

AUSTRALIAN CAPITAL TERRITORY
BOARD OF INQUIRY
CRIMINAL JUSTICE SYSTEM

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

STATEMENT OF HALL O'MEAGHER

I, Hall O'Meagher, of an address known to police, state as follows:

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


Current Employment

1. I am a Detective Superintendent currently attached to ACT Criminal Investigations within ACT Policing.
2. In summary, I am in command of the investigation of serious and complex investigations by ACT Policing. I have three Detective Inspectors working for me, who are officers-in-charge of Major Crime, Organised Crime and Sexual Offences & Child Abuse ("SOCA") – which includes the Sexual Assault & Child Abuse Teams ("SACAT"). I report to the Commander Investigations. Attached and marked '**Exhibit 2**' is a copy of the role description relevant to my role.

Tertiary Qualifications

3. I have the following tertiary qualifications:
 - a. Bachelor of Applied Science (Sports Science), University of Canberra 1996.

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Courses and/or Diplomas

4. I have completed the following courses, diplomas and designations:
- a. Graduate Certificate in Applied Management, Australian Institute of Police Management (ongoing);
 - b. Senior Investigating Officer (“SIO”) Learning Continuum (ongoing);
 - c. Management of Serious Crime (“MOSC”) Program, AFP College 2019;
 - d. Hong Kong ICAC Chief Investigators Command Course, Hong Kong 2018;
 - e. Executive Leadership Program, Australian Institute of Police Management 2017-18;
 - f. PII - National security
[REDACTED]
 - g. Executive Level Criminal Investigation Course, AFP College 2018;
 - h. Criminal Investigations Workshop, AFP College, Sydney 2013;
 - i. Advanced Counter-Terrorism Investigations Program, AFP College, Melbourne 2012;
 - j. Advanced Islamic Awareness Program, AFP College, Melbourne 2012;
 - k. Counter-Terrorism Investigations Program, AFP College, Melbourne 2011;
 - l. AFP Homicide Investigations Program, AFP College 2008;
 - m. Police Negotiation Team Basic Course, AFP College 2008;
 - n. Command & Control Training (C3, ICCS, ICCS+ 2008-15);
 - o. Western Australia Police Arson Squad Investigations Training, WA Police Academy 2007;
 - p. Human Source Handling Program, AFP College 2006;
 - q. Media Management Skills Training 2006;
 - r. Sexual Offences & Child Abuse Program, AFP College 2003;
 - s. Investigators Development Program, AFP College 2002 (now Detective Training Program);
 - t. Diploma of Public Safety, AFP College 2000; and

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- u. Accredited High Performance (Level 3) Cricket Coach, Australian Institute of Sport, Adelaide 1997.

Employment Chronology


5. I do not have any previous policing experience before joining the Australian Federal Police (“AFP”).
6. I commenced as a recruit at the AFP College in April 2000, and received training including:
 - a. Legislation including relevant criminal offences, police powers, evidence;
 - b. Records of Interview;
 - c. Witness statements;
 - d. Use of Force;
 - e. Driver training; and
 - f. Managing the administration of incidents on PROMIS.
7. My service history with the AFP after graduating from the AFP College in August 2000 is as follows:
 - a. I was assigned to ACT Policing and commenced as a Constable in uniformed general duties at City Police Station;
 - b. In October 2001 I transferred to the North District Pro-Active team, where I investigated recidivist property offenders and street level drug dealers;
 - c. In March 2002 I transferred to ACT Territory Investigations Group (“TIG”), which is essentially a former name for ACT Criminal Investigations. In TIG, I investigated homicides & coronial matters, armed robberies, frauds, drug trafficking and serious assaults including sexual assaults;

