



Executive Officer Position Overview

Reporting to the Director of Public Prosecutions, the Executive Officer is a part of the Executive management team, under broad direction you will:

1. Provide direction and manage the functions of the policy and research officer, overseeing the ODPP's response to cabinet submissions and law reform enquiries, preparation of submissions on legislative changes, law reform and policy;
2. Prepare complex reports, briefings and other documentation on behalf of the Director including law reform issues;
3. Undertake high-level research, conduct and participate in complex negotiations and high-level meetings;
4. Contribute to strategic planning for the office and provide input into the development of plans and strategies on training requirements, resolution of staffing matters and future planning for the office;
5. Produce policies, procedures and guidelines to assist decision-making and promote best practice to achieve the aims and objectives of the ODPP;
6. Manage and coordinate Freedom of Information requests for the office including interpret and apply FOI legislation and ensure all obligations to publish open access information under the Act are met;
7. Manage and coordinate preparation of committal documents including proofing and editing of committal documents and liaising with the courts;
8. Perform the role as Public Interest Disclosure Officer and manage and respond to all requests;
9. Lead and manage the committee for Audit matters not proceeded with as per the Royal Commission recommendations;
10. Manage and liaise with all media personnel on behalf of the ODPP, make decisions on what should be released and in what form it should be released;
11. In conjunction with the Office Manager assist with financial reporting and human resource related issues within the office;
12. Coordinate the Annual Report for the office, compile statistics to be published, section reports and drafting and editing;
13. Represent the ODPP at a high level in its dealings with other agency's at meetings and conferences;
14. Manage, plan and implement new initiatives, office allocations and staffing movements within the office including future project management work in relation to the renovations and leases for the office;
15. Manage the ODPP's engagement with external agencies and government bodies;
16. Model behaviours consistent with the ACT Government's Respect, Equity and Diversity Framework and lead safe work practices that are in accordance with the Whole of Government Work Health and Safety system.

Maintain records in accordance with the Territory Records Act 2002.

Subpoena Number: 2023/S/0034

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

SUBPOENA TO PROVIDE A WRITTEN STATEMENT

To: Katie Cantwell

Of: ACT Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

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

YOU MUST COMPLY WITH THIS REQUIREMENT BY:

Giving a written statement signed and witnessed in accordance with section 7 of the *Oaths and Affirmations Act 1984* (ACT) to the Board of Inquiry on or before **5:00 pm AEST on 28 April 2023**, by delivering it to Nara House, 3 Constitution Avenue, Canberra City ACT 2601.

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

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

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

Date: 21 April 2023



Walter Sofronoff KC
Chairperson
Board of Inquiry

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

Notes

Informal service

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

Where the addressee is a corporation or agency

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

Objections

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

Production of copy instead of original

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

Contempt of Board of Inquiry

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

Protections

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

ANNEXURE A
Terms of Reference

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

Subpoena 2023/S/0034**Schedule of Questions for Statement****Ms Katie Cantwell****Background and Professional History**

1. State your current position at the ODPP. In your answer, outline your role and your day-to-day responsibilities.

Attach your formal job description.

2. In chronological order, outline all previous positions you have held within the ODPP and the day-to-day responsibilities for those roles.

3. In chronological order, outline your tertiary and diploma qualifications, if any, including when and where you obtained them.

Attach a copy of your up-to-date curriculum vitae.

The Freedom of Information (FOI) framework in the ACT

4. State the number of FOI requests submitted to the ODPP that you had dealt with before and after December 2022.

5. Detail your involvement in the procedure that is followed when an FOI request is submitted to the ODPP. If the procedure has changed, identify how it has changed, when the change/s occurred and why the change/s occurred.

6. Detail your understanding of the considerations and obligations which apply before a decision is made to release, or not, information in response to an FOI request made to the DPP. In your answer:

- (a) identify what policies, guidelines and legislative provisions you have regard to when considering and processing an FOI application;

- (b) if your understanding of the applicable considerations and obligations has changed, identify how it has changed, when it changed and why it has changed.

Attach any relevant ODPP policy or guideline relevant to the release of information under FOI laws.

7. In chronological order, detail any training you have received, whether during your employment at the ODPP or otherwise, about the operation of the FOI framework in the

ACT and its application by the ODPP.

Release of the unredacted version of the DPP's letter to CPO Neil Gaughan, dated 1 November 2022, to The Guardian ("the letter")

8. State when, and how, you first became aware that Mr Christopher Knaus had submitted an FOI request to the ODPP seeking the release of the letter. **Attach** a copy of the unredacted letter.
9. Between the time when you first became aware of the FOI request and the time when Mr Christopher Knaus received the unredacted version of the letter, detail in chronological order:
 - (a) all actions you undertook following, and in response to, the FOI request;
 - (b) all conversations and communications you had with anyone following, and in response to, the FOI request;
 - (c) all instructions and directions you received, and from whom, about the response to the FOI request.

In your response to this question, **address** any conversation or communication you had with persons including Mr Shane Drumgold SC, Mr Anthony Williamson SC, Ms Verity Griffin and Mr Christopher Knaus.

Attach all documents, e-mails, text messages, file notes, diary notes, calendar appointments or other communications which are pertinent to any aspect of your response to this question.

10. Before Mr Christopher Knaus received the unredacted version of the letter, detail the consultation you undertook, or attempted, with respect to any individual named in the letter. If you did not undertake or attempt any such consultation, explain why not.

