

## 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 NEIL ANTHONY GAUGHAN**

I, NEIL ANTHONY GAUGHAN, of WINCHESTER POLICE CENTRE, BELCONNEN ACT 2619, state as follows:

- i. I provide the following statement voluntarily in response to a written request 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 request. Attached and marked AFP.0018.0001.0145 is a copy of the relevant request.
- ii. The Board of Inquiry emailed the request for a statement to my lawyers at 6:58pm on Tuesday 28 March 2023 seeking a written response by 5pm on Tuesday 4 April 2023 which calls for information and documents in relation to a broad range of matters across a lengthy period of time. I have done my best to inform myself and to answer the subpoena as accurately as possible in the limited time available.
- iii. I have two AFP email accounts, a personal email account (WIT\_Personal\_Info) and an official AFP email account (WIT\_Personal\_Info). My official AFP email account is managed by my office and I do not monitor it, rather, my office will raise particular emails to my attention by forwarding them to my personal AFP email account. Accordingly, in preparing and making my statement I have only had regard to emails retrieved from my personal AFP email account and which, in the time available and given the constraints set out above, I have identified as responsive to the matters raised in the subpoena.

**Current Employment**

1. Question 1: What is your current rank?

1.1. My current rank is Deputy Commissioner.

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2. Question 2: What is your current position within the Australian Federal Police (AFP)/Australian Capital Territory (ACT) Policing?

2.1. My current position within the AFP/ACT Policing is Chief Police Officer of the ACT (ACT CPO).

3. Question 3: Outline the job description for your current position. If you have a formal job description, **attach** a copy.

3.1. I refer to my response to Question 30 below.

3.2. I do not attach a copy of a formal job description because I do not have one.

4. Question 4: Have you sat, or do you currently sit, on any boards, committees, working groups, or taskforces? If so, provide details of the name of the board, committee, working group, or taskforce, when you started (and finished if applicable) and what role you had/have on the board, committee, working group, or taskforce.

4.1. I currently sit on the following AFP committees:

- 4.1.1. ACT Policing Futures Program Board, as chair;
- 4.1.2. ACT Policing Senior Executive Committee (SEC), as chair;
- 4.1.3. Audit and Risk Committee;
- 4.1.4. CPO's Aboriginal and Torres Strait Islander Advisory Board, as chair;
- 4.1.5. Enterprise Operations Board (EOB);
- 4.1.6. Executive Level Leadership Development Committee;
- 4.1.7. Leadership Development Committee (LDC);
- 4.1.8. Museum of Australian Policing Board of Management;

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- 4.1.9. National Uniform Committee (NUC), as chair;
- 4.1.10. Senior Leadership Committee (SLC);
- 4.1.11. SHIELD Program Reference Group (PRG), as chair; and
- 4.1.12. Strategy and Performance Board (SPB).
- 4.2. I currently sit on the following ACT Government committees, boards, working groups and taskforces:
- 4.2.1. Aboriginal and Torres Strait Islander Affairs Committee of the ACT Public Service Strategic Board;
- 4.2.2. Aboriginal and Torres Strait Islander Subcommittee to the Strategic Board;
- 4.2.3. ACT Community Protection Medal Recommendation Committee;
- 4.2.4. ACTP and ACT Corrective Services Senior Management Committee;
- 4.2.5. Joint Justice & Community Safety and ACT Policing Steering Committee, as co-chair;
- 4.2.6. MPES (Minister for Police and Emergency Services) JACS Executive Meeting;
- 4.2.7. Reducing Recidivism Executive Coordination Group Meeting;
- 4.2.8. Security and Emergency Management Committee (SEMC) Cabinet;
- 4.2.9. Security and Emergency Management Senior Officials Group (SEMSOG);  
and
- 4.2.10. Sexual Assault (Police) Review Oversight Committee.
- 4.3. I currently sit on the following other committees, boards, working groups and taskforces:

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- 4.3.1. WIT\_Confidential\_sensitive\_AFP
- 4.3.2. Australia New Zealand Counter Terrorism Committee - Capability Steering Group Meeting (ANZCTC CSG);
- 4.3.3. Australia New Zealand Counter-Terrorism Committee (ANZCTC)
- 4.3.4. ANZCTC High Risk Terrorism Offenders (HRTO) Working Group, as chair;
- 4.3.5. WIT\_Confidential\_sensitive\_AFP
- 4.3.6. WIT\_Confidential\_sensitive\_AFP
- 4.3.7. WIT\_Confidential\_sensitive\_AFP
- 4.3.8. WIT\_Confidential\_sensitive\_AFP
- 4.3.9. Australian Transnational Serious and Organised Crime Committee (ATSOCC);
- 4.3.10. Deputy Commissioner's Operational Management Meeting (DCOMM);
- 4.3.11. Fortem Australia Advisory Board Meeting;
- 4.3.12. Chair: Investigations Support Capability Coordination Sub-Committee (ISCCSC); and
- 4.3.13. National Crime Statistics Unit Board of Management (NCSU).

5. Question 5: Attach a current CV.

5.1. I attach to my statement a copy of my current CV (AFP.0015.0001.0762).

### **Tertiary Qualifications**

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6. Question 6: Outline your tertiary qualifications. Include details of where and when you obtained those tertiary qualifications.

6.1. My tertiary qualifications are:

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#### **Courses, Diplomas and Designations**

7. Question 7: Outline any courses, diplomas and/or designations have you completed/obtained. Include details of where and when you undertook the courses, diplomas and/or designations.

7.1. I refer to my responses to Question 6 above and Question 14 below.

#### **Employment chronology**

8. Question 8: Outline any previous policing experience you had before joining the AFP. Include any previous service history, with dates, and your station, rank and role.

8.1. I had no previous policing experience prior to joining the AFP.

9. Question 9: When did you first join the AFP?

9.1. I first joined the AFP on 16 January 1984.

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10. Question 10: What did your recruitment to the AFP involve? Include details of any training you received during recruitment to the AFP. Include details about what the training involved, the organisation/department that provided the training and when you received the training.

10.1. In relation to my recruitment to the AFP, I recall that broadly involved a written application and an interview.

10.2. In relation to my recruitment training, I recall that broadly involved training about use of force, police powers, interviewing techniques, legal processes and the like.

11. Question 11: Outline your service history with the AFP. Include your rank, where you were stationed, the dates you held the various positions and the description of the role/job/work performed by you in the various positions. Include your rank at the relevant times. Outline the section and unit in which the position sat and the general description of the purpose of the relevant section and unit.

11.1. I outline my service history with the AFP as follows:

11.1.1. I served as a Constable in ACT Policing between 1984 and 1995;

11.1.2. I served as a Detective Constable in ACT Policing between 1995 and 1999, including in Regional Investigations between May and August 1998 and the Sexual Assault and Child Abuse Team (SACAT) between August 1998 and June 1999;

11.1.3. I served as a Detective Sergeant in National Operations between July 1999 and November 1999 in the Professional Standards Branch

11.2. I resigned from the AFP in 1999 and was employed at the WIT\_Personal\_Info WIT\_Personal\_Info between 1999 and 2003.

11.3. I returned to the AFP in 2003 and served as:

11.3.1. Coordinator Security Vetting and Risk Assurance until December 2005;

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- 11.3.2. Manager, Protection Operations between 29 December 2005 and 18 September 2008 with periods acting as National Manager, Protection;
- 11.3.3. National Manager High Tech Crime between 19 September 2008 and 7 December 2008, with periods acting as National Manager High Tech Operations;
- 11.3.4. National Manager High Tech Crime between 8 December 2008 and 17 February 2013 with periods acting as Deputy Commissioner Close Operations Support;
- 11.3.5. National Manager Counter-Terrorism between 18 February 2013 and 6 November 2016 with periods acting as Deputy Commissioner National Security;
- 11.3.6. National Manager Organised Crime and Cyber between 7 November 2016 and 29 April 2018 with periods acting as Deputy Commissioner Operations; and
- 11.3.7. Deputy Commissioner Operations between 30 April 2018 and 17 May 2020 with periods acting as AFP Commissioner.

12. Question 12: When did you start recruitment training with the AFP/ACT Policing? Include details of the training involved and the organisation/department that provided the training.

12.1. I started recruitment training with the AFP/ACT Policing on 16 January 1984.

12.2. I refer to my response to Question 10 above in relation to my recollection of what my recruitment training, which was provided by the AFP, involved.

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13. Question 13: Outline your appointment to the Chief Police Officer for ACT Policing (the **ACT CPO**). Include details of the job description. Attach a job description if one exists.

13.1. I was appointed as ACT CPO on 18 May 2020.

13.2. As ACT CPO I have certain contractual obligations under arrangements between the AFP and ACT Government and statutory duties under the *Victims of Crime Act 1994* (ACT) and other Commonwealth and ACT legislation. I set these out in further detail in my responses to the relevant questions below.

### **Training and Education**

14. Question 14: Outline the training and education you have received. Include information about the dates you underwent the training, what the training and education involved and the name of the training provider.

14.1. I have, to the best of my knowledge, undertaken the following AFP maintained online training programs:

14.1.1. AFP Cyber Security, completed on 21 November 2022;

14.1.2. AFP Security Awareness, most recently completed on 4 January 2023;

14.1.3. AFP Secret Network, most recently completed on 28 February 2023;

14.1.4. AFP Work Health & Safety, most recently completed on 12 April 2021;

14.1.5. Armed Intruder Emergency Procedures, most recently completed on 25 January 2022;

14.1.6. Australian Privacy Principles, most recently completed on 14 November 2022;

14.1.7. Authorised Officer Training, most recently completed on 22 April 2022;

14.1.8. Autism Awareness, completed on 1 July 2020;

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- 14.1.9. CRM: Intro to PGPA Act, completed on 18 September
- 14.1.10. Fraud Control & Anti-Corruption Awareness, most recently completed on 4 January 2023;
- 14.1.11. Information Management, most recently completed on 21 April 2020;
- 14.1.12. Identify, Involve, Improve information session on 14 June 2018;
- 14.1.13. Road 2 Mental Readiness – Leadership, most recently on 7 August 2019; and
- 14.1.14. Workplace Bullying, most recently on 5 December 2022.
- 14.2. I have also attended a number of other training programs including but not limited to Accident Investigation Training, Constable Development Training, Detective Training Program, Sexual Assault and Child Abuse Training, Homicide Investigators Training and various internal and external Police Negotiator Programs.

#### AFP Training College

15. Question 15: Outline the arrangements between the AFP and ACT Government in relation to providing training for AFP/ACT Policing officers. Include details of the reasons for the arrangements. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

15.1. Arrangements between the AFP and ACT Government in relation to providing training to AFP/ACT Policing officers are set out in the Policing Arrangement and the Purchase Agreement. Clause 12.8 of the current Purchase Agreement provides that ‘ACT Policing will continue to provide training and development opportunities for staff to increase skills and capability, focusing on police and leadership in line with ACT Government policy objectives outlined in clause 3’.

15.2. I refer to my response to Question 18 below in relation to the Policing Arrangement and the Purchase Agreement.

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16. Question 16: Outline the training course material provided to AFP/ACT Policing officers. Include information about whether specific training relevant to the ACT jurisdiction and conducting sexual assault investigations is provided. **Attach** a copy of the relevant training documentation/course material. If already attached and/or provided, refer to the relevant parts of your statement.

16.1. As ACT CPO, I am not responsible for the AFP Training College and do not have direct knowledge of the current training course material provided to AFP officers generally.

16.2. As for specific training course material provided to ACT Policing officers relevant to the ACT jurisdiction and conducting sexual assault investigations, in the time available, I refer to my response to Question 55 below.

17. Question 17: Outline any amendments to the training and education provided by the AFP Training College for AFP/ACT Policing officers in relation to conducting sexual assault investigations in the past four years. Provide details of when the amendments were made, what was amended, the extent of your involvement (if any), whether models from other jurisdictions were evaluated and the reasons for the amendments. **Attach** a copy of the relevant training documentation/course material.

17.1. There have been amendments made to the training and education provided for ACT Policing officers in relation to conducting sexual assault investigations in the past four years. I have not had time to inform myself of all of them but, in the time available, I refer to my response to Question 55 below.

#### **AFP/ACT Policing Arrangements**

18. Question 18: Outline the relationship between AFP and ACT Policing. Explain the governance material in relation to the AFP's provision of community policing to the ACT. Include details about the AFP and ACT obligations pursuant to the governance material. The following must be explained:

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- (a) Policing Arrangement between the between the Minister for Justice of the Commonwealth and the ACT Minister for Police and Emergency Services;
- (b) Ministerial Direction by the ACT Minister for Police and Emergency Services to the ACT CPO; and
- (c) Purchase Agreement between the ACT Government and the AFP.

**Attach** a copy of all relevant governance material.

- 18.1. The *Australian Federal Police Act 1979* (Cth) (AFP Act) provides that the Commonwealth Minister responsible for the AFP and the ACT Minister responsible for policing on behalf of the ACT (ACT Minister) may enter into arrangements for the provision of police services for the ACT. I attach to my statement a copy of the Policing Arrangement which commenced in June 2017 (AFP.0012.0001.0056). The Policing Arrangement allows for the purchase of policing services by the ACT from the AFP by agreement between the ACT Minister, AFP Commissioner and the ACT CPO.
- 18.2. The ACT Minister, the AFP Commissioner and the ACT CPO have entered into an agreement for the purchase of policing services by the ACT from the AFP. I attach to my statement a copy of the Purchasing Agreement as currently in place (AFP.0012.0001.0064) ACT Policing is a business unit of the AFP and is responsible for the delivery of community policing services to the ACT in accordance with the Purchase Agreement and the Policing Arrangement.
- 18.3. I attach to my statement a copy of the Ministerial Direction by the ACT Minister for Police and Emergency Services to the ACT CPO dated 28 September 2022 (AFP.0012.0001.0051) which is issued under s 7 of the Policing Arrangement and identifies the expected focus areas of ACT Policing. I refer to my response to Question 20 below regarding my statement of intent in relation to the expected focus areas.
- 18.4. In addition to providing community policing services to the ACT, the AFP also provides policing services to the Commonwealth within the ACT which are not part of the Policing Arrangement.

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18.5. Although ACT Policing provides community policing services to the ACT as a distinct business unit of the AFP, the AFP provides indirect or 'enabling' services which are integral to the delivery of those services. These include corporate services (ie payroll, human resources, finance, property, logistics and technology) and operational support services (ie forensic, technical and specialist response services). I attach to my statement a copy of the Enabling Partnership Agreement between ACT Policing and AFP Crime Command (AFP.0015.0001.0366).

19. Question 19: Outline the distinction between the matters which fall within the AFP and ACT Policing jurisdictions. Include information about how conflicts are managed when the two jurisdictions intersect. Provide practical examples. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance material. If already attached and/or provided, refer to the relevant parts of your statement.

19.1. It is not necessarily the case that the AFP and ACT Policing 'jurisdictions' are strictly delineated. I refer to my response to Question 18 above. One of the AFP's functions is to provide policing services to the ACT under the Policing Arrangement and Purchase Agreement, and ACT Policing as a business unit of the AFP provides those services in accordance with the Purchase Agreement and the Policing Arrangement. Although the services provided by ACT Policing are different from the AFP's other functions under the AFP Act, there may be matters in which those intersect.

19.2. For example, in the context of a child exploitation investigation in relation to conduct in the ACT, either ACT Policing or the AFP (specifically JACET) could take carriage of that investigation. Another example would be a counter-terrorism investigation, where both ACT Policing and the AFP would have jurisdiction to investigate. There are a number of considerations which would be taken into account in determining whether ACT Policing or the AFP should take carriage of such matters including resourcing as well as relevant governance documents as exists in the context of counter-terrorism matters where there is a memorandum of understanding between ACT Policing, the AFP and other state policing agencies.

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20. Question 20: Explain the Four Pillars of the ACT Policing Police Services Model. **Attach** a copy of the Police Services model and any other relevant agreement, policy, procedure, guideline and/or governance. If already attached and/or provided, refer to the relevant parts of your statement.

20.1. In 2018, ACT Policing proposed the Police Services Model (PSM) to the ACT Government to address the rising complexity of crime, the increasing demands on ACT Policing and the need for a systemic approach for engaging vulnerable members of the community and preventing crime. At the time, I understand that there was a perception in ACT Policing that ACT Policing's response-driven operating model was struggling from these pressures. ACT Policing's proposal for the PSM drew on the success of similar models in other jurisdictions, including New Zealand and West Midlands in the United Kingdom, the application of which realised significant community benefits through a more proactive and preventative community-focused model.

20.2. The ACT Government supported the PSM as a long-term policy change and committed \$33.9 million for implementation in the four year period to 30 July 2023 (which is now known as PSM Phase 1. It was anticipated that the PSM would see ACT Policing develop under 'Four Pillars': intelligence led, mobility driven, evidence-based workforce and a system approach to preventing crime.

20.3. I attach to my statement a copy of the PSM (AFP.0015.0001.0359).

21. Question 21: Explain any other relevant Practical Guides in relation to the relationship between AFP/ACT Policing. Include reference and information about your Statement of Intent to the Minister for Police and Emergency Services dated 22 November 2022 (**ACT CPO 2023 Statement of Intent**). **Attach** a copy of any referenced Practical Guide, the ACT CPO 2023 Statement of Intent and any other agreement, policy, procedure, guideline and/or governance. If already attached and/or provided, refer to the relevant parts of your statement.

21.1. I attach to my statement a copy of the ACT CPO 2023 Statement of Intent (AFP.0015.0001.0362).

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21.2. I refer to my response to Question 18 above. I have not, in the time available, attached copies of any other agreements in relation to the provision of the AFP's enabling services to ACT Policing. There are particular agreements which exist in relation to operational services (ie forensics, operational science and technology) which I can provide to the Board on further request.

### Organisational Structure

22. Question 22: Outline the AFP structure/chain of command in relation to your role and ACT Policing as at April 2019. Include information about who occupied those positions at that time (including the rank and position that person holds) and the function you performed within that structure.

22.1. I was serving as Deputy Commissioner Operations in the AFP as at April 2019 and I did not have a role in ACT Policing. In relation to SACAT, to the best of my understanding, the chain of command as at April 2019 was as follows:

22.1.1. the ACT CPO, holding the rank of Assistant Commissioner, with overall responsibility for ACT Policing, who at the time was Ray Johnson;

22.1.2. one of the two Deputy Chief Police Officers, holding the rank of Commander, with responsibility for Criminal Investigations, who at the time was Mark Walters;

22.1.3. the Superintendent, Criminal Investigations, who I am informed at the time was Superintendent Scott Moller; then

22.1.4. the Crime Manager - Response, holding the rank of Inspector, who had responsibility for the three teams within SACAT.

23. Question 23: **Attach** an organisational structure/chart for ACT Policing as at April 2019. Identify in the organisational structure/chart each person in the chain of

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command for the ACT Policing Criminal Investigations/Sexual Assault and Child Abuse Team (**SACAT**). Include details of their rank and the position they occupied.

