

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 SCOTT JOSEPH MOLLER**

I, Scott Joseph Moller, of Winchester Police Centre, corner Benjamin Way and College Street, Belconnen, in the Australian Capital Territory (ACT), swears as follows:

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

**Background and Professional History**

1. I am a Detective Superintendent with the Australian Federal Police (“AFP”) currently managing the newly formed Unsolved Homicide and Long Term Missing Persons Unit (“UHLTMP”) for the Australian Capital Territory Policing (“ACTP”).
2. My current role, which continues to evolve, involves planning, supervising and managing the strategic direction of all unsolved homicides on long term missing persons investigations in the ACT. Refer to my CV, attached and marked **Exhibit 2**.

**Tertiary Qualifications**

3. I completed a Bachelor of Policing (Investigation) on 19<sup>th</sup> May 2000 and an Associate Diploma of Policing on 6<sup>th</sup> May 1996 with the Charles Sturt University.

**Courses and/or Diplomas**

4. In addition to my tertiary qualifications, I have completed a number of national based internal education courses with the AFP and New South Wales Police Force (“NSWPF”) and a number

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of international courses with the Federal Bureau of Investigation (FBI), and the New York Police Department (NYPD) including the following:

- a. 2022 – ANZCTC Senior Investigating Officers Skills Enhancement Course;
- b. 2018 – AFP Senior Investigations Officers Program (SIO);
- c. 2018 – AFP Executive Criminal Investigation Course;
- d. 2018 – AFP Detective Designation;
- e. 2017 – AFP Police forward Commanders Skills Enhancement Course;
- f. 2013 – AFP Management of Serious Crime (MOSC);
- g. 2013 – PRINCE2;
- h. 2011 – AFP Incident Coordination Centre (ICC) / Major Incident Room (MIR) Command Control and Coordination (C3) training;
- i. 2005 – NSWPF Catsi (Internal Investigators) Course;
- j. 2004 – NSWPF Senior Detectives Program;
- k. 1999 – NSWPF Detective Designation;
- l. 1999 – NSWPF [REDACTED];
- m. 1996 – NSWPF State Protection Support Unit Operators course;
- n. 1995 – NSWPF Patrol Intelligence Training;
- o. 1993 – NSWPF Emergency Management Training; and
- p. 1992 – NSWPF [REDACTED].

#### Employment Chronology

5. Prior to my employment with the AFP, I spent approximately 18 years with the NSWPF the majority as an operational Detective commencing at the Goulburn Police academy in 1990. My career in the NSWPF included:
  - a. April 1990 – attended the NSW Police Academy Goulburn.
  - b. 1990 to 1994 – Constable stationed at Dee Why Police Station. Responsibilities included community policing.
  - c. 1994 to 1997 – Constable attached to Monaro District Anti-Theft Squad Queanbeyan. Responsibilities included investigations into organised property crime.

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- d. 1997 to 2000 – Detective Senior Constable Queanbeyan Detectives. Responsibilities included investigation of serious and complex general crime including all aspects of sexual offending.
- e. 2000 to 2002 – Detective Senior Constable Far South Coast Drug and Property Unit. Responsibilities included establishing the Far South Coast Drug and Property Unit with an emphasis on the investigation and detection of major drug and property related crime from Batemans Bay to the Victorian boarder.
- f. 2002 to 2007 – Detective Sergeant Cootamundra Criminal Investigation. Responsibilities included the management and oversight of serious and complex general crime investigations including all aspects of sexual offending in the Cootamundra Local Area Command including Tumut, Cootamundra, Young and Gundagai.
6. In 2007, a colleague referred me to an AFP advertisement in the Canberra Times [REDACTED] [REDACTED] I ultimately applied and was successful for this position and Commissioned as a Superintendent with the AFP on 22<sup>nd</sup> November 2007. At the time of commencement with the AFP I received no induction or additional training.
7. From 2007 to 2010, I performed the role of [REDACTED]. My responsibilities included managing and leading the daily operations of [REDACTED] nationally and internationally for the AFP.
8. From 2010 to 2011, I performed the role of Duty Officer in the AFP Operation Coordination Centre. I was responsible for managing the AFP response to emerging, critical and major incidents predominantly in situations of immediate crisis.
9. From 2011 to 2012, I performed the role of Coordinator Strategic Systems Management. I was responsible for managing the reporting functions for the AFP and its stakeholders including analysis and reporting on operational activity trends across functions and management of AFP computer systems including PROMIS and [REDACTED]

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10. From 2012 to 2013, I performed the role of Coordinator Strategic Systems Management. I was responsible for managing investigation referrals from the public, client agencies and law enforcement partners on behalf of the AFP. Additionally, I was responsible for the management of controlled operations import and export permits and registrar services for special projects, national property and exhibits and oversight of the AFP Family Investigative Liaison Program (“FILO”).
11. From 2013 to 2014, I performed the role of coordinator Specialist Response Group (“SRG”). I was responsible for the management of specialist policing capabilities in support of AFPs regional and international policing operations. This includes the coordination of the Bomb Response and Appraisal Officers capability, all domestic and international police negotiations, the SRG Dog capability and Tactical Intelligence.
12. From 2014 to 2017, I performed the role of Contingent Commander in Tonga, responsible for managing the Tonga Police Development Program (“TPDP”). This involved managing the development of Tonga Police capability by implementing systems to support enhanced policing skills and operational functionality with a particular focus on the development of infrastructure, core policing skills and systems, leadership and organisational development and community engagement.
13. From April 2017 to December 2017, I performed the role of ACTP Superintendent responsible for the community-based policing response in the south district of Canberra, including Woden and Tuggeranong Police stations.
14. From December 2017 to September 2019, I performed the role of Detective Superintendent ACTP Criminal Investigation responsible for the planning, supervising and managing the strategic direction of criminal investigations to ensure efficient and effective use of resources and high-quality outcomes for ACTP.
15. From September 2019 to December 2019, I performed the role of Contingent Commander in Nauru. I was responsible for managing the Nauru Police Force Police Cooperation Program (“NPFPCP”). My focus was on the development of Nauru Police capacity and capability by implementing systems to support emergency and crisis management skills and operational

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functionality with a particular focus on leadership, organisational development and community engagement.

16. From January 2020 to October 2022, I returned to the role of Detective Superintendent ACTP Criminal Investigation.
17. In October 2022, I commenced as the Detective Superintendent managing the newly formed Unsolved Homicide and Long Term Missing Persons unit responsible for the planning and oversight of all unsolved homicides and long term missing persons in the ACT.
18. In October 2017, I became aware the Detective Superintendent in charge of ACTP Criminal Investigations was retiring and so I approached the Chief Police Officer (“CPO”) and expressed my interest in the position. In November I was informed that I was successful for the position.
19. Having been a Police Officer for 33 years and working as an investigator since 1994 and a Designated Detective from 1999, I have worked on, completed and managed many sexual assault investigations.
20. On appointment to the role of Detective Superintendent Criminal Investigations I was responsible for the overall management of all sexual assault investigation conducted by Criminal Investigations in the ACT.

#### Training and Education

21. Between 1997 and 1999, I underwent the NSWPF Detectives Training Program (“DTP”) as part of that program I completed a number of subjects in relation to sexual assault investigations.
22. Significant technical advancements in investigations have occurred since I completed my DTP, and, as such the practical application of investigation has changed including the use of forensic technology, the emphasis on the investigation of electronic capabilities including mobile phones and internet-based communications. However structured, academic training is only one aspect of the development of an investigator. I firmly believe the most significant position of training is completed whilst undertaking active investigations with the appropriate mentoring and guidance.

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23. Sexual Assault and Child Abuse Team (“SACAT”) is similar to the majority of teams in ACTP Criminal Investigations in the bulk of members are quite inexperienced with approximately two years total policing experience (Detective Sergeant David Fleming’s review in June 2021). Aggravating this issue, only four members of the SACAT team at that time had undertaken and completed the AFP DTP and fewer had completed any specific sexual assault training.
24. Due to ongoing recruitment issues for ACTP and consequently the reduced staffing levels for all areas, the training and experience for recruitment / entry into ACT Criminal Investigations and SACAT in February 2021 was extremely low, the only prerequisite being that members have completed their initial 12-month training period successfully.

#### Organisational Structure

25. In February 2021, I was the Detective Superintendent in charge of ACTP Criminal Investigations. As part of that structure there were two separate portfolios including Organised Crime and Major Crime which reported to me.
26. Detective Inspector (“DI”) Marcus Boorman was the Inspector in charge of Major Crime, he had five Major Crime teams, three SACAT teams and two Homicide teams reporting to him.
27. In relation to the three SACAT Teams, Detective Sergeant Gareth Saunders and Detective Sergeant Todd [WIT\_Persc] both had a team of eight Investigators. Detective Sergeant Jason McDevitt had a team of seven Investigators who all reported to DI Boorman.
28. Refer to the ACT Policing Criminal Investigations Organisational Chart of February 2021, attached and marked **Exhibit 3**.
29. I am no longer attached to ACTP Criminal Investigations.

#### Duties and Responsibilities

30. Investigating sexual assaults is similar to many other crime types we investigate. There are however particular aspects unique to the investigation of sexual assaults. As an investigator,

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broadly your role is to search for the truth, gather evidence, identify offenders, support victims and place any identified offenders before the courts.

31. My philosophy has always aligned with Sir Robert Peel's Principles of Policing that, "the police seek and preserve public favour, not by catering to public opinion, but by constantly demonstrating absolutely impartial service."
32. With sexual assault crime we adopt a victim's centric approach meaning the victim guides the outcome of the investigation.
33. As the Superintendent of Criminal Investigation, I am responsible for the overall management of the area and not individual investigations. The Detective Sergeant's in SACAT manage the individual investigations, they report to the Detective Inspector in charge of Major Crime who in turn reports to me on any issues and I reported to the Deputy Chief Police Officer - Response ("DCPO-R").

#### **Triage Process for Sexual Assault Complaints**

34. Sexual assault complaints are received a number of different ways within ACTP. Complaints can be received by:
  - a. Phoning the ACTP communication centre;
  - b. Reporting to the front counter at one of the police stations;
  - c. Reporting to a police officer at a crime scene;
  - d. An external agency reporting directly to SACAT; and
  - e. Via the Criminal Investigations Reception Officer (CIRO).
35. Generally, the majority of investigations requiring attention from a Criminal Investigations team come through the CIRO for review and allocation. Once reviewed by the CIRO and accepted the investigation is allocated to an available SACAT team.
36. Historical complaints are processed the same way however given they are historical they may not be urgent and as such may be referred with a lower priority.

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37. Investigators from SACAT respond to sexual assault complaint and the expectation in relation to that initial response is detailed in the Better Practice Guide on sexual offences and child abuse investigations and first response. However broad principles include, victim welfare and safety, crime scene management and security and external agency support / contribution.

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

38. As the Detective Superintendent managing Criminal Investigations, I am insulated from the majority of CI investigations given my managerial role however I received daily briefings from the respective Detective Inspectors on the more serious or complex investigations being undertaken by each area. Additionally, each week I had a report prepared for the Deputy Chief Police Officer (“DCPO”) which detailed the investigations I believed required Senior Executive notification and awareness.
39. I had no previous engagement with ODPF for sexual assault matters however did have significant engagement for other crime types.
40. The recent changes in sexual assault investigation has been the introduction of the Criminal Investigations Management Committee (“CIMC”) implemented in August 2022 to oversight the finalisation of sexual assault investigations. Previously the delegation for finalising and or seeking advice for a sexual assault investigation was at the Team Leader level. From August 2022, this delegation moved to a panel involving the Criminal Investigations Management team at the direction of DCPO Crozier and in response to the Sexual Assault Prevention and Response Steering Committee.
41. Once a determination is made to progress to prosecution the investigator compiles the brief of evidence and forwards it to his Team Leader for review. This review should concentrate on determining if there are any additional lines of enquiry and ensuring the proofs of the offence are met and so on. If endorsed, the brief will be forwarded to the Criminal Investigations Adjudication and Processing (CIAP) Sergeant. The CIAP Sergeant takes on a quality assurance role specifically looking at redactions, disclosure and sufficiency of evidence. If supported, the CIAP will forward the brief to Judicial Operations (JO) who manage the functionality of the electronic brief, upload to the portal and coordinate the distribution of the material. The only change to this process is the introduction of the CIMC as discussed earlier.

