (at 340 [57]):

The prosecutor's "duty of disclosure" has been the subject of much debate in appellate courts over the years. But, as it seems to us, authority suggests that, whatever the nature and extent of the "duty", it is a duty owed to the court and not a duty, enforceable at law at the instance of the accused. This, we think, is made apparent when the so-called "duty" is described (correctly in our view) as a discretionary responsibility exercisable according to the circumstances as the prosecutor perceives them to be. The responsibility is, thus, dependent for its content upon what the prosecutor perceives, in the light of the facts known to him or her, that fairness in the trial process requires.

See also *Hughes v Western Australia* (2015) 299 FLR 197; [2015] WASCA 164; *PAH v Western Australia* [2015] WASCA 159.

**Duty of the prosecutor (in the ACT supported by Section 4 Prosecution Policy)**

In *R v Farquharson* (2009) 26 VR 410; [2009] VSCA 307, at [213], it was held:

The Crown has a duty to disclose material which can be seen on a sensible appraisal by the prosecution:

- (a) to be relevant or possibly relevant to an issue in the case;
- (b) to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use;
- (c) to hold out a real (as opposed to fanciful) prospect of providing a lead on evidence which goes to (a) or (b).

This rule was adopted from *R v Spiteri* (2004) 61 NSWLR 369; [2004] NSWCCA 321. See also *R v Reardon* (2004) 60 NSWLR 454; 146 A Crim R 475; [2004] NSWCCA 197 which cited the decision in *R v Ward* [1993] 1 WLR 619; [1993] 2 All ER 577; (1993) 96 Cr App R 1 where

it was held that if the prosecution wished to claim public interest immunity, it is obliged to give notice to the defence of the asserted right so that it can be challenged if necessary by the defence.

That notice of a claim of legal professional privilege with respect to order 1b) has been given to defence twice, in the category "Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing" listed in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022.

In *Mallard v The Queen* (2005) 224 CLR 125; 157 A Crim R 121; 222 ALR 236; [2005] HCA 68, at [17], the plurality of the High Court (Gummow, Hayne, Callinan and Heydon JJ) stated "... that the prosecution must at common law also disclose all relevant evidence to an accused and that a failure to do so may, in some circumstances, require the quashing of a verdict of guilty".

#### **Director of Public Prosecutions Prosecution Policy**

The test for disclosure outlined in Farquharson is reflected in the ACT Prosecution Policy. The legislative basis for the issuing of a Prosecution Policy is found in section 12 Director of Public Prosecutions Act 1990, and the most recent version of the ACT Prosecution Policy was issued on 1 April 2021.

#### **4. DISCLOSURE**

*4.1 The prosecution is under a continuing obligation to make full disclosure to the accused in a timely manner of all material known to the prosecution which can be seen on a sensible appraisal by the prosecution:*

- *to be relevant or possibly relevant to an issue in the case;*
- *to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use; or*
- *to hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters.*

*4.2 The prosecution is also under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example:*

- *relevant previous conviction or finding of guilt;*
- *a statement made by a witness which is inconsistent with any prior statement of the witness;*
- *a relevant adverse finding in other criminal proceedings or in non-criminal proceedings;*
- *evidence before a court, tribunal or Rayo/ Commission which reflects adversely on the witness;*
- *any physical or mental condition which may affect reliability;*
- *any concession which has been granted to the witness in order to secure their testimony for the prosecution.*

*4.3 The prosecution must fulfil its duty of disclosure as soon as reasonably practicable. The*

*prosecution's duty of disclosure continues throughout the prosecution process and any subsequent appeal.*

*4.4 In fulfilling its disclosure obligations the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone number of any person unless that information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.*

*4.5 The prosecution's duty of disclosure does not extend to disclosing material:*

- relevant only to the credibility of defence (or distinct from prosecution) witnesses;*
- relevant only to the credibility of the accused;*
- relevant only because it might deter an accused from giving false evidence or raising an issue of fact which might be shown to be false; or*
- for the purpose of preventing an accused from creating a forensic disadvantage for themselves, if at the time the prosecution became aware of the material it was not seen as relevant to an issue in the case or otherwise disclosable.*

*4.6 The prosecution may refuse to disclose material on the grounds of public interest immunity or legal professional privilege.*