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- d. In 2005 I was designated as a Detective and in 2006 I attained the rank of Senior Constable;
- e. In May 2007 I was promoted to the rank of Sergeant and transferred to Woden Police Station, where I was assigned to lead a uniformed general duties team;
- f. In 2008 I became a part-time, on-call police negotiator and until 2011, I was deployed to assist resolve a number of critical incidents;
- g. In January 2009 I transferred back to ACT Criminal Investigations, performing the role of a Detective Sergeant, leading teams of detectives, including SACAT. I led investigations into multiple homicide and sexual assault investigations;
- h. In February 2011 I transferred to AFP Darwin Office where I conducted investigations into Commonwealth Offences in the Northern Territory;
- i. In February 2014 I transferred to the National Anti-Gangs Squad, Northern Territory and commenced a secondment in the Northern Territory Police Drug & Organised Crime Squad;
- j. In January 2015 I transferred to AFP Sydney Office where I led teams in Counter-Terrorism Intelligence and Crime Operations;
- k. In December 2016 I was promoted to the rank of Superintendent and transferred to AFP Cairns Office. There I was in command of AFP resources in North Queensland, including staff located in Townsville, Cairns and the Torres Strait;
- l. In February 2019 I transferred to Counter-Terrorism in AFP Headquarters in Canberra, where I was in command of the Joint Counter-Terrorism Team, ACT as well as teams investigating foreign terrorist fighters;

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- m. In August 2020 I transferred back to ACT Policing, where I was in command of ACT Intelligence;
- n. From February 2021 until 22 August 2021 I performed higher duties as the acting Commander of Capability & Community Safety (“CCS”) in ACT Policing (the title of this role at the time was Deputy Chief Police Officer CCS). In this role I had responsibility for Intelligence, Police Operations, Judicial Operations, and Community Safety;
- o. From 23 August until 19 December 2021 I performed higher duties as the acting Commander of Investigations. In this role I had responsibility for Criminal Investigations, Intelligence, Judicial Operations, and Police Communications (formerly Police Operations); and
- p. In accordance with succession planning, in May 2022 ACT Policing executive transferred me back to ACT Criminal Investigations to replace Detective Superintendent Scott Moller, who was approaching the end of his tenure in the role. After a transition period, I formally took over from Detective Superintendent Scott Moller in August 2022, and from that time have been in command of the investigation of serious and complex investigations by ACT Policing. I am currently serving in this role.
8. As Detective Superintendent of ACT Criminal Investigations, it is my role to provide the necessary training and resources that members require in order to conduct effective investigations across all serious and complex investigations in the ACT, including specialist areas such as sexual assault investigation. It is also my role to establish and maintain a positive culture and work environment, as well as implementing initiatives to maintain morale and the wellbeing of staff. In addition, I facilitate maintenance agreements with relevant stakeholders, as well as relevant policies and guidelines. In

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addition, I support the Detective Inspector and their teams in operational decision making when required. I am chair of the Criminal Investigations Management Committee (“CIMC”). The committee members include the Inspectors for Major Crime, Organised Crime and Sexual Offences & Child Abuse. Since my re-commencement in Criminal Investigations in 2021, one of the roles of the committee is to assess select sexual assault matters and provide guidance and decision making to relevant investigations. Attached and marked ‘**Exhibit 3**’ is a copy of the document that provides guidance to members about what constitutes a sexual assault matter that should be referred to the CIMC.

9. In my police career I have been the case officer for eight sexual assault investigations. I have been the Detective Sergeant in-charge of hundreds of sexual assault investigations. I have been the Detective Superintendent of ACT Criminal Investigations since 22 August 2022 and in command of all sexual assault investigations that have been undertaken by the area since that time.

Training and education

10. I have received the following technical training and education specifically in relation to conducting sexual assault investigations:
- a. Sexual Offences & Child Abuse Program, AFP College 2003.
11. In general terms the correlation between this training and education and how sexual assault investigations are conducted in practice is high, in that the general principles of investigation of these matters remains the same. This training was relevant to me during my time as a Detective Constable and Detective Sergeant, in particular investigating matters while attached to ACT Territory Investigations Group / ACT Criminal Investigations. In specific terms, the program has evolved over the years to align with contemporaneous investigation techniques and best practice.