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42. Communication with victims of crime is a key priority for ACTP investigations and is mandated under the Charter of Victims rights and required every six weeks unless otherwise dictated by or negotiated with the victim.
43. ACTP utilise a trauma-informed and victim-centric principles when investigating sexual assault investigations. Unlike other investigations, the victim leads and directs the investigation and investigators will support the victim's desires. Unlike other investigations and using a theft as an example, investigators may have CCTV footage which corroborates the theft and will proceed even if the victim does not support the investigation.
44. Investigators must conduct a comprehensive investigation in their pursuit to identify the truth. Once all avenues of inquiry have been finalised investigators are required to make a decision on whether the matter should proceed or not. The test is, do you as an investigator have an honest belief of the suspect's guilt given a proper consideration of all of the admissible evidence you have collected. You must also have a honest and reasonable belief that you case is capable of being successful. Corroborative evidence is important however uncorroborated evidence may be sufficient for an investigator to reach an honest belief however I believe an exhaustive search for the truth will usually develop some form of corroboration. Some considerations for investigators in reaching an honest belief can include the strength of the victims account and honesty, crime scene evidence including forensic evidence, alleged suspect account including interview etc., the absence or inclusion of digital and/or electronic evidence from phones and CCTV. Finally, motive is also important to contemplate, if for example a victim approaches in relation to her child being assaulted and is currently involved in a custody dispute with the child's husband then investigation of that is necessary.
45. There is no doubt sexual offence offending should never be accepted in any form. Victims of such offences must be treated with dignity and respect. However, these views should not compromise the integrity. My understanding of the threshold to charge a person with a sexual offence is changing, there is significant external and internal pressure to erode the threshold and the investigators independent and objective search for the truth. It appears to me that this is in response to public discourse about the treatment of survivors in the criminal justice system.

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46. As an example, the recent ACT Government report by the Sexual Assault Prevention and Response Steering Committee records one of its aims is “to ensure victims survivors know that when they disclose sexual violence they will be believed” as addressed on page 11. This is fundamentally at odds with the investigative function of Police and the purpose of the criminal justice system (judiciary and juries). We as police are the first ‘filter’ to ensuring the integrity of the criminal justice system. The judiciary and the community require and expect Police to critically assess all available information and evidence in determining if the threshold to charge has been met.
47. The role of Police is to search for the truth, which requires a critical review of all evidence. Unfortunately, ACTP has supported the deterioration of this investigative process by initiating the Criminal Investigation Management Committee removing the Investigators and their Sergeants decision making and elevating that decision making to a panel of senior officers who are predominately influenced by the organisations senior executive. This has caused an influx of referrals to the DPP for advice as the panel are hesitant to make a decision due to the internal and external pressures. Additionally, it causes a significant delay in the progress or finalisation of the investigation which in my view causes greater anxiety for victims. This is also the only crime type were a decision-making panel is utilised.
48. Should additional information or evidence be required from a complainant, investigators are required to contact the complainant and arrange a suitable time for the statement or information to be obtained. Ideally this further evidence should be obtained through a second EICI however it can be obtained in any form including via a written statement.
49. Once a decision has been made in relation to the progression or not of the investigation, the Investigator will make contact with the complainant to advise them of the next steps in the process.
50. In my opinion, sexual assault investigations are viewed as difficult given the excessive workload, lack of experience in the area, lack of specific training and the internal and external scrutiny on members. Sexual assault investigations also utilise the trauma-informed and victim-centric principles which is different from other criminal investigation processes.

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51. With respect to sex crimes, investigators have a structured “meet and greet” process with victims and the information they share. Investigators explain the different roles support agencies have and discuss the “wrap around” support agencies and their strategy. Further and one of the more important aspects is the investigators discussion concerning the victim’s welfare is a priority. During the initial meet and greet, investigators use statements like, ‘your welfare is our first priority’, ‘you can make your decision about whether to proceed when you like’, ‘you can provide a statement or not’, ‘during the investigation period you may withdraw your statement and not have the matter proceed’ and ‘police will support your decision’.
52. If a victim wishes to discontinue an investigation and advises the investigators, the matter will be discontinued, the investigation is updated, and the Team Leader advised. This process has not changed.
53. In my opinion, the underlying cultural view in SACAT is extremely supportive of victims, whether the matter involves an immediate response or one that is delayed the Investigators are in Criminal Investigations because they are passionate about their work and even more so for members within SACAT. In my view the response by SACAT members is the same for matters where the complaint has been reinstated.

#### Challenges, Issues and/or Pressures

54. SACAT has continually suffered from a high workload, reduced staffing levels, inexperienced investigators and a lack of training. Further, the continual movement of staff specifically Team Leaders significantly impacts mentoring and supervision which stalls the development of investigators.
55. In an attempt to manage the workload pressures internally I made a decision on 22<sup>nd</sup> July 2020 to temporally close the Fraud and Security Team, suspend all the fraud investigations and redistribute the associated staff to meet excessive demands in other crime types. Refer to the email sent by Detective Sergeant [WIT\_Personal] to myself regarding Fraud Team temporary cessation, attached and marked **Exhibit 4**.
56. Recognising that the issues were continuing in June 2021, I commissioned a review into the operational environment in which SACAT operates and to evaluate current practices and policies

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regarding sexual assault investigations and operations. The review concentrated on identifying efficiencies which could be implemented to support the strategic direction of Criminal Investigations while addressing workload, mental health/wellness of investigators and to ensure sexual assault investigation best practice is being applied and is fit for purpose in the ACTP operating environment. Refer to the Sexual Assault and Child Abuse Team Review, attached and marked **Exhibit 5**.

57. Unfortunately, I was still unable to influence the allocation of staff or a reduction in workload. I raised this issue regularly with Commander Chew at our weekly meetings and highlighted staffing issues and challenges via the Commanders briefing.
58. Further, so troubled by the lack of support, I emailed Commander Chew on 27 July 2021 articulating the drastic staffing and workload issues being experienced. An extract from this email stated: "As discussed our current position is not sustainable and from Friday 30 July 2021 Crime will have 5 Detective Sergeant vacancies and one Detective Inspector vacancy". "The welfare of Crime members has been deteriorating for some time under the constant strain of additional work loads, reduced numbers and a lack of consistent supervision and has become a significant issue now". Refer to this email sent by myself to Commander Chew on 27 July 2021 regarding staffing and workload issues, attached and marked **Exhibit 6**.
59. These issues continued and progressively got worse with the requirement to provide a response to COVID-19. From September 2021 to December 2021, I was directed to redeploy 40 operational investigators approximately 40% of the total staff to the COVID-19 Taskforce to complete compliance activities. This had a significant impact on the operational effectiveness and ability for Criminal Investigations to manage their workloads and conduct investigations. Refer to ACT Policing Criminal Investigations Major Investigations & Hot Issues dated 10 September 2021, attached and marked **Exhibit 7**.
60. This situation has now improved for SACAT with the introduction of a Detective Inspector and an additional Detective Sergeant position which added an additional layer of supervision dedicated to the overall command of sex crimes, however the challenges with identifying Investigators and filling teams remains and will continue because there are insufficient resources in ACTP to manage the workload and community expectations.

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

61. I have read the Sexual Assault Prevention and Response Steering Committee's report titled "Listen. Take Action to Prevent, Believe and Heal" published in December 2021 (the Steering Committee's Report).
62. Initially A/Detective Sergeant Lysa [WIT\_Personal\_Information] and Detective Sergeant Michael [WIT\_Personal\_Information] were allocated to represent ACTP on the Response Working Group and report through A/Detective Inspector Damien [WIT\_Personal\_Information] to me.
63. The briefings I received in relation to ACTP staff interaction at this group was that they were not listened to, and their opinion was not valued by the group specifically in relation to the recommendations. Detective Sergeant [WIT\_Personal\_Information] informed me that he had serious concerns around the governance of the Working Group given the Victims of Crime Commissioner Heidi Yates was the Chair of each of the Working Groups as well as sitting on the Steering Committee and her office was responsible for the secretariat duties associated with each Working Group. Minutes from the groups were not circulated and endorsed by each Working Group member and some of the recommendations were not reflective of the group's discussions and decisions. Refer to emails from Detective Sergeant [WIT\_Personal\_Information] dated 19 October 2021 and 27 October 2021, attached and marked **Exhibit 8**.
64. ACT Policing implemented a Sexual Assault and Response Team led by Detective Inspector [WIT\_Personal\_Information] to address recommendations from the Steering Committee's report. Detective Inspector [WIT\_Personal\_Information] reports through a different chain of command, and I have no involvement or visibility of this process.
65. It appears to me there has been a cultural shift in the ODPP since the Steering Committee's Report was circulated with Prosecutors now of a pro-charge mindset. By way of example, in November 2021 I was briefed on the outcome of the SACAT Planning and Training Day.
66. As part of that training, Skye Jerome and Andrew Chatterton from the DPP were invited to attend and present to SACAT members on Evidence in Chief Interviews, Complaint evidence, evidential value and admissibility of counselling notes, Forensic Evidence, Uncharged Acts –

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prior domestic violence – admissibility and a Q&A session. The briefing I received from Detective Inspector Callum Hughes was that Skye Jerome was dismissive and condescending of the Investigators and that many of the investigators were offended by the way she had presented. Additionally, I was informed she has stated that in sexual assault investigations, “an EICI and statement of complaint is sufficient to go ahead... because Police are not the finder of facts.” These comments astounded me. Refer to an email from Detective Sergeant [REDACTED] attaching the final programme for ACTP SACAT offsite Planning and Training Day 21 November 2021 attached and marked **Exhibit 9**.

67. In my opinion, there has been significant enhancements to the oversight of investigations in SACAT since the release of the report which has added additional process and time pressures to the decision making in that area. The culture in my view has always been one of dedication and devotion to the discovery of admissible evidence, this has not changed however removing the decision making has negatively impacted on moral and their value in the sexual assault judicial process. Specifically, ACTP Criminal Investigations underwent a restructure to include a Detective Inspector with the primary responsibility and oversight of sex crime investigations. Further, I was directed to develop and implemented a model to oversight decision making for matters were Investigators believed there was insufficient evidence to proceed.

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

68. Prior to the commencement of the investigation into the allegation made by Ms Brittany Higgins (“Ms Higgins”) concerning Mr Bruce Lehrmann (“Mr Lehrmann”) (“the Investigation”) the ACTP relationship with the ODPP, from a management perspective, I felt was professional. From the briefings I received, the communication was good yet at a transactional level, there was the usual disagreements over the way the court cases were progressed.
69. During 2021, I was not involved in any regular meetings in respect to sexual offence matters, except for those that related specifically to the Investigation.
70. My relationship with the ODPP was positive, I worked with Deputy Director of Public Prosecutions Anthony Williamson on progressing a joint relationship between the ODPP and ACTP Financial Investigation Team (“FIT”) to progress investigations and prosecutions under the *Confiscation of Criminal Assets Act 2003* (ACT) (the Act).