*4.7 Where material has been withheld from disclosure on public interest grounds, the defence should be informed of the claim of immunity and the basis for the claim in general terms unless to do so would reveal that which it would not be in the public interest to reveal. In some cases it will be sufficient to delay rather than withhold disclosure. For example, if disclosure might prejudice ongoing investigations, disclosure could be delayed until after the investigations are completed.*

*4.8 Legal professional privilege will ordinarily be claimed against the production of any document in the nature of an internal OPP advice or opinion. Legal professional privilege will not be claimed in respect of any record of a statement by a witness that is inconsistent with their previous statement or adds to it significantly, including any statement made in conference and any victim impact statement, provided the disclosure of such records serves a legitimate forensic purpose.*

*4.9 The duty on the prosecution to disclose material to the accused imposes a concomitant obligation on the police and other investigative agencies to notify the prosecution of the existence and location of all such material. If required, in addition to providing the brief of evidence, the police or other investigative agency shall certify that the prosecution has been notified of the existence of all such material.*

*4.10 Where known, in accordance with Director's disclosure guideline which has been in effect since 3 August 2020 (see Annexure 1), the prosecution is under a duty to disclose the existence of:*

- (a) Relevant protected material that is subject of a claim of privilege or immunity;*
- (b) Relevant material that is subject of a statutory publication restriction;*
- (c) Relevant unprotected material that is not subject to a claim of privilege or immunity or a statutory publication restriction.*

### **Competing provisions**

There are a number of competing provisions protecting relevant material that does not fall within the DPP's disclosure obligations.

#### ***Information Privacy Act 2014 (ACT)***

Section 8 defines personal information about an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information is recorded in a material form or not.

This would include a range of data redacted from Cellebrite report (particularly as it relates to people other than the owner of the phone) as outlined in the affidavit of Sarah Pitney affirmed 12 September 2022.

Section 9(c) of the Information Privacy Act includes amongst "public sector agency" a statutory office holder, and the staff assisting the statutory office holder, which includes the Director of Public Prosecution and staff who appear on my behalf.

Schedule 1 to this Act contains the Territory privacy principles (TPP) with TPP 6 stating:

6.1 If a public sector agency holds personal information about an individual that was collected for a particular purpose (the primary purpose), the agency must not use or disclose the information for another purpose (the secondary purpose) unless

(a) the individual has consented to the use or disclosure of the information;  
or

(b) TPP 6.2 or TPP 6.3 apply.

TPP 6.2 is relevant and deals with circumstances where the individual would reasonably expect the public sector agency to disclose the information for a secondary purpose, or the disclosure is required by **order of an Australian law, or Court**.

TPP 6.3 deals with biometric information and templates and is not relevant to the current case.

#### ***Telecommunications (interception and Access) Act 1979 (Cth)***

Where information has been obtained through the use of surveillance devices or telecommunication interception, disclosure will also be regulated by the *Telecommunications (Interception and Access) Act 1979* ('TIA Act'), the *Surveillance Devices Act 2004* (Cth) ('SD Act') and the *Crime (Surveillance Devices) Act 2010* (ACT) ('ACT SD Act').

Section 67(1)(a) of the Telecommunications Act provides that lawfully intercepted information (defined as information obtained by intercepting communications passing over a telecommunication system rather than the means of collection) may only be disclosed where a permitted purpose exists. Section 5 outlines permitted purposes, that does not include material obtained during an investigation but not relevant and disclosable in a subsequent prosecution.

### **Section 118 Evidence Act 2011**

Section 118 Evidence Act provides that evidence must not be presented, if on objection by a client, the court finds that presenting the evidence would result in disclosure of a confidential communication made between a client (in this case the Australian Federal Police) and a lawyer (in this case the Director of Public Prosecutions).

It is well established law that the Office of the Director of Public Prosecutions is defined as a lawyer, and a witness in a matter is defined as a client (*See R v Petroulias (No 22) (2007) 213 FLR 293; 176 A Crim R 309*), and legal advice as between the Office of the Director of Public Prosecutions and an employee of the DPP is in a client legal privileged relationship (see *Director of Public Prosecutions (NSW) v Stanizzo [2019] NSWCA 12 at [25]*).

It is also well established law that a lawyer / client relationship exists over legal advice provided by the Office of the Director of Public Prosecutions to a Government Department (*See Director of Public Prosecutions (Cth) v Kinghorn (2020) 102 NSWLR 72; 281 A Crim R 546; [2020] NSWCCA 48 at [62]-[64]*) in which case the claim of privilege can be made by the Government Department (see *TransGrid v Members of Lloyds Syndicate 3210 [2011] NSWSC 301, per Ball J at [11]*)

In the present case, the document “Investigative Review Document” was provided by the Australian Federal Police, to the Office of the Director of Public Prosecutions for the sole purpose of seeking legal advice, and a claim of privilege has been made in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022, as a document falling within the definition of “Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing”.