23.1. I attach to my statement a copy of the organisational structure/chart for ACT Policing as at April 2019 (AFP.0015.0001.0446).

24. Question 24: Outline the AFP structure/chain of command in relation to your role and ACT Policing as at April 2020. Include information about who occupied those positions at that time (including the rank and position that person holds) and the function you performed within that structure

24.1. As noted above, I was appointed as ACT CPO in May 2020. I refer to my response to Question 22 above. As at May 2020, the AFP structure/chain of command in relation to my role was substantially the same as at April 2019 except my rank as ACT CPO was Deputy Commissioner. I note that Commander Michael Chew was in the role of DCPO with responsibility for Criminal Investigations including SACAT as at May 2020.

25. Question 25: **Attach** an organisational structure/chart for the AFP as at April 2020. Identify in the organisational structure/chart each person in the chain of command for the ACT Policing Criminal Investigations/SACAT. Include details of their rank and the position they occupied.

25.1. I attach an organisational structure/chart for the AFP as at April 2020 (AFP.0015.0001.0444).

26. Question 26: Outline the AFP structure/chain of command in relation to your role and ACT Policing as at February 2021. Include information about who occupied those positions at that time (including the rank and position that person holds) and the function you performed within that structure.

26.1. I refer to my response to Questions 22 and 24 above.

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26.2. As at February 2021, the AFP structure/chain of command was substantially the same as at May 2020 except the position of Crime Manager - Response was then known as Major Crime Manager and that position was occupied by Inspector Marcus Boorman.

27. Question 27: **Attach** an organisational structure/chart for the AFP as at February 2021. Identify in the organisational structure/chart each person in the chain of command for the ACT Policing Criminal Investigations/SACAT. Include details of their rank and the position they occupied.

27.1. I attach to my statement a copy of the organisational structure/chart for the AFP as at 8 February 2021 (AFP.0011.0001.0017).

28. Question 28: Outline the current structure/chain of command for the AFP. Include information about when the structure changed, why it changed and the function you perform within that structure.

28.1. I refer to my response to Questions 22, 24 and 26 above.

28.2. I attach a copy of the organisation chart for the AFP current at the time of this statement (AFP.0015.0001.0883). The new AFP organisation structure took effect on Monday 20 February 2023. In July 2021, the Commissioner announced that he intended on adding an Assistant Commissioner to the ACT Policing structure, as he was of the view that the operating and policy environment required additional Senior Executive Service resources. The Assistant Commissioner would assume the DCPO role. Assistant Commissioner Crozier started in ACT Policing as DCPO on 19 July 2021.

29. Question 29: **Attach** a current organisational structure/chart for the AFP in relation to the chain of command for ACT Policing. Identify in the organisational structure/chart each person in the Criminal Investigations/SACAT, their rank, and the position they occupy.

29.1. I attach a copy of the current organisational structure/chart for the AFP (AFP.0011.0001.0018).

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### Duties and Responsibilities

30. Question 30: Outline your duties and responsibilities as the ACT CPO. Include information about who you directly report to and your direct reports. **Attach** a copy of any relevant agreements, policies and/or guidelines.

- 30.1. As ACT CPO, I oversee ACT Policing and have responsibility for the general management and control of personnel and services in the ACT in accordance with the Policing Arrangement.
- 30.2. I refer to my response to Question 31 below regarding my statutory duties under Commonwealth and ACT legislation.
- 30.3. I report directly to the AFP Commissioner.
- 30.4. My direct reports are the Deputy Chief Police Officer (DCPO), who holds the rank of Assistant Commissioner (AC) and is currently AC Doug Boudry, and the Executive General Manager Corporate, who is an unsworn member and is currently Mr Peter Howell.

31. Question 31: Explain your understanding of what a police officer's duties and responsibilities are in conducting a sexual assault investigation. Include references to relevant agreements, policies, procedures, guidelines and/or governance where appropriate. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

- 31.1. AFP members' primary duties are set out in the AFP Act and *Australian Federal Police Regulation 2018 (AFP Regulation)*; the AFP professional standards, which are set out in Commissioner's Order 2 and include the AFP Core Values and AFP Code of Conduct; Commonwealth legislation (other than the AFP Act); and Territory legislation such as, in the ACT, the *Victims of Crime Act (ACT) (Voc Act)* (including the ACT *Charter of Rights of Victims of Crime (Charter of Victim Rights)*) and the *Director of Public Prosecutions Act 1990 (ACT)*. Guidance information for AFP

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members is set out in the AFP's Investigative Doctrine, standard operating procedures, better practice guides and a range of other policies and procedures.

- 31.2. In the time available, I explain my understanding of what an ACT Policing officer's duties and responsibilities are in conducting a sexual assault investigation by reference to the specific duties arising in that context.
- 31.3. Section 9 of the AFP Act provides that AFP members have specific duties imposed on them when performing functions in the ACT. These are the duties conferred or imposed on a constable or police officer by or under any law (including the common law) of the ACT (s 9(1)(b)). Relevantly, the VoC Act imposes duties on the ACT CPO (as a 'justice agency' within the meaning of section 8 of the VoC Act) regarding their dealings with victims. These include:
- 31.3.1. the ACT CPO must engage with a victim respectfully and with appropriate regard to the victim's personal situation, needs, concerns, rights and dignity (s 14C(1));
- 31.3.2. the ACT CPO must take into account, and be responsive to, the individual needs of a victim, particularly needs relating to any of the following: age, disability, gender identity, race, religion, sex, sexuality, parental, family, carer or kinship responsibilities (s 14(c)(2));
- 31.3.3. the ACT CPO must tell victims about administration of justice processes in a way the victim can understand (s 18C);
- 31.3.4. the ACT CPO must, as soon as practicable, refer a victim to a suitable support service unless it would not be appropriate in the circumstances, or the victim does not want to be referred (s 15);
- 31.3.5. the ACT CPO must, unless the Court directs otherwise, ensure that a victim is provided with or able to access certain aids or adjustments identified under section 15A of the VoC Act;

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- 31.3.6. the ACT CPO must give a victim, as soon as possible, information about the administration of justice processes that result from reporting the offence (s 15C);
- 31.3.7. the ACT CPO must, within a reasonable period before a victim would be able to make a victim impact statement, tell a victim about who may make a victim impact statement, that a statement can be made orally or in writing, what information should be included in a statement, and how a victim impact statement may be used in court during a proceeding (s 15F);
- 31.3.8. if a victim tells the ACT CPO that the victim believes the agency has not complied with their victims' rights, or is otherwise dissatisfied with the agency's services in relation to victims' rights, the ACT CPO must, as soon as practicable, tell the victim how the victim may make a complaint or raise a concern with the agency, the Victims of Crime Commissioner, or the Human Rights Commissioner (s 15I)
- 31.3.9. the ACT CPO must give a victim who reports an offence a copy of their report, including the contact details of the police officer who took the report and details of another police officer the victim can contact about the report (s 16); and
- 31.3.10. the ACT CPO must update a victim about the progress of the investigation as soon as practicable after a change in the status of the investigation, and at least every 6 weeks, unless the victim wishes to be updated less frequently or the ACT CPO believes that doing so would prejudice the investigation or any other investigation (s 16A). A 'change in the status of the investigation' includes 'a person being charged with the offence'.

31.4. It is my understanding that these obligations are personal to the ACT CPO. I hold that understanding because, while Note 1 to s 8 of the VoC Act provides that 'a director-general' may delegate their functions under the VoC Act, there is no equivalent

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delegation provision for the ACT CPO. Practically speaking, as ACT CPO, I seek to discharge my personal obligations through:

31.4.1. the AFP (ACT Policing) and Victims of Crime Commissioner Memorandum of Understanding relating to Victims of Crime in the ACT (ACTP-VCC MOU), a memorandum of understanding that operates between the two agencies. I attach to my statement a copy of the ACTP-VCC MOU (AFP.0015.0001.0678). The ACTP-VCC MOU includes referral arrangements, and the procedure for information exchange under the Financial Assistance Scheme established by the *Victims of Crime (Financial Assistance) Act 2016* (ACT); and

31.4.2. compliance with the ACT Policing Standard Operations Procedure for Victims of Crime which outlines the process for supporting victims of crime in the ACT, in adherence to the ACT *Charter of Victims Rights* and the supporting role of ACT Policing Victim Liaison Officers. I attach to my statement a copy of the Standard Operating Procedure for Victims of Crime (AFP.0015.0001.0756).

31.5. Section 14 of the *Director of Public Prosecutions Act 1990* (ACT) outlines two circumstances in which the director may in writing request the ACT CPO for the assistance of police officers in the investigation of a matter. Section 14(2) provides that the ACT CPO shall, as far as practicable, comply with such a request.

31.6. The AFP has adopted several standard operating procedures which are relevant to the investigation of crime, including sexual offences, in the ACT. I set out and attach to my statement:

31.6.1. the AFP Investigations Doctrine (AFP.0009.0001.0062); and

31.6.2. the AFP Investigations Manual (AFP.0013.0002.0123; AFP.0013.0002.0205; AFP.0013.0002.0289).

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31.7. ACT Policing also has a range of guidance documents which are relevant to the investigation of crime, including sexual offences, in the ACT. I set out and attach to my statement the following:

- 31.7.1. the Better Practice Guide on Criminal Investigations Response and Notification (AFP.0002.0001.0017);
- 31.7.2. the Better Practice Guide on Investigations Review (AFP.0015.0001.0794);
- 31.7.3. the Better Practice Guide on Sexual Offence and Child Abuse Investigations and first response (AFP.0015.0001.0577);
- 31.7.4. the Better Practice Guide on Victims' Rights (ACT) (AFP.0009.0001.0214);
- 31.7.5. the Better Practice Guide on Evidence in Chief - Interviewing Young People or Vulnerable Witnesses (AFP.0015.0001.0667);
- 31.7.6. the Better Practice Guide on Record of Interview - Conversation Management (AFP.0013.0002.0508);
- 31.7.7. the Standard Operating Procedure on Interviewing Vulnerable Witnesses (AFP.0015.0001.0626);
- 31.7.8. the ACT Sexual Offences Guide (AFP.1000.0002.0021); and
- 31.7.9. ACT Evidence Matrixes on Sexual Assault, sexual intercourse with a child under 10 years, sexual intercourse with a child under 16 years, sexual intercourse without consent, act of indecency without consent, act of indecency young person under 10 and act of indecency child under 16.

### **Investigating Sexual Assault Complaints**

32. Question 32: Outline the extent of your involvement (if any), as ACT CPO, in relation to a sexual assault investigation. State whether this has changed during the past three years. If so, provide details of how your involvement was different and

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how, when and why the process changed.

- 32.1. I ordinarily have no involvement as ACT CPO in relation to a sexual assault investigation.
- 32.2. I might receive a briefing as ACT CPO about a sexual assault investigation if the complaint or investigation has unusual features or is high profile, but it is not part of my role as ACT CPO to be involved in the actual investigation.
- 32.3. This position has remained the same during the past three years since my appointment as ACT CPO.

33. Question 33: Outline the typical process of conducting a sexual assault investigation from the perspective of your position. Include the following information:

- (a) when the Office of the Director of Public Prosecutions (ODPP) or the Director of Public Prosecutions, Mr Shane Drumgold SC (DPP) would ordinarily be consulted; and
- (b) whether you typically have any direct contact with the DPP/ODPP, the complainant and/or the accused. If so, provide examples of the instances in which you would have direct contact with these persons.

**Attach** a copy of any policies, procedures, guidelines or documents which guide a sexual assault investigation. If already attached and/or provided, refer to the relevant parts of your statement.

- 33.1. As noted above, I am not typically involved in the conduct of sexual assault investigations. An investigation is, put simply, an objective search for the truth, and from the perspective of my position that involves an evidence-gathering exercise in accordance with the matters outlined in my response to Question 31 above.
- 33.2. The ODPP/DPP may be consulted in relation to such matters as advice during an investigation around admissibility of evidence and legal implications of alternative or proposed police actions, general matters of law, evidence and procedures.
- 33.3. I do not typically have any direct contact with the DPP/ODPP, the complainant and/or the accused because I am not typically involved in the conduct of sexual assault

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investigations as ACT CPO.

34. Question 34: State the duties and responsibilities of the following officers generally and in relation to conducting a sexual assault investigation:

- (a) Detective Superintendent;
- (b) Detective Inspector;
- (c) Detective Sergeant; and
- (d) Constable (of all relevant divisions).

34.1. My understanding of the general duties and responsibilities of the officers specified in Question 34(a)-(d) in the conduct of sexual assault investigations is as follows:

- 34.1.1. a Constable undertakes criminal investigations that fall under State, Territory and Commonwealth jurisdictions;
- 34.1.2. a Detective Sergeant manages, and in some instances undertakes, criminal investigations that fall under State, Territory and Commonwealth jurisdictions;
- 34.1.3. a Detective Inspector manages large or multidisciplinary teams including Constables and Detective Sergeants; and
- 34.1.4. a Detective Superintendent supervises and manages the strategic direction of investigations to ensure efficient and effective use of resources and high-quality outcomes.

35. Question 35: Explain the adjudication process for compiling briefs of evidence for the ODP. Provide details as to why the adjudication process is conducted. Attach a copy of any relevant documents, guidelines, policies, procedures and/or governance material. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed.

35.1. ACT Policing's adjudication process for compiling briefs of evidence commences at the mention stage, at which point the file is either an arrest file which is adjudicated by the Regional Watch House Sergeant or a summons file which is adjudicated by the relevant Adjudication Practice (AP) member.

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- 35.2. At the mention stage, the adjudication process in relation to a summons file is as follows:
- 35.2.1. the case officer completes the summons file and includes an adjudication cover sheet before submitting the summons file to their Team Leader. I attach to my statement a copy of the template adjudication cover sheet (AFP.0015.0001.0706);
- 35.2.2. the Team Leader reviews the summons file and, if satisfied with the content of the summons file, completes Part A of the adjudication cover sheet and delivers the summons file to the relevant AP member for their respective area;
- 35.2.3. the AP member will complete a full adjudication of the summons file and, if satisfied with the content of the summons file, complete Part B of the adjudication cover sheet and sign their endorsement before delivering the summons file to the Judicial Operations (JO) Brief Management Team (BMT);
- 35.2.4. the BMT will create a new database entry to track the current summons file and any future files on receipt of the summons file from the AP member. The BMT does not perform a secondary adjudication but will, through the process of registering the charge with the court, address any procedural errors (for example, errors in the identification of the correct court or court dates). The BMT will then arrange for the summons to be sworn, usually on the next available Wednesday, if the file is complete and ready to be sworn. The BMT may make a request to the registry of the relevant court to arrange to swear a summons at an earlier time if the matter is urgent.
- 35.2.5. once sworn, the ODPP retains the summons file and the usual process is to have the JO Service team and process servers locate the defendant and serve the court attendance notice and Statement of Facts on the defendant. In urgent or sensitive matters, such as where there are sensitivities regarding the security of information, another officer (including the case officer) may arrange service, in which case the officer responsible for service will complete an affidavit of service and return that affidavit to the relevant court.

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- 35.3. At or following the mention date, the defendant will enter a plea of guilty or not guilty. If the defendant enters a plea of guilty, the adjudication process effectively ceases and the matter is listed for sentence. If the defendant enters a plea of not guilty, the ODPP will notify ACT Policing (either the case officer/informant, the AP member or the BMT) that a hearing brief of evidence is required. If the case officer is not notified directly by the ODPP, the BMT will notify the case officer that a hearing brief of evidence is required and advise the case officer of the dates on which the brief is due to the AP member, the BMT and the ODPP. In matters where the ODPP is in direct contact with the case officer, as is often the case in significant matters, these dates may be negotiated between the case officer and the ODPP.
- 35.4. At the hearing stage, the adjudication process for a brief of evidence is as follows:
- 35.4.1. on notification of a not guilty plea, the case officer/informant will compile the hearing brief of evidence including the ‘brief head documents’ and ‘hearing brief adjudication’ sheets. I attach to my statement copies of the templates for the ‘brief head documents’ and ‘hearing brief adjudication’ sheets (AFP.0015.0001.0660);
- 35.4.2. the case officer/informant will submit the hearing brief of evidence to the Team Leader;
- 35.4.3. the Team Leader reviews the brief and, if satisfied with the contents, endorses the ‘hearing brief adjudication’ sheet and submits the hearing brief of evidence to the relevant AP member; and
- 35.4.4. the AP member reviews the brief and, if satisfied with the contents, endorses the ‘hearing brief adjudication’ sheet and submits the hearing brief of evidence to the JO BMT.
- 35.5. If the Team Leader or AP member identifies issues in the summons or brief of evidence during the adjudication process, they will return the summons or brief to the case officer for correction or in the case of a brief of evidence:

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35.5.1. the collation of additional material; or

35.5.2. to submit a ‘No Evidence to Offer’ (NETO) request recommending the ODPP consider entering a NETO, meaning an application to withdraw the charge(s), at the next mention before the court. NETO requests will usually be in the form of a minute prepared by the case officer/information with comments. NETO requests may be endorsed by the AFP member’s Team Leader, the Adjudication Practice Team and Inspector, ACT Policing Judicial Operations. ACT Policing Judicial Operations will then forward the NETO request to the DPP who will review the request and make the final decision as to whether the matter is to proceed or not.

35.6. The ACT Policing adjudication process is conducted to review summonses and briefs of evidence as a quality assurance mechanism to identify and correct matters ranging from typographical errors to the sufficiency of evidence and application of police powers prior to submission.

35.7. I attach to my statement a copy of the ACT Policing Better Practice Guide in Briefs of Evidence (AFP.0015.0001.0567).

35.8. The process outlined above and set out in the Better Practice Guide should be followed in normal circumstances. It is important to note that the relevant governance document applied here is a practical guide and being a guide, it is permitted to deviate from the process if circumstances require that to occur. The decision to deviate from the process would normally be made by a case officer.

35.9. I do not understand there to have been any changes to the adjudication process as outlined above in the last four years.

36. Question 36: Describe the AFP/ACT Policing’s “victim-centric” approach to liaising with sexual assault complaints. Provide examples to illustrate the approach where appropriate.

36.1. The AFP/ACT Policing’s approach to liaising with sexual assaults complainants

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recognises the needs and welfare of the complainant as paramount. ACT Policing adopts trauma-informed and victim-centric principles. Police are guided by the victims' desired outcomes, ensuring victims' rights, as found in Part 3A of the VoC Act, are kept at the forefront of their minds. This approach is outlined in the Better Practice Guide on Sexual Offence and Child Abuse Investigations and first response (AFP.0015.0001.0577) as referred to and attached to my statement in my response to Question 31 above.

36.2. ACT Policing supports a whole-of-government approach to engaging sexual assault complainants through cooperation with other government agencies such as, the Victims of Crime Commission, as well as external stakeholders, such as the Rape Crisis Centre. ACT Policing are provided training about the VoC Act and the ACT Victims of Crime Charter.