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71. As part of the development of this capability and the progression of investigations, I had frequent dealings with a number of prosecutors including the following:

- a. Dave [REDACTED]
- b. Kate [REDACTED]
- c. Rory [REDACTED] and
- d. Kiara [REDACTED]

72. I worked closely with these prosecutors as the “Authorised Investigator” during many examinations. All of my contact with these members of the ODPP was positive and I felt there was good communication and mutual respect.

73. I have had no dealings of any significance with Mr Mitchell Greig, Ms Sarah Pitney, Ms Erin Priestly, and Mr Andrew Chatterton or Ms Skye Jerome prior to the commencement of the investigation and was not involved in any formal meetings to discuss the conduct of any investigations concerning sexual assaults.

74. I cannot recall any specific discussions in relation to media messaging for investigations concerning the confiscation of assets. Any media conducted by ACTP members is organised and managed through the ACTP Media team.

#### Victims of Crime Commissioner

75. I had limited involvement with the Victims of Crime Commissioner (“VCC”) Heidi Yates. I remember supporting her on the establishment of the Intermediary Program in September 2018, which involved promoting the program in my organisation and sending investigators to a forum she had arranged. Refer to email correspondence between the VCC to myself regarding this Intermediary Forum dated 13 September 2018, attached and marked **Exhibit 10**.

76. I also attended the launch of this program sometime later, during which I participated in a joint media stand-up with the VCC and the Attorney General. From my experience and previous interactions with the VCC, I felt like I had a professional and respectful relationship and I treated

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and regarded her as the head of that organisation, similar to my Commissioner. I felt that her role was to manage the overall strategic direction of her organisation.

77. The involvement of the VCC in the investigation was in my opinion inappropriate. Her position intimidated my staff and made investigators question their strategies. I personally found her involvement frustrating and cumbersome, and she made it difficult for ACTP to contact the victim. I could not understand why the head of an organisation was providing the role of “support person” to an alleged victim of a sexual assault. I also felt that the VCC was attempting to place a barrier between investigators and the alleged victim.
78. I had no interactions with the VCC in relation to any other sexual offence investigations.

#### The Investigation

79. On or about the 1<sup>st</sup> April 2019, I became aware of the Investigation as part of my regular briefings by Detective Station Sergeant Matthew [WIT\_Personal] and as such it was included in the DCPO weekly briefing. Refer to the DCPO Weekly Brief by Detective Station Sergeant [WIT\_Personal] dated 5 April 2019, attached and marked **Exhibit 11**.
80. As the Detective Superintendent in charge of Criminal Investigation, I was not involved in the initiation of the investigation and delegated that task to Detective Station Sergeant Matthew [WIT\_Personal]. I am aware from my briefings that Constable Sarah Harman from SACT had commenced the investigation. Refer to email correspondence between myself, Detective Sergeant [WIT\_Personal] and Constable Harman regarding SACT commencement of The Investigation dated 9 April 2019, attached and marked **Exhibit 12**.
81. I became aware the investigation had recommenced on Monday 8 February 2021 and received a briefing document from Detective Inspector Boorman, authored by Detective Sergeant Gareth Saunders on that day. The significant aspects of that briefing for me was that Ms Higgins was not willing to provide a formal statement at that time and wanted to delay providing the statement until after a news article by journalist, Samantha Maiden had been published and that she had already participated in an interview with Lisa Wilkinson which was to be aired on “The Project” on Monday 15 February 2021. I did not understand why Ms Higgins had chosen to involve the media prior to providing Police with a formal statement however my briefing articulated that Ms

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Higgins wanted to ensure the investigation was “active” to support the media releases. This had me immediately suspicious and questioning the motives of Ms Higgins for reporting the incident. This strategy by Ms Higgins significantly hindered the investigation as it was also extremely difficult for Investigators to progress the investigation without a statement of complaint. Refer to the report prepared by Detective Sergeant Saunders regarding the recommencement of The Investigation dated 7 February 2021, attached and marked **Exhibit 13**.

82. On 7<sup>th</sup> June 2021, I prepared a report seeking direction from my Manager Commander Chew in relation to the investigation. The report was titled “alleged sexual intercourse without consent, Australian Parliament House 23<sup>rd</sup> March 2019”. On 16<sup>th</sup> June 2021 Commander Chew returned my report with a cover sheet directing, “at the same time a copy of the report and associated document be sent to CMDR Smith for a “red team” assessment”. Refer to this cover sheet from Commander Chew to myself directing the report and associated document be sent to CMDR Smith for a red team assessment dated 9 June 2021, attached and marked **Exhibit 14**.
83. On the 18<sup>th</sup> June 2021 I forwarded an email to Commander Smith requesting a “red team” assessment of the investigation as directed by Commander Chew. Refer to email correspondence between myself, Commander Smith and Commander Chew regarding a “red team” assessment dated 18 June 2021, attached and marked **Exhibit 15**.
84. On the 3<sup>rd</sup> August 2021 I received a report titled “Review of Operation Covina (PROMIS 6381473)” authored by Commander Smith.
85. Under the heading, conduct of review, describe your findings, Commander Smith wrote:

“Based on the material considered, the review team has formed an opinion that the investigation was conducted in a thorough, reasonable and proportionate manner, adhering to the lawful requirements for interviewing suspects and witnesses. The exercise of search, seizure and examination of the material was lawful, utilising either consent or warrant. The investigation team applied a critical and analytical mindset to the material which identified their avenues of inquiry. The review team did not identify any significant additional avenues of inquiry. There is nothing to suggest that the investigation was inadequate or unprofessional.”

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86. Refer to the red team review by Commander Smith dated 3 August 2021, attached and marked **Exhibit 16**.

**Interactions with AFP / ACT Policing officers**

87. During the investigation I had significant interactions with AFP/ACTP officers. As part of my role, I obtained regular briefings from Criminal Investigation staff and provided regular/daily verbal briefings and weekly written briefings to my Commander who initially was Commander Mark Walters then Commander Michael Chew and finally A/Commander Hall O’Meagher.
88. I recall, at the commencement of the investigation in March 2019 being briefed by Detective Station Sergeant (DSS) Mathew [WIT\_Personal] about an allegation of sexual assault at Australian Parliament House (“APH”). At this time, I was concerned about the allegation that the crime scene had potentially been cleaned up and any potential forensic evidence lost. At this time, the oversight of the investigation was delegated to DSS Mathew [WIT\_Personal].
89. At 3pm on Thursday 28 March 2019, I was requested to attend the senior most strategic meeting for ACTP, the ACTP Senior Executive Committee meeting (“SEC”) at Winchester Police Centre, Belconnen and required to brief the forum on the allegation and proposed investigation strategies in relation to the allegation of sexual assault at APH. At this time there was concern surrounding the potential interference of the crime scene and the division of the two distinct aspects of the investigation being the alleged security breaches at APH and the allegation of sexual assault. Further there was discussion about potential media talking points and releases. I felt at this time that the investigation was far more about the location of the alleged offence rather than the alleged sexual assault. Refer to the calendar invitation to ACTP Senior Executive Committee meeting dated 28 March 2019 and associated minutes, attached and marked **Exhibit 17**.
90. On Thursday 4<sup>th</sup> April 2019, I received an email from Commander Paul Osborne via Commander Mark Walters detailing the proposed media talking points for the investigation. Refer to this email from Commander Walters to myself regarding proposed media talking points concerning The Investigation dated 4 April 2019, attached and marked **Exhibit 18**.

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91. On Friday 5<sup>th</sup> April 2019 I approved the DCPO-C weekly briefing document and forwarded it to Commander Walters. Detailed within that report is a summary of the sexual assault allegation and proposed investigation strategies. Refer to the DCPO-C Weekly Brief approved by myself dated 5 April 2019, attached and marked **Exhibit 19**.
92. On Friday 3<sup>rd</sup> May 2019 at 10.45am, Commander Walters requested a briefing on the investigation and its progress. I explained the victim did not want to pursue an investigation. Commander Walters requested I have this further confirmed. I remember Commander Walters then strategising about how to navigate the continued reach in from other areas of the AFP. I left that meeting and then spoke with DSS Mathew [WIT\_Personal] and requested he confirm Ms Higgins did not want to progress with her complaint. Refer to my AFP diary notes dated 3 May 2019, marked **Exhibit 20**.
93. I was then briefed that Acting Detective Sergeant (“ADS”) Heath Langlands contacted Ms Higgins to ensure she had not been influenced into not progressing with her complaint. Ms Higgins advised, “she made the choice of her own free will.” Ms Higgins “understands why [ADS Langlands] asked the question and was appreciative of the enquiry.” Refer to this case note entry ID 152464779 by ADS Langlands, attached and marked **Exhibit 21**.
94. On Friday 3<sup>rd</sup> May 2019 I had a discussion with DSS Mathew [WIT\_Personal] who was concerned that the Organisational desire and pressure to investigate the potential security breaches and potential interference with the crime scene was overshadowing the ACTP sexual assault investigation and without a victims statement ACTP could be breaching a number of ACT Acts. Refer to the email from DSS Reynolds to myself regarding The Investigation dated 3 May 2019, attached and marked **Exhibit 22**.
95. For the following months discussion continued however from the investigation perspective the complainant did not wish to provide a statement or continue with her complaint, so the matter was suspended. A number of inquiries continued in line with CI investigation practices to ensure any perishable evidence was secured should the complainant wish to change her mind. I remember being briefed by DSS Mathew [WIT\_Personal] on an issue of obtaining [WIT\_Confidential\_sensitive\_Th  
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Refer to email from myself to Detective Senior Sergeant [WIT\_Personal] with attachments dated 27 March 2020, attached and marked **Exhibit 23**.

96. On Monday 8<sup>th</sup> February 2021 I recall receiving a briefing from Detective Inspector (“DI”) Boorman in relation to the investigation. Shortly after this briefing at approximately 8.15am I met with DCPO Chew and briefed him on the investigation and a number of other investigations. After this meeting with DCPO Chew I met with DI Boorman and he handed us a report on the investigations. Refer to this report by Detective Inspector Boorman regarding the activation of The Investigation dated 7 February 2020, attached and marked **Exhibit 24**. Refer to my AFP diary notes dated 8 February 2021, attached and marked **Exhibit 25**.
97. About 9.00am this date I had a further conversation with DCPO Chew in relation to audio recordings of conversation between Ms Higgins and a number of high office holders she had recorded and handed to Investigators. We discussed the need to access and listen to the recordings so I retrieved exhibit number 480458 from the SACAT office and listened to the recordings. I then briefed DCPO on the contents of those recordings. Refer to my AFP diary notes dated 8 February 2021, attached and marked **Exhibit 25**.
98. At 8am on Tuesday 9<sup>th</sup> February I went to the Edmund Barton Building, AFP Headquarters and briefed the Chief Police Officer (“CPO”) in relation to the investigation. I recall speaking about my concerns with regards to ACTP being responsible for the investigation of misconduct at the crime scene and potential misconduct of high office holders. My view was the allegation of sexual assault should be completed by SACAT and the other allegation should be investigated by another area within AFP. The CPO was supportive of my strategy. Refer to my AFP diary notes dated 9 February 2021, attached and marked **Exhibit 26**.
99. Later this day I met with DCPO Chew and DI Boorman and we discussed strategies for the investigation and the requirement to send a briefing to the Sensitive Investigations Oversight Board (“SIOB”). I recall this meeting as I was nominated/appointed as the Senior Investigating Officer (“SIO”). Sometime after this meeting I recall editing a draft SOIB briefing paper and later that evening I received a final copy of that briefing paper. Refer to the SIOB briefing paper

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and associated email from my meeting with Commander Chew and Detective Inspector Boorman regarding investigation strategies dated 9 February 2021, attached and marked **Exhibit 27**.