The response following the release of the unredacted version of the letter

11. Between the time when Mr Christopher Knaus received the unredacted version of the letter and the time when he received the redacted version of the letter, detail in chronological order:
 - (a) all actions you undertook in relation to, culminating in, and following, the provision of the redacted version of the letter;
 - (b) all conversations and communications you had with anyone in relation to,

- culminating in, and following, the provision of the redacted version of the letter;
- (c) all instructions and directions you received, and from whom, in relation to, culminating in, and following, the provision of the redacted version of the letter.

In your response to this question, **address** any conversation or communication you had with persons including Mr Shane Drumgold SC, Mr Anthony Williamson SC, Ms Verity Griffin and Mr Christopher Knaus.

Attach all documents, e-mails, text messages, file notes, diary notes, calendar appointments or other communications which are pertinent to any aspect of your response to this question.

12. Before Mr Christopher Knaus received the redacted version of the letter, detail what consultation you undertook, or attempted, with the individuals that were the subject of any of the redactions that were made. If you did not undertake or attempt any such consultation, explain why not.

Other

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



ACT Office of the Director of Public Prosecutions

Our Reference: 202113941, 200928063
Your Reference:

1 November 2022

Mr Niel Gaughan
Chief Police Officer
Australian Federal Police

Via email: **REDACTED** [@afp.gov.au](mailto:REDACTED@afp.gov.au)

Dear Chief Police Officer,

R v LEHRMANN – SCC 264 OF 2021

I write to raise serious concerns I hold with what I perceive as some quite clear investigator interference in the criminal justice process in the matter of R v Lehrmann SCC 264 of 2021. I had intended to address this at the conclusion of the trial, however the trial's recent vacation and the setting of a new trial date commencing 20 February 2023 demands that I address it now to protect the integrity of the pending trial.

I will first outline some historic context in this matter.

Investigation stage

My engagement in the matter of R v Lehrmann began on 31 March 2021, with what was first touted as a briefing in relation to a sensitive matter. I attended at Belconnen Police Station and met with **REDACTED** and most other members of the SACAT team. My immediate perception of this meeting was that it was not a briefing at all, rather a clear and overt attempt to use loaded characterisations of some very select evidence in an attempt to persuade me to agree with a position police had clearly adopted, specifically that the allegations should not proceed to charge. During the meeting I

corrected a number of misconceptions about the importance or otherwise of a number of pieces of evidence for police to take on board as part of what I understood was a continuing investigation.

Then on 12 April 2021, at the request of [REDACTED], I met with him in the conference room of the DPP offices. This meeting was again along a similar vein to the meeting of 31 March 2021, leaving me with the very clear impression that [REDACTED] was not seeking my views, rather was very clearly attempting to secure my agreement to a position he had clearly adopted that the matter should not proceed to charge.

On 1 June 2021, there was a third meeting at the DPP, this time with both [REDACTED] and [REDACTED] in similar vein to the previous two meetings, this time with some further cherry-picked elements of potential evidence advanced as constituting weaknesses in the case. This meeting concluded with me reminding the officers that there are provisions for them to seek a formal advice under the AFP/DPP collaborative agreement, however I would require the actual brief of evidence rather than selected characterisations and summaries of evidence.

I have since become aware from [REDACTED] diary notes of a meeting between [REDACTED] and [REDACTED] held on 17 June 2021, in which [REDACTED] advanced a view to [REDACTED] that there was *"insufficient evidence to proceed. DCPO advised he had a meeting with DPP who stated they will conduct Prosecution...DCPO stated if it was my choice I wouldn't proceed, but it's not my choice, there is too much political interference."* The notes further record [REDACTED] stating *"I said, that's inappropriate given I think there is insufficient evidence."*

Notwithstanding their clearly expressed views that the matter should not proceed to charge, on 21 June 2021, [REDACTED] served a brief of evidence on myself, attached to a letter purporting to request advice, however really outlining further mischaracterisations and other inaccurate select summaries of evidence that were clearly advanced as a list of reasons why I should agree with a position clearly already being taken by [REDACTED] and shared by [REDACTED] that the matter should not proceed to charge. This document contained blatant misrepresentations of evidence such as suggestions that key evidence was deliberately deleted by the complainant, a proposition not supported by the tested evidence at trial, as well as a list of evidence that is clearly inadmissible in trial. The letter concludes with a further overt attempt to apply pressure to the conclusion of my resulting advice:

*Ms Higgins creditability (sic) is the cornerstone of the prosecution case and given the above articulated issues and that there is limited corroborative evidence of sexual intercourse taking place or consent being withdrawn or not provided, investigators have **serious***

concerns in relation to the strength and reliability of her evidence, but also more importantly her mental health and how any further prosecution may affect her wellbeing.

On 28 June 2021, I provided a minute to **REDACTED** advising that I was of the view that there were reasonable prospects of conviction, and the matter should proceed to charge.

It transpired that on the day the summons was sworn, being 6 August 2021, **REDACTED** directed that a full brief of evidence be served directly on the first defence team rather than through the DPP, which was extremely unfortunate as it unlawfully included both protected counselling notes and evidence in chief interview videos.

It further transpired that Mr Lehrmann's summons was at first mention on 16 September 2021 and the matter was committed for a trial that eventually commenced on 4 October 2022, with the jury being discharged due to misconduct by one juror on 27 October 2022.

Collateral to this, the complainant has long expressed concerns that during the investigation stage, she also felt bullied by police who she felt were pressuring her into discontinuing the complaint. This is an observation corroborated by at least two of her support people. Although this is a matter for her to raise directly with the AFP, it is relevant for our purposes as it impacted the trial process, as she presented as highly anxious in dealing with either the police or by extension, the DPP. This resulted in her requesting all engagement be conducted through the Victims of Crime Commissioner, to insulate her from direct contact and further pressure by police either directly or vicariously through the DPP. Then on 22 September 2021, investigators purported to make the Victim of Crime Commissioner a witness by conducting a record of interview, in which they asked her two highly unusual lines of questions. The first was how she became involved with the complainant, and the second was her recollection of a conversation between the complainant, **REDACTED** and **REDACTED** that she was present at. On 2 October 2021, I received a letter from yourself, stating that because she was now a witness, the AFP could no longer communicate through her. This was a highly unusual step as the complainant was also a witness, yet police still had extensive contact with her until she requested all contact be made through the Victim of Crime Commissioner.