37. Question 37: Explain your understanding of the threshold to charge a person with a sexual offence in the ACT. Provide examples of what is required and what may affect the threshold, including your understanding of corroboration and whether it is required before charging a person for a sexual offence.

37.1. My understanding of the threshold to charge a person with a sexual offence in the ACT from a policing perspective is that there are reasonable grounds to believe that an offence has been committed. A decision to proceed to charge should typically not be taken until a proper investigation has been undertaken. It is impossible to put a time period on when this relevant threshold in the mind of the investigator is reached. Ultimately the discretion does rest with the investigating officer but they must make

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the decision in accordance with relevant laws and be able to justify their decision rationally.

37.2. It is not possible to provide examples because what is required to reach the threshold depends on the factual circumstances of a particular case. It is not the case that corroboration is required before charging a person for a sexual offence.

38. Question 38: If your understanding of the threshold to charge a person with a sexual offence has changed in any way over the past four years, explain when, how and why it has changed.

38.1. My understanding of the threshold to charge a person with a sexual offence from a policing perspective, as outlined in my response to Question 37 above, has not changed over the past three years since my appointment as ACT CPO.

39. Question 39: Explain the process that is undertaken by AFP/ACT Policing when a further statement or further information is required from a complainant. Attach a copy of the relevant documents, guidelines, policies, procedures and/or governance material. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed

39.1. There is no generalised process that is undertaken by ACT Policing officers when a further statement or further information is required from a complainant because the process will be determined on a case-by-case basis taking into account the context of the particular investigation which may include such matters as the complainant's age, the capacity and health of the complainant, the geographical location of the complainant, any support services required in engaging with the complainant, and the urgency of seeking the statement or information. Those guidelines, policies and procedures outlined in my response to Question 31 above which apply to criminal investigations and sexual assault investigations specifically would be relevant in determining the appropriate process.

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40. Question 40: Following an investigation, explain the process that is undertaken by AFP/ACT Policing in advising and/or consulting with complainants when a decision is made to charge or not to charge. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed. Attach a copy of the relevant documents, guidelines, policies, procedures and/or governance material.

40.1. I refer to my response to Question 31 above in regards to the obligation that the VoC Act confers on the ACT CPO, as the relevant 'justice agency', to update a victim about the progress of the investigation as soon as practicable after a change in the status of the investigation, and at least every 6 weeks, unless the victim wishes to be updated less frequently or the ACT CPO believes that doing so would prejudice the investigation or any other investigation. The Better Practice Guide on Victims' Rights (ACT) (AFP.0009.0001.0214) states, at page 11 and in language consistent with the statutory obligation conferred on me as ACT CPO under the VoC Act, that police are to regularly update victims on investigation status, relevant decisions (including a decision to charge) and outcomes.

40.2. Additionally, the ACT Policing Standard Operating Procedure - Victims of Crime (AFP.0015.0001.0756), referred to and attached to my statement in response to Question 31 above, sets out the role of the ACT Policing Victims Liaison Unit in making contact with a victim where it considers appropriate, including where the offence involves sexual assault, noting that does not affect the investigating member's statutory responsibilities in this regard.

41. Question 41: State whether you believe any underlying cultural views have existed within the AFP in the past four years with respect to conducting sexual assault investigations. Specifically, whether sexual assault complainants are treated differently to other victim/survivors of crime.

41.1. In response to the specific aspect of Question 41, the ACT Victims of Crime Charter sets out how all victims of crime including sexual assault complainants are to be

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treated in relation to the investigative process. It is the case that in the immediate period after a complaint of sexual assault is made to ACT Policing, sexual assault complainants are likely to be treated differently from other victims/survivors of crime insofar as the initial evidence-gathering process that is undertaken and referrals to medical and support services, including the Canberra Rape Crisis Centre, are offered. These matters are set out in further detail in the ACT Policing Better Practice Guide – Sexual Offence and Child Abuse Investigations and first response (AFP.0015.0001.0577) as set out and attached to my statement in response to Question 31 above.

41.2. As for the more general aspect of Question 41, this is broad and difficult to answer in the abstract. However, doing my best, I would say that within the past four years, there has been heightened awareness of and focus on sexual assault matters and investigations within ACT Policing and other policing organisations, both nationally and internationally, as highlighted by the report of the Sexual Assault Prevention and Response Steering Committee (Steering Committee's Report) and steps taken by ACT Policing in response to the Steering Committee's Report. An example of the response to this heightened focus in ACT Policing is the increase in resources that have been directed towards the conduct of sexual assault investigations, including by creating a new Inspector position to oversee the Sexual Assault and Child Abuse Team (SACAT) as well as 6 additional Investigator positions within SACAT. As a result, SACAT now comprises approximately one-third of ACT Policing's investigative resources. This has been the case for about 15 months. In that same period of time, ACT Policing has also updated training on sexual assault investigations through a pilot training program managed between AFP College and ACT Policing, that took place in the latter half of 2022. I outline this in further detail in my response to Question 55 below.

42. Question 42: Outline your involvement (if any) when a complainant requests to discontinue an investigation. Provide details of whether you receive a briefing in relation to this and whether you provide a subsequent briefing to your direct

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report(s). If the process has changed during the past four years, outline how the process was different and how, when and why the process changed. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance material.

- 42.1. I ordinarily have no involvement when a complainant requests to discontinue an investigation.
- 42.2. As set out in my response to Question 32 above, I might be briefed in relation to such a request if the complaint has unusual characteristics or is high profile. I cannot recall ever providing a subsequent briefing to the AFP Commissioner, as my direct report, in relation to such a request.
- 42.3. This position has not changed over the past three years since my appointment as the ACT CPO.

43. Question 43: State whether you believe any underlying cultural views have existed within the AFP in the past four years with respect to conducting sexual assault investigations after it has been reinstated by a complainant. Specifically in such instances, whether the sexual assault complainant is treated differently to other victim/survivors of crime and whether the conduct of the investigation is therefore affected in any way.

- 43.1. I believe that the view that exists within the AFP/ACT Policing with respect to conducting sexual assault investigations after it has been reinstated by a complainant is that the sexual assault investigation will commence or recommence in the usual way and the complainant is treated the same as they would if the initial investigation had not been discontinued. In my view, the fact that the complaint was withdrawn does not affect the conduct of the investigation once reinstated.
- 43.2. I understand that it is more common for sexual assault complaints to be withdrawn and later reinstated than complaints of other offences.

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### Challenges, Issues and/or Pressures

44. Question 44: Explain any issues, challenges and/or pressures you perceive to have existed within the AFP/ACT Policing in the past four years. Specifically, in relation to the conduct of sexual assault investigations. Include information about the training, size, recruitment and resources of ACT Policing. Provide examples where possible.

- 44.1. In the time available, I am unable to explain all of the issues, challenges and pressures that I perceive to have existed within the AFP/ACT Policing in the past four years.
- 44.2. In relation to training, size, recruitment and resources of ACT Policing in relation to sexual assault investigations, I make the following observations:
- 44.2.1. in relation to training, training in ACT Policing in relation to sexual assault investigations has been updated within the past eighteen months in response to a self-initiated AFP Internal Review in 2021 and the Steering Committee's Report;
- 44.2.2. in relation to size, at the time I was appointed ACT CPO, SACAT members had an extremely large case or investigation file load. I perceived that the members were doing their best but it was clear they were struggling under the expectations and caseload. In short, the workload exceeded capacity. Workload issues also impacted the team members' opportunity to undertake further training. This became clear to me not long after I was appointed as ACT CPO;
- 44.2.3. in relation to recruitment, I have not perceived challenges in recruiting officers to SACAT specifically. SACAT does not carry substantial ongoing vacancies and staffing levels in SACAT have been at the affordable FTE (that is, the budgeted level) for the last 12 months. However, there is a challenge in relation to recruitment in ACT Policing generally because ACT Policing loses staff to the AFP, at a rate of approximately 15% per year;

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- 44.2.4. in relation to supervision, as stated in my response to Question 41 above, a new Inspector position has been created in SACAT in the last eighteen months to increase the level of supervision for investigating officers. It must also be noted that across ACT Policing and indeed the AFP more broadly, there were a large number of vacancies at the Sergeant rank when I commenced as ACT CPO. 27 new Sergeants have now been promoted to that rank across ACT Policing.
- 44.2.5. in relation to resources, and by reference to my response to Question 18 above regarding AFP's provision of enabling services to ACT Policing, I have perceived that the allocation of resources within the AFP to address national policing priorities can impact access to resources in ACT Policing investigations. Shared resourcing pressures in the context of sexual assault investigations are particularly acute in the area of digital forensics, with such resources being increasingly relied on in sexual assault investigations.
- 44.3. In September 2022, the AFP commissioned PriceWaterhouseCoopers to undertake an independent review of the provision of community policing services in the ACT, which was led by the former NSW Police Commissioner Mick Fuller AO (Fuller Review). The Fuller Review addressed such issues as training, size, recruitment and resourcing in ACT Policing. I attach a copy of the final external version of the report of the Fuller Review dated 28 February 2023 to this statement (AFP.0010.0001.0070). The Fuller Review notes the changing and driving demand for ACT Policing services and the need for ACT Policing and ACT Government to determine how to meet the changing demand. The Fuller Review found that ACT Policing has lower staffing numbers relative to population size than other Australian jurisdictions. ACT Policing has submitted a comprehensive Business Case to the ACT Government in relation to our resourcing challenges.

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45. Question 45: Explain any issues, challenges and/or pressures you perceive to exist external to the AFP/ACT Policing. Specifically, in relation to the conduct of sexual assault investigations. Include information about the environment in which ACT Policing operates and any complexities in the AFP/ACT Policing arrangement. Provide examples where possible.

- 45.1. In the time available, I am unable to explain all of the issues, challenges and pressures that I perceive to exist external to the AFP/ACT Policing in relation to the conduct of sexual assault investigations. As with my response to question 44 above, I would like to address the following.
- 45.2. AFP Policing operates in relation to the conduct of sexual assault investigations in effectively the same way as other state policing organisations in Australia, notwithstanding the AFP/ACT Policing Arrangement. For instance, my position is substantively the same as the commissioners of state policing organisations and I sit as a commissioner equivalent on the [REDACTED]  
[REDACTED]
- 45.3. I refer to my observations about pressures arising from shared resources between the AFP and ACT Policing in response to Question 45 above. Resourcing pressures do represent a challenge in relation to the conduct of sexual assault investigations, particularly in the area of digital forensics, but also in the shared management of ICT systems which may not facilitate updates specific to SACAT's operational needs concerning updates to the AFP's case management system, PROMIS, in a timely fashion. I believe that the challenges which arise from sharing resources with the AFP, in the areas of Forensics and ICT, are also experienced by state policing organisations, so they are not unique to the AFP/ACT Policing Arrangement and that arrangement does not, of itself, present any particular complexities.
- 45.4. There are always external challenges in gathering evidence during the investigative process, such as medical evidence, in the context of sexual assault investigations and the delays arising from that. This is also particularly relevant when relying on external stakeholders, such as medical practitioners, to provide expert statements.

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### Sensitive Investigations Oversight Board (SIOB)

46. Question 46: State whether you have read the “Review into the AFP’s Response to and Management of Sensitive Investigations” by Mr John Lawler AM APM dated 17 January 2020 (**the Lawler Review**).

46.1. I have read the Lawler Review. I believe I read the Lawler Review before I was appointed as ACT CPO and not long after its release.

47. Question 47: State when the SIOB was formed.

47.1. I understand that SIOB was formed in February 2020 following the release of the Lawler Review.

48. Question 48: Outline the formation of the Sensitive Investigations Oversight Board (**SIOB**). Provide details of which positions sit on the SIOB, who chairs the SIOB, whether you have a position in relation to the SIOB, the duties and responsibilities of each position on the SIOB and the reasons for this formation. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

48.1. I am not a member of the SIOB and I never have been.

48.2. I attach to my statement a copy of the SIOB’s terms of reference dated July 2020 (AFP.0013.0001.0273) (SIOB Terms of Reference) The SIOB Terms of Reference identify:

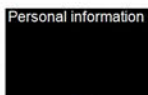
48.2.1. which positions within the AFP sit on the SIOB, including the Deputy Chief Police Officer (DCPO); and

48.2.2. that the Deputy Commissioner Investigations, currently Deputy Commissioner Ian McCartney, chairs the SIOB.

48.3. I do not have any direct knowledge of the responsibilities of each position on the SIOB or the reasons for the formation of the SIOB.

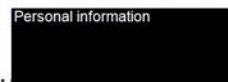
49. Question 49: Outline the purpose of the SIOB. Provide details of the types of matters the SIOB reviews and what role the SIOB undertakes in relation to a sensitive

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investigation (i.e. whether the SIOB evaluates or investigates sensitive investigations). State whether the SIOB reviews investigations in both the Commonwealth and ACT jurisdictions. If so, provide details of whether the process for reviewing Commonwealth and ACT jurisdiction sensitive investigations differs and, if so, how the process differs. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

- 49.1. I understand the purpose of the SIOB to be as set out in the SIOB Terms of Reference.
- 49.2. To my understanding, the SIOB does review investigations in both Commonwealth and ACT jurisdictions and, to the best of my knowledge, the SIOB's process for reviewing Commonwealth and ACT jurisdictions does not differ.
- 49.3. I do not have direct knowledge of the other matters referred to in Question 49 because I have never been a member of the SIOB.

50. Question 50: Explain the definition of a '**sensitive**' investigation and how this differs from the definitions of '**politically sensitive investigation**' in the AFP National Guideline on Politically Sensitive Investigations and '**politically sensitive matters**' in the Memorandum of Understanding (**MOU**) between the AFP and the Australian Electoral Commission (**AEC**). Provide practical examples where appropriate. **Attach** a copy of the AFP National Guideline on Politically Sensitive Investigations, the MOU between the AFP and the AEC, and any referenced agreement, policy, procedure, guideline and/or governance.

- 50.1. The SIOB Terms of Reference sets out the definition of a 'sensitive' investigation with reference to the Lawler Review. I do not have direct knowledge of the other matters referred to in Question 50 and accordingly do not attach a copy of the documents identified.

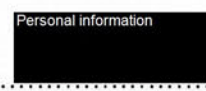
51. Question 51: Outline the process of how an investigation is classified as a sensitive investigation. Provide details of what stage of an investigation a matter is typically classified as a sensitive investigation. Include details of the circumstances which may give rise to the need to brief the SIOB and the nature of the evidence typically

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obtained at that stage. Provide practical examples where appropriate. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

51.1. The SIOB Terms of Reference set out in broad terms the process as to how an investigation is classified as a sensitive investigation. I do not have direct knowledge of the process but do note that, in my role as ACT CPO, my view is that investigators should err on the side of caution to escalate matters to the SIOB for evaluation, and I have communicated that view to investigators through the chain of command at ACT Policing.

52. Question 52: Outline the process of how sensitive investigations are evaluated by the SIOB. Provide details of:

- (e) what briefings are prepared to the SIOB, including the chain of command for raising a potential sensitive investigation to SIOB. Include references to the briefing templates utilised;
- (f) whether any preliminary briefings are prepared and/or provided to you, as Chief Police Officer, in relation to a potential sensitive investigation. Include references to what preliminary briefings are required and your duties and responsibilities in actioning the briefings;
- (g) the actions SIOB takes once a brief in relation to a potential sensitive investigation is received; and
- (h) the general nature of the decisions SIOB commonly provides. Specially, in relation to whether to charge. Provide detail of whether recommendations from SIOB are typically in writing or verbal and to whom the recommendations are provided to.

**Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

52.1. In relation to my understanding as to SIOB's evaluation of a matter that may be a sensitive matter, I state the following from my perspective as ACT CPO (noting I have never been a member of the SIOB):

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52.1.1. in regards to the preliminary briefing process, an investigator would first prepare a submission to SIOB which would be escalated through the chain of command to the Detective Superintendent, then to the Commander Investigations, then to the DCPO. The DCPO would then forward the submission to the Secretariat of the SIOB with their recommendation. I attach to my statement a copy of the template submission (AFP.0014.0001.0048);

52.1.2. in response to question 52(b), I am not involved in that preliminary briefing process but I do have an expectation that I will be verbally briefed by the DCPO on any potentially sensitive investigation, for my information, at the same time as the DCPO escalates the submission to the SIOB;

52.1.3. in response to question 52(c), I note the SIOB Terms of Reference outline the Secretariat's role in handling briefings to the SIOB but otherwise I have no direct knowledge of the actions taken by the SIOB once a brief is received; and

52.1.4. in response to question 52(d), I note the SIOB's Terms of Reference set out the kinds of decisions that the SIOB would ordinarily make, including to appoint a senior investigating officer or undertake overt or sensitive evidence gathering exercises.

52.2. Specifically in relation to decisions to charge, I can only speak in relation to ACT Policing matters but I am not aware of the SIOB having ever made a decision or expressed an opinion as to whether to charge.

52.3. I am aware that, where SIOB makes a decision in relation to a particular matter, that would typically be in writing and specifically in the minutes of the particular SIOB meeting where the recommendation was made. The DPCO, as the standing member of the SIOB from ACT Policing, would be responsible for communicating SIOB's recommendation in relation to an ACT Policing sensitive investigation back down the chain of command to the responsible investigator. That said, I have attended SIOB meetings not as a member but in an advisory capacity to address the meeting on a

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particular matter and, in such a case, it is likely I would have been aware of SIOB's recommendation in relation to such a matter if it was made during the meeting.

53. Question 53: Outline your involvement (if any) in relation to the SIOB. State whether you are responsible for briefing matters to the SIOB and/or relaying recommendations/comments from SIOB. If so, provide details of the nature of investigations in which you brief to SIOB and/or relay recommendations/comments in relation to.

- 53.1. I have had limited involvement in my role as ACT CPO in relation to the SIOB. I have only ever been involved in the SIOB in an advisory capacity in relation to matters within ACT Policing. The AFP Deputy Commissioner Investigations, as chair of the SIOB, will occasionally request my attendance at a SIOB meeting in relation to an ACT Policing matter as contemplated by the SIOB Terms of Reference. That is one of the reasons I expect to be verbally briefed by the DCPO on potentially sensitive investigations within ACT Policing.
- 53.2. On those occasions I have been involved in the SIOB in an advisory capacity, I would have provided a verbal briefing to the SIOB with reference to any written briefing paper provided to the Secretariat in advance of the meeting. The DCPO would have also been in attendance as a standing member of the SIOB and is likely to have contributed to the verbal briefing. As set out in my response to Question 52 above, the DCPO would have relayed the SIOB's recommendations back to the investigating officer responsible for the matter.
- 53.3. I have caused searches to be undertaken and am informed that I attended 4 SIOB meetings in 2021, two of which related to the investigation in this matter. I outline in further detail below my interactions with the SIOB at those two meetings in response to Questions 69 and 70 below.

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

54. Question 54: State whether you 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**).

54.1. I have read the Steering Committee's Report. I believe that I read the report in draft form shortly before publication and in final form shortly after that.