### **Relevant considerations:**

For the purposes of this application, the relevant test is whether on a sensible appraisal by the prosecution, the evidence is relevant or possibly relevant to an issue in the case, the credibility or reliability of a prosecution witness, or it will raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use.

Material not meeting this test, is otherwise protected from disclosure, except by order of a court. Such an order should only be made if required pursuant to the DPP’s disclosure obligations under section 4 Prosecution Policy, and the tests contained within, and the document is not otherwise protected.

In the present case, the material redacted from the Cellebrite report does not meet the test for disclosure. Further, the material listed in order 1b), is neither established as being relevantly disclosable, and further is protected pursuant to section 118 Evidence Act 2011.

Exhibit 15.b

**From:** Greig, Mitchell  
**Sent:** Tuesday, 13 September 2022 8:56 AM  
**To:** Drumgold, Shane; Pitney, Sarah  
**Subject:** RE: Submissions  
**Attachments:** DPPSubmissionsPTA\_202113941\_12Sep2022 151828.doc; Re\_ Bruce LEHRMANN - Password Protected Brief.pdf

**OFFICIAL: Sensitive**

Amended.

Also regarding 22 in Rachel's affidavit, I have previously provided Kamy's paralegal a work around to have it unlocked. Attached email.

Kind regards,



**Mitchell Greig**  
Prosecutor Associate  
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---

**From:** Drumgold, Shane <**REDACTED**@act.gov.au>  
**Sent:** Monday, 12 September 2022 4:36 PM  
**To:** Pitney, Sarah <**REDACTED**@act.gov.au>; Greig, Mitchell <**REDACTED**@act.gov.au>  
**Subject:** RE: Submissions

**OFFICIAL: Sensitive**

Yes good point – thanks Sarah – Mitch could you amend accordingly



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We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

---

**From:** Pitney, Sarah <REDACTED@act.gov.au>  
**Sent:** Monday, 12 September 2022 4:34 PM  
**To:** Greig, Mitchell <REDACTED@act.gov.au>; Drumgold, Shane <REDACTED@act.gov.au>  
**Subject:** RE: Submissions

OFFICIAL: Sensitive

My only comment – paragraphs [13]-[14] under “Court has power to order production generally” are an extract from *Carter v Hayes* (1994) 61 SASR 451, so I would reformat them as a quote – pinpoint reference is 456.

Sarah



**Sarah Pitney**  
Prosecutor  
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Please note that I do not work Thursday mornings or Fridays.

Please consider the environment before printing this e-mail

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---

**From:** Greig, Mitchell <REDACTED@act.gov.au>  
**Sent:** Monday, 12 September 2022 4:30 PM  
**To:** Drumgold, Shane <REDACTED@act.gov.au>; Pitney, Sarah <REDACTED@act.gov.au>  
**Subject:** RE: Submissions

OFFICIAL: Sensitive

Attached formatted Submissions in Reply.

Kind regards,



**Mitchell Greig**  
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**From:** Drumgold, Shane <**REDACTED** @act.gov.au>  
**Sent:** Monday, 12 September 2022 3:06 PM  
**To:** Pitney, Sarah <**REDACTED** @act.gov.au>; Greig, Mitchell <**REDACTED** @act.gov.au>  
**Subject:** Submissions

**OFFICIAL: Sensitive**

Hi All

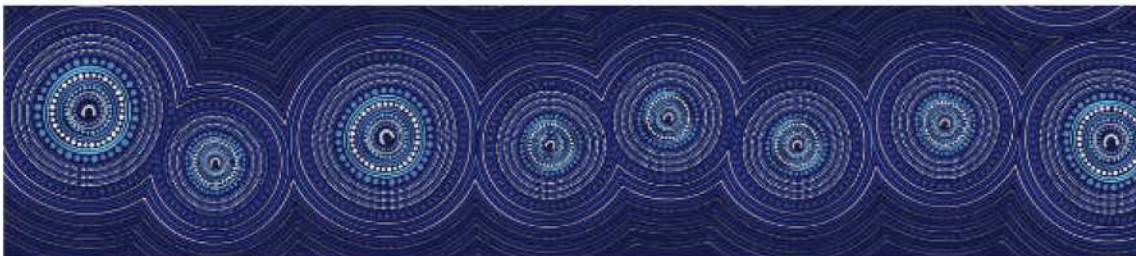
Can I get you both to proof read the attached submissions, and could I ask you to form them up into the appropriate form Mitch?