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12. There are currently eight designated Detectives out of twenty-six members who are attached to SACAT. This is representative of the relevant lack of experience across ACT Criminal Investigations (forty-two Detectives out of one hundred and nineteen members attached to ACT CI). There are currently nine members who are attached to SACAT who have undertaken specialist training in sexual assault investigations. Having said that, members attached to SACAT are working in an area that investigates a high volume of matters. This, in combination with the initiative to maintain experienced, substantive Detective Sergeants in-situ in the area (refer paragraph 54.b.), results in significant workplace learning and development.
13. I am not aware of what training a member of SACAT required as at 21 February 2021.
14. For as long as I can remember, regular psychological assessments have been scheduled for members of SACAT. Currently, a de-identified report is prepared by the relevant psychologist and disseminated to the Superintendent and senior executive so management has a sense of the wellbeing measures within SACAT and, if necessary, can implement initiatives to assist improve the morale and health of the area and individuals working in it. Currently, members have access to the resources of ACT Policing Welfare Team, who assess welfare matters and facilitate contact with relevant experts, including those attached to the AFP SHIELD program.
15. These psychological assessments are mandatory. Members of SACAT must undertake these mandatory assessments every 6 months.
16. I underwent regular psychological assessments when I was a Detective Sergeant assigned to SACAT in ACT Criminal Investigations. I also underwent a psychological assessment in February 2023 in my role as Detective Superintendent of ACT Criminal Investigations.
17. I am not specifically aware of any policies or guidelines regarding these assessments.

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Organisational structure

18. I am in command of the investigation of serious and complex investigations by ACT Policing. I have three Detective Inspectors working for me, who are officers-in-charge of Major Crime, Organised Crime and SOCA. I report to the Commander Investigations.
19. Attached and marked '**Exhibit 4**' is a copy of the previous organisational structure for ACT Criminal Investigations. Attached and marked '**Exhibit 5**' is a copy of the current organisational structure for ACT Criminal Investigations.
20. The structure was changed in November 2021, when I was acting Commander Investigations, after it was recognised that a third Inspector was required to alleviate the workload of the Major Crime Inspector, and to have a dedicated officer-in-charge of SOCA. These actions were designed to facilitate the implementation of recommendations from the internal SACAT review and the anticipated SAPR committee recommendations, as well as enhanced oversight of operation decision making. Attached and marked '**Exhibit 6**' is a copy of the relevant executive brief endorsed by the ACT Policing Chief Police Officer to effect the change in structure.

Duties and responsibilities

21. The duties and responsibilities of an ACT Policing member that are specifically related to conducting a sexual assault investigation are outlined in the Better Practice Guide ("**BPG**") on Child Abuse and Sexual Offence Investigations and First Response. Attached and marked '**Exhibit 7**' is a copy of the BPG.
22. In my experience, the Detective Superintendent of Criminal Investigations is not usually directly involved with the investigation of sexual assault matters. Carriage of the investigation of sexual assault matters usually resides with (Detective) Constables under the supervision of a Detective Sergeant. The Detective Sergeants in SACAT report to the Detective Inspector of SOCA, who reports to me as Detective Superintendent. I

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report to the Commander Investigations, who has responsibility for Police Communications, Intelligence, Judicial Operations and Criminal Investigations.

23. The only circumstance where I would be directly involved with the investigation of a sexual assault matter is if I had been formally appointed as the Senior Investigating Officer for the investigation. Guidelines related to the appointment of an SIO are contained in the AFP SIO Guide. Attached and marked 'Exhibit 8' is a copy of the relevant AFP SIO Guide.

Triage Process for Sexual Assault Complaints

24. I am not specifically aware of how sexual assault complaints were triaged by ACT Policing in 2019 and 2021.
25. The current process for receiving a complaint of sexual assault, including historical matters, and the response and initial investigation of such matters is outlined in the current BPG on Child Abuse and Sexual Offence Investigations and First Response. Attached and marked 'Exhibit 7' is a copy of the BPG.
26. As Detective Superintendent in command of ACT Criminal Investigations I do not have an active role as in the receipt and initial assessment of sexual assault complaints. I do have oversight of select matters as chair of the CIMC, where a proportion of matters are allocated to Major Crime for investigation, rather than SOCA. These are generally less complex, often historical matters that are considered as "overflow" when considering the workload and available resources of SOCA.
27. I am not specifically aware of whether there were any differences in 2019 or in 2021 regarding who would typically respond to a sexual assault complaint, what initial steps would be taken by the relevant AFP officer or what services would be offered to a complainant after making a complaint.