100. At 8am on Wednesday 10<sup>th</sup> February I met with CPO and briefed him on the contents of the SIOB paper. Refer to my AFP diary notes dated 10 February 2021, attached and marked **Exhibit 28**.
101. On Monday 15 February 2021 I reviewed media reporting in relation to the investigation and then briefed DCPO. During that briefing I discussed the requirement as per the AFP Senior Investigating Officers Guide to stand aside from my normal role and be dedicated to the investigation. At that time DCPO Chew was not supportive of me standing aside given the lack of substantive Inspectors and Sergeants in CI. Refer to my AFP diary notes dated 15 February 2021, attached and marked **Exhibit 29**.
102. On Friday 26<sup>th</sup> March 2021 I received a briefing document for the investigation titled “Hot Issues points for Commissioners brief re: Op Covina”. I reviewed that document and forwarded to DCPO. Refer to an email from Detective Inspector Boorman to myself and Commander Chew regarding the briefing document for the investigation dated 26 March 2021, attached and marked **Exhibit 30**.
103. On 26<sup>th</sup> March 2021 I briefed DCPO on the difficulty Investigators were having in relation to meeting with Ms Higgins and the growing concerns Investigators had in relation to Ms Higgins providing her mobile phone. Refer to my AFP diary notes dated 12 March 2021, attached and marked **Exhibit 31**.
104. I remember in April 2021 I had a discussion with DI Boorman in relation to getting independent legal advice in relation to the investigation and I instructed him to commence gathering the required information to obtain that advice.
105. On Tuesday 13 April 2021 I attended a Special Projects Committee (“SPC”) meeting in relation to a Legislative restriction [REDACTED] A short time later I met with AFP Legal, Natalee WIT\_Personal\_It from FOI and we had a discussion in relation to an FOI request for the investigation.

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106. About 2.30pm this date I attended the Response weekly meeting with DCPO Chew and briefed him that the Investigation was progressing with interview of alleged offender planned for Thursday. Refer to my AFP diary notes dated 13 April 2021, attached and marked **Exhibit 32**.
107. On Friday 16<sup>th</sup> April I met with DCPO Chew and advised him that the Investigation team was planning to interview Mr Lehrmann in Sydney on Monday 19<sup>th</sup> April 2021 given he was not in Queensland at this time. Refer to my AFP diary notes dated 16 April 2021, attached and marked **Exhibit 33**.
108. On Monday 19 April 2021 I spoke to Acting Assistant Commissioner Schofield from AFP Sydney officer re the expected interview of Mr Lehrmann in the AFP Sydney Office on this day. Refer to my AFP diary notes dated 19 April 2021, attached and marked **Exhibit 34**.
109. On 20<sup>th</sup> April 2021 I met with CPO and provided him a briefing in relation to the interview conducted with Bruce Lehrmann. Shortly after this discussion I had a conversation with the Manager Media and Public Affairs for the AFP Renee [WIT\_Persons] I briefed her on the progression of the investigation. Refer to an email sent by myself to Renee [WIT\_Persons] of the AFP Media and Public Affairs Manager dated 20 April 2021, attached and marked **Exhibit 35**. Refer to my AFP diary notes dated 20 April 2021 between pages, attached and marked **Exhibit 36**.
110. On Wednesday 21<sup>st</sup> April 2021 I attended an investigation team meeting managed by DI Boorman in relation to an update on the Investigation. Instructions were given to the team to prepare a preliminary brief of evidence. Refer to my AFP diary notes dated 21 April 2021, attached and marked **Exhibit 37**.
111. On Monday 24 May 2021 I briefed DCPO in relation to the proposed upcoming interview of Ms Higgins. Refer to my AFP diary notes dated 24 May 2021, attached and marked **Exhibit 38**.
112. On Wednesday 26<sup>th</sup> May 2021 about 8.30am I met with the investigation team and discussed the Investigation. About 9.00am with DI Boorman and D/Sgt Saunders I walked to Belconnen Police Station where I met with Ms Higgins and VCC Heidi Yates. I introduced myself and we all discussed the Investigation. During this discussion I requested Ms Higgins refrain from any more

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media as it may influence any upcoming court proceedings or trial. Refer to my AFP diary notes dated 26 May 2021, attached and marked **Exhibit 39**.

113. On Thursday 27<sup>th</sup> May 2021 I had a meeting with the Investigation team in relation to messages located on Ms Higgins phone. The team had identified 32776 text messages and 17353 media files. They highlighted a number of conversations to me. A short time later I had a discussion with DCPO and briefed him on the contents of the phone. He directed me to finalise the report on the investigation. I also requested independent legal advice for the investigation however DCPO stated he had discussed this with CPO and their view was the ODPP would provide ACTP with legal advice. Refer to my AFP diary notes dated 27 May 2021, attached and marked **Exhibit 40**.
114. On Friday 28<sup>th</sup> May I had a meeting with DCPO in relation to the investigation. During that discussion I briefed him on the requirement for additional staff to review the phone however DCPO directed the review should be done in house. Refer to my AFP diary notes dated 28 May 2021, attached and marked **Exhibit 41**.
115. On 3<sup>rd</sup> June 2021 I remember a discussion with DI Boorman in relation to him and the investigation team not believing they had met the required threshold to charge the suspect (Mr Lehrmann) in relation to the investigation. After this discussion I agreed and requested a brief be prepared for forwarding to DCPO for decision.
116. On 4<sup>th</sup> June 2021 I had a meeting with DI Boorman and he provided me with a copy of a report he had prepared in relation to the investigation. I reviewed this report and then prepared a covering report which I provided to DCPO. Refer to this executive briefing document seeking direction in relation to Operation Covina dated 7 June 2021, attached and marked **Exhibit 42**.
117. On Wednesday 16<sup>th</sup> June 2021 I remember receiving the Executive Briefing Report I had completed on the Investigation back from DCPO with his decision articulated on the cover sheet. After receiving this report I contacted DI Boorman and discussed DCPO directions. Refer to the cover sheet outlining the decision from DCPO, attached and marked **Exhibit 43**.

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118. On 17<sup>th</sup> June 2021 at approximately 10am with DI Boorman I met with DCPO and we had a discussion in relation to his direction to forward the brief of evidence and reports to the DPP for advice. I informed DCPO I thought there was insufficient evidence to proceed. Refer to my AFP diary notes dated 17 June 2021, attached and marked **Exhibit 44**.
119. On Friday 18 June 2021 I forwarded a copy of the Op Covina reports and file path for access to the electronic brief of evidence to Commander Smith as per DCPO direction. Refer to the email correspondence from myself to Commander Smith containing access to the electronic brief of evidence dated 18 June 2021, attached and marked **Exhibit 45**.
120. On 21<sup>st</sup> June 2021 I had a discussion with DI Boorman in relation to the investigation and service of the brief on the ODPP. Then with DI Boorman, I attended the offices of the ODPP and DI Boorman handed Mr Drumgold's Executive Assistant a USB stick containing the electronic copy of the preliminary brief of evidence in respect to the Investigation as well as the Executive Briefing reports and cover sheet prepared by myself, DI Boorman and DCPO Chew. Refer to my AFP diary notes dated 21 June 2021, attached and marked **Exhibit 46**.
121. On 12<sup>th</sup> July 2021 I met with DI Boorman and travelled to Brisbane for a proposed meeting with Ms Higgins. On arrival in Brisbane, we travelled to the Brisbane AFP office and met with Commander Donohough who we briefed on our proposed meeting with Ms Higgins. Refer to my AFP diary notes dated 12 July 2021, attached and marked **Exhibit 47**.
122. On 30 July 2021 I recall being briefed by DI Boorman in relation to communication from Mr David Sharaz in which Mr Sharaz had indicated Ms Higgins was at the point of withdrawing.
123. On 19<sup>th</sup> July 2021 I met with DI Boorman and directed the brief of evidence for the Investigation was to be finalised that week. Refer to my AFP diary notes dated 19 July 2021, attached and marked **Exhibit 48**.
124. On 22<sup>nd</sup> July 2021 I had a discussion with the Digital Forensic Team in relation to the investigation and the urgency for preparation of the brief of evidence to be finalised by Wednesday 28<sup>th</sup> July 2021. Refer to my AFP diary notes dated 22 July 2021, attached and marked **Exhibit 49**.

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125. On 29<sup>th</sup> July 2021 I spoke with Manager Media and Public Affairs for the AFP Renee [WIT\_Personal] re the Investigation. Refer to my AFP diary notes dated 29 July 2021, attached and marked **Exhibit 50**.
126. On 30<sup>th</sup> July 2021 I met with DI Boorman and we discussed a possible media release being contemplated by Ms Higgins. Later that morning I contacted Commander Chew and briefed him in relation the possible media engagement being contemplated by Ms Higgins. Commander Chew directed us to travel to Brisbane the following week to talk with Ms Higgins and serve summons on Lehrmann for one count of sexual intercourse without consent as per the legal provided by DPP.” I then spoke with DI Boorman and conveyed Commander Chew’s direction. I then contacted Manager Media and Public Affairs for the AFP Renee [WIT\_Personal] and advised her in relation to the direction of the investigation. Refer to my AFP diary notes dated 30 July 2021, attached and marked **Exhibit 51**.
127. On Monday 2<sup>nd</sup> August 2021 I met with Commander Chew in the Response portfolio meeting. During this meeting I provided him with an update on the Investigation. Refer to my AFP diary notes dated 2 August 2021, attached and marked **Exhibit 52**.
128. On Monday 3<sup>rd</sup> August 2021 I spoke with Commander Chew and briefed him in relation to DI Boorman’s [REDACTED]. A short time later I again spoke with Commander Chew regarding an anticipated time frame for service of summons. Later that day I had another conversation with Commander Chew in relation to the adjudication for the Investigation. Commander Chew said, “no need for adjudication we have had it independently reviewed and have legal advice, so no need to have it adjudicated, serve the brief at time of summons.” I then spoke with Det Sgt Rose and advised him of Commander Chew’s direction. Refer to my AFP diary notes dated 3 August 2021, attached and marked **Exhibit 53**.
129. On 5<sup>th</sup> August 2021 I received a call from Assistant Commissioner Crozier who directed me to cancel my prearranged teleconference with Ms Higgins and not to have any contact with her until after the summons was served on Mr Lehrmann.

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130. Later that same day I briefed Commander Chew and we had a discussion surrounding the service of the summons on Mr Lehrmann. I said, “everything is planned for service to take place on Friday 6<sup>th</sup> August 2021 in Sydney, arrangement made for a vehicle to drive the brief of evidence and an original summons to the outskirts of Sydney and hand over to Sydney based Detectives who will serve on Defence, John Korn. This is outside of our normal procedures, normally we go through the AP Sgt for adjudication, I think we should still do this?” Chew said, “we can’t mate, we have had it reviewed and I’m comfortable with that, let’s just get it served and move on.” I said, “ok we’ll get it done tomorrow, and I’ve got my meeting with Heidi Yates and Ms Higgins tomorrow”. Refer to my AFP diary notes dated 5 August 2021, attached and marked **Exhibit 54**.
131. On 6<sup>th</sup> August 2021 I had a discussion with Commander Chew regarding the Investigation. Later that day I spoke with Detective Cilla [WIT\_Personal] from Sydney Office and received an email re the Affidavit of Service. Refer to this email from Detective [WIT\_Personal] to myself regarding the Affidavit of Service dated 6 August 2021, attached and marked **Exhibit 55**.
132. I then advised Commander Chew the briefing with Ms Yates and Ms Higgins had been completed. Refer to my AFP diary notes dated 6 August 2021, attached and marked **Exhibit 56**.
133. I then had a conversation with Detective Sergeant Rose who confirmed with me the brief of evidence in relation to the Investigation had not been served however he would arrange for Detective Cilla [WIT\_Personal] who still had access to ACTP CI drive to download the brief and serve a copy on Mr Korn. Refer to my AFP diary notes dated 6 August 2021, attached and marked **Exhibit 56**.
134. As part of the Investigation I received, endorsed and forwarded a number of documents to my Commander including:
- a. Executive brief authored by D/Sgt Saunders. I received this document from DI Boorman and forwarded it to my Commander for his information. I did not receive a written response.