**Shane Drumgold SC**  
Director  
Office of the Director of Public Prosecutions (ACT)  
GPO Box 595, Canberra ACT 2601 (DX 5725)  
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W: [www.dpp.act.gov.au](http://www.dpp.act.gov.au)

For a full range of victims rights, please go to [www.dpp.act.gov.au](http://www.dpp.act.gov.au) and follow the Witnesses and Victims link.

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We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people  
We acknowledge and respect their continuing culture and the contribution they make  
to the life of this city and this region

Artwork by Ngarrindjeri artist Jordan Lovegrove

IN THE SUPREME COURT OF THE )  
 )  
AUSTRALIAN CAPITAL TERRITORY ) No. SCC 264 of 2021  
 )  
CRIMINAL JURISDICTION )

BETWEEN: **BRUCE EMERY LEHRMANN**  
Applicant

AND: **THE DIRECTOR OF PUBLIC PROSECUTIONS**  
Respondent

**RESPONDENT'S WRITTEN SUBMISSIONS**



**Application**

1. The application in proceedings filed 7 September 2022 seeks two orders:
  - The first order sought is for *"The Crown disclose to the Accused's legal representatives"*
    - a) *A complete, unlocked and unredacted electronic copy of the Cellebrite extraction of the complainant's phone;*
    - b) *The 'Investigative Review Document' referred to at page 18 of RFI 1;*
    - c) *All material relating to any investigations undertaken by the Australian Federal Police between 23 March 2020 and 31 March 2021 in relation to a security breach 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.*

---

Filed for the respondent by:

Director of Public Prosecutions  
1<sup>st</sup> Floor, Reserve Bank Building  
20-22 London Circuit  
CANBERRA CITY ACT 2601

Reference: 202113941  
Telephone:   
Facsimile: 

- The second order sought is outlined in the alternative to order one, being a temporary stay of the prosecution of the Accused until the material in Order 1 is disclosed.

**Primary Comments on Orders Sought**

Order 1b)

2. As outlined in the Affidavit of Mitchell Greig affirmed 12 September 2022, the document entitled “Investigative Review Document” is one of two documents provided by the Australian Federal Police to the Director of Public Prosecutions on 21 June 2021, seeking legal advice.
3. This document falls within the definition of “Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing” listed in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022
4. Accordingly, the document listed at order 1b) is subject to a claim of legal professional privilege by the Australian Federal Police.

Order 1c)

5. Although no formal leave to amend was sought, at the bar table on Thursday 8 September 2022, counsel advised that the dates in order 1c) should read “23 March 2019 and 31 March 2019”, with the final date being “23 March 2019.
6. As outlined in the Affidavit of Mitchell Greig affirmed 12 September 2022, there is no material meeting the description:

*“All material relating to any investigations undertaken by the Australian Federal Police between 23 March 2019 and 31 March 2019 in relation to a security breach*

*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 2019.”*

## Order 2

7. As outlined in these submissions, in light of the courts power to order disclosure, there is an obvious remedy available to overcome any alleged unfair trial other than a stay of prosecution, and the grounds are not made good. In light of this, other than to outline the law in this area, we will make no further submission.

## Submission

8. These submissions will address three points:
  - 1) The court’s power to grant a temporary stay;
  - 2) The court’s power to order disclosure of documents;
  - 3) Whether the court should order disclosure of documents:
    - a. When documents meet the test of being documents;
    - b. Competing privacy law impacting disclosure;
    - c. When documents are protected under legal professional privilege.

## Power to Grant a Temporary Stay

9. It is clear the court has power to grant a conditional stay in the appropriate circumstances, the question is when it should order such.
10. For example, in the case of R v Trong Bui [2011] ACTSC 102, Refshauge J ordered a conditional stay until the Crown served a prior criminal record for a witness in proceedings. It is noteworthy that the Crown already had a clear obligation to disclose the prior criminal record of a witness, both under section 4 ACT Prosecution Policy and supported by common law. It is unclear in this particular matter why the learned judge did not rely on the power to order disclosure directly, however the power clearly exists.