Concerns relating to trial process

During the conduct of the trial, a number of disturbing events have occurred, including prosecution witness **REDACTED** firstly giving evidence directly contradictory to her Chief of Staff, then directly soliciting transcripts of other evidence to tailor her evidence direct from the defence Barrister Steven Whybrow. She further engaged in direct coaching of the defence cross-examination of the complainant by directing them to evidence she should not have access to. This was all done through direct contact with defence barrister Steven Whybrow. **REDACTED** further organised for her partner to attend the court for

the entire trial, with him regularly seen conferencing with the defence team during the course of the entire trial.

The conduct of investigators has been equally as concerning. REDACTED and a number of other current and former SACAT members have been attending key parts of the latter stages of the trial, and I have noted they have also been regularly conferencing with the defence team during the breaks. The defence team have further been directing further investigations directly through investigators, in one case relating to the evidence of a member of SACAT, REDACTED after her evidence was concluded. We discovered this when we received an unsolicited email from REDACTED on 13 October 2022 outlining some additional points to her evidence. This was followed by an email from REDACTED dated 14 October 2022 at 2.54pm stating *"I have also attached the email Em sent yesterday regarding the Phillip Medical Centre enquiries. The bosses just want to confirm it has been seen and passed onto defence."* Then 16 minutes later at 3.10pm REDACTED attempted to recall this email and replace it with another one stating *"I have attached the email RE sent yesterday regarding Phillip Medical Centre. I'm just checking that it was received and passed onto defence"*. It appears that he wanted to replace *"The bosses just want to confirm"* with *"I'm just checking"*.

Finally, on the discharge of the jury on 27 October 2022, defence barrister Steven Whybrow spoke to my junior REDACTED and stated that he had a meeting with the investigators, and that they had suggested that he contact me and firstly suggest I was not impartial, and consequently request that I should outsource the decision as to whether or not to re-run the trial to someone outside of the office. Further, during discussion with defence regarding the potential application for a bail condition that the accused surrender his passport, Mr Whybrow stated on the transcript *"we have spoken with the Australian Federal Police. They have no concerns at all about Mr Lehrmann being a flight risk."* This is emblematic of the constant exclusive direct engagement police have had with the defence rather than the prosecution in the lead up and during the trial.

Later that day I phoned Mr Whybrow and sought clarification on his comment relating to his request to outsource the decision of whether to re-run the trial. Firstly, he acknowledged the comment was made, but then stated that his *"ongoing discussions with investigators"* were none of the prosecutions business.

From first engagement it has been clear that from REDACTED down, key AFP members have had a strong desire for this matter not to proceed to charge. Then when charges resulted, the investigator's interests have clearly aligned with the successful defence of this matter rather than its prosecution, the motive for both of which remains concerning. As a corollary however, there has now been over one and a half years of consistent and inappropriate interference by investigators, firstly directed towards my independence with a very clear campaign to pressure me to agree with the investigators desire not to charge,

then during the conduct of this trial itself, and finally attempting to influence any decision on a retrial.

I am of the view that at the conclusion of the trial, there should be a public enquiry into both political and police conduct in this matter, however it appears clear that this is continuing to be a significant factor during the ongoing conduct of this trial.

I accordingly request that a direction be issued to all police to remove themselves from any engagement in this matter beyond being called as a witness for the prosecution. This includes no further contact with defence or other prosecution witnesses, no contact with the complainant, and prohibiting attendance at court beyond formal evidence if required.

I further seek your support for an enquiry to be conducted at the conclusion of the trial process into the conduct of police investigators in the lead up to charge and beyond, during the trial process itself.

Yours faithfully,

A solid black rectangular box used to redact the signature of the sender.

Shane Drumgold SC
Director - ACT Director of Public Prosecutions

From: Drumgold, Shane
Sent: Mon, 5 Dec 2022 18:14:34 +1100
To: Cantwell, Katie; [REDACTED], Mercy
Subject: Re: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

Yep FYI - I was expecting this, and have cleared the release of material with the Attorney General

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

Sent from my iPad

From: Cantwell, Katie <[REDACTED]@act.gov.au>
Sent: Monday, December 5, 2022 5:06:16 PM
To: [REDACTED], Mercy <[REDACTED]@act.gov.au>; Drumgold, Shane <[REDACTED]@act.gov.au>
Subject: Re: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

I'll discuss with you in the morning Shane, generally the process is that I accept full transfer of the request and then will follow process in terms of responding to the applicant regarding access.

Get [Outlook for iOS](#)

From: [REDACTED], Mercy <[REDACTED]@act.gov.au>
Sent: Monday, December 5, 2022 4:03:32 PM
To: Drumgold, Shane <[REDACTED]@act.gov.au>; Cantwell, Katie <[REDACTED]@act.gov.au>
Subject: Fwd: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

FYI?