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Investigating Sexual Assault Complaints

28. Personally, I have not been directly involved in sexual assault investigations as a Detective Superintendent.
29. To my knowledge the threshold to charge a suspect with sexual assault offences has not changed. As a result of this investigation and also various consultation with the ODPP the ACT Police identified there was no specific policy in regard to threshold to charge. A review was conducted and on 10 May and 13 July 2022 ACT Criminal Investigations received advice from AFP Legal in relation to the threshold to charge a person with a sexual offence. Attached and marked '**Exhibit 9**' is a copy of the relevant email chain. Guidance aligned with the advice has been communicated to members of the Sexual Assault & Child Abuse teams. Attached and marked '**Exhibit 10**' is a copy of the relevant email chain. In summary, the communications advised members of the following:
- a. The threshold to charge is on the basis of reasonable and probable cause which is similar to a reasonable belief. The concept can be unpacked with the following two part test:
 - i. Do you hold an honest belief that the probability of the accused's guilt is such that a charge is warranted; and
 - ii. Is there a sufficient basis on the material present for this belief.
30. I am not aware of what guidance was previously provided to members in relation to the threshold to charge and on what authority the guidance was based.
31. Typically, engagement with the ACT Office of the Director of Public Prosecutions ("**ODPP**") commences after a suspect has been charged. However, in select matters members engage early with the ODPP to obtain advice in relation to whether there is sufficient evidence to proceed. Consultation in this regard is covered under the current formal working agreement with the ODPP. Attached and marked '**Exhibit 11**' is a copy of the relevant arrangement. The agreement is currently under review.

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32. Briefs of evidence that are prepared for sexual assault matters are quality assured by the relevant Detective Sergeant in charge of the investigation, before being adjudicated by the ACT Criminal Investigations Adjudication and Practices Sergeant, and then the Brief Management Team in ACT Policing Judicial Operations, prior to being provided to the ODP. The adjudication process is conducted for the purposes of establishing whether there is sufficient evidence in support of the elements of the offences, and to ensure that the brief has been prepared in accordance with relevant protocols, including obligations and restrictions regarding disclosure. Elements of the brief of evidence will necessarily be redacted from the copy that is to be served on the Defence. I am not aware of the specifics of how that process occurs, although my general understanding is that this occurs as the brief progresses through the Brief Management Team.
33. Members that are investigating allegations of sexual assault are required to adhere to the principles contained in the AFP Investigations Doctrine. Attached and marked 'Exhibit 12' is a copy of the AFP Investigations Doctrine.
34. The doctrine states:
- a. *Investigations are an objective search for the truth by the discovery and presentation of evidence in an exhaustive, comprehensive and organised manner. This is reflected in the 2011 Australian Government Investigations Standards, which defines an investigation as: "... a process of seeking information relevant to an alleged, apparent or potential breach of the law, involving possible judicial proceedings . The primary purpose of an investigation is to gather admissible evidence for any subsequent action, whether under criminal, civil penalty, civil, disciplinary or administrative sanctions. Investigations can also result in prevention and/or disruption action. The term investigation can also include intelligence processes which directly support the gathering of admissible evidence."*; and

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b. A good investigator is tenacious, collaborative, courageous and unrelenting in the search for the truth without being inflexible.

35. As such, a member investigating criminal offences, including sexual assaults, are required to make inquiries in an attempt to corroborate the victim's statement, and in order to answer the question of whether there is sufficient evidence to support a charge.
36. The absence of corroboration in support of a victim's statement does not necessary mean that the investigating member will not, in their mind, reach the threshold to charge. Although in my experience, it would be unusual to have no corroborative evidence, and be able to reach the threshold. An allegation alone is not usually sufficient.
37. ACT Policing adheres to a "victim centric" approach to discontinuing an investigation at the request of a complainant. The victim-centric approach has the victim's wishes as paramount when making decisions that would affect the course of an investigation, or indeed judicial process. Essentially, if a victim does not want to proceed for whatever reason, the matter does not proceed, notwithstanding the obligation of police to protect the broader community.
38. Further, it should be noted that around 2007 the Sexual Assault Reform Program ("SARP"), essentially a pre-cursor to SAPR 2021, made a number of recommendations. ACT Policing examined practices and re-aligned procedures with relevant recommendations. Concurrently, feedback from victims of sexual assault who had been through the judicial system, included reference to their perception that they had been traumatised by the process with little forewarning of what they should expect. As a result, ACT Policing SACAT developed the victim-centric approach, including a "meet & greet" process that included a full disclosure of the judicial process was explained to victims, often prior to them providing a formal statement (or Evidence-in-chief-interview when that became the standard practice).