55. Question 55: Outline the steps taken by the AFP/ACT Policing in response to the Steering Committee's Report in relation to:

- (a) cross-agency cooperation and communication with the Victims of Crime Commissioner for the ACT (**the Victims of Crime Commissioner**), Canberra Rape Crisis Centre and other relevant agencies;
- (b) implementing training for police officers in relation to conducting sexual assault investigations; and
- (c) dealing with sexual assault complainants generally.

Include details of when these steps were taken and the status of the implementation of these steps.

55.1. As set out in my response to question 42 above, ACT Policing has taken a number of significant steps in response to the Steering Committee's Report and is continuing work implementing them.

55.2. In regards to cross-agency cooperation and communication, I refer to my response to Question 59 below in relation to the Oversight Committee.

55.3. In regards to training for police officers in relation to conducting sexual assault investigations:

- 55.3.1. in 2022, ACT Policing undertook a review of what was then known as the SACAT Program and redeveloped the program with assistance from Dr Patrick

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Tidmarsh and Mr Mark Barnett as the Sexual Offences and Child Abuse (SOCA) program. In February 2023, the first SOCA program was completed, with positive feedback received, and a further program is scheduled for later in 2023;

55.3.2. since early 2022, arrangements have been put in place for SACAT members to attend the QPOL 'ISACURE' course, which delivers training on the 'Whole Story' method of interviewing developed by Dr Tidmarsh;

55.3.3. SOCA Management complete regular training with the ACT Policing Communications team specifically regarding call-taking with sexual offence complainants;

55.3.4. SACAT members attended a training day in November 2021 with internal and external stakeholders; and

55.3.5. ACT Policing has created a Sexual Offence Investigations intranet 'hub' which is updated by the SOCA Project Officer and includes 8 training videos that have been created to provide further training in the conduct of sexual assault investigations.

55.2. In regards to dealing with sexual assault complaints generally, ACT Policing updated the Better Practice Guide - Victim's Rights on 28 March 2022, as referred to and attached to my statement above.

56. Question 56: Outline whether you have observed or driven a cultural shift within the AFP/ACT Policing in the investigation and charging of sexual assault offences since the release of the Steering Committee's Report. Provide details of the extent of any cultural shift and the reasons for your views.

56.1. Since the release of the Steering Committee's Report, ACT Policing has implemented a number of changes in relation to the investigation and charging of sexual assault offences. I refer to my response to Question 44 above, generally.

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56.2.I refer to my response to Question 44 above in regards to the changes to training, size, recruitment and supervision of SACAT since the release of the Steering Committee's Report.

56.3.Further, since the release of the Steering Committee's Report, a committee comprising representatives including me as the ACT CPO, the DPP and the Victims of Crime was established to undertake a review of a number of sexual assault allegations reported to ACT Policing between 1 July 2020 and 31 December 2021 to seek to understand the reasons for a low number of cases progressing to charge, including those deemed unfounded, uncleared or withdrawn (Oversight Committee). I attach to my statement a copy of ACT Policing's progress update to the Oversight Committee's secretariat dated 25 November 2022 (AFP.2003.0008.4515).

57. Question 57: Outline whether you have observed a cultural shift within the DPP/ODPP in the prosecution of sexual assault offences since the release of the Steering Committee's Report. Provide details of the extent of any cultural shift and the reasons for your views.

57.1.I am aware that since the release of the Steering Committee's Report, the DPP has put additional resources into the prosecution of sexual assault offences.

57.2.The DPP is a member of the oversight committee referred to in my response to Question 56 above.

57.3.I cannot otherwise comment on the matters raised in Question 57.

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58. Question 58: Outline whether you have observed a cultural shift in relation to the Victims of Crime Commission in providing support/assistance to victim/survivors of sexual assault since the release of the Steering Committee's Report. Provide details of the extent of any cultural shift and the reasons for your views.

58.1. I am aware that following the release of the Steering Committee's Report, the Victims of Crime Commission has received additional funding to provide assistance to sexual assault complainants.

58.2. The Victims of Crime Commissioner is also a member of the Oversight Committee.

58.3. I cannot otherwise comment on the matters raised in Question 58 relating to the Victims of Crime Commission's provision of support/assistance to victims/survivors because ACT Policing is not involved in those matters.

59. Question 59: State whether have had any involvement in relation to the Oversight Committee that was formed in response to recommendation 15 of the Steering Committee's Report. If so, provide details of:

- (a) the extent of your involvement;
- (b) when it was formed;
- (c) what the Terms of Reference are;
- (d) what reviews/investigations the working group is undertaking/seeking to undertake; and
- (e) where the working group is up to in their reviews/investigations.

59.1. I have been involved in the Oversight Committee as one of its members. I am assisted by the ACT Policing Sexual Assault Prevention and Response (SAPR) Review team which was established in response to recommendation 15 of the Steering Committee's Report to assist ACT Policing's involvement in the Oversight Committee, among other things. The SAPR Review team is led by a Detective Sergeant and all members of the team undertook the revised SOCA Program in January 2023. I state the following in relation to the Oversight Committee:

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59.1.1. the Oversight Committee was formed after the Steering Committee's Report was delivered. Ms Christine Nixon and Ms Karen Fryar are co-chairs and the members of the Committee are myself as ACT CPO, the DPP, the Victims of Crime Commissioner and the Co-ordinator General, Family Safety from the ACT Community Services Directorate. The Committee is supported by a Secretariat;

59.1.2. the Oversight Committee first met on 3 June 2022. Since 3 June 2022, the Oversight Committee has met regularly and on the following dates:

59.1.2.1. 3 August 2022;

59.1.2.2. 2 September 2022;

59.1.2.3. 21 October 2022;

59.1.2.4. 9 December 2022 (I note the ACT DCPO attended this meeting in my absence); and

59.1.2.5. 6 March 2023.

59.1.3. the SAPR Working Group was established on 27 July 2022. The Working Group's membership is drawn from ACT Policing (but I am not a member), ACT ODPP, Community Services Directorate (Office of Family Safety) and Victims Support ACT. The Working Group is chaired by Community Services Directorate and meets fortnightly on Tuesday afternoons to progress the review and support the SAPR Oversight Committee. Dr Rachael Burgin from Swinburne University attends the Working Group meetings as an independent researcher engaged by the Oversight Committee.

59.2. In regards to ACT Policing's involvement in the Oversight Committee, I state the following:

59.2.1. on Tuesday 13 September 2022, ACT Policing provided SAPR Working Group members a final dataset of all sexual offences reported to ACT Policing

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between 1 July 2020 and 31 December 2022 as recorded in the AFP's PROMIS databases and extracted on 31 July 2022. The ACT Policing dataset includes all penetrative and non-penetrative PROMIS incidents for the period 1 July 2020 to 31 December 2021. I note that some offences in the AFP's PROMIS database did not fall within the scope of recommendation 15 of the Steering Committee's Report, including offences outside the ACT jurisdiction or where the suspect was deceased. The final dataset was agreed to by the SAPR Working Group;

59.2.2. in consultation with the DPP, offences were categorised into 12 tranches based on whether the offence was penetrative or non-penetrative, the age of the complainant and the date of the report;

59.2.3. in accordance with the two-stage review process contemplated by recommendation 15, members of the Working Group are undertaking an Investigative Case Review and a Process Review. In relation to the Investigative Case Review:

59.2.3.1. the ACT Policing SAPR team has provided 747 PROMIS summaries and precis of evidence in chief interviews (where available) to the ODPP for investigative case review, with additional material provided to DPP upon request;

59.2.3.2. the ODPP is progressing the investigative case review and has provided its response in relation to the tranches. The DPP has recommended that of those cases reviewed, some matters require immediate reinvestigation and a larger portion require referral to Victims Support ACT for victim reengagement, the outcome of which may lead to reinvestigation;

59.2.3.3. in relation to the matters requiring immediate reinvestigation, the ACT Policing SAPR team has prepared avenues of enquiry and evidence matrices for them and continues to provide other assistance to the case review and reinvestigation team as required;

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59.2.3.4. in relation to the matters requiring further attention the ACT Policing SAPR team has completed victim support briefs for all the matters in 5 of the 7 tranches which have been progressed by the ODPP. All completed victim support briefs have been provided to Victims Support ACT with the agreement that these will progressed in consultation with the ACT Policing reinvestigation team. Victims Support ACT will review the documents, provide feedback and seek any additional information from the SAPR team in the interim.

59.2.4. as for the Process Review, the Process Review Team (PRT), which comprises representatives of ACT Policing, Victims Support ACT, Dr Rachel Burgin and members of Dr Burgin's research team will conduct a process review of each matter to identify why charges were not laid, to collect quantitative data using a pro forma checklist to identify systemic issues, and qualitative data via direct contact with victim-survivors. Dr Burgin and members of her research team attended the ACT Policing SAPR team office in the week of 20 March 2023 in order to work with the SAPR team to refine the Process Review tool. Options continue to be explored balancing the researcher needs with AFP Security requirements, and as an interim the independent researcher and the SAPR team will continue to work side by side to facilitate the Process Review.

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

60. Question 60: Describe the professional relationship between the ODPP and AFP/ACT Policing prior to the investigation of the allegations of Ms Brittany Higgins concerning Mr Bruce Lehrmann (**the Investigation**). Include details about whether the relationship was positive or whether you held any concerns about the relationship and the nature of those concerns.

60.1. I believe that there was a positive working relationship between ACT Policing investigators and ODPP prosecutors between the time of my appointment as ACT CPO in May 2020 and the reinstatement of the investigation in early February 2021.

60.2. As with any professional relationship between policing organisations and prosecuting agencies, there were differences in opinion and operational disagreements about such things as bail, whether or not to proceed with charges, discontinuances and costs, but I believe they were managed respectfully where they arose. In my experience, this is the case in all Australian jurisdictions, including in the relationship between the AFP and the CDPP, and these differences in opinion in particular matters are a regular part of the relationship. I would also make the observation that unlike some other Australian jurisdictions, the ODPP is responsible for the prosecution of all offences so the ODPP and ACT Policing have interactions in a broader range of matters, so there can be broader scope for disagreement.

61. Question 61: During 2021, did you attend regular meetings with the DPP/ODPP? If so, outline your involvement in those meetings. Include details about the general nature of those meetings, including who was required to attend, the purpose and frequency of the meetings, whether any file notes were kept and by whom, and the extent of your involvement (if any).

61.1. I attended meetings with the DPP during 2021 which were informal and in the nature of catch-ups over coffee or breakfast. These meetings took place approximately every

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6 months. No one else was required to attend them. Their purpose was about building rapport and our professional relationship. We never spoke about operational matters and individual cases. These meetings typically took place at public settings so it would have been inappropriate to discuss them. I did not keep file notes of these meetings.

61.2. The DPP and I attended legal and law enforcement functions on an irregular basis during 2021. As at our breakfast meetings, I did not discuss individual cases or operational matters with the DPP during our interactions at these functions. We never spoke about individual cases, nor did I ever speak to ODPP prosecutors about individual cases.

62. Question 62: Outline the typical level of involvement you have, as ACT CPO, with the DPP directly or with the ODPP in an investigation/matter concerning sexual assault.

62.1. I typically have no involvement as ACT CPO with the DPP directly or with the ODPP in an investigation/matter concerning sexual assault, noting the Oversight Committee does not discuss individual case.

63. Question 63: Describe your professional relationship with the DPP prior to the commencement of the Investigation. Include details about whether the relationship was positive or whether you held any concerns about the relationship and the nature of those concerns. Provide examples where appropriate.

63.1. I would describe my professional relationship with the DPP prior to the commencement of the Investigation as a positive professional relationship between the heads of agencies. I did not have general concerns about the relationship with the DPP.

63.2. I did become aware, about some time in 2021 through conversation with ACT Policing SACAT investigators that the DPP had directly contacted ACT Policing investigators to seek updates on investigations and chase up matters (being matters other than the matter of *R v Lehrmann*). It is likely that this issue was raised by SACAT investigators during musters I conducted with them in 2021. I conducted musters with SACAT staff

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on 19 February 2021, 24 November 2021 and 9 December 2021. I was concerned about this because of the power imbalance between the DPP and the ACT Policing investigators, and I considered the appropriate channel of communication was an ACT Policing officer at the Senior Executive Service level, not to a junior constable. I raised my concerns with the DPP, in a general conversation, not specific to this issue, and I told the DPP that I thought it was not appropriate that he was contacting ACT Policing officers at a junior level. The DPP told me that he understood the nature of my concerns but cited resourcing and time pressures by way of explanation.

64. Question 64: State whether your professional relationship with the DPP and/or ODPP changed after the commencement of the Investigation. If so, provide details about how the relationship changed and provide examples where appropriate.

64.1. On 8 December 2022, I became aware that the DPP's letter dated 1 November 2022 addressed to me had been released under a freedom of information request without the AFP's knowledge. I was frustrated by this and my frustration was heightened by the fact that I had met with the DPP two days earlier in his office and he had not informed me that an FOI request for release of the letter had been made.

64.2. I called the DPP promptly after being informed of the release of the letter and expressed my frustration to him. I attach to my statement a copy of my diary entry which records my note of my telephone call to the DPP on 8 December 2022 (AFP.2002.0001.2353).

64.3. I have always sought to maintain the professional relationship between the DPP and ACT Policing as heads of our respective agencies, irrespective of differences of opinion between our agencies in relation to operational matters. I recognised that my professional relationship with the DPP had cooled after the DPP's letter dated 1 November 2022 was made public, so in January 2023 I reached out to the Director-General of the Justice and Community Services Directorate (JACS) to organise lunch between the Director-General, the DPP and myself. We then had lunch on 16 February 2023 and to my mind it improved our professional relationship.

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64.4. Aside from this, I would not say that my professional relationship with the DPP and/or ODPP changed after the commencement of the investigation.

#### **Victims of Crime Commissioner**

65. Question 65: Outline your professional dealings (if any) with the Victims of Crime Commissioner prior to the matter of *R v Lehrmann*.

65.1. As part of my role as ACT CPO, I had regular meetings with the ACT Human Rights Commission and the ACT Policing leadership teams. The Victims of Crime Commissioner attended as these meetings a member of the ACT Human Rights Commission. My professional dealings with the ACT Human Rights Commission at these meetings related to the discussion of high-level issues such as legislative and policy changes in the ACT. We were, for example, considering the introduction of firearm prohibition orders prior to the matter of *R v Lehrmann*.

65.2. I also had professional dealings with the Victims of Crime Commissioner in relation to individual cases. The Commissioner contacted me directly on about 3 occasions, to the best of my recollection, regarding specific cases in which complaints had been raised that ACT Policing had not complied with the ACT Victims of Crime Charter. My dealings with the Commissioner were limited in these specific cases to relaying the particular complaints down the chain of command to be addressed. My dealings with the Commissioner in relation to these specific cases were always professional and cordial.

65.3. I also had professional dealings with the Victims of Crime Commissioner through our involvement as members of the Oversight Committee.

66. Question 66: Based on your experience as of 31 March 2021, describe the role performed by the Victims of Crime Commissioner (or her staff) exercising statutory functions under the *Victims of Crime Act 1994* (ACT) in relation to a victim of a sexual offence. Provide examples and details where appropriate.

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66.1.I am aware that the Commissioner has certain statutory functions under the VoC Act but based on my own experience as of 31 March 2021, I would describe the role performed by the Victims of Crime Commissioner as being that the Commissioner manages the Charter of Victims Rights under the VoC Act; investigates complaints made by victims of crime in relation to their engagement with the justice system; and undertakes advocacy and education programs in relation to victims of crime.

67. Question 67: Prior to *R v Lehrmann* state whether you been involved in any sexual offence investigations where the Victims of Crime Commissioner (or her staff) had supported a complainant at court or acted as an intermediary between the police and the complainant or between the ODPP and the complainant. If so, provide an estimate of the number of investigations and a brief description of the nature of those investigations.

67.1.Prior to *R v Lehrmann*, I was not aware of any sexual offence investigations where the Victims of Crime Commissioner (or her staff) had supported a complainant at court or acted as an intermediary between the police and the complainant or between the ODPP and the complainant. However, as noted above, I am not involved in sexual assault investigations and do not attend sexual assault trials as ACT CPO, so I would not be aware whether or not the Victims of Crime Commissioner regularly attends court to support complainants.

### Investigation

68. Question 68: When did you first become aware of the Investigation? Include information about who informed you of the Investigation, details of the information provided, whether you had any prior awareness of the complaint and whether you briefed anyone in relation to the information provided. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. To the extent communications were verbal outline the parties to the communications and the effect of the words spoken (**the usual particulars**).

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68.1.I first became aware of the complaint in early April 2019 when I was in the role of Deputy Commissioner Operations in the AFP. I believe I became aware of the complaint as a participant in a regular meeting with the AFP Commissioner and Deputy Commissioners which took place on a weekly basis on a Thursday. I believe the then AFP Commissioner Andrew Colvin and other participants at the meeting received a verbal briefing from either the then ACT CPO AC Ray Johnson, or the then Deputy Commissioner National Security Leanne Close. I recall the substance of the verbal briefing was that an allegation of sexual assault at Parliament House had been made to the AFP and the matter was being looked into. I did not brief anyone in relation to the information provided because that was not part of my role as Deputy Commissioner Operations. I do not attach copies of relevant communications because, in the time available, I have not identified any.

69. Question 69: State when and how you became aware that the Investigation was classified as a 'sensitive investigation'. Provide details of who was allocated as the Sensitive Investigations Officer (SIO) and the duties and responsibilities of that role. State whether it is unusual to allocate a SIO to a sexual assault investigation. If so, provide details of why a SIO was allocated in the Investigation. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance material (if already attached and/or provided, refer to the relevant parts of your statement) and any accompanying relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

69.1.I became aware that the investigation had been classified as a 'sensitive investigation' at or around the time a submission was made to SIOB and the SIOB determined that the matter would be classified as a 'sensitive investigation'. I believe I would have received a verbal briefing from Commander Michael Chew that a submission would be

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made to SIOB. I do not recall precisely when I received that briefing but I believe that would have been early February 2021.

69.2.I attended an out-of-session meeting of the SIOB on 11 February 2021 which I was requested to attend in an advisory capacity in relation to the investigation. I attach to my statement an email I received from the SIOB Secretariat on 10 February 2021 (AFP.2003.0004.8313) together with the meeting papers (AFP.2003.0004.8314; AFP.2003.0004.8316). I also attach to my statement an email I received from the SIOB Secretariat on 5 March 2021 (AFP.2003.0014.5647) which attached a copy the SIOB's decision together with the minutes of the 11 February 2021 meeting (AFP.2003.0014.5648). Commander Chew and Superintendent Scott Moller were also in attendance from ACT Policing at the 11 February 2021 meeting.