11. In *R v Swingle* [1996] 1 VR 257; (1995) 80 A Crim R 471 (CA) the court said in a joint judgment (at 264–265; 479):

It is by now well accepted that a superior court can, in the exercise of its supervisory jurisdiction, stay a prosecution if it is satisfied that, in the circumstances, it would be oppressive to allow the prosecution to proceed.

12. As I will address next, the court has a power to order disclosure of evidence so it cannot be said that it would be oppressive to allow the prosecution to proceed, and accordingly the grounds for a conditional stay is not satisfied.

**Court has power to order production generally**

13. As stated in *Carter v Hayes* (1994) 61 SASR 451 (at 456):

The court has power to order the production to the defence of material in the prosecution's possession or power if the interests of justice so require: *Clarke* (1930) 22 Cr App R 58; *Mahadeo* [1936] 2 All ER 813; *Hatt* (1958) 43 Cr App R 29; *Xinaris* (1955) Crim LR 437; *Charlton* [1972] VR 758.

It will often be necessary, or at least desirable, in the interests of a fair trial that the defence have access to the statements of witnesses and other evidentiary material in the possession of the prosecution in advance of trial in order to prepare for cross-examination of prosecution witnesses and to prepare the defence generally. As these submissions will address, the question before the court is whether the documents sought are disclosable.

**Judge's Power to Order Disclosure**

14. In *R v Brown* [1998] AC 367; [1998] 1 Cr App R 66; [1997] 3 All ER 769 (HL) Lord Hope of Craighead said (at 380; 76; 778):

If fairness demands disclosure, then a way of ensuring that disclosure will be made must be found.

15. In *Carter v Hayes* (1994) 61 SASR 451; 72 A Crim R 387 (FC) King CJ said (at 456; 392):

Disclosure by those conducting a prosecution of material in the possession or power of the prosecution which would tend to assist the defence case, is an important ingredient of a fair trial (*Clarkson v DPP* [1990] VR 745 at 755), and is an aspect of the prosecution's duty to ensure that the "Crown case is presented with fairness to the accused": *Richardson* (1974) 131 CLR 116 at 119; *Apostilides* (1984) 154 CLR 563; 15 A Crim R 88

**The Duty to Disclose is a Duty Owed to the Court, not to the Accused**

16. In *Cannon v Tahche* (2002) 5 VR 317 (CA) the court said in a joint judgment (at 340 [57]):

The prosecutor's "duty of disclosure" has been the subject of much debate in appellate courts over the years. But, as it seems to us, authority suggests that, whatever the nature and extent of the "duty", it is a duty owed to the court and not a duty, enforceable at law at the instance of the accused. This, we think, is made apparent when the so-called "duty" is described (correctly in our view) as a discretionary responsibility exercisable according to the circumstances as the prosecutor perceives them to be. The responsibility is, thus, dependent for its content upon what the prosecutor perceives, in the light of the facts known to him or her, that fairness in the trial process requires

17. See also *Hughes v Western Australia* (2015) 299 FLR 197; [2015] WASCA 164; *PAH v Western Australia* [2015] WASCA 159.

**Duty of the Prosecutor (in the ACT supported by Section 4 Prosecution Policy)**

18. In *R v Farquharson* (2009) 26 VR 410; [2009] VSCA 307, at [213], it was held:

The Crown has a duty to disclose material which can be seen on a sensible appraisal by the prosecution:

- a) To be relevant or possibly relevant to an issue in the case;

- b) To raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use;
  - c) To hold out a real (as opposed to fanciful) prospect of providing a lead on evidence which goes to a) or b).
19. This rule was adopted from *R v Spiteri* (2004) 61 NSWLR 369; [2004] NSWCCA 321. See also *R v Reardon* (2004) 60 NSWLR 454; 146 A Crim R 475; [2004] NSWCCA 197 which cited the decision in *R v Ward* [1993] 1 WLR 619; [1993] 2 All ER 577; (1993) 96 Cr App R 1 where it was held that if the prosecution wished to claim public interest immunity, it is obliged to give notice to the defence of the asserted right so that it can be challenged if necessary by the defence.
20. That notice of a claim of legal professional privilege with respect to order 1b) has been given to defence twice, in the category “Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing” listed in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022.
21. In *Mallard v The Queen* (2005) 224 CLR 125; 157 A Crim R 121; 222 ALR 236; [2005] HCA 68, at [17], the plurality of the High Court (Gummow, Hayne, Callinan and Heydon JJ) stated "... that the prosecution must at common law also disclose all relevant evidence to an accused and that a failure to do so may, in some circumstances, require the quashing of a verdict of guilty".