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39. Police continue to employ a trauma informed, victim-centric approach, however, the content and conduct of the meet & greet process is under review. This should be noted in light of the recent allegations made during the Sexual Assault Prevention & Response committee process that police were essentially talking victims out of providing a statement, and proceeding in support of a judicial process.
40. Investigating members should be in regular contact with victim's during the course of the investigation, preferably in person or on the telephone, to keep the victim informed of the progress of the investigation.
41. As Detective Superintendent I am not directly involved with the specific process undertaken when a further statement or further information is required from a victim or witness.
42. Further, I am not directly involved with the process of communication with a victim when a decision has been made to charge, or not charge with respect to a particular investigation.
43. In my opinion, the underlying culture within SOCA and broader ACT Criminal Investigations with respect to conducting sexual assault investigations, including the re-investigation of matters at the request of the victim, is one of professionalism with an aspiration to provide a quality, caring service to protect the community. That is what motivates staff. The members who have worked and continue to work in this specialist area of investigation are amongst the most committed members of ACT Policing. The ACT community should be very proud to have such dedicated police investigating these sensitive and often complex matters.

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44. Victims of sexual assaults have endured traumatic events at the hand of the perpetrator. As a result, they are afforded access to a level of specialist support services, some of which may not necessarily be available to victims of other types of crime.

Challenges, Issues and/or Pressures

45. ACT Policing is the lowest resourced jurisdictional police service in Australia. These resourcing constraints are in the context of an exponential increase in the report of alleged sexual assaults in our community. As a result, ACT Policing management is left in a position where they either shift finite resources to investigate the increasing number of sexual assaults (at the expense of resources applied to investigate other serious violent crime such as homicides and grievous family violence assaults), or, we maintain residual resourcing and place an unfair burden on the members of SACAT, (often resulting in burn-out and fatigue).
46. In terms of training, there was a window within the last four years where it was not possible to conduct training in a traditional way due to the COVID-19 global pandemic. The pandemic also had an impact on policing methodology and its interaction with the community.
47. Without having specific examples at hand, it is my opinion that external stakeholders have little appreciation for the resourcing pressures that ACT Policing are under. In general, certain external stakeholders default to criticising police, rather than working together to achieve good outcomes for the community. The misunderstanding is magnified within the media, with parochial, issue motivated reporting evident. The media coverage of the Operation Covina investigation and the *R v Lehrmann* trial are examples where the facts of the matter were often sensationalised and tribal attitudes shaped and divided public opinion. In my opinion, the police involved with these matters should be congratulated for the focus that they maintained throughout the investigation despite the many challenges that they were presented with.

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Report of the Sexual Assault Prevention and Response Steering Committee

48. About 1:30pm 15 September 2021 Commander Operations, Linda Champion and I (as acting Commander Investigations) met with the ACT Director of Public Prosecutions, Shane Drumgold, via video-conference. The meeting was scheduled as a routine stakeholder engagement meeting with no specific agenda. During the meeting the Director raised some issues of concern in relation to sexual assault matters. In summary, he essentially alleged that as a matter of practice, police were talking victims out of providing a statement and/or proceeding through the judicial process after they had reported an alleged incident. The Director's demeanour was heightened and I was surprised when he said that he believed a Royal Commission was required in order to address the issue. The Director also suggested there was an issue with the communication from police to victims when it was decided the matter would not proceed, citing a specific example that he emailed to me after the meeting. I subsequently briefed Assistant Commissioner Peter Crozier and facilitated the collation of statistics related to reports of sexual intercourse without consent in 2021 and the breakdown of how each of those matters were resolved. Unfortunately, due to the limitations of the PROMIS database, the process involved a requirement to manually examine relevant records.
49. About 4:09pm 15 October 2015 I sent an email to the Director, providing statistics related to reports of sexual intercourse without consent in 2021 and the breakdown of how each of those matters were resolved. I carbon copied Assistant Commissioner Peter Crozier and Commander Linda Champion into the email. A number of emails were then sent between the respective parties. Attached and marked 'Exhibit 13' is a copy of the relevant email chain.
50. I subsequently worked with ACT Policing senior executive and external stakeholders in the initial stages of the development of the sexual assault review terms of reference and a draft roadmap that outlined the mechanics and phases of the proposed review process.