69.3.I note that the relevant term in the context of Question 69 is Senior Investigating Officer (SIO), not Sensitive Investigations Officer. In my experience, it is unusual to allocate an SIO to a sexual assault investigation. Superintendent Scott Moller was allocated as the SIO for the investigation. I attach to my statement a copy of the Senior Investigating Office Guide published by AFP Investigations Standards and Practices (AFP.0013.0001.0082) (SIO Guide) which sets out the SIO's duties and responsibilities and are basically the same as the case officer in any other investigation, as they are appointed to lead a designated investigation and make critical case management decisions. The SIO is primarily responsible for investigative outcomes. The SIOB Terms of Reference specify that one of the decisions that the SIOB may make in relation to a sensitive investigation is to decide to appoint an SIO in relation to the matter.

69.4.I attended the SIOB on 11 February 2021 in an advisory capacity and not as a decision-maker. My understanding of the rationale for allocating an SIO to the investigation is as it is set out in the decision paper, that is, that the allocation of an SIO was 'an additional risk treatment option to ensure critical case management decisions are made

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at the outset and throughout the progress of the investigation by an investigator with a high level of experience, investigative ability and management skill.’

70. Question 70: In chronological order, outline your interactions with AFP/ACT Policing officers, Ministers, Members of Parliament, the DPP/ODPP staff, Mr Lehrmann, legal representatives for Mr Lehrmann, Ms Higgins, legal representatives for Ms Higgins, the Victims of Crime Commissioner and any other persons in relation to the Investigation in 2021. Exclude any interactions in relation to seeking or receiving advice from the DPP. Include information about:
- (a) who initiated/arranged the interaction;
  - (b) the purpose of the interaction;
  - (c) where the interaction took place;
  - (d) the people in attendance;
  - (e) any evidence/material you were provided, including when you reviewed the evidence/material;
  - (f) the nature of the interaction in relation to:
    - i. the progress of the Investigation, including the evidence obtained and yet to be obtained; and
    - ii. your views in relation to the conduct of the Investigation to date, including the reasons for your views;
  - (g) your overall impressions of the interaction;
  - (h) any recommendations you received from the SIOB;
  - (i) any briefing you received from any AFP/ACT Policing officers in relation to the Investigation, including in relation to:
    - i. the brief of evidence served on the legal representatives for Mr Lehrmann; and
    - ii. the Victims of Crime Commissioner being identified as a witness in the Investigation.

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- (j) any interactions with AFP Professional Standards, including in relation to the brief of evidence served on the legal representatives for Mr Lehrmann;
- (k) any concerns raised/escalated in relation to ACT Policing's engagement with the Victims of Crime Commissioner and/or the Victims of Crime Commissioner's support role to Ms Higgins during the Investigation. Include reference to your correspondence to the DPP dated 2 October 2021 and the DPP's response to this correspondence;
- (l) any briefings you provided, including your briefings to the AFP Commissioner in relation to Senate Estimates on 22 March 2021 and/or 25 May 2021. Provide details about why you provided a briefing at this time;
- (m) any interactions in relation to the various investigative reviews in relation to the allegations of Ms Higgins concerning Mr Lehrmann (including but not limited to the reviews of Ms Stephanie Foster, Mr Phil Gaetjens, Ms Kate Jenkins and Mr John Kunkel). Provide details of your concerns in relation to the reviews (if any) and what you did to address the concerns;
- (n) any interactions you had with AFP/ACT Policing officers in relation to concerns relating to the complainant's credibility, briefing the DPP and/or charging Mr Lehrmann, including your interactions with Superintendent Scott Moller;
- (o) whether you provided any directions to change

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

70.1. Question 70 requests information from me about interactions I had with several specified categories of persons in relation to the investigation in 2021. I had relevant interactions with AFP/ACT Policing officers, the ACT Minister for Police and Emergency Services, the DPP and Ms Stephanie Foster. I did not have any interactions in relation to the investigation in 2021 with any other Ministers, ODPP staff, Members of Parliament, Mr Lehrmann, legal representatives for Mr Lehrmann, Ms Higgins, legal

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representatives for Ms Higgins, the Victims of Crime Commissioner or any other persons (including Mr Phil Gaetjens, Ms Kate Jenkins and Mr John Kunkel).

*AFP/ACT Policing officers*

70.2.I set out in chronological order, as best I can in the time available, my interactions with AFP/ACT Policing officers (including in response to questions 70(i) and (n)) in relation to the investigation in 2021. I set out separately below my interactions with AFP/ACT Policing officers from AFP Professional Standards in response to question 70(i), the AFP Commissioner in response to question 70(l), and the SIOB.

70.2.1. As set out in my response to Question 62 above, I am not typically involved in the conduct of a sexual assault investigation. As ACT CPO, I did receive briefings in relation to the Lehrmann investigation in 2021 about milestones that were about to be, or were, reached or where there was an issue in the investigation at the discretion of the relevant officer. I recall that I received such briefings, which to my recollection were mostly verbal rather than in writing, from either the Deputy Chief Police Officer (DCPO) Assistant Commissioner Peter Crozier or the Commander Michael Chew, noting Assistant Commissioner Crozier did not commence in the role of DCPO until July 2021. I recall that I received briefings from either the DCPO or Commander Chew about at least the following in 2021:

70.2.1.1. that the AFP had received an email from Ms Higgins advising that she wished to give a statement;

70.2.1.2. that Ms Higgins intended to appear on The Project;

70.2.1.3. that Ms Higgins had provided an interview to ACT Police;

70.2.1.4. that Mr Lehrmann had provided an interview to ACT Police;

70.2.1.5. that a request would be or had been made to the DPP for advice on the sufficiency of evidence to charge;

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- 70.2.1.6. that the DPP had provided his advice that there was a sufficiency of evidence to charge;
- 70.2.1.7. that a decision had been made to swear a summons to charge Mr Lehrmann;
- 70.2.1.8. that an error had been made in the service of the prosecution version of the brief of evidence on Mr Lehrmann's legal representatives, and that steps were taken to retrieve the USB containing the brief of evidence and determine whether the brief of evidence had been transferred or copied from the USB by Mr Lehrmann's legal representatives; and
- 70.2.1.9. that the Victims of Crime Commissioner had been identified as a potential disclosure witness.
- 70.2.2. I believe the briefings set out in the previous paragraph were mostly verbal and did not descend into the sort of detail identified in question 70(f)(i).
- 70.2.3. I had a conversation with Mr Scott Moller which I think took place in the hallway outside the Commander Chew's office, at the Winchester Police Centre (WPC) in Belconnen. I believe this interaction took place in the first half of 2021, because I recall that the investigation was quite progressed but an advice on sufficiency of evidence had not yet been sought from the DPP. I recall that Mr Moller initiated the conversation and said to me words to the effect that that because of inconsistencies in Ms Higgins' version of events and because of his concerns about her mental health, he did not believe that she would hold up under cross-examination and the matter should not proceed. I replied with words to the effect that he was entitled to his opinion as the investigating officer, however he should keep working through the evidence and see where it goes, as ACT Policing may not be the ultimate decision-maker. I was not provided with any evidence or material during this interaction with Mr Moller. I did not provide any direction to Mr Moller to charge Mr Lehrmann. My overall impression was that Mr Moller was the senior investigating officer with conduct of the investigation and that he would continue to progress the investigation

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and could progress any concerns he had about the sufficiency of evidence through the available avenues, including seeking advice from the DPP. I may have had other interactions with Mr Moller in relation to the investigation in 2021 to the same effect (in the same nature of hallway conversations) but I do not specifically recall any such specific interactions.

70.2.4. I have been shown a document bearing the title ‘Briefing for CPO – 6 May 2021’ and which I am informed was produced by AFP to Mr Lehrmann’s legal representatives under subpoena during the investigation. I do not recall having seen this document before. I believe I would recall having seen this document if I had read it because I do not typically receive written briefings about the progress of a sexual assault investigation in this level of detail. I have caused further searches to be undertaken in my personal email account (WIT\_Personal\_Info) as well as my official email account (WIT\_Personal\_Info) and am informed these searches have not identified any emails to me to which this document was attached. I have however been shown an email from Commander Joanne Cameron to me and others on 17 September 2022 (AFP.2003.0011.5246; AFP.2003.0011.5249; AFP.2003.0011.5274) which I understand to have related to the subpoena issued to the AFP. I attach to my statement a copy of a calendar invitation from Commander Cameron for a meeting with the subject line ‘chat re Covina’ on 18 September 2022 (AFP.2003.0011.5233) and a further email from Commander Cameron to which I was copied on 20 September 2022 (AFP.2003.0016.2730). I do not recall meeting with Commander Cameron and other ACT Policing officers in relation to the subpoena.



70.2.5. I have caused searches to be undertaken across my personal AFP email account and the ACT CPO email account to identify any other relevant interactions I may have had with AFP/ACT Policing officers in relation to the investigation in 2021. As noted at the start of this statement, the ACT CPO email account is managed by my office and I do not read emails sent to the ACT CPO email account unless my office escalates them to me. In the time available, I identify, in addition to the interactions set out elsewhere in this statement, the following emails from my personal AFP email

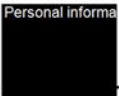
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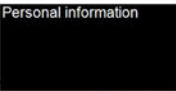
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account as recording interactions between AFP/ACT Policing officers and me in relation to the investigation in 2021 and attach copies to my statement:

- 70.2.5.1. an email from Ms Renee <sup>WIT\_Personal\_I</sup> to me and other AFP/ACT Policing officers on 14 February 2021 in regards to a media request made by Samantha Maiden (AFP.2003.0014.3770), and my email forwarding Ms <sup>WIT\_Personal\_I</sup> email to Ellena <sup>WIT\_Perso</sup> on the same date (AFP.2003.0014.3772);
- 70.2.5.2. an email from Ellena <sup>WIT\_Perso</sup> to me on 15 February 2021 (AFP.2003.0004.6267) regarding the abovementioned media request;
- 70.2.5.3. an email from Ellena <sup>WIT\_Perso</sup> to David McLean, who was the Commissioner's Chief of Staff at this time, and Commander Michael Chew and copied to me on 15 February 2021 (AFP.2003.0014.3774);
- 70.2.5.4. an email from DS Rowena <sup>WIT\_Persona</sup> to me and Fiona <sup>WIT\_Personal\_I</sup> on 16 February 2021 (AFP.2003.0014.3919) attaching copies of material relating to the complaint (AFP.2003.0014.3923; AFP.2003.0014.3930; AFP.2003.0014.3932; AFP.2003.0014.3942; AFP.2003.0014.3947), and my email forwarding Ms <sup>WIT\_Personal\_I</sup>'s email to Commander Michael Chew on the same date (AFP.2003.0014.3948);
- 70.2.5.5. an email from Samantha Nichol (AFP Legal) to me, the AFP Commissioner and Deputy Commissioner Investigations Ian McCartney on 22 February 2021 (AFP.2003.0014.4619) <sup>Priv LPP</sup>  <sup>Priv LPP</sup> 
- 70.2.5.6. an email from Commander Michael Chew to me on 25 February 2021 (AFP.2003.0014.4876) attaching media articles relating to the complaint (AFP.2003.0014.4879; AFP.2003.0014.4881);

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- 70.2.5.7. an email from AFP Commissioner Reece Kershaw to me and David McLean on 10 March 2021 (AFP.2003.0014.5679) forwarding a copy of Ms Higgins' public statement (AFP.2003.0014.5680);
- 70.2.5.8. an email from Commander Michael Chew to me and David McLean on 14 April 2021 (AFP.2003.0009.0972) and attached update on the investigation (AFP.2003.0009.0973);
- 70.2.5.9. an email from Detective Superintendent Scott Moller to me on 20 April 2021 regarding his summary of a record of interview with Mr Lehrmann (AFP.2003.0004.9299). I have been shown a copy of this email in the course of preparing my statement and do not recall the email, but as noted above it is likely that I read the email when I received it because it has been sent to my personal inbox;
- 70.2.5.10. an email from Corey WIT\_Persona to me on 22 April 2021 (AFP.2003.0014.8673) and my email to Mr WIT\_Persona in response on the same date (AFP.2003.0014.8682);
- 70.2.5.11. an email from Ms Samantha Nichol to me on 5 May 2021 providing legal advice Priv LPP  
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- 70.2.5.12. an email to me from Ms Susie Williamson de Vries to me and others on 11 May 2021 (AFP.2003.0014.8970) regarding draft responses to Questions on Notice from Senate Estimates (AFP.2003.0014.8970), 'for discussion', and a further email from Ms de Vries on 12 May 2021 (AFP.2003.0014.9574) 'following discussions' and attaching the draft responses (AFP.2003.0014.9575; AFP.2003.0014.9589). I do recall discussing the draft responses on or about 11 or 12 May 2021.

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- 70.2.5.13. an email from Marcus Boorman to me on 21 May 2021 regarding Mr Boorman's meeting with the Department of Finance in relation to Senate Estimates (AFP.2003.0002.7289);
- 70.2.5.14. an email from Heath Langlands to me on 3 August 2021 (AFP.2003.0015.0377) with attachments described as 'briefing and publishing guideline' (AFP.2003.0015.0378);
- 70.2.5.15. an email from DCPO Assistant Commissioner Peter Crozier to me and others on 4 August 2021 (AFP.2003.0021.5714) attaching a copy of Commander Andrew Smith's review (AFP.2003.0021.5715);
- 70.2.5.16. an email from DCPO Assistant Commissioner Peter Crozier to me on 5 August 2021 (AFP.2003.0021.5727);
- 70.2.5.17. an email from me to Deputy Commissioner Ian McCartney on 5 August 2021 (AFP.2003.0015.0391) forwarding a copy of Commander Andrew Smith's review (AFP.2003.0015.0392);
- 70.2.5.18. an email from Ms Ellena [WIT\_Person] to me and others on 5 August 2021 (AFP.2003.0005.1198) and containing a number of attachments including the DPP Advice. I recall reading Ms [WIT\_Person]'s email but I did not read the DPP Advice. I do not attach a copy of the DPP Advice because I did not read it at the time and have not read it;
- 70.2.5.19. an email from Deputy Commissioner Ian McCartney to me on 19 August 2021 (AFP.2003.0015.0567). I think it is highly likely that I would have had a discussion with DC McCartney about Commander Smith's review prior to receiving DC McCartney's email;
- 70.2.5.20. a calendar invitation regarding a meeting on 24 September 2021 (AFP.2003.0014.9973) between me, Kirsty [WIT\_Pers], Ruth [WIT\_Person] and Sharna [WIT\_Person]. I note the content of the calendar invitation describes the meeting as 'a

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brief meeting to discuss Op Covina at the request of a/Command O’Meagher’. I do not recall attending this meeting;

- 70.2.6. I conducted SACAT ‘musters’, which are informal team meetings, in 2021. As ACT CPO, I conducted musters in order to provide the members of particular teams with an update on strategic issues surrounding ACT Policing. Issues I would brief on would include things such as legislative reform, budget bids and accommodation improvements. Musters also provided an opportunity for members to ask me questions and provide honest feedback on how they felt about the organisation and the role they were undertaking. I conducted musters with SACAT staff on 19 February 2021, 24 November 2021 and 9 December 2021. Issues I recall being raised with me by SACAT staff at those musters were resourcing struggles and, as I have indicated in my response to Question 63 above, what they considered inappropriate ‘reach in’ from the DPP.
- 70.2.7. As set out in my response to Question 4 above, I am a member of the ACT Policing Senior Executive Committee (SEC) which meets twice per month. I believe that verbal briefings on the investigation would have been provided to the SEC in 2021. I do not recall the particular SEC meetings at which such briefings were provided, but based on a review of the minutes of SEC meetings that I have caused to be conducted in the course of preparing my statement, I believe such briefings were provided at the SEC meetings on 30 April 2021, 14 May 2021 and 23 July 2021. I attach copies of the meeting papers for those meetings (AFP.2003.0014.8858; AFP.2003.0014.8859; AFP.2003.0014.9141; AFP.2003.0005.0297).
- 70.2.8. As also set out in my response to Question 4, I am a member of the AFP Executive Leadership Committee (ELC) which is chaired by the AFP Commissioner, comprises senior members of the AFP and usually meets on a weekly basis. I do not have any direct recollection of discussing the investigation at ELC meetings in 2021. I attach an email I received from David McLean on 5 April 2021 addressed to the ‘ELC’ (AFP.2003.0014.8254) attaching a timeline (AFP.2003.0014.8256). I attach a copy of the agenda for the meeting of the ELC committee on 8 April 2021

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(AFP.2003.0014.8480) at which legal advice obtained by the AFP in relation to the investigation was presented and discussed. Copies of agendas and minutes of ELC meetings at which the investigation was discussed will be produced to the Board.

70.2.9. As also set out in my response to Question 4, I am a member of the AFP Audit and Risk Committee which meets on a quarterly basis. I attended a meeting of this Committee on 27 August 2021 at which I provided the Committee with a verbal briefing on ACT Policing matters including the investigation. I attach a copy of the written brief I was provided in advance of the meeting (AFP.2003.0005.1406).

70.2.10. I am aware that ACT Policing officers may have reported one or more issues arising in the investigation as a Management Significant Entry in the AFP's Police Real-Time Management Information System (**PROMIS**). Management Significant Entries are circulated to the ACT Policing executive on a daily basis and I would typically read them.

70.2.11. I received daily media updates by email from the AFP and ACT Policing media teams in 2021. These emails summarise media clips provided to the AFP/ACT Policing by an external company relating to significant issues relevant to the organisation and, given the high-profile nature of the investigation, are likely to have included media articles about the investigation. I usually read these daily media updates when I receive them.

### *SIOB*

70.3. I refer to my response to Question 53 above regarding my involvement in the SIOB and set out my further interaction with SIOB in 2021 as follows.

70.3.1. I attended a meeting of the SIOB in an advisory capacity in relation to the investigation on 3 March 2021. I attach an email I received from Commander Michael Chew on 2 March 2021 (AFP.2003.0014.5365) with attached briefing paper (AFP.2003.0014.5367), and my email to Commander Chew in response on the same date (AFP.2003.0019.5701). I attach an email I received from the SIOB Secretariat on

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10 March 2021 (AFP.2003.0014.5694) with attached draft minutes of the 3 March 2021 meeting (AFP.2003.0014.5695).

*AFP Commissioner*

70.4.I had interactions with the AFP Commissioner in relation to the investigation in 2021.

As ACT CPO, part of my role is to provide briefings to the AFP Commissioner on ACT Policing matters. I had regular one-on-one meetings with the AFP Commissioner on a monthly basis throughout 2021. I would have attended other meetings at which we were both participants on a more frequent basis, including the AFP Executive Leadership Committee meetings as outline above. In 2021, I provided verbal briefings to the AFP Commissioner about the progress of the investigation around the time that I became aware of issues arising or milestones reached in the investigation. Specifically, to the best of my recollection, I provided briefings to the AFP Commissioner about at least the following:

- 70.4.1. that Ms Higgins wished to provide a statement to ACT Policing about the complaint;
- 70.4.2. that Ms Higgins would appear on The Project about the complaint;
- 70.4.3. that a request was going to be made to the DPP for his advice as to the sufficiency of evidence to charge;
- 70.4.4. that the DPP had given advice that there was a sufficiency of evidence to charge; and
- 70.4.5. that an error in service of the brief of evidence on Mr Lehrmann's legal representatives had been made.