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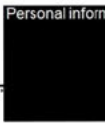


- b. SIOB briefing paper authored by D/Sgt Saunders 9<sup>th</sup> February 2021. I received this document from DI Boorman and forwarded it to Commander Chew. I did not receive a written response.
- c. SIOB briefing paper authored by D/Sgt McDevitt 2<sup>nd</sup> March 2021. I received this document from DI Boorman and forwarded it to Commander Chew. I did not receive a written response.
- d. Hot issues briefing paper authored by D/Sgt Saunders 19<sup>th</sup> March 2021. I received this document from DI Boorman and forwarded it to Commander Chew. I did not receive a written response.
- e. AFP Minute authored by DI Boorman 14<sup>th</sup> April 2021. I received this document via email at the same time as Commander Chew from DI Boorman. I did not receive a written response.
- f. AFP Minute authored by DI Boorman 4<sup>th</sup> June 2021. I requested this document and forwarded it to Commander Chew.
- g. AFP Executive Brief I prepared and forwarded to Commander Chew attached to the AFP Minute authored by DI Boorman 4<sup>th</sup> June 2021. I received a cover sheet response from Commander Chew.

135. On Tuesday 13 September 2022 I received an email from Rachel Fisher Kamy Saeedi Law. On Wednesday 14<sup>th</sup> September 2022 I forwarded this request to Commander Cameron. Refer to this email from Rachel Fisher to myself dated 13 September 2022 and my email onto Commander Cameron dated 14 September 2022, marked **Exhibit 57**.

136. On Thursday 15<sup>th</sup> of September 2022, I was at home sick when I received a phone call from Commander Cameron, she informed me of a meeting taking place involving AFP Legal, ODPP, Assistant Commissioner Crozier and herself in relation to the disclosure of documents for the Investigation. She advised me AFP legal wanted to speak with me. A short time later I spoke with a lady from AFP Legal and she asked about the document I prepared for Commander Chew in relation to the Investigation. She said, "what was in your mind at the time of making the documents?" I said, "I wanted a decision from Mick Chew, it was a decision-making document." She said, "did you think it would go to the DPP?" I said, "that was never my intention." Refer to my AFP diary notes dated 15 September 2022, attached and marked **Exhibit 58**.

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137. I do recall the ODPP raising concerns about one of the Investigation team members having previously received adverse comments in court about the manner he gave his evidence. This matter was never reported to or investigated by Professional Standards that I am aware of however I am aware that it was managed internally by the Team Leader and his Detective Inspector.
138. The AFP SIO guide states “an SIO is appointed when the JMG, or an Assistant Commissioner, determines that an investigation or incident requires senior leadership due to the critical nature of the investigation.”
139. On the 9<sup>th</sup> February 2021 I was nominated on the Sensitive Investigation brief to the SIOB as the Senior Investigation Officer. However, I did not receive any feedback on that nomination.
140. On the 15<sup>th</sup> February 2021, I spoke with Commander Chew about being dedicated to the SIO role however he did not believe CI had sufficient capacity to allow me to be dedicated to the investigation. After this meeting I felt that Commander Chew wanted me doing the role whilst managing my normal duties. Also, in the guide it states, “upon appointment of an SIO to an investigation, the JMG will provide written Terms of Reference to the SIO. The Terms of Reference will clearly stipulate:
- a. The appointment of the SIO to the investigation;
  - b. The scope of the investigation;
  - c. The requirement for the SIO to cause an Investigation Plan to be developed and approved;
  - d. The resources (people/budget) available to the SIO;
  - e. The authority by which the SIO may deploy resources under his/her commanding accordance with the approved Investigation Plan;
  - f. The investigation management system to be used;
  - g. The lead agency or portfolio responsible; and
  - h. The correct reporting line to be used.
141. I never received any written terms of reference. Not having this direction put significant strain on me as well as DI Boorman and the entire investigation team. Refer to the AFP Senior

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Investigating Officer Guide last update dated 21 February 2022, attached and marked **Exhibit 59**.

142. I was never officially appointed as the SIO and never officially removed from the investigation. I did however notice a decline in Senior Executive requests for my participation, an overt avoidance of my involvement and a diversion of tasks normally directed to me or DI Boorman would go to DI Hughes. This commenced approximately the same time Ms Higgins publicly complained in the media on or about 27<sup>th</sup> April 2022 that the AFP unlawfully disclosed evidence in her sexual assault case to defence.
143. This complaint was directed towards me and from 20<sup>th</sup> May 2022 significant repercussions commenced for myself and my family when I was informed my imminent transfer to Cairns as the Airport Police Commander was suspended. Refer to the email from Dr Black to myself along with the initial letter of transfer suspension and final letter of transfer suspension from A/Deputy Commissioner Lesa Gale, attached and marked **Exhibit 60**.
144. The usual process in relation to the preparation of <sup>Priv PP</sup> [REDACTED]  
<sup>Priv PP</sup> [REDACTED]  
<sup>Priv PP</sup> [REDACTED] On Friday 24<sup>th</sup> September 2021 I received a brief prepared by the Ministerial Team and endorsed by DI <sup>WIT\_Personal</sup> [REDACTED]. I approved the document for Commander approval. Refer to the email from Catherine <sup>WIT\_Personal</sup> [REDACTED] regarding brief form the Ministerial Team dated 24 September 2021, attached and marked **Exhibit 61**.
145. I recall early one morning when jogging around [REDACTED] in Canberra seeing Commissioner Reece Kershaw who was also exercising. At the time when we both acknowledged each other we stopped and greeted each other. The Commissioner inquired how the Investigation was progressing and I mentioned that we were soon to travel to Brisbane to interview the suspect. He seemed pleased with this and inquired if we were going to arrest and extradite him. I commented and stated that if we did get to that stage, we would be more inclined to summons rather than arrest and charge. He said “well we need to get it done, just get it done” or words similar. The was the extent of this interaction. This is an example of how much pressure

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was on everyone involved with this matter. The Commissioner and I could not even take private time to exercise without this being a topic that was immediately raised for discussion.

**Interactions with the DPP / ODPP prior to the Trial in the Matter of R v Lehrmann**

146. As the Manager of Criminal Investigations, I have very limited involvement with the DPP or ODPP in a standard sexual assault matter. Typically, the investigator will manage this type of engagement, however, should the matter require additional support the Team Leader will assist. In circumstances where the Team Leader cannot manage the engagement the Detective Inspector will provide direction and support as required. If none of these avenues can provide a resolution the matter will come to me to attempt to resolve.
147. Early in 2021 I was aware Mr Drumgold had become involved in the Investigation. I was also aware from various discussion with the Investigation team there was concern Mr Drumgold, at this very early stage, may have had a pre-determined position in relation to the outcome of the investigation and prosecution of Mr Lehrmann.
148. As the investigation developed the briefings I received caused me more concern, I requested to meet with ODPP and arranged a time through Mr Drumgold's Executive Assistant.
149. On 1<sup>st</sup> June 2021, I travelled to the ODPP offices with DI Boorman and met with Mr Drumgold and Ms Skye Jerome. During the meeting, DI Boorman and I spoke at length about the investigation and our subsequent investigation findings. I expressed the concerns I had for Ms Higgins psychological health, the concerns we as investigators had with the evidence and the compounding pressure and issues associated with continual media reporting. Mr Drumgold was dismissive of our concerns and then directed the conversation to the threshold for Police to seek DPP advice. I felt Mr Drumgold was highlighting that Police only required reasonable suspicion to lay a charge and the DPP would decide and advise on whether there was a reasonable prospect of conviction. He was very eager for the matter to be referred to him. Refer to the calendar invitation for this meeting between Mr Drumgold, Ms Jerome, Detective Inspector Boorman and myself at the ODPP offices on 1 June 2021, attached and marked **Exhibit 62**.

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150. On 21<sup>st</sup> June 2021 I went to the ODPP office in Civic with DI Boorman and delivered an electronic copy of the preliminary brief of evidence and associated reports authored by myself, DI Boorman and the cover sheet by Commander Chew.
151. At 7pm on Monday 21<sup>st</sup> June 2021 I received an email from Mr Drumgold in relation to Operation Covina and a list of preliminary issues including CCTV, missing statements, and a need for a summary of all relevant material in its original format. I am aware this task was being managed by DI Boorman. Refer to the email from Mr Drumgold to Detective Inspector Boorman and myself outlining preliminary issues and request for a summary of the brief dated 21 June 2021, attached and marked **Exhibit 63**.
152. At 4.55pm on Monday 28<sup>th</sup> June 2021 I received an email from Mr Drumgold titled “advice on Brittany Higgins complaint” with a document attached titled “advice regarding allegations made by Ms Brittany HIGGINS”. After reviewing the DPP advice and discussing it internally, I responded on Thursday, 1 July 2021 requesting all agencies refrain from media in relation to the investigation. On Thursday 1 July 2021 Mr Drumgold responded to my email. At this point in the investigation, I was having difficulty reaching agreement or a satisfactory resolution to issues I had been raising and therefore escalated Mr Drumgold’s email to Commander Chew. Refer to this email chain between Mr Drumgold, Commander Chew and myself dated 26 June 2021, 1 July 2021 and 2 July 2021 regarding DPP advice and request to refrain from involving the media, attached and marked **Exhibit 64**.
153. On Wednesday 7<sup>th</sup> July 2021 I received an email from Mr Drumgold titled ‘Higgins matter’ advising ACTP of a media request he had received and his proposed media response. The email was in relation to notification about the inquiry rather than advice on a collegiate response. Refer to this email from Mr Drumgold to myself entitled ‘Higgins matter’ dated 7 July 2021, attached and marked **Exhibit 65**.
154. My involvement with the DPP in this investigation was dictated as a result of the briefings I had received from the investigation team. I was informed that on occasions when the Investigation team met with the Mr Drumgold and other members from the DPP in relation to the investigation Mr Drumgold was dismissive of their account of the evidence and had a predetermined position to charge and prosecute the suspect. I remember specifically being told at on eof the meetings

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between the Investigation team and Mr Drumgold at Belconnen Police Station, Mr Drumgold said, “it doesn’t matter what he says” in reference to Mr Lehrmann being interviewed. At that stage Mr Lehrmann had not yet been offered a police interview. This comment shocked and concerned the investigators. This comment was the topic of much discussion.