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From: JACS FOI <[REDACTED]@act.gov.au>
Sent: Monday, December 5, 2022 5:01:45 PM

To: [REDACTED], Mercy <[REDACTED]@act.gov.au>

Subject: FW: FOI request - briefings and correspondence between the Attorney-General and DPP

Good afternoon Mercy

JACS FOI has received the below FOI from Ms Lee's Office seeking access to:

"all ministerial briefings, correspondence, meeting minutes, text messages or written interactions on any digital communications platforms between the Attorney-General, Shane Rattenbury (including his office or the office of the Chief Minister) and the Director of Public Prosecutions, Shane Drumgold (including the Office of the Director of Public Prosecutions) between 1 May 2022 and 2 December 2022, inclusive."

I understand that DPP processes their own FOIs and as such I seek confirmation that DPP accepts full transfer.

Please feel free to contact me should you wish to discuss or if you require assistance with this matter.

Kind regards

Angelique [REDACTED] | A/g Assistant Director – Freedom of Information
Governance, Coordination and Reporting | Justice and Community Safety Directorate
[REDACTED] | [REDACTED]@act.gov.au | GPO Box 158, Canberra ACT 2601

From: LEE <[REDACTED]@parliament.act.gov.au>

Sent: Friday, 2 December 2022 1:02 PM

To: JACS FOI <[REDACTED]@act.gov.au>

Subject: FOI request - briefings and correspondence between the Attorney-General and DPP

Good afternoon,

On behalf of Elizabeth Lee, I write to request under the *Freedom of Information Act 2016* all ministerial briefings, correspondence, meeting minutes, text messages or written interactions on any digital communications platforms between the Attorney-General, Shane Rattenbury (including his office or the office of the Chief Minister) and the Director of Public Prosecutions, Shane Drumgold (including the Office of the Director of Public Prosecutions) between 1 May 2022 and 2 December 2022, inclusive.

Thank you,
Amy

Amy [REDACTED]

Senior Adviser | Office of Elizabeth Lee MLA

Member for Kurrajong

Leader of the Opposition

Shadow Treasurer

Shadow Minister for Housing Affordability and Choice

Shadow Minister for Climate Action, Energy and Emissions Reduction

Shadow Minister for Economic Development, Tourism and Major Projects

ACT Legislative Assembly | 196 London Circuit, Canberra ACT 2601

P: REDACTED | REDACTED@parliament.act.gov.au | www.elizabethlee.com.au



Elizabeth **LEE** MLA

Leader of the Opposition
Liberal Member for Kurrajong

From: Drumgold, Shane
Sent: Wed, 7 Dec 2022 15:20:45 +1100
To: Cantwell, Katie
Subject: RE: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

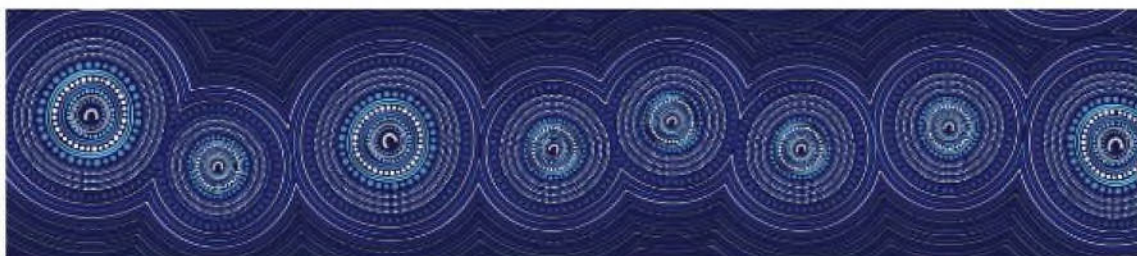
No this is all cleared to release



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Cantwell, Katie <REDACTED@act.gov.au>
Sent: Wednesday, 7 December 2022 2:19 PM
To: Drumgold, Shane <REDACTED@act.gov.au>
Subject: RE: FOI request - briefings and correspondence between the Attorney-General and DPP
Importance: High

OFFICIAL

Hi Shane,

Can I just confirm, have you simply provided me with the documents so that I may have them assessed as to what we should/should not release? Or have you already assessed that all of these documents can be released to the FOI applicant?

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: (02) 6207 5399 (Reception)
E: REDACTED@act.gov.au
W: www.dpp.act.gov.au

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This email is confidential and may also be privileged. If you are not the intended recipient, please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: Drumgold, Shane <REDACTED@act.gov.au>
Sent: Tuesday, 6 December 2022 9:13 AM
To: REDACTED@act.gov.au, Mercy <REDACTED@act.gov.au>; Cantwell, Katie <REDACTED@act.gov.au>
Subject: RE: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

I have attached the relevant documents in a package



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: [REDACTED], Mercy <[REDACTED]@act.gov.au>
Sent: Monday, 5 December 2022 5:04 PM
To: Drumgold, Shane <[REDACTED]@act.gov.au>; Cantwell, Katie <[REDACTED]@act.gov.au>
Subject: Fwd: FOI request - briefings and correspondence between the Attorney-General and DPP

OFFICIAL

FYI?
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From: JACS FOI <[REDACTED]@act.gov.au>
Sent: Monday, December 5, 2022 5:01:45 PM
To: [REDACTED], Mercy <[REDACTED]@act.gov.au>
Subject: FW: FOI request - briefings and correspondence between the Attorney-General and DPP

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Please feel free to contact me should you wish to discuss or if you require assistance with this matter.