70.5.I believe it is possible, but I do not recall with certainty, that I also briefed the AFP Commissioner on the following:

- 70.5.1. that Ms Higgins had appeared on The Project; and

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70.5.2. that a decision had been or would be made to swear a summons to charge Mr Lehrmann.

70.6.I provided a written briefing to the AFP Commissioner on 5 May 2021 which set out my view that the investigation was sufficiently advanced that there was no problematic intersection with Mr Phil Gaetjens' administrative inquiry. I attach a copy of my email to AFP Commissioner dated 5 May 2021 (AFP.2003.0014.8871).

70.7.I believe that I provided input or cleared a briefing pack of material to the AFP Commissioner in relation to Senate Estimates in 2021. I would have provided input on the briefing pack because the AFP Commissioner was appearing at Senate Estimates and was likely to be asked questions in relation to the investigation. I have not identified any emails in my personal email account relating to the AFP Commissioner's 22 March 2021 or 25 May 2021 Senate Estimates briefings.

70.8.I recall that I also provided input on the AFP Commissioner's 'hot issues' brief, which includes information for the AFP Commissioner about significant ACT Policing investigations. These 'hot issues' briefs were provided to the AFP Commissioner for his awareness and because he was likely to be asked questions about the investigation. I attach an email from Detective Acting Sergeant Heath Langlands to me on 31 March 2021 (AFP.2003.0014.7999) attaching a draft 'hot issues' brief (AFP.2003.0014.8000) and an email from me in response (AFP.2003.0014.7997). I attach copies to my statement copies of the versions of the Commissioner's draft 'hot issues brief' which I provided input on or cleared in 2021 and 2022 (AFP.0018.0001.0546; AFP.0018.0001.0532; AFP.0018.0001.0545; AFP.0018.0001.0531; AFP.0018.0001.0541; AFP.0018.0001.0529; AFP.0018.0001.0528; AFP.0018.0001.0527; AFP.0018.0001.0530; AFP.0018.0001.0540; AFP.0018.0001.0538; AFP.0018.0001.0550; AFP.0018.0001.0535; AFP.0018.0001.0547; AFP.0018.0001.0533; AFP.0018.0001.0542).

*AFP Professional Standards*

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70.9. I had an interaction with AFP Professional Standards in 2021 in relation to the brief of evidence served on Mr Lehrmann's legal representatives. As part of my role as ACT CPO, I attended regular monthly meetings with officers from AFP Professional Standards. At one of those monthly meetings, which I believe was in the second half of 2021, I received a verbal briefing from AFP Professional Standards on that issue which was to the effect that a version of the brief of evidence had been served in error on Mr Lehrmann's legal representatives. I was not provided information about action being taken by AFP Professional Standards in response to that issue. My overall impression of this interaction was that the issue was being considered by AFP Professional Standards and it would not be appropriate for me to take any further action at that time.

*DPP*

70.10. I had interactions with the DPP in relation to the investigation in 2021.

70.11. I sent a letter to the DPP on 2 October 2021 and attach a copy to my statement (AFP.0015.0001.0763). I recall that I sent this letter to the DPP after I received a verbal briefing from DCPO AC Crozier regarding the fact that the Victims of Crime Commissioner Heidi Yates had been identified as a potential disclosure witness and was going to be treated as such in the investigation. DCPO recommended during the meeting that Ms Yates be treated as a witness. I agreed with the DCPO's recommendation and accordingly signed the letter. Noting the letter was being sent to the DPP, it was appropriate that the letter was sent by me as the CPO.

70.12. I received and read a letter in response from the DPP on 7 October 2021. I attach a copy of the DPP's letter of 7 October 2021 (AFP.2003.0004.9169). My overall impression of the interaction was that the DPP had noted the fact of the involvement of the Victims of Crime Commissioner in the investigation.

70.13. I do not recall having any further interactions with the DPP in relation to the investigation in 2021.

*ACT Minister for Police and Emergency Services*

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70.14. I had interactions with the ACT Minister for Police and Emergency Services, Mr Mick Gentleman, in relation to the investigation in 2021. As part of my role as ACT CPO, I had a meeting with the Minister every Monday morning in the Minister's office, or via video conferencing noting the COVID restrictions that existed at the time, at which I would provide verbal briefings to the Ministers on various matters. The meeting was attended by staff from the Minister's Office and senior office of the other emergency management agency, within his portfolio responsibilities, as well as the Director General of JACS. At the conclusion of the meeting, when required, I would privately brief the Minister on any matters which were high profile or otherwise of significance.

70.15. I recall that I first provided a verbal briefing to the Minister about the investigation in February 2021 because I was made aware that Ms Higgins intended to appear on The Project. I believe that I briefed the Minister on the facts that Ms Higgins had contacted the AFP requesting to reinstate the investigation, that Ms Higgins wanted to provide a statement to the AFP, and that Ms Higgins intended to appear on The Project prior to providing a statement to the AFP.

70.16. I do not recall providing any further briefings to the Minister about the investigation in 2021 until a decision had been made to charge Mr Lehrmann. I provided a briefing to the Minister on this issue after the decision had been made and before Mr Lehrmann was charged.

70.17. I do not recall any further interactions with the Minister in relation to the investigation in 2021.

*Stephanie Foster*

70.18. I did have an interaction with Stephanie Foster in relation to the investigation in 2021. I recall that Ms Foster called me at some point prior to Mr Lehrmann being charged and requested an update on the progress of the investigation. I believe that I told Ms Foster that the investigation was ongoing. I did not have any further interactions with Ms Foster in relation to the investigation in 2021.

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71. Question 71: To the extent not addressed above, state whether any complaints, issues or concerns were raised/escalated to you (either indirectly or directly) in relation to any of the AFP/ACT Policing officers involved in the Investigation by:

- (a) the DPP/ODPP;
- (b) the Victims of Crime Commissioner;
- (c) Ms Higgins and/or her legal representatives;
- (d) Mr Lehrmann and/or his legal representatives; or
- (e) any other persons.

If so, provide details of what the concerns were, when the concerns were raised/escalated to you and what actions you took to address the concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

71.1. The DPP raised complaints in relation to AFP/ACT Policing officers involved in the investigation in the DPP's letter addressed to me dated 1 November 2022. I attach to my statement a copy of the DPP's letter of 1 November 2022 (AFP.2003.0012.7122.). Before I received the DPP's letter and had the conversation with the DPP referred to in my response below, no complaints, issues or concerns had been raised to me in relation to the particular ACT Policing officers involved in the investigation. I outline the actions taken in response to the DPP's letter separately in my response to Question 89 below.

71.2. In relation to Question 71(a), I recall that, at some stage after the jury had been discharged and before I received the DPP's letter, I had a conversation with the DPP after a meeting both the DPP and I had attended for another purpose unrelated to the investigation (I believe that it may have been related to the Oversight Committee). The DPP raised with me that he had concerns about the conduct of the ACT Policing officers involved in the investigation and told me that he wanted a public inquiry into the investigation. To my recollection, the DPP did not articulate these concerns in any detail. I did not take any action to address the DPP's concerns at that time for the reasons set out in response to Question 88.

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71.3. In relation to Question 71(c), I attach to my statement a copy of an email from Commander Cameron to me and DCPO AC Crozier on 27 April 2022 (AFP.2003.0003.5433) forwarding a media request to ACT Policing from the ABC regarding ‘a complaint that has been made by Ms Brittany Higgins about protected evidence handed over to the defence’. I noted the media request but did not take further action in relation to the media request because I had been informed that ACT Policing would be making no comment. I also attach to my statement an email I received from the DPP on the same date forwarding the DPP’s email to DS Moller regarding a similar media request made to the DPP (AFP.2003.0010.3831) and my response to the DPP (AFP.2003.0010.3836). I attach to my statement an email I received from Commander Joanne Cameron on 29 April 2022 addressed to me and DCPO AC Peter Crozier (AFP.2003.0003.5577) with attachment (AFP.2003.0003.5580) regarding the matters subject of the media request. I recall receiving and reading Commander Cameron’s email. I recall that the complaint was raised initially with ACT Policing by Ms Yates after she has been advised of the matter by the DPP. The DPP had been advised by ACT Policing of the inadvertent disclosure the defence, and the DPP was of the view that he had a statutory obligation to advise Ms Higgins. Ms Yates was acting as an intermediary for Ms Higgins at the time. To the best of my knowledge I did not discuss the matter further with Commander Cameron or anyone else.

71.4. In relation to the other persons referred to in Question 71, no complaints, issues or concerns were raised/escalated to me in relation to any of the AFP/ACT Policing officers involved in the investigation by the Victims of Crime Commissioner, Ms Higgins or her legal representatives, Mr Lehrmann or his legal representatives or any other persons.

**Advice Provided by the DPP**

72. Question 72: State whether advice is typically sought from the DPP for AFP/ACT Policing investigations. If so, provide details of the general nature of investigations in which advice from the DPP is typically sought.

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72.1.I refer to and attach to my statement a copy of the Collaborative Agreement between AFP/ACT Policing and the DPP (AFP.0015.0001.0651). As provided by paragraph 2.2, under this agreement, the AFP/ACT Policing may seek DPP advice at an investigative stage, particularly in large, complex or sensitive investigations. Advice in these circumstances is limited to admissibility of evidence that has been obtained or is likely to be obtained by police and the legal implications of alternative or proposed police actions. The AFP/ACT Policing may seek advice from the DPP about general matters of law, evidence and procedures.

73. Question 73: Outline the AFP/ACT Policing process in obtaining advice from the DPP. Provide details of whether any briefing documents and/or briefs of evidence are prepared. Include information of whether you are aware if the AFP adopts a similar practice. **Attach** a copy of the relevant training documentation/course material.

73.1.My understanding of the AFP/ACT Policing process in obtaining advice from the DPP is that a partially completed or full brief of evidence would be provided to the DPP in relation to the provision of advice because the DPP will only provide advice on sufficient material in an admissible form. What is provided is open to negotiation between the DPP and ACT Policing. To my knowledge, there is no agreed format. In the normal course at a minimum an Inspector would approve the request for advice. More senior officers may be advised that advice is being sought from the DPP but formal approval is not required.

73.2.I am aware from my experience in the AFP that the AFP may seek advice from the Commonwealth Director of Public Prosecutions in similar circumstances to those outlined above.

74. Question 74: State whether there is a process for seeking independent legal advice. That is, advice independent from the DPP. If so, provide details of the situations which may give rise to obtaining independent legal advice, the process involved, and whether the AFP/ACT Policing has sought independent legal advice in your

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experience.

74.1. Seeking independent legal advice for an investigation is managed by AFP Legal.

If ACTP members believe that independent legal advice is necessary they would consult with AFP Legal to identify the way forward.

75. Question 75: State whether you were involved in discussions/briefings regarding seeking advice from the DPP in relation to the Investigation. If so, in chronological order, provide details of:

- (a) when you became aware the AFP/ACT Policing sought to seek advice from the DPP in relation to the Investigation;
- (b) how you became aware;
- (c) what you were aware of;
- (d) whether seeking independent legal advice was discussed. If so, provide details as to why independent legal advice was not sought; and
- (e) your overall impressions, including what you understood the officers' next steps would involve.

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

75.1. I recall that I received a verbal briefing on the fact that advice would be sought from the DPP in relation to the investigation.

75.2. In response to Question 75(a), I became aware that ACT Policing was going to seek advice from the DPP in relation to the investigation. I received a verbal briefing, which I think was from DCPO Peter Crozier. I was not shown any draft or final request for the DPP's advice. I recall that I was told that a view had been reached that legal advice should be sought from the DPP about the sufficiency of evidence. I recall that I said that I thought it was a good idea. However, it was not my role to endorse the proposal

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or provide directions in relation to the investigation. To the best of my knowledge, I do not recall discussing seeking independent legal advice. I know that ACT Policing did proceed to seek the DPP's advice.

76. Question 76: State whether you have read, or were otherwise made aware of, the advice provided by the DPP to Detective Superintendent Moller dated 28 June 2021 (the DPP Advice). If so, provide details about the date you read/became aware of the DPP advice and your impression of the advice (including the reasons for your impressions). Attach a copy of the DPP Advice

76.1. I have not read the DPP Advice.

76.2. I refer to my response to Question 78 below in regards to being made aware of the DPP Advice.

76.3. I do not attach a copy of the DPP Advice because I have not read the DPP Advice.

77. Question 77: State whether you had any interactions with the DPP directly (or his staff) in relation to the DPP Advice. If so, provide details of:

- (a) who initiated/arranged the interaction;
- (b) where the interaction took place;
- (c) the people involved;
- (d) what was discussed; and
- (e) your overall impressions

77.1. I have not had any interactions with the DPP/ODPP in relation to the DPP Advice.

78. Question 78: State whether you had any interactions with any AFP/ACT Policing officers in relation to the DPP Advice. If so, provide details of:

- (a) who initiated/arranged the interaction;
- (b) where the interaction took place;

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- (c) the people involved;
- (d) what was discussed;
- (e) whether seeking independent legal advice was discussed. If so, provide details as to why independent legal advice was not sought; and
- (f) your overall impressions, including whether you perceived there to be any pressure to charge Mr Lehrmann and/or do so quickly.

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

78.1. I had interactions with AFP/ACT Policing officers in relation to the DPP Advice.

78.2. I was made aware of the DPP Advice by a verbal briefing which I believe was provided by DCPO AC Crozier and took place shortly after the DPP Advice was received by the AFP. I do not recall precisely when the interaction occurred or where the interaction took place. As far as I can recall, only DCPO AC Crozier and I were present. I was informed that the DPP was of the view that there was a sufficiency of evidence to prosecute.

78.3. My impression from this interaction was that there would need to be planning in relation to service of any summons on Mr Lehrmann because he was located in Queensland, which created logistical difficulties given the COVID-19 lockdowns in place at the time. I did not perceive there to be pressure to charge Mr Lehrmann, either from internal or external sources. However, given the DPP had advised ACT Policing that he had formed the view that there was a sufficiency of evidence to prosecute Mr Lehrmann, my view was that ACT Policing should proceed by way of summons to charge Mr Lehrmann and that it should be done quickly. Seeking independent legal advice was not discussed.

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**Decision to Charge**

79. Question 79: Outline which officer has the responsibility of making decisions in relation to laying a charge. Explain how the independence of an officer's decision to charge is balanced with legislative requirements and any external pressures and/or influence. Attach a copy of any relevant documents, guidelines, policies, procedures and/or governance material. If already attached and/or provided, refer to the relevant parts of your statement.

79.1. The decision to lay a charge rests with the informant. At law a constable of police swears or affirms an oath of office to act without favour or affection, malice or ill will. They are expected to exercise their powers without being impacted by influence or direction of others.

80. Question 80: Outline any interactions you had with AFP/ACT Policing officers in relation to charging Mr Lehrmann. Include information about:

- (a) when you were advised that Mr Lehrmann would be charged;
- (b) who initiated/arranged the interaction;
- (c) where the interaction took place;
- (d) the people involved;
- (e) what was discussed; and
- (f) your overall impressions.

80.1. I recall that I received advice that Mr Lehrmann would be charged shortly before he was charged. I believe that I received that advice by verbal briefing from either Commander Chew or DCPO AC Crozier, or both, and they would have initiated the interaction. To the best of my recollection, the interaction took place at the ACT Policing offices in Belconnen. As for what was discussed, I was advised that a summons was going to be sworn and would be served on Mr Lehrmann. I recall that there was a general discussion acknowledging the challenges presented by COVID-19 lockdowns in place at the time.

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My overall impressions of the interaction were that ACT Policing officers would proceed with swearing the summons and thereby charge Mr Lehrmann.

81. Question 81: State whether you received any pressure from within AFP/ACT Policing and/or the DPP to charge Mr Lehrmann and whether you relayed this information onto any AFP/ACT Policing officers (either directly or indirectly) to charge Mr Lehrmann. If so, provide details as to from where and whom the pressure arose/was directed to.

81.1. I did not receive pressure from within AFP/ACT Policing to charge Mr Lehrmann. Accordingly, I had no information to relay in that respect.

81.2. I did not receive any pressure from the DPP to charge Mr Lehrmann. I refer to my response to Question 70 above and reiterate that I did not have any conversation with the DPP about charging Mr Lehrmann. Accordingly, I had no information to relay in that respect.

82. Question 82: Upon the charging of Mr Lehrmann, outline your views and the attitude of the AFP/ACT Policing officers involved in the Investigation towards the prosecution. Provide details on the basis for your views and examples where applicable.

82.1. I understand that Question 82 requests information from me in relation to my views, and the views of the AFP/ACT Policing officers involved in the investigation, towards the prosecution at and after the time Mr Lehrmann was charged.

82.2. In relation to the views of the AFP/ACT Policing officers, I became aware after Mr Lehrmann was charged that Detective Inspector Marcus Boorman was of the view that there were inconsistencies in the version of events provided by Ms Higgins and, due to those inconsistencies and concerns about Ms Higgins' mental health, Ms Higgins would not be a reliable witness and the prosecution should not proceed. I do not recall when I became aware of Mr Boorman's view but I believe it was during a hallway

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conversation at the ACT Policing office in Belconnen and at a time after Mr Lehrmann was charged but before the trial. My impression was that Mr Boorman was not suggesting that the charge be withdrawn, but that Mr Boorman was expressing his concerns about the matter to me. I did not have the impression that Mr Boorman was communicating to me that he would not be undertaking his responsibilities in relation to the matter in a professional way.

82.3. In regards to other ACT Policing officers, I refer to my response to Question 70 above in regards to my interaction with DS Moller in relation to the investigation in 2021.

82.4. In regards to my own view, I was of the view that the DPP had given his advice that there was a sufficiency of evidence to prosecute and the matter should proceed accordingly. I did not have my own view independent from that because I had not read, and still have not read, the brief of evidence.

### Trial

83. Question 83: Outline briefings you received (if any) in relation to the trial in the matter of *R v Lehrmann*. Include information about whether any concerns were raised to you in relation to the conduct of any AFP/ACT Policing officers during the trial. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

83.1. In relation to pre-trial applications in the matter of *R v Lehrmann*, I received an email from Commander Joanne Cameron me and DCPO AC Crozier on 7 April 2022 (AFP.2003.0003.5292) briefing us on the delay to the delivery of judgment on the application to stay the trial. I received a further email from Commander Cameron on 29 April 2022 briefing me on the judgment delivered (AFP.2003.0003.5519).

83.2. I refer to my response to Question 70 above regarding the briefings I received about the subpoena to produce documents issued to the AFP by the defence prior to the trial.

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83.3.I received written briefings, in the nature of daily email updates, in relation to the trial in the matter of *R v Lehrmann* from ACT Policing officers attending the trial. I attach to my statement a copy of an email from Commander Joanne Cameron to me dated 5 October 2022 regarding these updates (AFP.2003.0011.6284) together with my email to Commander Cameron of the same date in response (AFP.2003.0011.6297).