155. On another occasion I was briefed on a meeting between D/Sgt McDevitt and DPP members Ms Jerome during which Ms Jerome had advised during an open discussion about the evidence, prosecutions when victims do not hand over their mobile telephone would not be progressed. The Investigators advised that Ms Higgins had not handed her phone over. On hearing this information, I was briefed that Skye Jerome dropped her head into her hands in what appeared to be frustration and alarm.
156. After these meetings I was concerned for the independence and integrity of the investigation. I then arranged to meet with Mr Drumgold to ensure the Investigation team and their concerns in relation to the evidence were being heard and acknowledged by the DPP. When I met with Mr Drumgold on 1<sup>st</sup> June 2021 it was clear to me that he had already decided on progressing the prosecution even though he had not reviewed the evidence. We discussed the issues the investigation team had identified with the evidence specifically the lack of forensic evidence and crime scene evidence. During this conversation Mr Drumgold said, “I don’t have to prove sex occurred. This surprised and shocked me. Mr Drumgold did qualify this statement by saying that the way Ms Higgins was found (in a state of undress) corroborates that sex took place. It was clear to me after this meeting that Mr Drumgold was committed to the trial no matter what the evidence was or how we presented it. Of importance is at this stage Mr Drumgold had not yet received any evidence to review. That did not occur until 21 June 2021.
157. I was very concerned in relation to Mr Drumgold’s repeated affirmation that the matter was going to progress, and I briefed Commander Chew in relation to my concerns.
158. In my opinion, the DPP were committed to progress this investigation to a prosecution no matter what the strength of the evidence was. I felt like the DPP were not interested in the advice from the Investigation team and this perceived attitude heightened from the time Mr Drumgold provided his written advice. From this early time it appeared to me that Mr Drumgold believed

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that the Investigation team was working against him and he did not trust anything we had to offer, information or opinion.

159. Even very early on, Mr Drumgold inferred the Investigation team had deleted CCTV evidence showing Ms Higgins walking through the pedestrian gate at APH on the night of the incident. This statement by Mr Drumgold was vexatious, without any merits and offensive to an extremely committed, hardworking and competent Investigation team. The team were certain that this footage never existed however after Mr Drumgold's complaint alleging the Investigators had deleted it, the team diverted its efforts and worked for weeks to attempt to identify the footage and if such footage ever existed. This part of the investigation never located any footage of the nature Mr Drumgold was speaking of. It appears that Mr Drumgold had confused footage from a Four Corners release where they developed a recreation of the event with the investigators recovered CCTV footage. This caused a significant divide between the Investigation team and the DPP. These undertones in relation to the Investigators corrupt or dishonest behaviour continued throughout the prosecution and were entirely without foundation and offensive to our Investigation team. I believe Mr Drumgold's own actions at this early time alienated the Investigators and ACP Management from the DPP.

**Advice provided by the DPP**

160. I cannot recall seeking any advice in relation to a sexual assault matter from the DPP previously.
161. The brief of evidence was compiled by the Investigation team managed by Det/Sgt Rose, to my knowledge no CCTV footage was omitted. The Investigation team did not produce an index for the preliminary brief of evidence.
162. I received Mr Drumgold's advice on Monday 28<sup>th</sup> June 2021 in relation to the Investigation. On that day I reviewed the advice and provided it to the Investigation team. Based on the advice provided by Mr Drumgold I was prepared to progress the investigation and commence proceedings against Mr Lehrmann by way of summons. Refer to Mr Drumgold's advice received from the DPP dated 28 June 2021, attached and marked **Exhibit 66**.
163. I believe there was further avenues for Investigation however after gaining the written legal advice from Mr Drumgold and given the external and internal pressures to progress in this

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investigation, I felt there was no other alternatives. I formed my own view, based upon the advice received by Mr Drumgold, I could, in good faith commence proceedings against Mr Lehmann.

164. During the investigation, I had a number of discussions with DI Boorman in relation to obtaining independent legal advice and I agreed with this strategy. I raised this request with Commander Chew, and he informed me he would consider it and seek guidance from CPO. A couple of days later I inquired again with Commander Chew and he stated he had raised it with the CPO but the CPO was of the view that the DPP provides legal advice to ACTP. Obtaining independent legal advice in regard to criminal prosecutions, if obtained, is normally obtained from DPP however there have been previous instances where independent advice from a private barrister has been approved. I felt the circumstances of the case deserved obtaining independent legal advice from a private barrister holding the then standing of Queens Counsel with an expertise in criminal law and specifically sexual assault offences. DPP have on other occasions themselves retained a private barrister from out of state to prosecute matters if necessary.

165. I felt during the Investigation, and prior to the prosecution commencing, Mr Drumgold and the VCC were discussing elements of the case and that was being conveyed to Ms Higgins. I am aware of a [Legislative restriction] obtained under subpoena [Legislative restriction] [Legislative restriction] prior to the issuing of the subpoena.

- a. [Legislative restriction]
- b. [Legislative restriction]
- c. [Legislative restriction]

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

166. On 3<sup>rd</sup> August 2021, I contacted Mr Korn and spoke to him in relation to the Investigation. My reason for calling Mr Korn was to determine an appropriate location to serve the summons on Mr Lehmann. Mr Korn advised we could serve it on him in Sydney. Refer to my AFP diary notes dated 3 August 2021, attached and marked **Exhibit 53**.

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167. On 6<sup>th</sup> August 2021 I received a call from John Korn in relation to receiving the summons but not receiving the brief of evidence. A short time later I called Mr Korn back and advised him the brief would be downloaded in Sydney and served on him. Refer to my AFP diary notes dated 6 August 2021, attached and marked **Exhibit 56**.
168. On 23<sup>rd</sup> September 2021, I sent an email and then contacted Mr Korn by phone and left a message for him to call me back. A short time later I received a call from Mr Korn and I discussed a need to complete some redactions on the brief he received. He said, "Mr Moller if it makes you feel better, I haven't accessed the brief you served on me yet so what do you want me to do now?" I said, "we will get an additional brief served on you and we will discard the one you have." Refer to an email sent by myself to Mr Korn regarding redactions required to the brief of evidence dated 23 September 2021, attached and marked **Exhibit 68**. Refer to my AFP diary notes dated 23 September 2021, attached and marked **Exhibit 69**.
169. On Friday 8<sup>th</sup> October 2021, I contacted Mr Korn after a request from Mr Drumgold. Mr Korn said, "I haven't looked at the stick, I've spoken to the Director and told him I haven't accessed it except for looking at the cover page. I will send you an email confirming that, and what about the phone to be returned to Bruce he needs that straight away if possible, perhaps you could return the phone and collect the brief stick at the same time." I said, "ok great I will arrange that." Refer to my AFP diary notes dated 8 October 2021, attached and marked **Exhibit 70**.
170. On Friday 8<sup>th</sup> October I received email correspondence from John Korn in which he confirmed, "I have not viewed, downloaded or printed, any of the material contained on that USB stick". Refer to this email from Mr Korn to myself confirming he has not accessed the brief dated 8 October 2021, attached and marked **Exhibit 71**.
171. On 15<sup>th</sup> October 2021 I spoke to Mr Korn about the return of the USB stick and if it had been downloaded on his computer. Mr Korn also informed me that he would be seeking a permanent stay. Refer to my AFP diary notes dated 15 October 2021 between pages, attached and marked **Exhibit 72**.
172. The involvement I had with Mr Korn was predominately driven by Mr Drumgold and was unusual for me to engage at that level of the Investigation. However, given DI Boorman had

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taken leave and there was an absence of staff at an appropriate level to assist the contact with Mr Korn reverted to me.

**Interactions with Ms Higgins and / or her legal representatives during the Investigation**

173. My involvement with Ms Higgins commenced on 26<sup>th</sup> May 2021 when I met her and the VCC with other Police at Belconnen Police Station. We conducted introductions and had a discussion about the proposed direction of the investigation. During this discussion I stressed the need for her to refrain from any media as it may influence any upcoming court processes or trials. Refer to my AFP diary notes dated 26 May 2021, attached and marked **Exhibit 39**.
174. On 30<sup>th</sup> June 2021 I received an email from Ms Higgins requesting all contact to proceed through her lawyer. Refer to this email sent by Ms Higgins to myself seeking future communications go through her legal representative dated 30 June 2021, attached and marked **Exhibit 73**.
175. On 12 July 2021, DI Boorman and I met Ms Higgins and the VCC at the AFP Brisbane office in Newstead, Brisbane. During this meeting we provided an update in relation to the Investigation and the DPP advice received. After we finalised the meeting Ms Higgins and the VCC left. A short time later the VCC returned and handed DI Boorman two mobile phones which had belonged to Ms Higgins. Refer to my AFP diary notes dated 12 July 2021, attached and marked **Exhibit 47**.
176. On 6<sup>th</sup> August 2021 I met with VCC and she initiated telephone contact with Ms Higgins. During this phone conversation I advised her that we would be proceeding by way of summons. Refer to my AFP diary notes dated 6 August 2021, attached and marked **Exhibit 56**.
177. My contact with Ms Higgins was difficult because she had mandated contact to be via the VCC or her solicitor. This created an additional layer and delayed Investigator ability to gain information or evidence from Ms Higgins. From the time when Ms Higgins decided to progress her complaint, I felt she was not being cooperative, and I felt she had other motivations driving the reporting in that she wanted to ensure the complaint was active for the release of her interview on the Project. We also became aware she was negotiating a book deal and from my briefings Ms Higgins was more preoccupied with media appearances than progressing the investigation. She was untruthful (medical treatment sought) and would not provide her phone to assist the

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Investigation. When she finally did provide her phone, we identified that she had deleted messages prior to providing it to police. The combination of these issues and a number of other issues had me concerned about the investigation and therefore the prosecution of Mr Lehrmann.

178. Ms Higgins continual media appearances affected the Investigation in that I felt it definitely fuelled the internal and external pressure to expedite the Investigation. This pressure put significant stress on the Investigation team, and I felt there was a desire to put the matter before the court to plicate the growing media cometary rather than continue with the investigation.
179. In the early stages of the Investigation, I was briefed that Ms Higgins had previously suffered from anxiety and depression. On 27<sup>th</sup> May 2021 I was briefed by the Investigation team that they had located some WIT\_Confidential\_sensitive\_Third in Ms Higgins internet search history. Given the intense pressure on Ms Higgins I was concerned for her welfare. Given the VCC had become her support person I contacted her and explained what the police had located.
180. On 4<sup>th</sup> June 2021 I was initially informed that Ms Higgins [REDACTED]. As a result, I left a message for the VCC and briefed CPO. Later that day I was briefed by DI Boorman that he had spoken to the VCC [REDACTED]  
[REDACTED]  
[REDACTED] I then briefed Commander McDonald in relation to my concerns for Ms Higgins. Refer to my AFP diary notes dated 27 May 2021, attached and marked **Exhibit 40**. Refer to my AFP diary notes dated 4 June 2021, , attached and marked **Exhibit 74**.
181. On 7<sup>th</sup> July 2021 I documented my concerns in an Executive Briefing to Commander Chew titled "Seeking direction in relation to Operation Covina – alleged sexual intercourse without consent, Australian Parliament House 23<sup>rd</sup> March 2019". In this document I said:

"Investigators have identified that Ms Higgins has a history of anxiety and depression and when reviewing Ms Higgins phone found in the search history, searches in relation to WIT\_Confidential\_ser With this in mind and appreciating the mental health concerns identified during the Investigation I believe Ms Higgins is at risk of self-harm should this matter progress to prosecution, however Ms Higgins has stressed that she is committed to this Investigation no matter what the outcome."

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182. These aspects of the investigation had me generally concerned for Ms Higgins long term health and I communicated this on a number of occasions to Commander Chew. Refer to the Executive Brief to Commander Chew entitled 'Seeking direction in relation to Operation Covina' dated 7 July 2021, attached and marked **Exhibit 75**.

183. On 1<sup>st</sup> June 2021 I raised my concerns in relation to Ms Higgins mental health and detailed all [REDACTED] located by the Investigation with Mr Drumgold.

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

184. On 5<sup>th</sup> May 2021 I was briefed by DI Boorman and he told me the VCC had contacted him and advised Ms Higgins wanted the VCC to be the conduit between police and Ms Higgins for all communication. I then contacted Commander Chew and informed him of this direction. I felt this was entirely inappropriate given she was the VCC, a holder of government statutory appointment, and I was surprised she would be involved at an operational level. I had never seen that before and had never been briefed that the VCC was involved with any other matters especial matters that were yet to progress to prosecution. It also put significant pressure on the Investigation team given her position. Refer to my AFP diary notes dated 5 May 2021, attached and marked **Exhibit 76**.