Kind regards

Angelique [REDACTED] | A/g Assistant Director – Freedom of Information
 Governance, Coordination and Reporting | Justice and Community Safety Directorate
 📧 [REDACTED] | 📧 [REDACTED]@act.gov.au | 📮 GPO Box 158, Canberra ACT 2601

From: LEE <[REDACTED]@parliament.act.gov.au>

Sent: Friday, 2 December 2022 1:02 PM

To: JACS FOI <[REDACTED]@act.gov.au>

Subject: FOI request - briefings and correspondence between the Attorney-General and DPP

Good afternoon,

On behalf of Elizabeth Lee, I write to request under the *Freedom of Information Act 2016* all ministerial briefings, correspondence, meeting minutes, text messages or written interactions on any digital communications platforms between the Attorney-General, Shane Rattenbury (including his office or the office of the Chief Minister) and the Director of Public Prosecutions, Shane Drumgold (including the Office of the Director of Public Prosecutions) between 1 May 2022 and 2 December 2022, inclusive.

Thank you,
Amy

Amy [REDACTED]

Senior Adviser | Office of Elizabeth Lee MLA

Member for Kurrajong

Leader of the Opposition

Shadow Treasurer

Shadow Minister for Housing Affordability and Choice

Shadow Minister for Climate Action, Energy and Emissions Reduction

Shadow Minister for Economic Development, Tourism and Major Projects

ACT Legislative Assembly | 196 London Circuit, Canberra ACT 2601

P: [REDACTED] | [REDACTED]@parliament.act.gov.au | www.elizabethlee.com.au



From: Christopher Knaus
Sent: Mon, 5 Dec 2022 11:51:41 +1100
To: DPP, FOI
Subject: FOI request for your consideration
Attachments: 05-12-22 - Freedom of Information request - Christopher Knaus, the Guardian.pdf

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

Hi there,

Please find an FOI request attached for your consideration.

Many thanks,

Christopher Knaus
Reporter
The Guardian | Australia

+REDACTED
REDACTED [@guardian.co.uk](mailto:REDACTED@guardian.co.uk)

twitter: @knausc



Level 3, 19 Foster St
Surry Hills NSW 2010
theguardian.com/au

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Dear FOI coordinator,

I seek access to information held by the office of the Director of Public Prosecutions (DPP). I make this request under the auspices of the Freedom of Information Act 2016 (the Act).

I am seeking a copy of any documented complaint made by the DPP about the conduct of police during the matter of R v Lehrmann, which was sent to ACT Policing in the months of October or November 2022,

I have no objection to the identities of individuals being redacted in the released documents.

The objectives of the Act

Section 6(a) of the Act creates an onus on the ACT government to release information to the public, unless it would be contrary to the public interest.

Section 6(c) holds that the purpose of the Act is to enable proper public participation in government and improve decision-making within government. Section 6(f) makes it clear that the object of the Act is to ensure the “disclosure of the maximum amount of government information”.

The Public Interest Test

The Act makes it clear that, to deny this request, the DPP would need to find that the release of this material, on balance, is not in the public interest.

In my submission, such a conclusion is simply not possible. The material relates to the conduct of law enforcement in the handling of an allegation of sexual intercourse without consent, a matter that is of clear public interest. Law enforcement responses to allegations of sexual assault have been the subject of repeated inquiries and royal commissions.

The DPP Shane Drumgold has himself publicly commented on the fact that he made a complaint to police about their conduct during the case, which shows he also believes the matter is of public interest.

Releasing the material would only further the objectives of the Act.

It would enable proper public participation in government and improve decision-making within government. It would also enliven a proper public discussion on the treatment of rape complainants in the ACT, a matter of clear public interest.

The release of the footage would satisfy the following factors set out in schedule 2, section 2.1 of the Act, which the DPP must take into account when deciding this request.

(i) promote open discussion of public affairs and enhance the government's accountability;

- (ii) contribute to positive and informed debate on important issues or matters of public interest;*
- (iii) inform the community of the government's operations, including the policies, guidelines and codes of conduct followed by the government in its dealings with members of the community;*
- (v) allow or assist inquiry into possible deficiencies in the conduct or administration of an agency or public official;*
- (vi) reveal or substantiate that an agency or public official has engaged in misconduct or negligent, improper or unlawful conduct or has acted maliciously or in bad faith;*
- (vii) advance the fair treatment of individuals and other entities in accordance with the law in their dealings with the government;*
- (xiii) contribute to the administration of justice generally, including procedural fairness;*
- (xiv) contribute to the administration of justice for a person;*

It is important to note that the Act makes it clear the DPP must not take the following things into account when deciding whether, on balance, the release of the material is in the public interest:

- (a) access to the information could result in embarrassment to the government, or cause a loss of confidence in the government;*
- (b) access to the information could result in a person misinterpreting or misunderstanding the information;*
- (c) the author of the information was (or is) of high seniority in an agency;*
- (d) access to the information could result in confusion or unnecessary debate;*
- (e) access to the information could inhibit frankness in the provision of advice from the public service;*
- (f) the applicant's identity, circumstances, or reason for seeking access to the information.*

Conclusion

I believe I have provided clear reasons why you should grant my request for this material. It should be noted that this request is targeted and does not pose a burden on the DPP's resources. I have clearly identified the material I seek and given you a clear argument that its release is, on balance, in the public interest.

Please contact me on [REDACTED] or [REDACTED] if you need more information or if any barriers prevent you from processing my request quickly. I would prefer electronic copies of these documents.

Many thanks,

Christopher Knaus
Reporter
Guardian Australia

From: Christopher Knaus
Sent: Tue, 6 Dec 2022 18:08:02 +1100
To: DPP, FOI
Subject: Re: FOI request for your consideration

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

Hi there - just confirming you've received this one?

Christopher Knaus
Reporter
Guardian Australia

REDACTED

On Mon, 5 Dec 2022, 11:51 am Christopher Knaus, <**REDACTED** [@theguardian.com](mailto:REDACTED@theguardian.com)> wrote:

Hi there,

Please find an FOI request attached for your consideration.