83.4.I attach to my statement copies of the email updates I received in relation to the trial in the matter and, for the purpose of referring to them, note the relevant day of the trial that they related to:

- 83.4.1. day 1 (AFP.2003.0011.6284);
- 83.4.2. day 2 (AFP.2003.0019.3023);
- 83.4.3. day 3 (AFP.2003.0011.6311);
- 83.4.4. day 4 (AFP.2003.0019.3421);
- 83.4.5. day 5 (AFP.2003.0011.6798);
- 83.4.6. day 6 (AFP.2003.0019.3726);
- 83.4.7. day 7 (AFP.2003.0019.3734);
- 83.4.8. day 8 (AFP.2003.0011.7123);
- 83.4.9. day 9 (AFP.2003.0019.3820);
- 83.4.10. day 10 (AFP.2003.0011.7307); and
- 83.4.11. day 11 (AFP.2003.0011.7373).

83.5.These email updates were provided for my information only and were not specifically addressed to me. I read the email updates and, at the time, I did note issues arising in the email updates in relation to particular matters: firstly, that Mr Whybrow SC had approached an ACT Policing officer in relation to the investigation, and secondly, that

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a journalist had approached an ACT Policing officer. Neither of these issues caused me concern. In relation to defence counsel approaching an ACT Policing officer, it is my experience that it is not unusual for defence counsel to approach ACT Policing officers during the trial, and in this case the issue was raised in the email update as having happened and was not characterised as a concern to be escalated. In relation to a journalist approaching an ACT Policing officer, I was aware that, in accordance with standard practice, the ACT Policing officer did not have permission to speak with the journalist about the investigation, there being specific avenues for media requests to be made to AFP/ACT Policing.

83.6.I also may have received verbal briefings on particular issues as they arose in the trial. I believe that, consistently with my experience as ACT CPO of trials in other significant matters, I may have received verbal briefings at recess or lunch breaks if something significant had occurred in the trial. I do not specifically recall receiving any such briefings but, if I received them, I would have received such verbal briefings from DCPO AC Crozier.

83.7.I sent an email to Ms Joanne Chidgey, the AFP Commissioner's Chief of Staff, on 5 October 2022 (AFP.2003.0012.6027) advising that daily email updates would be sent to the AFP Commissioner's office and I would brief AFP Commissioner of significant issues as they arose during the trial. I recall that I did provide verbal briefings to the AFP Commissioner by telephone in relation to the trial in the matter. Issues I recall providing briefings to the AFP Commissioner on are Ms Higgins' non-attendance at the Court partway through her cross-examination, the conclusion of Ms Higgins' evidence, and the conclusion of Senator Linda Reynolds' evidence.

83.8.I refer to my response to Question 84 below in relation to information provided to me by a Signal encrypted AFP/ACT Policing Executive group chat.

83.9.To the best of my recollection, I did not otherwise receive information in relation to the trial in the matter.

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84. Question 84: State whether you received updates in relation to the trial in the matter of *R v Lehrmann*, including in a Signal encrypted AFP/ACT Policing group chat. If so, provide details of the nature of the updates you received and whether you actioned any items arising from the updates. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

84.1. As set out in my response to Question 83 above, I received daily email updates in relation to the trial in the matter of *R v Lehrmann* from ACT Policing officers attending the trial.

84.2. I also received information about the trial in the matter through a Signal encrypted AFP/ACT Policing group chat, titled 'ACTP Exec', for ACT Policing Senior Executive Service (SES) members which is regularly used for communication between the SES members of ACT Policing about a range of matters including operations. I have caused steps to be taken to retrieve copies of the messages from the Signal group chat on my work mobile phone and intend to provide a further statement to the Board to set out the nature of the updates received and attach copies of them once the messages are retrieved and reviewed.

85. Question 85: To the extent not addressed above, state whether any complaints, issues or concerns were raised/escalated to you (either indirectly or directly) in relation to any of the AFP/ACT Policing officers involved in the Investigation prior to, during or after the trial in the matter of *R v Lehrmann* by:

- (a) the DPP/ODPP;
- (b) the Victims of Crime Commissioner;
- (c) Ms Higgins and/or her legal representatives;
- (d) Mr Lehrmann and/or his legal representatives; or
- (e) any other persons.

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If so, provide details of what the concerns were, when the concerns were raised/escalated to you and what actions you took to address the concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

85.1. I refer to my response to Question 71 above.

85.2. No complaints were otherwise raised with or escalated to me about the AFP/ACT Policing officers involved in the investigation by any other persons including the Victims of Crime Commissioner, Ms Higgins and Ms Higgins' legal representatives, or Mr Lehrmann and Mr Lehrmann's legal representatives.

86. Question 86: To the extent not addressed above, outline any other discussions/interactions you had with the DPP relating to the matter of *R v Lehrmann* and/or Ms Higgins. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

86.1. I have outlined any discussions/interactions I had with the DPP relating to the matter of *R v Lehrmann* or Ms Higgins in my responses above.

86.2. I recall that I sent a text message to the DPP from my work mobile phone before the trial in the matter commenced. I do not recall the particular words I used and I have not recovered a copy of the text message but I believe I asked the DPP how he was going. I do not recall whether I received a response. As is the case with the updates received in relation to the trial on the ACT Policing executive Signal group, I have taken steps to retrieve a copy of the text message from my work mobile phone and will provide a further statement to the Board to address this matter.

### Bail

87. Question 87: Outline your interactions (if any) with the DPP/ODPP and/or the legal representatives for Mr Lehrmann in relation to the considerations for bail for Mr

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Lehrmann. State whether it is unusual for legal representatives to speak to the AFP/ACT Policing in relation to bail considerations. Include details about who was involved in those communications, the purpose of the communications, what was discussed, and your impressions of any communications. Attach a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

87.1.I did not have any interactions with the DPP/ODPP or Mr Lehrmann's legal representatives in relation to the considerations for bail for Mr Lehrmann.

87.2.I assume the reference to legal representatives in Question 87 is to the legal representatives for the defendant. In my experience, it is not unusual for the defendant's legal representatives to speak to the AFP/ACT Policing in relation to bail considerations, including in relation to the types of bail conditions that AFP/ACT Policing would or would not agree to in advance of the matter going before the Magistrate. Bail applications are typically heard in a busy list where the prosecutor is dealing with a significant number of matters. It can be a way of speeding things up and ensuring that justice is served in a timely fashion. In some circumstances it will negate the requirement for the Informant to provide evidence to the Court.

#### 1 November 2022 Correspondence

88. Question 88: Outline whether you had any discussions with the DPP prior to his correspondence addressed to the dated 1 November 2022 regarding the conduct of the Investigation and trial in the matter of *R v Lehrmann* (1 November 2022

**Correspondence**). Include information about:

- (a) when the interaction took place;
- (b) who initiated/arranged the interaction;
- (c) where the interaction took place;
- (d) the people in attendance;

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- (e) any evidence/material you were provided, including when you reviewed the evidence/material;
- (f) what was discussed;
- (g) your overall impressions of the interaction; and
- (h) whether you took any steps in relation to addressing the concerns raised by the DPP. If you did not take any steps at this time, provide reasons as to why.

**Attach** a copy of the 1 November 2022 Correspondence and any accompanying relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

88.1. As set out in my response to Question 71 above, I had a discussion with the DPP prior to receiving the 1 November 2022 Correspondence.

88.2. I was not provided any evidence/material by the DPP during that discussion.

My overall impressions of that interaction were, at the time, that the DPP had made clear to me that the DPP wanted there to be a public inquiry into the conduct of the investigation and the trial in the matter of *R v Lehrmann* and that the DPP intended to take further steps in relation to the matters discussed, including by approaching the ACT Attorney-General. I did not take any steps at the time in relation to the matters discussed because, firstly, the DPP had not provided sufficient detail to allow me to do so and secondly, because I had the impression the DPP would be taking formal steps to raise his concerns in another forum.

88.3. I attach to my statement a copy of the 1 November 2022 Correspondence (AFP.2003.0012.7122).

89. Question 89: Outline what you did after receiving the 1 November 2022 Correspondence, including whether you discussed the content of the 1 November

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2022 Correspondence with any person (including any AFP/ACT Policing officers, the DPP/ODPP and/or the Victims of Crime Commissioner). Include information about:

- (a) when the interaction took place;
- (b) who you spoke to;
- (c) where the interaction took place;
- (d) the people in attendance;
- (e) any evidence/material you were provided, including when you reviewed the evidence/material;
- (f) what was discussed;
- (g) your overall impressions; and
- (h) whether you referred the DPP's concerns to the AFP Professional Standards.

89.1.I received the 1 November 2022 Correspondence on 1 November 2022 when it was forwarded to me by my office. I attach to my statement a copy of that email forwarding the 1 November 2022 Correspondence to me (AFP.2003.0012.7121).

89.2.After receiving the 1 November 2022 Correspondence, I did as follows:

89.2.1. I read the 1 November 2022 Correspondence and considered the matters raised;

89.2.2. I instructed my office to respond to the DPP to confirm receipt of the 1 November 2022 Correspondence shortly after receiving it. I attach to my statement a copy of my office's email to the DPP dated 2 November 2022 (AFP.2003.0012.6970);

89.2.3. I provided a verbal briefing to Ian McCartney, either in his capacity of Acting Commissioner or of Chair of the SIOB in the Edmund Barton Building. I do not recall the precise date and time that I provided the verbal briefing, but I believe it took place shortly after I received the 1 November 2022 Correspondence and on the first occasion I attended the Edmund Barton Building after I received it. I do not recall whether I provided the Mr McCartney with a copy of the 1 November

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2022 Correspondence at the time I provided the verbal briefing. I briefed Mr McCartney on the fact that the 1 November 2022 Correspondence raised serious allegations against AFP/ACT Policing officers and that while I was still considering the appropriate course of action, it was my view that it was highly likely that the 1 November 2022 Correspondence would be referred to AFP Professional Standards;

89.2.4. I attended a meeting with AFP Professional Standards at the Edmund Barton Building on 25 November 2022 in relation to another matter. I recall that I attended the meeting with DCPO AC Crozier and Mr Phil [REDACTED] who at the time was acting Manager Professional Standards. I had a discussion with Mr [REDACTED] about the 1 November 2022 Correspondence to the effect that, I had received the letter, I had discussed the letter with Mr McCartney and I had made the decision to refer the letter to AFP Professional Standards because the letter makes allegations of corruption against ACT Policing officers. My overall impressions of the discussion were that the letter had been referred to AFP Professional Standards and the letter was then a matter for AFP Professional Standards to manage and investigate.

89.3. I did not brief the 1 November 2022 Correspondence to my direct reports. I believe that DCPO AC Crozier first became aware of the letter at the 25 November 2022 meeting with AFP Professional Standards. I observed him to be looking at the letter during that meeting.

89.4. I attended a meeting with the DPP at his office on 6 December 2022. I recall that this meeting had been scheduled to discuss issues arising from the Steering Committee's Report, namely, the issue of the correct test for charging to be applied. I do not recall whether this meeting had already been arranged prior to receiving the 1 November 2022 Correspondence. At the meeting, which Skye Jerome of the ODPP also attended, I told the DPP that I had referred the 1 November 2022 Correspondence to AFP Professional Standards and that I would be writing to him shortly to confirm that. We otherwise did not discuss the 1 November 2022 Correspondence and proceeded to discuss the issues

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the meeting had been arranged to discuss. I set out my further interaction with the DPP in relation to the 1 November 2022 Correspondence in response to Question 91 below.

89.5.I did not discuss the contents of the 1 November 2022 Correspondence with any other persons including AFP/ACT Policing officers, ODPP staff or the Victims of Crime Commissioner.

90. Question 90: To the extent not addressed above, state whether you informed any media reporters in relation to the existence/content of the 1 November 2022 Correspondence. If so, provide details of:

- (a) when the interaction took place;
- (b) who you spoke to;
- (c) where the interaction took place;
- (d) the people in attendance;
- (e) any evidence/material you were provided, including when you reviewed the evidence/material;
- (f) what was discussed;
- (g) your overall impressions; and
- (h) the reasons for your actions.

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

90.1.I did not inform any media reporters in relation to the existence/content of the 1 November 2022 Correspondence.

91. Question 91: Outline your involvement in enquiries surrounding documents disclosed by the DPP through a Freedom of Information request received on or about 8 December 2022 in relation to the 1 November 2022 Correspondence. Provide details of the extent of your involvement in any discussions surrounding the disclosure and whether a complaint was referred to the ACT Ombudsman. **Attach** a copy of the

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email correspondence dated 8 December 2022 and 9 December 2022 titled “legal advice on ROR: Urgent media query: DPP complaint to CPO over Lehrmann matter” and “Draft complaint to the ACT Ombudsman” and any accompanying relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

91.1.I first became aware of the disclosure of the 1 November 2022 Correspondence by the DPP through a media inquiry made to the ACT Policing Media Team on 8 December 2022.

91.2.I did not receive any advance notice from the DPP that the ODPP had received an FOI request or that the 1 November 2022 Correspondence had been released in response. Accordingly I did not have any discussions surrounding the disclosure with the DPP prior to being made aware of the disclosure.

91.3.I outline the sequence of events in relation to the FOI request on 8 December 2022 as follows:

91.3.1. at about 12.26pm, I received an email from the ACT Policing Media team forwarding a media request made by Christopher Knauss, a journalist at The Guardian (AFP.2003.0012.8109). I forwarded the email to DCPO AC Crozier and Commander Cameron (AFP.2003.0012.0437);

91.3.2. at about 12.34pm, I emailed Shobaz Kandola who at the time was the Chief of Staff, of the ACT Minister for Police and Emergency Services.  
(AFP.2003.0012.8132);

91.3.3. at about 12.43pm, I forwarded The Guardian media request to the Manager Media and Public Affairs, Renee [WIT\_Personal\_Inf] (AFP.2003.0012.8142);

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91.3.4. at about 12.45pm, I called the DPP. I refer to my response to Question 61 above. I attach a scanned extract of the note I took of the telephone call in my official diary (AFP.2002.0001.2353);

91.3.5. at about 1.18pm, I sent an email to DC McCartney and Ms [WIT\_Personal] setting out my proposed response to the Guardian media request (AFP.2003.0012.8149);

91.3.6. at about 3.14pm, I received an email from Commander Jason [WIT\_Personal\_Inf], AFP Professional Standards [PII - Prejudice investigations] (AFP.2003.0012.8182);

91.3.7. at about 3.15pm, I received an email from Ms [WIT\_Personal\_Info] (AFP.2003.0012.8185);

91.3.8. at about 3.33pm, I sent an email to Richard Glenn forwarding the Guardian media request (AFP.2003.0012.8250); and

91.3.9. at about 3.35pm, I caused an all-staff email to be sent to ACT Policing members on the same day regarding the publication of the 1 November 2022 Correspondence (AFP.2003.0009.7710). I understand this email also subsequently was published by media.

91.4.I instructed Mr Peter Whowell to draft a letter of complaint to the ACT Ombudsman regarding the DPP's release of the 1 November 2022 Correspondence. I believe that I reviewed Mr Whowell's draft letter before he sent it to the ACT Ombudsman. I attach to my statement a copy of an email from Mr Whowell on 15 December 2022 regarding the ACT Ombudsman's initial response (AFP.2003.0003.2444).

91.5.I attended a teleconference with staff from the ACT Attorney-General's office and other ACT Policing officers on 9 December 2022. I attach a copy of an email from Ms Susie Williamson de Vries to me and others on 11 December 2022 recording a file note of the conversation (AFP.2003.0012.8374).

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91.6.I attach to my statement a copy of the email correspondence dated 8 and 9 December 2022 bearing the subject line ‘legal advice on ROR: Urgent media query: DPP complaint to CPO over Lehrmann matter’ (AFP.2003.0012.0654).

91.7.I have caused searches to be undertaken through my personal AFP email account but have not identified a copy of the ‘Draft complaint to the ACT Ombudsman’ email correspondence sought by Question 91.

#### Other involvement

92. Question 92: To the extent not addressed above, state whether you are aware of any complaints received from Mr Steven Whybrow SC or any other members of public in relation to contentious behaviour and/or contempt of court relating to the conduct of Ms Lisa Wilkinson and/or Ms Higgins related to the matter of *R v Lehrmann*. If so, provide details of:

- (a) when the complaints were received;
- (b) the nature of the complaints;
- (c) what steps you took in relation to the complaints; and
- (d) whether any investigations were initiated. If so, provide details of:
  - i. who conducted the investigation/where it was referred to; and
  - ii. whether the investigation is ongoing or has been concluded. If the investigation is ongoing, provide details of who has carriage of the investigation and the expected timeframe for its conclusion. If the investigation has been concluded, provide details of what the outcome of the investigation was.

92.1.In relation to Ms Lisa Wilkinson, I say as follows: I am aware of a complaint made by Mr Steven Whybrow SC to the Chief Justice of the ACT Supreme Court prior to the trial in the matter in relation to comments made by Ms Wilkinson during her acceptance speech at the Logies Awards last year. I did not take any steps in relation to that complaint because it was a matter for the Chief Justice. I am aware that the Chief

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Justice dealt with the complaint by deferring the trial. I am not aware of any other complaints about Ms Wilkinson.

92.2. In relation to Ms Higgins, I say as follows:

92.2.1. PII - Prejudice investigations  
[Redacted]

92.2.2. PII - Prejudice investigations  
PII - Prejudice investigations  
[Redacted]

92.2.3. PII - Prejudice investigations  
[Redacted]

92.2.4. PII - Prejudice investigations  
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### AFP Internal Reviews

93. Question 93: Provide an overview of the process governing the conduct of AFP Internal Reviews. Provide details of:

- (a) how an internal review is initiated. Provide examples of the circumstances which may give rise to an internal review;
- (b) who is responsible for devising a team to conduct the review;
- (c) the process for conducting an internal review;
- (d) who is informed of the recommendations from the review.

**Attach** a copy of any relevant agreements, policies and/or guidelines. If already attached and/or provided, refer to the relevant parts of your statement.

93.1. In relation to AFP internal reviews of investigations, Investigations Standards and Practice (**ISP**) within AFP Learning & Development Command is the professional practice body for AFP investigators. ISP sets the standard for reviews of investigations which provides guidance as to the review process including about the initiator of the review, the reviewer, and AFP members involved in the review. The AFP Investigations Doctrine, which I attach a copy of to my statement above, recognises that the review process is an integral part of an investigation and states the need for continual review through an investigation.