185. On 26<sup>th</sup> May 2021 I met with VCC and Ms Higgins at Belconnen Police Station with DI Boorman and other and we had a discussion. Refer to my AFP diary notes dated 26 May 2021, attached and marked **Exhibit 39**.

186. On 27<sup>th</sup> May 2021 I contacted the VCC and had a discussion in relation to [REDACTED] for Ms Higgins. Refer to my AFP diary notes dated 27 May 2021, attached and marked **Exhibit 40**.

187. On Friday 4<sup>th</sup> June I attempted to contact the VCC however this was unsuccessful and I therefore left a message. Refer to my AFP diary notes dated 4 June 2021, attached and marked **Exhibit 74**.

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188. On 29<sup>th</sup> June 2021 I received an email from the VCC titled 'Heads up & Timeline for finalisation of brief'. I responded to this email and requested a face to face with Ms Higgins. Refer to this email from VCC to myself entitled 'Heads up & Timeline for finalisation of brief' dated 29 June 2021, attached and marked **Exhibit 77**.
189. On 5<sup>th</sup> August 2021 I contacted VCC in relation to cancelling a prearranged meeting to contact Ms Higgins on the direction of Assistant Commissioner Crozier. The VCC was extremely upset with Police about the cancellation of this meeting. I explained I would contact her once I was aware of the new details. Refer to my AFP diary notes dated 5 August 2021, attached and marked **Exhibit 54**.
190. On Thursday 5<sup>th</sup> August 2021 I received an email from the VCC recognising the pressures on the Investigation team. "Ms Higgins did ask me to communicate her very personal, and deeply felt, understanding of the ongoing public and political pressures associated with her matter. She recognises these pressures must also be present (in a different way) in the Police's work and she asked me to specifically express her gratitude to you and the team for your continued work." Refer to this email from VCC to myself outlining Ms Higgins' gratitude to the team for their ongoing assistance dated 5 August 2021, attached and marked **Exhibit 78**.
191. On 6<sup>th</sup> August 2021 I met with the VCC we had a short conversation and she then contacted Ms Higgins. I informed Ms Higgins, Police would be proceeding by way of summons. Refer to my APF diary notes dated 6 August 2021, attached and marked **Exhibit 56**.
192. I remember in one of our meetings I was speaking to the VCC and I said words to the effect "she has to stop doing media" in reference to Ms Higgins. The VCC said to me, "she can't Scott she is the face of the movement now." Initially, I did not think a lot about that comment but on reflection and after witnessing the media that transpired, I understood what the VCC was referring to. This upset me and I remember being mad that the VCC was using the Investigation as a voice for reform before the trial had even been conducted.
193. The VCC is the head of ACT Victims of Crime. Her participation in any investigation adds additional stress and anxiety to the Investigation team. This was evident through the VCC activity during the Investigation. The VCC acting personally in a support / conduit role

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complicated the investigation and was always highly inappropriate. I felt at times the VCC was advocating through Ms Higgins for her own agenda and was more interested in Ms Higgins pushing the “#metoo” movement rather than being committed to the upcoming trial. I felt one of the more upsetting aspects of her involvement was her lack of involvement in other sexual assault matters that were progressing through the courts at the same time.

194. On Wednesday 8<sup>th</sup> September 2021 I received an email from the Investigation team requesting I approach the VCC for a statement. This was in furtherance to a briefing that I had with D/Sgt Rose in which he articulated the need to take a statement from the VCC given she would provide continuity evidence in relation to taking possession of Ms Higgins phones and providing them too DI Boorman. I briefed A/Commander O’Meagher about this requirement. As a result of this briefing and the email request, I emailed the VCC. Refer to the email from Senior Constable Frizzell to myself dated 8 September 2021 and email from myself to the VCC requesting a witness statement from Commissioner Yates dated 9 September 2021, attached and marked **Exhibit 79**.

195. It has been suggested that ACTP’s decision to request a statement from the VCC was an aggressive policing strategy. This was a discussion in hindsight which was properly thought through and necessary. It was not missed by us that this decision was highly unusual. It also was not missed by us that the role of the VCC is a statutory appointment however the VCC was personally involving herself in this case well past her professional responsibilities and had become a witness in the investigation who potentially relevant information had to offer. I remain of the opinion the decision to request a statement from the VCC was a competent investigative decision to make in the circumstances.

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

196. During the investigation I only engaged with two witnesses, the VCC and Ms Higgins, my involvement and conversation have been detailed previously in this statement.

197. I had no involvement with any persons from APH.

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**Decision to Charge**

198. Throughout the investigation and the briefings, I received, the Investigation team expressed significant concerns in relation to the evidence they had collected. As a result of the internal and external pressures to expedite the investigation and the investigation team concerns, I asked for a summary of the evidence to be produced.
199. On 4<sup>th</sup> June 2021 I had a meeting with DI Boorman, and he presented me with a report titled ‘Op Covina Direction / Decision – Alleged Sexual Assault Australian Parliament House 23 March 2019’. We had a conversation about the teams concerns the pressure that everyone involved in the Investigation were feeling and that the team as well as DI Boorman believed there was insufficient evidence at that time to progress to a prosecution.
200. On 7<sup>th</sup> June 2021 I completed a covering report for Op Covina, attached it to DI Boorman’s report and forwarded them to Commander Chew.
201. On Tuesday 8<sup>th</sup> June 2021 I attended a meeting with DI Boorman and AFP Legal officer Shelley [WIT\_Perso]. We provided a background briefing on Op Covina and had discussions in relation to disclosures for Op Covina. Refer to the calendar invitation for a meeting between Detective Inspector Boorman, AFP Legal Officer Shelley [WIT\_Perso] and myself on 8 June 2021, attached and marked **Exhibit 80**. Refer to my AFP diary notes from 8 June 2021, attached and marked **Exhibit 81**.
202. On 17<sup>th</sup> June 2021 I met with Commander Chew and DI Boorman. Commander Chew advised that he had forwarded our reports and the preliminary brief of evidence to the DPP. I emphasised that I thought there was insufficient evidence to proceed. Commander Chew advised he had a meeting with DPP who stated they will recommend prosecution. Commander Chew stated, “if it was my choice, I would not proceed but it is not my choice there is too much political interference.” I said, “that’s disappointing given I think there is insufficient evidence.” Refer to my AFP diary notes from 17 June 2021, attached and marked **Exhibit 44**.
203. On Tuesday 29<sup>th</sup> June 2021 I received a 12-page document from Mr Drungold titled ‘Advice regarding allegations made by Ms Brittany Higgins’. Page 2 of that document articulates, “on a preliminary basis I advise the following:

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- a. I am of the view that there are reasonable prospects of conviction on a charge pursuant to section 54 Crimes Act 1900, being “On 23 March 2019, Bruce Lehmann engaged in sexual intercourse with Brittany Higgins without consenting to sexual intercourse.”
- b. I am of the view that there is a public interest in proceeding with one charge pursuant to section 54 Crimes Act 1900, being “On 23 March 2019, Bruce Lehmann engaged in sexual intercourse with Brittany Higgins without her consent, and being reckless as to whether Brittany Higgins was consenting to sexual intercourse.”

204. After receiving this advice, I instructed the team to prepare a summons for Mr Lehmann as per Mr Drumgold’s advice, the team were still not comfortable with progressing as per Mr Drumgold’s advice so I informed them I would sign the summons.
205. At this time there was significant pressure externally and internally to have the matter progressed and finalised. I felt it was being rushed and there were still additional investigative strategies that could have been progressed however there wasn’t any support to prolong the investigation.
206. Once the decision to charge was made the Investigation team progressed as per a normal investigation and interacted with the DPP professionally, however the pressure and desire to have the matter listed as soon as possible was over bearing.

#### Summons, Brief of Evidence and Disclosure

207. As the Superintendent managing Criminal Investigations, and given DI Boorman was unable to continue, I selected Detective Sergeant Rose to be dedicated to the Investigation and manage the process of preparing the summons and the brief of evidence. Senior Constable Emma Frizzell was identified as the Case Officer.
208. Adjudication commences with the Case Officer who perform an initial assessment of the evidence and the quality of the brief. Once the Case Officer is satisfied, it is forwarded to the Team Leader / Detective Sergeant who vets the brief of evidence and ensures that it meets legislative requirements. Once the Team Leader / Detective Sergeant is satisfied they will endorse the Hearing Brief Adjudication Sheet and then forward to the relevant Adjudication and practices member who performs the final vetting for ACTP. The brief of evidence is then made

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available to the ACTP Judicial Operation who confirm that all the links from within the electronic brief of evidence are operational. ACTP Judicial Operation then make the brief of evidence available through the relevant information portal to the ODPP. Refer to the AFP Hearing Brief Adjudication Sheet, attached and marked **Exhibit 82**.

209. This process was not followed in this case.
210. On 3<sup>rd</sup> August 2021 Commander Chew requested details on the length of time to have the summons served. I advised that potentially it will take one week for adjudication and 4 – 6 weeks for the summons to be served. Commander Chew was not happy with the potential length of time to have the matter finalised and the summons served. Commander Chew said, “no need for adjudication we have had it independently reviewed and have legal advice, so no need to have it adjudicated. Serve the brief at time of summons.” Refer to my AFP diary notes dated 3 August 2021, attached and marked **Exhibit 53**.
211. On 5<sup>th</sup> August 2021 I briefed Commander Chew in relation to the proposed service of a summons on Mr Lehrmann planned for 6<sup>th</sup> August 2021 in Sydney. I explained that arrangements had been made to drive the brief of evidence to the outskirts of Sydney and hand over to Sydney based Detective who will serve on the defence, Mr John Korn. I said, “this is outside of our normal procedures, normally we go through the AP Sgt for adjudication, I think we should still do this?” Commander Chew said, “we can’t mate, no need we have had it reviewed and I’m comfortable with that, let’s just get it served and move on.” I said, “ok we’ll get it done tomorrow.” Refer to my AFP diary notes dated 5 August 2021, attached and marked **Exhibit 54**.
212. Shortly after this conversation with Commander Chew, I spoke with Detective Sergeant Rose and advised him of Commander Chew’s direction.
213. I was not comfortable with this process however I was aware of the excessive pressure to complete it and I did have faith in Detective Sergeant Rose as the Team Leader managing the brief for ACTP.
214. On 21 September 2021 after being advised of the issues with respect to the unlocked redactions, I had a conversation with Detective Sergeant Rose in relation to the brief of evidence. I said,

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“Why did it go out like that?” He said, “I’m sorry I didn’t check it.” I said, “What do you mean you didn’t check it?” He said, “I didn’t check it, with everything I was doing I didn’t check it.” Refer to my AFP diary notes dated 21 September 2021, attached and marked **Exhibit 83**.