#### **Director of Public Prosecutions Policy**

22. The test for disclosure outlined in *Farquharson* is reflected in the ACT Prosecution Policy. The legislative basis for the issuing of a Prosecution Policy is found in section 12 Director of Public Prosecutions Act 1990, and the most recent version of the ACT Prosecution Policy was issued on 1 April 2021.

#### *4. DISCLOSURE*



*4.1 The prosecution is under a continuing obligation to make full disclosure to the accused in a timely manner of all material known to the prosecution which can be seen on a sensible appraisal by the prosecution:*

- to be relevant or possibly relevant to an issue in the case;*
- to raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use; or*
- to hold out a real as opposed to fanciful prospect of providing a lead to evidence which goes to either of the previous two matters.*

*4.2 The prosecution is also under a duty to disclose to the defence information in its possession which is relevant to the credibility or reliability of a prosecution witness, for example:*

- relevant previous conviction or finding of guilt;*
- a statement made by a witness which is inconsistent with any prior statement of the witness;*
- a relevant adverse finding in other criminal proceedings or in non-criminal proceedings;*
- evidence before a court, tribunal or Rayo/ Commission which reflects adversely on the witness;*
- any physical or mental condition which may affect reliability;*
- any concession which has been granted to the witness in order to secure their testimony for the prosecution.*

*4.3 The prosecution must fulfil its duty of disclosure as soon as reasonably practicable. The prosecution's duty of disclosure continues throughout the prosecution process and any subsequent appeal.*

*4.4 In fulfilling its disclosure obligations the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone number of any person unless that*

*information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.*

*4.5 The prosecution's duty of disclosure does not extend to disclosing material:*

- relevant only to the credibility of defence (as distinct from prosecution) witnesses;*
- relevant only to the credibility of the accused;*
- relevant only because it might deter an accused from giving false evidence or raising an issue of fact which might be shown to be false; or*
- for the purpose of preventing an accused from creating a forensic disadvantage for themselves, if at the time the prosecution became aware of the material it was not seen as relevant to an issue in the case or otherwise disclosable.*

*4.6 The prosecution may refuse to disclose material on the grounds of public interest immunity or legal professional privilege.*

*4.7 Where material has been withheld from disclosure on public interest grounds, the defence should be informed of the claim of immunity and the basis for the claim in general terms unless to do so would reveal that which it would not be in the public interest to reveal. In some cases it will be sufficient to delay rather than withhold disclosure. For example, if disclosure might prejudice ongoing investigations, disclosure could be delayed until after the investigations are completed.*

*4.8 Legal professional privilege will ordinarily be claimed against the production of any document in the nature of an internal OPP advice or opinion. Legal professional privilege will not be claimed in respect of any*

*record of a statement by a witness that is inconsistent with their previous statement or adds to it significantly, including any statement made in conference and any victim impact statement, provided the disclosure of such records serves a legitimate forensic purpose.*

*4.9 The duty on the prosecution to disclose material to the accused imposes a concomitant obligation on the police and other investigative agencies to notify the prosecution of the existence and location of all such material. If required, in addition to providing the brief of evidence, the police or other investigative agency shall certify that the prosecution has been notified of the existence of all such material.*

*4.10 Where known, in accordance with Director's disclosure guideline which has been in effect since 3 August 2020 (see Annexure 1), the prosecution is under a duty to disclose the existence of:*

*(a) Relevant protected material that is subject of a claim of privilege or immunity;*

*(b) Relevant material that is subject of a statutory publication restriction;*

*(c) Relevant unprotected material that is not subject to a claim of privilege or immunity or a statutory publication restriction.*

### **Competing Provisions**

23. There are a number of competing provisions protecting relevant material that does not fall within the DPP's disclosure obligations.

### ***Information Privacy Act 2014 (ACT)***

24. Section 8 defines personal information about an individual who is reasonably identifiable, whether the information or opinion is true or not, and whether the information is recorded in a material form or not.