Many thanks,

Christopher Knaus
Reporter
The Guardian | Australia

+**REDACTED**
REDACTED [@guardian.co.uk](mailto:REDACTED@guardian.co.uk)

twitter: @knausc



Level 3, 19 Foster St
Surry Hills NSW 2010
theguardian.com/au

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From: Christopher Knaus
Sent: Wed, 7 Dec 2022 12:51:24 +1100
To: DPP, FOI
Subject: Re: FOI request for your consideration

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Hi there - are you able to confirm this has been received? Just want to make sure it's processed within the 20 day time limit.

Thanks very much in advance.

Christopher Knaus
Reporter
Guardian Australia

REDACTED

On Tue, 6 Dec 2022, 6:08 pm Christopher Knaus, <**REDACTED** [@theguardian.com](mailto:REDACTED@theguardian.com)> wrote:

Hi there - just confirming you've received this one?

Christopher Knaus
Reporter
Guardian Australia

REDACTED

On Mon, 5 Dec 2022, 11:51 am Christopher Knaus, <**REDACTED** [@theguardian.com](mailto:REDACTED@theguardian.com)> wrote:

Hi there,

Please find an FOI request attached for your consideration.

Many thanks,

Christopher Knaus
Reporter
The Guardian | Australia

+**REDACTED**
REDACTED [@guardian.co.uk](mailto:REDACTED@guardian.co.uk)

twitter: @knausc



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Surry Hills NSW 2010
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From: Drumgold, Shane
Sent: Wed, 7 Dec 2022 15:18:29 +1100
To: DPP, FOI
Subject: RE: FOI request for your consideration
Attachments: Letter to CPO re. R v Lehrmann - 01.11.2022.pdf

OFFICIAL

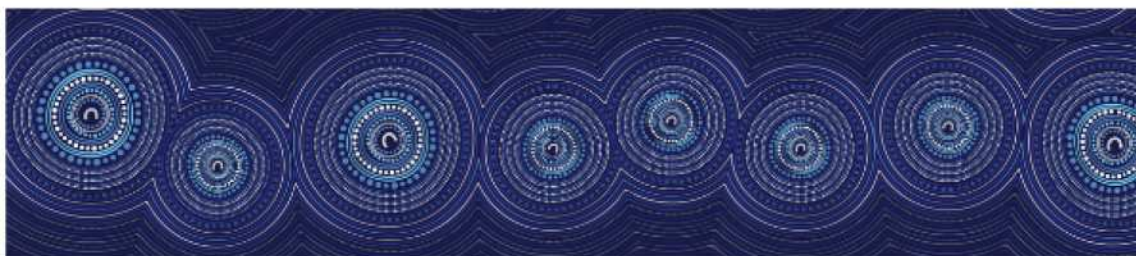
Hi Katie
 This is the only letter we have falling within this definition.



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: DPP, FOI <REDACTED@act.gov.au>
Sent: Wednesday, 7 December 2022 3:07 PM
To: Drumgold, Shane <REDACTED@act.gov.au>
Subject: FW: FOI request for your consideration

OFFICIAL

Hi Shane,

See *attached* FOI.

Surely any document sent regarding this would be subject to legal/professional privilege?

Would you like me to put this through to Anthony/Verity to look at? Or are you happy to make the decision on release yourself?

Katie



Katie Cantwell
 Executive Officer
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: (02) 6207 5399 (Reception)
 E: REDACTED@act.gov.au
 W: www.dpp.act.gov.au

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From: Christopher Knaus <REDACTED@theguardian.com>
Sent: Monday, 5 December 2022 11:52 AM
To: DPP, FOI <REDACTED@act.gov.au>
Subject: FOI request for your consideration

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Hi there,

Please find an FOI request attached for your consideration.

Many thanks,

Christopher Knaus
 Reporter
 The Guardian | Australia

 +REDACTED@guardian.co.uk

 twitter: @knausc

Level 3, 19 Foster St
Surry Hills NSW 2010
theguardian.com/au

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From: Drumgold, Shane
Sent: Wed, 7 Dec 2022 18:50:54 +1100
To: Cantwell, Katie
Subject: Re: Guardian FOI

OFFICIAL

I am happy for it to go out

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

Sent from my iPad

From: Cantwell, Katie <REDACTED@act.gov.au>
Sent: Wednesday, December 7, 2022 6:35:46 PM
To: Drumgold, Shane <REDACTED@act.gov.au>
Subject: Guardian FOI

OFFICIAL

Hi Shane,

Can I confirm that this is the letter you are happy for me to release under FOI to the guardian?

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: REDACTED
E: REDACTED@act.gov.au
W: www.dpp.act.gov.au

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From: Cantwell, Katie
Sent: Wed, 7 Dec 2022 18:57:20 +1100
To: Christopher Knaus
Subject: Final decision - FOI application
Attachments: Letter to CPO re. R v Lehmann - 01.11.2022.pdf, FOI Final Letter - Christopher Knaus - 07.12.2022.pdf

OFFICIAL

Good evening Ms Knaus,

Please find **attached** documents relating to your recent application under the *Freedom of Information Act 2016*.

Kind regards,



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: (02) 6207 5399 (Reception)
E: REDACTED@act.gov.au
W: www.dpp.act.gov.au

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ACT Office of the Director of Public Prosecutions

Our Reference: 200929085
Your Reference:

7 December 2022

Mr Christopher Knaus
Via email: **REDACTED** [@guardian.co.uk](mailto:REDACTED@guardian.co.uk)

Dear Mr Knaus,

REQUEST FOR DOCUMENTS UNDER THE ACT FREEDOM OF INFORMATION ACT 2016

I refer to your request dated 5 December 2022, in which you sought access to information under the *Freedom of Information Act 2016* (the Act).