215. In the leadup to the summons and brief of evidence being served I engaged with several internal and external persons. On 19<sup>th</sup> July 2021 I had a conversation with DI Boorman in relation to completing the brief of evidence and ensuring it was finalised this week.
216. On 22<sup>nd</sup> July 2021 I met with the AFP digital Forensic Team in relation to the Investigation and explained the urgency and for their tasks to be finalised by Wednesday 28<sup>th</sup> July 2021.
217. On 29<sup>th</sup> July 2021 I spoke with Renee [WIT\_Person] in relation to comments the Commissioner had made in relation to the brief of evidence being with the DPP.
218. On 30<sup>th</sup> July 2021 I spoke with DI Boorman in relation to travelling to Brisbane between 2<sup>nd</sup> to 8<sup>th</sup> August 2021 and possible media by Ms Higgins. I then spoke with Commander Chew and advised him of possible media by Ms Higgins. He directed I travel to Brisbane and serve summons on Mr Lehmann based on legal advice provided by DPP. I then conveyed this direction to DI Boorman. I then briefed Renee [WIT\_Person] from AFP Media regarding the direction for the Investigation.
219. On 3<sup>rd</sup> August 2021 I provided a briefing to Commander Chew in relation to DI Bormann’s stress [REDACTED]. A short time later I briefed Commander Chew on the time frame for the service of a summons and he directed for there to be no adjudication process. I then pass on this direction to Detective Sergeant Rose. I then spoke with Mr Korn and requested the best location to serve a summons should it be progressed.
220. On 5<sup>th</sup> August 2021 I received a phone call from Assistant Commissioner Crozier who directed there be no contact with Ms Higgins until the summons was served. I then contacted the VCC and cancelled the pre-arranged meeting with her and Ms Higgins. I then briefed Commander Chew and advised that everything was planned for service to take place on 6<sup>th</sup> August 2021.

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221. On 6<sup>th</sup> August 2021 I spoke with Detective Cilla [WIT\_Person] regarding the service of the summons and brief of evidence on Mr Korn. Then I met with the VCC and she made contact with Ms Higgins and I informed Ms Higgins Police would be proceeding by way of summons. I then informed Commander Chew that the briefing with Ms Higgins had been completed. A short time later I received confirmation that the brief of evidence and summons had been served on Mr Korn. I then received a phone call from Mr Korn that he received the summons but did not receive the brief of evidence. I then had a conversation with Detective Sergeant Rose and he advised that he would arrange for the brief of evidence to be downloaded by Detective Cilla [WIT\_Person] and served on Mr Korn. I then briefed Commander Chew on the circumstances of the services of the brief of evidence and summons. I then contacted Mr Korn and advised him that an Investigator from Sydney would be serving the brief of evidence.
222. On 26<sup>th</sup> August 2021 I spoke with Leon Zweir, Ms Higgins solicitor and he advised that the DPP had requested to be the point of contact for all matters from now on. I then briefed A/Commander Hall O’Meagher.
223. On Friday 17<sup>th</sup> September 2021 I received an email from Mr Drumgold identifying unlocked redaction. On Tuesday 21<sup>st</sup> September 2021 I responded to his email confirming that the unlocked redactions were in the defence copy.
224. On Wednesday 22<sup>nd</sup> September 2021 I had a discussion with A/Commander Hall O’Meagher where I explained the issues with redactions and the proposed way forward by DPP.
225. On Thursday 23<sup>rd</sup> September 2021 I contacted Mr Korn and left a message from him to call me back. About 7.28am I sent an email to Mr Korn requesting the identified redaction errors be deleted.
226. Mr Korn returned my call at approximately 8.24am this date and we discussed the requirement of redactions. Approximately 8.41am I briefed A/Commander Hall O’Meagher on the outcome of my phone call with Mr Korn.
227. On Friday 24 September 2021 I had a meeting with A/Commander Hall O’Meagher and we discussed a possible response to the DPP.

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228. On Friday 8<sup>th</sup> October 2021 I met with the Skye Jerome from the DPP seeking advice in relation to disclosure.
229. Approximately 11.51am I spoke with Mr Korn and he advised me he had not looked at the brief of evidence and that he would confirm by way of email. At 5.08pm this date I received an email from Mr John Korn confirming that he hadn't access the brief of evidence.
230. On Monday 11<sup>th</sup> October 2021 I forwarded Mr John Korn's email to the DPP advising that he had not accessed the brief of evidence. It was also interesting that Mr Korn stated in his email that he had informed Mr Drumgold by phone that he had not accessed the brief a week earlier. A short time later I received an email response from Mr Drumgold seeking the AFP retrieve the USB.
231. I do not recall saying the words "there are some important text messages in the brief" to Mr Korn.
232. I was not involved in the preparation of the disclosure Certificates that were prepared by the Investigation team.

**Interactions with AFP/ACT Police Officers during the trial in the Matter of R v Lehrmann**

233. I had very limited involvement with Police leading up to the trial. Commander Cameron and Detective Inspector Hughes were managing the Police. On Tuesday 18<sup>th</sup> October 2022 I attended the ACT Supreme Court to observe the trial. At that time DI Boorman, Detectives Frizzell and Madders were in attendance. I noticed that the DPP seemed to be ignoring the Police. I felt like they did not want anything to do with us which in my experience was highly unusual. I had no further involvement as I was away working in Queensland from Sunday 23<sup>rd</sup> October 2022 until Monday 14<sup>th</sup> November 2022.

**Interactions with DPP / ODPP during the trial in the Matter of R v Lehrmann**

234. I had no interaction that I can recall with the DPP / ODPP during the trial, and I was not called to give evidence. I recall a briefing from Detective Frizzell in relation to a request from defence to review appointments at a medical centre. My direction was for Detective Frizzell to notify

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DPP of the request and if they did not have any objection to make the inquiry and advise DPP of the outcome so they could advise defence.

235. I was not consulted in relation to discontinuing the criminal proceedings against Mr Lehrmann, but this lack of consultation and communication by the DPP was completely consistent with the behaviour I had witnessed towards the end of the investigation and during the trial.

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

236. Police interacting with legal representatives for a defendant is normal in most cases. Truthful and honest disclosure is also very important in terms of ensuring the court process is transparent. Truthful and honest disclosure of evidence and information both supportive and non-supportive of the prosecution case is imperative to a fair trial.

237. I had one brief contact with Mr Steve Whybrow, legal representatives for Mr Lehrmann on Tuesday 13<sup>th</sup> September 2022. Mr Whybrow contacted me through my work phone at about 12 midday. I answered the phone and he said, "Scott, it's Steve Whybrow here. I said, "Hi Steve, what can I do for you?" He said, "This is a bit unusual, given we are on different sides of the fence so to speak, so you don't have to acknowledge yes or no but I'm interested in a document that hasn't been disclosed which I'm of the view is disclosable given it's a decision-making document and not a request for legal advice." I said, "I think I am aware of the document you have requested, or you're interested in." He said, "So how can I get this document, I could send a request to AFP legal given it a decision-making document and not a legal document. If you agree you could allow the release?" I said, "I won't confirm now, send through your request and I will consider it as we do with all matters". Refer to my AFP diary notes dated 13 September 2022, attached and marked **Exhibit 84**.

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

238. During the trial of the matter of R v Lehrmann, I had no interactions with Ms Higgins, her legal representatives as per DPP instructions. I also had no contact with the VCC during this time.

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**Interactions with any other persons**

239. During the brief periods I attended the trial, I sat in the very rear row with the other Police including DI Boorman, Detectives Frizzell and Madders. I am not aware of Senator Linda Reynolds partner and would not know if I was seated next to him or not. When I was there, the court room was quite crowded. I recall a number of members of the public seated next to me from time to time.
240. I do not recall any specific interactions with anyone other than the Police. I do remember acknowledging a number of journalists whom I have a professional relationship with however that interaction was only a short greeting.

**Bail**

241. I was not involved in any bail considerations for Mr Lehrmann.

**Media**

242. The media had a significant influence on this matter, so much so that the ACT Supreme Court decided publicity obliterated the prospect of a fair hearing and decided to delay the trial. From the local reporting of the case, to the public apology by the Prime Minister Scott Morrison, it has been a significant issue to manage and substantially compounded the complexity of the investigation.
243. It did make me feel uncomfortable when the evidence revealed Mr Drumgold was communicating with journalist Samantha Maiden during the investigation and well prior to trial.

244.

Legislative restriction

245. The AFP media plan was composed by ACTP media team. I had some involvement in editing and endorsing the plan and then forwarded it to the final decision maker Commander Chew. I

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received no feedback in relation to this plan. I had no involvement with the ODPP in relation to this plan.

246. At approximately 9.13am on Friday 9<sup>th</sup> December 2022 I received a call from journalist Ms Janet Albrechtsen, she introduced herself and explained she was covering the events surrounding the alleged sexual assault of Ms Brittany Higgins. We had a general conversation surrounding the events of the matter and she said, “why did you charge if you didn’t think you had sufficient evidence? Did you receive advice from the DPP, a letter or email detailing the sufficiency of evidence?” I said, “I’m sorry Janet I can’t comment any further.” I then ended the call.
247. At approximately 1.58pm on Friday 9<sup>th</sup> December 2021 I received a second call from Ms Albrechtsen she inquired as to why the VCC was involved. I said, “I can’t comment on that.” She said, “did Drumgold give you legal advice to charging Higgins suspect?” I said, “I can’t comment.” Ms Albrechtsen then proceeded to comment on the way Mr Drumgold had conducted himself throughout the trial and I just listened and didn’t comment. After a short time I ended the call. Refer to my AFP diary notes dated 9 December 2022, attached and marked **Exhibit 85**.
248. Approximately 3.48pm on Saturday 10<sup>th</sup> December 2022 I received another phone call from Ms Albrechtsen. Ms Albrechtsen commenced with a short discussion in relation to the Investigation. I said, “Janet as I said yesterday I can’t talk with you about this.” She said, “can you just confirm that there was a rape trial going on next door to the Higgins one and Heidi Yates didn’t attend that one?” I said, “I can’t comment on that.” She said, “what about the letter that Drumgold sent to your stating there was enough evidence?” I said, “I can’t comment on that.” She said, “Scott I have spoken to members from the DPP they have confirmed he has sent you a letter.” I said, “sorry I can’t comment.” I then ended the call. Refer to my AFP diary noted dated 10 December 2022, attached and marked **Exhibit 86**.
249. On Wednesday 21<sup>st</sup> December 2022 I received another phone call from Ms Albrechtsen. She said, “hi Scott can you comment on the announcement of a judicial enquiry into the investigation of the allegations of sexual assault made by Brittany Higgins?” I said, “I can’t talk to you Janet and I didn’t even know about the inquiry, sorry Janet I can’t discuss with you.” I then ended the call and blocked her number so she could no longer make contact. Refer to my AFP diary notes dated 21 December 2022, attached and marked **Exhibit 87**.

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250. All communication I had with Ms Albrechtsen has been reported to my supervisor.

**Board of Inquiry**

251. I have attended a number of meetings organised by the AFP and attended by the Investigation team and ACTP Executives. The purpose of these meetings were in relation to providing welfare support, information about the BOI process and what is to be expected by the attending members.

252. I felt during the entire investigation Mr Drumgold was not collegiate and was attempting to collect information on myself and the investigation members with the intention of criticising the AFP and the Investigation team to deflect any criticism away from him and his office. This added a significant burden to the investigation team and a feeling of complete isolation which I have never experienced previously.

253. On or about the 10<sup>th</sup> November 2021 I became aware of a letter that Mr Drumgold had sent to the Attorney-General Mr Shane Rattenbury. I felt this letter was another significant criticism of police by Mr Drumgold. Refer to the letter from Mr Drumgold to Mr Rattenbury MLA dated 10 November 2021, attached and marked **Exhibit 88**.

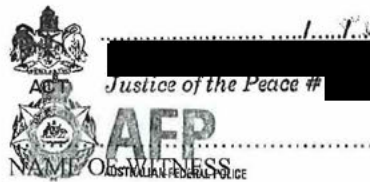
SWORN before me at Canberra in the Australian Capital Territory on 11 April 2023.

Personal information  
[Redacted]

Signature of Person Making Statement  
SCOTT JOSEPH MOLLER

Personal information  
[Redacted]

Signature of witness



Belconnen Police Station  
Benjamin Way  
BELCONNEN ACT 2617  
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Scott Joseph MOLLER

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Witness