25. This would include a range of data redacted from Cellebrite report (particularly as it relates to people other than the owner of the phone) as outlined in the affidavit of Sarah Pitney affirmed 12 September 2022.
26. Section 9(c) of the Information Privacy Act includes amongst “public sector agency” a statutory office holder, and the staff assisting the statutory office holder, which includes the Director of Public Prosecution and staff who appear on my behalf.
27. Schedule 1 to this Act contains the Territory privacy principles (TPP) with TPP 6 stating:
  - 6.1 If a public sector agency holds personal information about an individual that was collected for a particular purpose (the primary purpose), the agency must not use or disclose the information for another purpose (the secondary purpose) unless
    - a) the individual has consented to the use or disclosure of the information; or
    - b) TPP 6.2 or TPP 6.3 apply.
28. TPP 6.2 is relevant and deals with circumstances where the individual would reasonably expect the public sector agency to disclose the information for a secondary purpose, or the disclosure is required by **order of an Australian law, or Court.**
29. TPP 6.3 deals with biometric information and templates and is not relevant to the current case.

### **Telecommunications (interception and Access) Act 1979 (Cth)**

30. Where information has been obtained through the use of surveillance devices or telecommunication interception, disclosure will also be regulated by the *Telecommunications (Interception and Access) Act 1979* ('TIA Act'), the *Surveillance Devices Act 2004* (Cth) ('SD Act') and the *Crime (Surveillance Devices) Act 2010* (ACT) ('ACT SD Act').
31. Section 67(1)(a) of the Telecommunications Act provides that lawfully intercepted information (defined as information obtained by intercepting communications passing

over a telecommunication system rather than the means of collection) may only be disclosed where a permitted purpose exists. Section 5 outlines permitted purposes, that does not include material obtained during an investigation but not relevant and disclosable in a subsequent prosecution.

### **Section 118 Evidence Act 2011**

32. Section 118 Evidence Act provides that evidence must not be presented, if on objection by a client, the court finds that presenting the evidence would result in disclosure of a confidential communication made between a client (in this case the Australian Federal Police) and a lawyer (in this case the Director of Public Prosecutions).
33. It is well established law that the Office of the Director of Public Prosecutions is defined as a lawyer, and a witness in a matter is defined as a client (*See R v Petroulias (No 22) (2007) 213 FLR 293; 176 A Crim R 309*), and legal advice as between the Office of the Director of Public Prosecutions and an employee of the DPP is in a client legal privileged relationship (see *Director of Public Prosecutions (NSW) v Stanizzo [2019] NSWCA 12 at [25]*).
34. It is also well established law that a lawyer / client relationship exists over legal advice provided by the Office of the Director of Public Prosecutions to a Government Department (*See Director of Public Prosecutions (Cth) v Kinghorn (2020) 102 NSWLR 72; 281 A Crim R 546; [2020] NSWCCA 48 at [62]-[64]*) in which case the claim of privilege can be made by the Government Department (see *TransGrid v Members of Lloyds Syndicate 3210 [2011] NSWSC 301, per Ball J at [11]*).
35. In the present case, the document "Investigative Review Document" was provided by the Australian Federal Police, to the Office of the Director of Public Prosecutions for the sole purpose of seeking legal advice, and a claim of privilege has been made in schedule 1 of the Disclosure Declaration at RF1 and RF2 of the Affidavit of Rachel Elizabeth Fisher affirmed on 8 September 2022 and read in this application in proceedings on 8 September 2022, as a document falling within the definition of

“Review of brief materials and subsequent advice/recommendations made by the DPP to ACT Policing”.

**Relevant Considerations:**

36. For the purposes of this application, the relevant test is whether on a sensible appraisal by the prosecution, the evidence is relevant or possibly relevant to an issue in the case, the credibility or reliability of a prosecution witness, or it will raise or possibly raise a new issue whose existence is not apparent from the evidence the prosecution proposes to use.
37. Material not meeting this test, is otherwise protected from disclosure, except by order of a court. Such an order should only be made if required pursuant to the DPP’s disclosure obligations under section 4 Prosecution Policy, and the tests contained within, and the document is not otherwise protected.
38. In the present case, the material redacted from the Cellebrite report does not meet the test for disclosure. Further, the material listed in order 1b), is neither established as being relevantly disclosable, and further is protected pursuant to section 118 Evidence Act 2011.

Shane Neville Drumgold SC  
Director of Public Prosecutions (ACT)  
12 September 2022

From: [REDACTED]  
To: [REDACTED]  
Cc: Priesley, Erin - [REDACTED]  
Subject: Re: Bruce LEHRMANN - Password Protected Brief  
Date: Monday, 6 June 2022 2:18:41 PM  
Attachments: [REDACTED].ans  
[REDACTED].ans

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Thanks Mitchell, it's working! I really appreciate all your help with this.