I have collated all documents held by my office which fall within the scope of your request.

Please find attached a copy of those documents.

Yours sincerely,

K. Cantwell

Katie Cantwell
Information Officer
ACT Director of Public Prosecutions

From: Christopher Knaus
Sent: Wed, 7 Dec 2022 20:15:42 +1100
To: Cantwell, Katie
Subject: Re: Final decision - FOI application

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Thanks very much Katie.

Christopher Knaus
Reporter
Guardian Australia
REDACTED

On Wed, 7 Dec 2022, 8:12 pm Cantwell, Katie, <**REDACTED** @act.gov.au> wrote:

UNOFFICIAL

Hi Christopher,

I will make an assessment as to whether it will go up on the disclosure log within the next week or so.

Kind regards,

Katie Cantwell

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From: Christopher Knaus <**REDACTED** @theguardian.com>

Sent: Wednesday, December 7, 2022 8:02:44 PM

To: Cantwell, Katie <**REDACTED** @act.gov.au>

Subject: Re: Final decision - FOI application

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Thanks very much Katie. Can I ask - when do you expect this will go on the disclosure log?

Christopher Knaus
Reporter
Guardian Australia
REDACTED

On Wed, 7 Dec 2022, 6:57 pm Cantwell, Katie, <REDACTED@act.gov.au> wrote:
OFFICIAL

Good evening Ms Knaus,

Please find *attached* documents relating to your recent application under the *Freedom of Information Act 2016*.

Kind regards,



Katie Cantwell

Executive Officer
Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: (02) 6207 5399 (Reception)

E: REDACTED@act.gov.au

W: www.dpp.act.gov.au

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From: Drumgold, Shane
Sent: Wed, 7 Dec 2022 20:16:41 +1100
To: Cantwell, Katie
Subject: Re: Final decision - FOI application

UNOFFICIAL

Just tell Hume that takes a few weeks

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

Sent from my iPhone

From: Cantwell, Katie <REDACTED@act.gov.au>
Sent: Wednesday, December 7, 2022 8:15:07 PM
To: Drumgold, Shane <REDACTED@act.gov.au>
Subject: Fwd: Final decision - FOI application

UNOFFICIAL

Hi Shane,

Can yourself or Verity please determine whether we are legally bound to put this on the disclosure log? I would have thought not, but unsure.

No urgency, later this week is fine.

Thanks,

Katie

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From: Christopher Knaus <REDACTED@theguardian.com>
Sent: Wednesday, December 7, 2022 8:03 pm
To: Cantwell, Katie <REDACTED@act.gov.au>
Subject: Re: Final decision - FOI application

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Thanks very much Katie. Can I ask - when do you expect this will go on the disclosure log?

Christopher Knaus
Reporter
Guardian Australia

REDACTED

On Wed, 7 Dec 2022, 6:57 pm Cantwell, Katie, <**REDACTED** [@act.gov.au](mailto:REDACTED@act.gov.au)> wrote:

OFFICIAL

Good evening Ms Knaus,

Please find *attached* documents relating to your recent application under the *Freedom of Information Act 2016*.

Kind regards,



Katie Cantwell

Executive Officer
Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: (02) 6207 5399 (Reception)

E: **REDACTED** [@act.gov.au](mailto:REDACTED@act.gov.au)

W: www.dpp.act.gov.au

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From: Cantwell, Katie
Sent: Thu, 8 Dec 2022 16:09:14 +1100
To: Drumgold, Shane
Subject: Re: Disclosure Log

Hi Shane,

No worries at all. I will call you about this tomorrow morning to discuss.

Katie

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From: Drumgold, Shane <[REDACTED]@act.gov.au>
Sent: Thursday, December 8, 2022 4:07:50 PM
To: Cantwell, Katie <[REDACTED]@act.gov.au>
Subject: Disclosure Log

OFFICIAL

Hi Katie

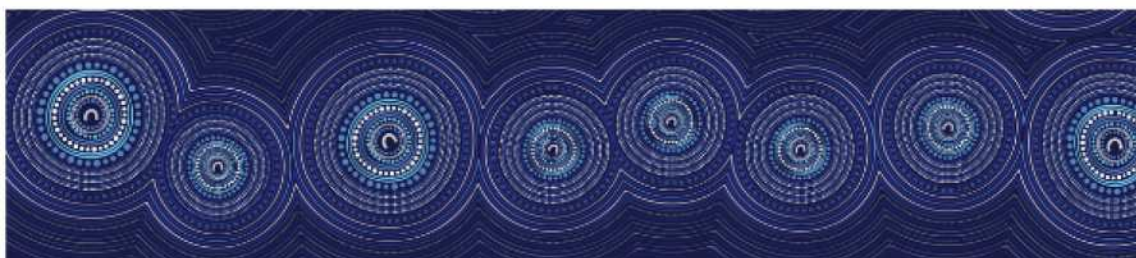
When you return to work (either home or the office) could I get you to task the completion of the disclosure log as your first priority. There have been two recent FOIs



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Cantwell, Katie
Sent: Thu, 8 Dec 2022 17:41:13 +1100
To: Drumgold, Shane
Subject: Re: Disclosure Log

Hi Shane,

No worries at all. I will phone Lauren in the morning and will let you know afterwards what the plan is.