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51. About 9:43am 20 October 2021 I sent an email to Detective Superintendent Moller that related to the issue raised by the Director in the video-conference meeting that Commander Champion and I had with him on 15 September 2021. I suggested to Detective Superintendent Moller that on first glance, the decision to finalise may have been justified, although the Director suggests that the explanation of the legal concepts in the correspondence was not correct. I requested the matter be reviewed. Attached and marked 'Exhibit 14' is a copy of the relevant email chain.
52. On 12 November 2021 I became aware that the Director had sent a letter to the ACT Attorney General in relation to the "police test for charging". About 3:51pm that date I sent an email to Assistant Commissioner Crozier outlining some brief points that I believed were relevant in terms of the letter, and suggested that ACT Policing should seek our own legal advice. Attached and marked 'Exhibit 15' is a copy of the relevant email chain. Advice from AFP Legal was received on 10 May and 13 July 2022 and referenced at paragraph 29.
53. I have read select sections of the Sexual Assault Prevention and Response Steering Committee report. Detective acting Sergeant Lauren Gilliland has been appointed to manage the ACT Policing response to the report, including the re-development of the Sexual Offences and Child Abuse Program. Detective acting Sergeant Gilliland reports to the Detective Inspector in charge of SOCA, who reports to me. Attached and marked 'Exhibit 16' is a copy of the spreadsheet outlining the steps taken by ACT Policing in response to the report.
54. In summary, ACT Policing regularly reviews its practices and implements continuous improvements to ensure the provision of a quality service to the ACT community. In response to the internal SACAT review, and in anticipation of the steering committee report, ACT Policing undertook a structural and cultural shift in terms of the investigation and resolution of sexual offences. Key initiatives include:

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- a. The institution of a third Inspector in ACT Criminal Investigations with specific responsibility as the officer-in-charge of Sexual Offences & Child Abuse; elevating the leadership of investigations, strategy development and decision making;
 - b. Prioritising the placement of substantive Sergeants to staff SACAT in recognition of the priority and sensitive nature of investigations undertaken by the SACAT;
 - c. A successful 2022/23 budget bid to ACT government, securing an additional five sworn police officers assigned to SACAT;
 - d. The development and delivery of an enhanced SOCAP based on advice from a contemporaneous recognised expert in the field (WIT_Confidential_sensitive_Third_P);
 - e. Based on legal advice the establishment of a consistent threshold to be applied when considering whether there is sufficient evidence to charge a suspect for sexual offences; and
 - f. The introduction of the process whereby the CIMC (including independent Inspectors) assesses select sexual assault matters and provides guidance and decision making to relevant investigations, including, when appropriate, referring matters to ACT DPP for expert advice in relation to issues such as sufficiency of evidence and reasonable prospects of conviction.
55. I have not observed a cultural shift within the ACT ODPP in the prosecution of sexual assault offences since the release of the steering committee report.
56. I have not observed a cultural shift within the VOCC since the release of the steering committee report.

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

57. As a Detective Superintendent I generally have limited tactical level involvement with the ODPP (potentially this would be different if I was formally appointed as the SIO of an investigation). My role involves maintaining a working relationship with the stakeholder, predominantly through interactions with the Deputy Director.
58. Other than maintaining a positive relationship with the Deputy Director, I have had no other recent, relevant, direct interaction with staff at the ACT Office of the Director of Public Prosecutions.
59. I am not aware of the professional relationship between the ODPP and ACT Policing prior to the Operation Covina investigation.
60. I am not aware of whether the ODPP and ACT Policing held regular meetings in relation to sexual offence matters in 2021.

Victims of Crime Commissioner

61. The senior executive of ACT Policing maintains the relationship with the Victims of Crime Commissioner (“VOCC”). In my role as Detective Superintendent, I have limited interactions with her or her staff.
62. I had regular, routine stakeholder meetings with the VOCC when I was acting Commander Capability & Community Safety. The VOCC was always professional during our interactions, and while these meetings sometimes covered contentious ground such as complaints that she had received from victims about police, the conversations maintained a courteous tone. My only suggestion to her in this regard was that we discussed the complaints against police without recognising the high quality service that police provide and the apparent satisfaction of the majority of victims.

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63.

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64. Based on my experience, my understanding of the role performed by the VOCC and her staff exercising statutory functions under the *Victims of Crime Act 1994* (ACT) is to advocate for victims, including sexual assault victims, by working with stakeholders in the criminal justice system to ensure that they are treated in accordance with relevant legislation and policies.
65. I am not aware of any other sexual offence investigations where the VOCC has supported a complainant at court or acted as an intermediary between the police and the complainant or between the ODPP and the complainant.