Additionally, would you have an up to date spreadsheet or list of all material provided to Mr Lehmann's previous lawyers and us?

Kind regards,

[REDACTED]

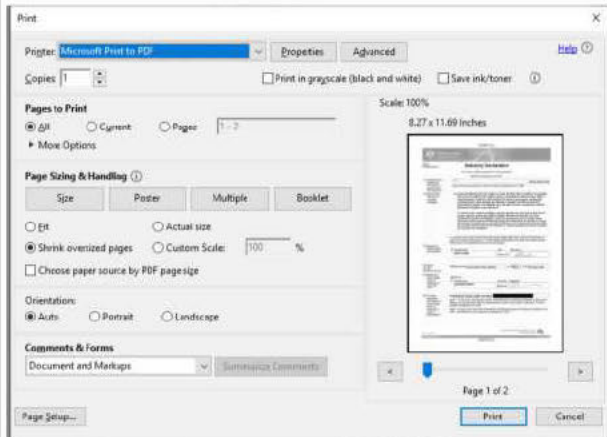
On Mon, Jun 6, 2022 at 1:06 PM Greig, Mitchell <[REDACTED]@act.gov.au> wrote:

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Hey [REDACTED]

I will contact the AFP and see if they can provide the passwords. I know some of the documents in that list appear to have originally come from outside the AFP, so they will need to be contacted as well.

However, I believe I have found a work around so you're not waiting for a response in the time being. If you change the printer to Microsoft Print to PDF and save it, the new document won't be password protected and you will be able to use the other PDF functions like combine PDF Files. Screenshot below of what to select. I believe your computer should have Microsoft Print to PDF. Let me know if you have any issues.



Kind regards,



**Mitchell Greig**  
Prosecutor Associate  
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From: [REDACTED] <[REDACTED]@kslawyers.com.au>  
Sent: Monday, 6 June 2022 12:48 PM  
To: Priesley, Erin - [REDACTED]@act.gov.au; Greig, Mitchell - [REDACTED]@act.gov.au  
Cc: Kamy Saeedi - [REDACTED]@kslawyers.com.au; Rachel Fisher - [REDACTED]@kslawyers.com.au  
Subject: Bruce LEHRMANN - Password Protected Brief

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Good afternoon Erin and Mitchell,

Per our conversation on Friday, please find below a list of the files in the Bruce Lehmann brief which are password protected.

- [REDACTED] mtsu\_frizzell\_Redacted
- Statutory Declaration of [REDACTED] Redacted
- [REDACTED]
- 1 of 2 emails - To Bruce Lehmann
- 2 of 2 emails - To Bruce Lehmann
- [REDACTED] - iCloud data extracted from Ms Higgins account
- [REDACTED] - Westpac records
- [REDACTED] person QLD
- [REDACTED] 112021T
- [REDACTED] 3052921T
- Transcript ROSW Bruce Lehmann
- The Project Episode Transcript verified
- Transcript ROC Ms Higgins and Chief of Staff
- Statement [REDACTED] Westpac
- Police statement - SC [REDACTED] Supplementary
- Police statement - SC [REDACTED]
- Correspondence between Dsapt Moller and [REDACTED] Redacted
- Email between B. Higgins and SC Frizzell 15Mar21 1118Res\_Redacted

- Email between B. Higgins and SC Frizzell 17Feb21 2315hrs\_Redacted
- Email between B. Higgins and SC Frizzell 17Mar21 1259hrs\_Redacted
- Email correspondence D: [REDACTED] 26Jul21\_Redacted
- [REDACTED]
- Redacted Cellebrite - Lehrmann - All pages
- Redacted Cellebrite - Higgins - All pages
- [REDACTED]
- Disclosure statement\_Delence copy\_Apr 22
- Police Statement\_Cmdr M. Chew
- Police Statement\_DSupt Moller
- Supp statement and images SC [REDACTED]
- Witness Statement - [REDACTED] signed

It would be greatly appreciated if you could contact the AFP and request a password for these files. Please let me know if I can be of any further assistance.

Kind regards

--

[REDACTED]

Paralegal



1 University Ave  
Canberra ACT 2601

[REDACTED]

[REDACTED]

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[REDACTED]

Paralegal



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