93.2. I attach to my statement a copy of the AFP Better Practice Guide for Investigation Review (AFP.0015.0001.0794) (Investigation Review BPG). The Investigation Review BPG sets out the three types of investigation review:

93.2.1. *tactical reviews* are conducted to provide investigative direction and inform decision-making about the investigation, and should be conducted regularly by either the investigator, a peer (ie another investigator who is not in the direct chain of command in relation to the investigation under review) or the investigator's supervisor. There is an Investigative Review Case Note Entry on PROMIS to assist investigators in undertaking tactical reviews. Tactical reviews can be conducted at any stage in an

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investigation however can occur following a particular event such as an interview or an arrest, or alternatively if there is a perception that there is a need to identify new avenues of inquiry;

93.2.2. *reflective reviews* are conducted when a need for individual or organisational learning has emerged. Reflective reviews are intended to inform the AFP/ACT Policing of those needs and to assist in the development of training, procedures and governance. Reflective reviews are conducted by a case officer or supervisors. As with tactical reviews, there is a Reflective Review Case Note Entry on PROMIS. Outcomes of both tactical and reflective reviews must be forwarded to ISP to facilitate ISP's identification of emerging issues or lessons learnt, potential legislative changes and/or governance development, training needs, and generally to assist with the ISP's development of best practice; and

93.2.3. *formal internal reviews*, which are typically conducted by someone independent from the investigation and may be conducted by persons external to ACT Policing, are conducted to determine the appropriate quality benchmarks for an investigation and to assist the investigator by presenting opportunities to apply critical thinking to the progress of an investigation, confirming the direction and outcome of an investigation, or guiding future activity. Formal internal reviews are more likely to be initiated at the request of ISP, AFP management or the ACT Policing executive. I attach to my statement a copy of the template for formal internal reviews.

94. Question 94: To the extent not addressed above, provide details of any AFP Internal Reviews you were aware of, or otherwise involved in, during your time as ACT CPO in relation to the Investigation or conduct of sexual assault investigations in the ACT generally. **Attach** a copy of the final report of the review and any accompanying relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

94.1. I refer to my response to Question 70 above in relation to the review undertaken by Commander Andrew Smith in relation to the investigation in 2021 including my email

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to DC McCartney on 5 August 2021 (AFP.2003.0015.0391) and DC McCartney's email in response on 19 August 2021 (AFP.2003.0015.0567). I was not involved in Commander Smith's review of the investigation.

94.2. In relation to the conduct of sexual assault investigations in the ACT generally, I am aware that in June 2021, ACT Policing initiated an internal review of SACAT. I attach to my statement a copy of the review (AFP.0015.0001.0801). I attended meetings on 28 July 2021 and 12 November 2021 with the author of the report, Detective Sergeant David Fleming at which I recall discussing the internal review.

94.3. I refer to my response to Question 70 above in relation to the referral to AFP Professional Standards of the issue of the brief of evidence served on Mr Lehrmann's legal representatives.

94.4. I am not aware of any AFP internal reviews being conducted in relation to the investigation other than those addressed above.

***Impressions of the DPP/ODPP during the Investigation and Trial in the Matter of R v Lehrmann***

95. Question 95: Outline any issues and concerns you had regarding the DPP's conduct during the Investigation and/or trial in the matter of *R v Lehrmann*. Did you express these issues and concerns to anyone? If so, provide information about to whom you disclosed your concerns to and the reasons or circumstances which gave rise to your concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

95.1. I did not have any issues or concerns regarding the DPP's conduct during the investigation.

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95.2. In relation to the trial of the matter of *R v Lehrmann*, I was not present at the trial but I became aware from receiving verbal briefings and daily email updates, as set out in response to Question 83 above, that ACT Policing officers at the trial felt that there was a lack of communication from the DPP and that during the trial the DPP made a decision not to call certain police witnesses. I did think that it was unusual for those police witnesses not to be called at the trial as in my experience the informant on charges in sexual assault matters (who in this case was DS Scott Moller as the SIO) would typically be called as a witness. However, I was aware that the DPP was responsible for the conduct of the trial and did not know the DPP's reasons for not calling DS Moller so this issue did not rise to the level of a concern. I did not disclose the concerns that were raised with me about communication difficulties to anyone.

96. Question 96: State whether you observed a breakdown of the relationship with the DPP/ODPP and the AFP/ACT Policing during the Investigation and/or trial in the matter of *R v Lehrmann*. If so, provide details to the extent of the breakdown of the relationship and the effect this had on the Investigation and subsequent prosecution. Provide examples where appropriate.

96.1. In relation to the investigation, I did not observe a breakdown of the relationship between the DPP/ODPP and AFP/ACT Policing officers during the investigation. I was aware that there was tension in the relationship between the DPP and DS Scott Moller in relation to the investigation and I understood the tension to arise primarily from a difference of opinion as to whether there was sufficiency of evidence to prosecute Mr Lehrmann which arose before Mr Lehrmann was charged. My understanding at the time was that the relationship between the DPP and DS Moller had not broken down and the investigation was continuing. It was not my understanding that this affected the investigation and the matter proceeded to prosecution and trial. I did not understand that the relationship between the DPP/ODPP and the AFP/ACT Policing in relation to other investigations was affected by this tension. As I set out in response to Question 60 above, in my experience there is regularly potential for differences between policing

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organisations and prosecuting agencies in operational matters which can and are dealt with professionally so as not to undermine the overall relationship.

96.2. In relation to the trial, I was not present at the trial but as set out in response to Question 95 above, I had understood from verbal briefings and email updates that there were communication difficulties between ACT Policing officers and the DPP during the trial. I thought at the time that those communication difficulties may have arisen because of the tension between Mr Moller and the DPP that existed prior to the trial. I cannot attribute the DPP's decision not to call certain police witnesses to that tension.

96.3. I became aware, after the jury had been discharged at the trial in the matter of *R v Lehrmann*, of concerns raised by ACT Policing officers to more senior ACT Policing officers regarding their treatment by the DPP in the course of the subsequent prosecution. I attach to my statement a copy of an email from Commander Joanne Cameron to me dated 2 December 2022 (AFP.2003.0012.0091) wherein Commander Cameron replied to an email from DLSC Trent Madders to Commander Cameron on the same date relating to DLSC Madders' request 'that someone at an executive level questions the ACT-DPP about their lack of professional courtesy during this investigation.' I attach a copy of my email to Commander Cameron in response on the same date (AFP.2003.0012.0094).

96.4. I recall that the fact the DPP had withdrawn the charge against Mr Lehrmann was made public on 1 December 2022. To the best of my recollection, either the afternoon before or the morning of 1 December 2022, but definitely before the DPP gave a press conference to formally announce the charge had been withdrawn, the DPP called me and told me that he had withdrawn the charges. I did not keep a record of this interaction.

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97. Question 97: Outline your impression of the treatment by the DPP/ODPP in relation to the Investigation and/or trial in the matter of *R v Lehrmann* towards you and other AFP/ACT Policing officers involved. Provide details of your impressions and examples where appropriate.

97.1. As set out above, I did not have interactions with the DPP/ODPP in relation to the investigation or the trial in the matter of *R v Lehrmann* so the aspect of Question 97 relating to the DPP/ODPP's treatment of me is not relevant.

97.2. In relation to the treatment by the DPP/ODPP of other AFP/ACT Policing officers in relation to the investigation and the trial, I refer to my response to Questions 95 and 96 above.

***Impressions of the Victims of Crime Commissioner during the Investigation and Trial in the Matter of R v Lehrmann***

98. Question 98: Outline any issues and concerns you had regarding the Victim of Crime Commissioner's conduct during the Investigation and/or trial in the matter of *R v Lehrmann*. Did you express these issues and concerns to anyone? If so, provide information about to whom you disclosed your concerns to and the reasons or circumstances which gave rise to your concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

98.1. In relation to the investigation, I became aware that the Victims of Crime Commissioner had appeared to have had extensive interactions with Ms Higgins. I would not say this arose to the level of a concern but the Commissioner's interactions with Ms Higgins did create an issue in that the Commissioner needed to be treated as a potential disclosure witness, and she was treated as such. I became aware of this issue through a briefing as outlined in my response to Question 70 above.

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98.2. In relation to the trial in the matter of *R v Lehrmann*, I did not have any issues or concerns regarding the Victims of Crime Commissioner's conduct during the trial.

98.3. In relation to the period after the jury was discharged at the trial in the matter, I became aware that the Victims of Crime Commissioner had appeared with Ms Higgins when Ms Higgins made what appeared to be a prepared statement to the media about the trial. I was concerned about the impact that some of Ms Higgins' comments might have on any retrial and that the Victims of Crime Commissioner appearing with Ms Higgins when she made those comments would worsen that impact by creating the perception that the Victims of Crime Commissioner supported them. I discussed my concerns about the implications for any retrial with other senior AFP/ACT Policing officers at the time but no decision was made to take any steps in relation to the Victims of Crime Commissioner.

99. Question 99: State whether you observed a breakdown of the relationship with the Victims of Crime Commissioner (or her staff) and the AFP/ACT Policing during the Investigation and/or trial in the matter of *R v Lehrmann*. If so, provide details to the extent of the breakdown of the relationship and the effect this had on the Investigation and subsequent prosecution. Provide examples where appropriate.

99.1. I did not observe a breakdown of the relationship between the Victims of Crime Commissioner (or her staff) and the AFP/ACT Policing during the investigation and/or trial in the matter of *R v Lehrmann*.

100. Question 100: Outline your impression of the treatment by the Victims of Crime Commissioner (or her staff) in relation to the Investigation and/or trial in the matter of *R v Lehrmann* towards you and other AFP/ACT Policing officers involved. Provide details of your impressions and examples where appropriate.

100.1. I did not have any interactions with the Victims of Crime Commissioner (or her staff) in relation to the investigation and/or trial in the matter of *R v Lehrmann*.

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100.2. I was not made aware of any concerns of the treatment by the Victims of Crime Commissioner (or her staff) of other AFP/ACT Policing officers involved in relation to the investigation or the trial in the matter of *R v Lehrmann*, and have no relevant impression.

101. Question 101: To the extent not addressed above, state whether you were aware of any AFP/ACT Policing officers feeling intimidated in any way by the presence of the Victims of Crime were raised and the nature of the concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

101.1. I was not aware of any AFP/ACT Policing officers feeling intimidated by the presence of the Victims of Crime Commissioner.

102. Question 102: State whether you believe the level of media involvement in the matter of *R v Lehrmann* affected the conduct of the Investigation. If so, include details about the basis for your views and provide examples where possible.

102.1. In regards to the level of media involvement in the matter of *R v Lehrmann*, in my almost 40 years as a police officer, I have never seen a criminal matter, let alone a sexual assault matter, receive the level of media involvement that the matter of *R v Lehrmann* did. I believe this level of media involvement placed significant pressure on everyone involved in the investigation, including the AFP/ACT Policing officers involved and the DPP.

102.2. I refer to my response to Question 70 above in relation to Ms Higgins' correspondence with the AFP in early 2021 requesting to make a statement and reinstate the investigation. As I understood from the briefing provided to me at the time, Ms Higgins had indicated to the AFP that she wished to make a statement after participating in an interview on The Project. I formed the view at the time I became aware of this that the media involvement would significantly affect the conduct of the

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investigation. In my experience, it is the case that in any criminal matter, public disclosures about the matter before an investigation has concluded or before the matter has proceeded to trial creates difficulties in the evidence-gathering process by compromising lines of inquiry (particularly covert ones as well as the process of engaging with the accused) and can compromise the complainant's credibility where differences arise in their version of events.

103. Question 103: Outline any media releases from the AFP/ACT Policing you were involved in preparing or otherwise discussed with any other persons. Include information about whether comments are typically made in relation to referring investigations to the DPP or the status of an investigation. Provide details of the AFP/ACT policies, procedures, guidelines and/or governance in relation to publicly commenting on investigations. **Attach** a copy of any media release(s), any relevant policy, procedure, guideline, governance, and any relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

103.1. I do not recall particular instances in which I was involved in preparing or otherwise discussing media releases from the AFP/ACT Policing in relation to the investigation. However, I was very likely to have either cleared or at least seen media releases relating to the investigation prior to their publication because of the high-profile nature of the matter.

103.2. I have caused searches to be undertaken to identify AFP/ACT Policing media releases relating to the investigation and which I gave approval for publication, and identified the following:

103.2.1. on 14 February 2021, ACT Policing responded to media requests from journalists at The Project and News.com.au. I attach a copy of ACT Policing's response to Samantha Maiden at News.com.au (AFP.2003.0014.3778). I attach a copy of ACT Policing's response to Angus Llewellyn at The Project

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(AFP.2003.0014.3781). I attach to my statement any relevant communications I have identified as relating to my involvement in responding to the request (AFP.2003.0014.3770; AFP.2003.0004.6267; AFP.2003.0014.3774; AFP.2003.0018.7786);

103.2.2. on 6 August 2021, ACT Policing issued a media release regarding Mr Lehrmann being charged. I attach to my statement the relevant communications I have identified as relating to my involvement in preparing the media release (AFP.2003.0015.0377; AFP.2003.0015.0378; AFP.2003.0005.0674; AFP.2003.0005.0818);

103.2.3. on 2 December 2022, I received an email from ACT Policing Media regarding matters which were expected to arise in relation to the DPP's decision to discontinue the prosecution of Mr Lehrmann (AFP.2003.0011.9651). I attach copies of further emails, including my email to ACT Policing Media, relating to these matters (AFP.2003.0011.9719; AFP.2003.0011.9977; AFP.2003.0016.0622).

103.2.4. on 8 December 2022, ACT Policing responded to a media request from Christopher Knauss, a journalist from The Guardian, regarding the matters set out in the DPP's letter of 1 November 2022. I have not attached a copy of ACT Policing's response to the media request because I did not see the response as sent. I attach to my statement the relevant communications I have identified as relating to my involvement in preparing the response to the media request (AFP.2003.0012.0521; AFP.2003.0012.0571; AFP.2003.0012.0428; AFP.2003.0012.0430; AFP.2003.0012.0375; AFP.2003.0012.0434; AFP.2003.0012.0437; AFP.2003.0012.0453; AFP.2003.0012.0462; AFP.2003.0012.0466; AFP.2003.0012.0471; AFP.2003.0012.0506; AFP.2003.0012.8109; AFP.2003.0012.8132; AFP.2003.0012.8142; AFP.2003.0012.8149; AFP.2003.0012.8182; AFP.2003.0012.8185; AFP.2003.0012.8250).

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103.3. I have been shown a copy of an email from Detective A/Sergeant Heath Langlands to me on 19 March 2021 regarding a media request to ACT Policing from the ABC 4Corners program (AFP.2003.0014.7355). I not recall reading this email. I do not recall having any discussions about the 4Corners media request. I have caused further searches to be undertaken and I have not identified any further emails to or from me about the 4Corners request.

103.4. In relation to whether comments are typically made in relation to referring investigations to the DPP or the status of an investigation, it is the case that media releases are issued in relation to the status of an investigation in which there is media interest when key milestones are reached, such as when a person is charged. As for the referral to the DPP, in the context of the investigation, I am not aware of ACT Policing having issued a media release or responded to a media request to the effect that ACT Policing had sought advice from the DPP.

103.5. I attach to my statement a copy of the AFP National Guidelines for Management of Media Engagement (AFP.0014.0001.0059).

104. Question 104: To the extent not addressed above, outline the communications (if any) you have personally received and/or had with the media in relation to the matter of *R v Lehrmann*. **Attach** a copy of any relevant communications including but not limited to correspondence, emails, text messages, social media messages, calendar invitations, calendar appointments, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

104.1. I have not personally received any communications from the media in relation to the matter of *R v Lehrmann*.

104.2. As ACT CPO, I regularly speak to the media about community policing matters in the ACT. For example:

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104.2.1. I am interviewed on the ABC 666 radio station in a regular slot on the first Wednesday of every month; and

104.2.2. I have a regular meeting with journalists from The Canberra Times, about once every few months.

104.3. I do not otherwise recall whether I was asked questions about the investigation on ABC 666 or by The Canberra Times, but I think it was likely that I was given the profile of the investigation. My response would have been that I do not comment on any matter under investigation or before the courts. I was shown in the course of preparing my statement a copy of an email sent to me on 6 April 2021 relating to my appearance on ABC 666 the following Wednesday 7 April 2021 (AFP.2003.0014.8271) and an email sent to me on 14 April 2021 copying the content of an article published in The Guardian and referring to public remarks made by me in relation to the investigation (AFP.2003.0014.8503). I do not specifically recall discussing the investigation during my interview on ABC 666 on 7 April 2021 but, having been shown these documents, I did discuss matters relating to the investigation on that occasion in a manner consistent with my usual practice in relation to making public statements about ongoing investigations.

105. Question 105: State whether you have spoken to any AFP/ACT Policing staff or any other persons (excluding your legal representatives) in relation to your provision of evidence to the Board of Inquiry under s 26(1)(b) of the Inquiries Act 1991. **Attach** a copy of any relevant communications including but not limited to correspondence, emails, text messages, social media messages, file notes and diary notes. In the event discussions occurred verbally, provide the usual particulars.

105.1. Because the questions for this witness statement call for the provision of a large amount of information about AFP/ACT Policing policies, structures, processes etc, I have asked staff within my office and others (who have not been asked to provide a witness statement to the Inquiry) to provide documents and information to assist me in answering those questions.

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105.2. On 2 February 2023, which I recall was a day or two after Mr Sofronoff was announced as Chair of the Board of Inquiry, I called a meeting with ACT Policing staff who may be called as witnesses to the Board of Inquiry because of their involvement in the matters. The meeting was held in the main conference room at the Winchester Police Centre at 4:00 pm. I recall members from AFP Legal, ACT Police Welfare and the Australian Federal Police Association also being present. The purpose of the meeting was to advise staff as to what legal representation options were available to them as well as what welfare support services were able to be received by members if they needed support or assistance. I felt as CPO it was important for me to deliver those messages to show the members that the ACT Policing Executive were supporting them. I recall a number of questions being asked about legal representation and those were answered by AFP Legal. I was asked what advice I had for members involved. I advised members that they had to be fully honest and transparent even if that was embarrassing for the organisation or individuals in or outside of the organisation. I reminded members of their obligations to their oath of office and the requirement to adhere to the values of the organisation. I was at the meeting for about 15 to 20 minutes. I have not attended a similar meeting since.

105.3. I have not otherwise spoken to AFP/ACT Policing officers in relation to my provision of evidence to the Board of Inquiry.

105.4. I refer to my response to Question 104 above. I was interviewed on ABC 666 on Wednesday 5 April 2023. During the interview, I was asked about the AFP's cooperation with the Board of Inquiry. I responded with words to the effect that these matters had been addressed and I was happy with the way the matter was proceeding but, because of the likelihood of me being called as a witness, it would be inappropriate for me to make any further comment.

106. Question 106: Outline any other matters you wish to raise with respect to the Terms of Reference of the Board of Inquiry.

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106.1. At the time of making this statement, I do not wish to raise any other matters with respect of the Terms of Reference of the Board of Inquiry.

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**SIGNED** by me at Canberra in the Australian Capital Territory on 11 April 2023.

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*[Handwritten signature in blue ink]*

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*[Handwritten signature in blue ink]*

*CHARLES TAYLOR.*