The Investigation

66. Between 23 August and 19 December 2021 (inclusive) I was acting Commander Investigations. I had no involvement with, or meaningful direct knowledge of, the Operation Covina investigation prior to 23 August 2021.
67. About 10:36am 26 August 2021 I received an email from Detective Superintendent Moller that informed me that earlier that day the VOCC had advised him that the victim had requested to deal with the ACT ODPP in relation to her matter. About 12:05pm I responded to Detective Superintendent Moller, essentially indicating to him I would seek advice from the Superintendent of Judicial Operations in relation to the obligations of respective agencies in these circumstances. About 2:12pm, following a short

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conversation with Detective Superintendent Matt ^{Personal info} [REDACTED], I sent him an email requesting advice in relation to whether ACT Policing are meeting its legislated obligations under the Victims Charter of Rights in this circumstance. About 2:46pm he replied to me advising that according to the charter we had met our obligations. About 3:17pm I sent an email to the DCPO, Assistant Commissioner Peter Crozier, advising him of the circumstances.

68. About 2:13pm on 9 September 2021 I received an email from Detective Superintendent Moller, suggesting there was a requirement to obtain a statement from the VOCC. About 4:41pm the same date I responded to Detective Superintendent Moller indicating I did not have an issue with him contacting the VOCC to determine whether she could indeed provide evidence relevant to the matter and whether it was necessary to request a statement from her. About 4:51pm I sent an email to the DCPO, Assistant Commissioner Peter Crozier, advising him of the circumstance. At about 4:51pm he responded, asking whether the ACT ODPP were aware, to which I replied I had requested Detective Superintendent Moller to consult with them.
69. On 22 September 2021 I had a conversation with Detective Superintendent Moller during which he mentioned there were issues with the service of the brief of evidence relating to Operation Covina.
70. On the morning of 23 September 2021, Detective Superintendent Moller and I had a further conversation in relation to the issues related to the service of the brief of evidence.
71. It is apparent around 24 September 2021 the VOCC corresponded with ACT Policing, potentially via the ACT ODPP, asking a series of questions in relation to the inclusion of certain material in the brief of evidence that was served on the first defence counsel for Mr Lehrmann. About 7:00am 24 September 2021, it is apparent I had correspondence with the Deputy Chief Police Officer (“DCPO”), Assistant Commissioner Peter Crozier in relation to the matter. About 8:00am this date, I had a telephone conversation with

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- Detective Superintendent Scott Moller in relation to the matter. During the conversation I requested he draft a clear and concise email to the ACT ODPP answering the questions from the VOCC. I also asked that he include clarification in the email with the ACT ODPP in relation to the arrangements regarding ongoing contact with the victim. I requested this in light of the correspondence detailed at paragraph 67, ensuring that service to the victim was maintained and making it clear that ACT Policing had discharged its relevant obligations. About 8:15am I sent communication to the DCPO describing the approach and requesting any feedback if his desired approach was different.
72. Later on 24 September 2021 it was apparent to me that Assistant Commissioner Crozier was not in-situ and I briefed the acting DCPO, acting Assistant Commissioner Linda Champion. She requested further details of what erroneous material had been included in the brief of evidence that was served on defence. I then had a conversation with Detective acting Inspector Damien [Personal Info] who informed me what had been included in error. I then informed acting Assistant Commissioner Champion.
73. Subsequently, about 12:45pm 24 September 2021 I attempted to have a telephone conversation with Commander Michael Chew, who had been the Commander with responsibility for ACT Criminal Investigations at the time of the brief service. However, Commander Chew did not answer my call at that time.
74. About 8:40am 27 September 2021 I received an email from Detective Superintendent Moller requesting advice on how to respond to the Director as he was still awaiting a response in relation to who had made the decision to hand the brief directly to defence, and the reasons for the decision.
75. About 9:40am 27 September 2021 I sent an email to the DCPO, acting Assistant Commissioner Champion describing the issue, stating that remedial actions had been

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Witness

- taken to rectify the situation, detailing the request of the Director, and requesting advice on how to proceed.
76. Later on the morning of 27 September 2021, at the request of the CPO, I had a telephone conversation with Commander Chew. During the conversation he told me he had made the decision for the brief to be served directly on the defendant's solicitor at the time the summons was served, stating:
- a. The brief of evidence had been assessed by the ACT DPP;
 - b. The investigation had been independently reviewed;
 - c. There was a desire to expedite the matter;
 - d. There was a requirement to implement efficiency in the COVID-19 environment; and
 - e. The errors in redacting documents and the inclusion of other documents were an honest mistake by members involved.
77. On 29 September 2021 I had a conversation with the DCPO, acting Assistant Commissioner Linda Champion. She instructed Detective Superintendent Moller should respond to the Director, identifying who made the decision to hand the brief directly to defence, and the reasons for that decision.
78. About 8:00am 30 September 2021 I sent an email to Detective Superintendent Moller, detailing my conversation with Commander Chew, and acting Assistant Commissioner Champion, and requested he respond to the Director, as per the instructions from acting Assistant Commissioner Champion.
79. About 2:03pm 13 October 2021, after a short conversation with Detective Superintendent Moller, I replied to his email confirming that his response to the Director was appropriate.

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 Witness

80. I made notes that are relevant to this aspect of the matter on page 291-3 & 5 of AFP Official Diary 12651. Attached and marked 'Exhibit 17' is a copy of the relevant notes.
81. Attached and marked 'Exhibit 18' is a copy of the relevant emails relating to this aspect of the matter.
82. As far as I can recall, aside from what I have already included in this statement, I did not have any further interactions with other police officers, the DPP/ODPP, Mr Lehrmann, the legal representatives for Mr Lehrmann, Ms Higgins, the legal representatives for Ms Higgins and the VOCC in relation to the investigation up until preparation for trial.
83. I cannot say whether there were any practicality issues with communicating with Ms Higgins through the VOCC during the investigation as my role meant I had no reason to communicate with Ms Higgins.

Preparation and Trial in the Matter of R v Lehrmann

84. I had no direct involvement with the preparation for the R v Lehrmann trial.
85. I had no direct involvement with the *R v Lehrmann* trial.

Impressions of the DPP/ODPP during the investigation

86. I had no direct contact or involvement with the ACT ODPP that was specifically relevant to the investigation or the trial.
87. I was not aware of any breakdown of relationship between DPP/ODPP and ACT Policing during the investigation.
88. Due to not having direct contact or involvement with the DPP/ODPP in relation to the investigation, I cannot provide an impression of the treatment of AFP/ACT officers by the DPP/ODPP during the investigation.

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 witness

Impressions of the Victims of Crime Commissioner during the investigation

89. I had no direct contact or involvement with the VOCC that was specifically relevant to the investigation or the trial.
90. Due to not having direct contact or involvement I cannot:
- a. outline any issues or concerns regarding the VOCC's conduct during the investigation or trial;
 - b. provide any information regarding a breakdown of the relationship between the VOCC and ACT Policing during the investigation or trial;
 - c. provide an impression of the treatment by the VOCC (or her staff) towards ACT Policing officers during the investigation or trial; or
 - d. provide any information regarding ACT Policing officers feeling intimidated by the presence of the VOCC during the investigation or trial.

Bail

91. I had no direct involvement with considerations relevant to bail of the accused.

Media

92. I had no contact with the media in relation to Operation Covina or the R v Lehrmann trial.
93. I had no involvement with communication between the ACT ODPP and ACT Policing in relation to the preparation or implementation of a media plan in relation to the investigation or trial.
94. I had very limited involvement with the investigation, and none at all prior to 23 August 2021. As a result, I am not in a position to comment on whether the level of media involvement in the matter affected the conduct of the investigation.

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Witness

Board of Inquiry

- 95. I have notified my superior officers and immediate colleagues in ACT Criminal Investigations that I was served a subpoena to give evidence at the private hearings, and subsequently that I was served a subpoena to provide a written statement.
- 96. I have maintained regular contact with other members of ACT Criminal Investigations who are involved as witnesses in the Board of Inquiry in order to check their welfare, ensure that their wellbeing is considered in the process and to fulfil my workplace health and safety obligations as a supervisor and colleague.
- 97. I have not communicated any material particular of the evidence that I have given to the Board of Inquiry to anyone other than my legal counsel.

Sworn before me at Canberra in the Australian Capital Territory on 13 April 2023.

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Signature of witness



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BERNARD POWDERLY
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Witness



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