Katie

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From: Drumgold, Shane <REDACTED@act.gov.au>
Sent: Thursday, December 8, 2022 4:33:20 PM
To: Cantwell, Katie <REDACTED@act.gov.au>
Subject: RE: Disclosure Log

OFFICIAL: Sensitive

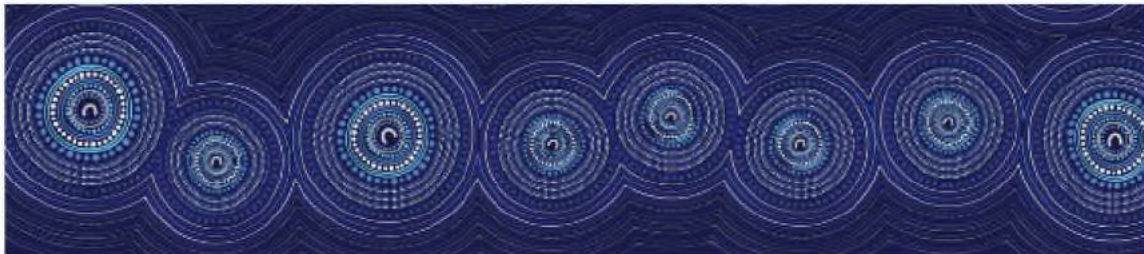
Sorry, Lauren [REDACTED] via Teams



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Drumgold, Shane
Sent: Thursday, 8 December 2022 4:33 PM
To: Cantwell, Katie <[REDACTED]@act.gov.au>
Subject: RE: Disclosure Log

OFFICIAL: Sensitive

Hey Katie

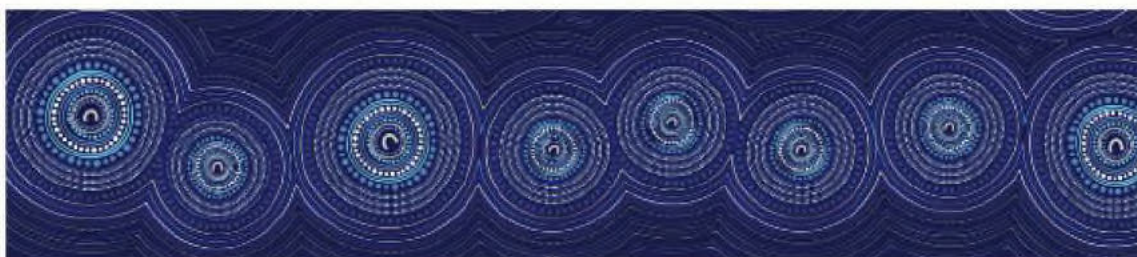
Lauren [REDACTED] from JACS is awaiting your call in the morning, she already has the document CPO and will walk you through the process.



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

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Cantwell, Katie <[REDACTED]@act.gov.au>
Sent: Thursday, 8 December 2022 4:28 PM
To: Drumgold, Shane <[REDACTED]@act.gov.au>
Subject: Re: Disclosure Log

OFFICIAL: Sensitive

Hey Shane,

I won't put anything up on the disclosure log until I have spoken with you and JACS.

Katie

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From: Drumgold, Shane <[REDACTED]@act.gov.au>

Sent: Thursday, December 8, 2022 4:27:02 PM

To: Cantwell, Katie <[REDACTED]@act.gov.au>

Subject: Disclosure Log

OFFICIAL: Sensitive

Hi Katie

Don't act on the disclosure log at this stage, I will forward you the contact number of the FIO section at JACS, and you can chat to them in the morning, and they will walk you through potential redactions prior to publication on the disclosure log.



Shane Drumgold SC

Director

Office of the Director of Public Prosecutions (ACT)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [REDACTED] (Direct line)

T: [REDACTED] (Executive Officer Katie Cantwell)

M: [REDACTED]

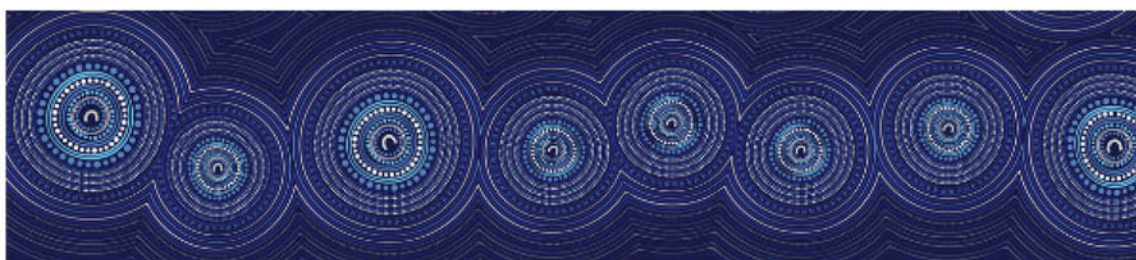
E: [REDACTED]@act.gov.au

E: [REDACTED]@act.gov.au (EO)

W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

Please consider the environment before printing this e-mail



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

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 09:21:20 +1100
To: [REDACTED], Lauren
Subject: Disclosure log

Hi Lauren,

I am not in the office today and my teams does not seem to be working. I tried calling your office number but haven't had any luck.

Are you able to give me a call back on my mobile when you get a chance? My number is **REDACTED**

Thanks!

Katie

Get [Outlook for iOS](#)

From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 09:50:27 +1100
To: Drumgold, Shane
Subject: Disclosure log

OFFICIAL

Hi Shane,

Just to keep you aware of my next steps, I have discussed with Lauren [REDACTED] re the FOI process and the disclosure log for the two recent FOI's (Elizabeth Lee and The Guardian).

- Elizabeth Lee FOI – I will redact the contact details within this bundle, including your mobile number etc, and this can then be put on the disclosure log on Monday.
- The Guardian FOI – I will go through the letter and redact the names of the police officers etc. Lauren was of the view that we probably could have held back from releasing this letter but now that it is out there we do need to put it up on the disclosure log. I will make the redactions first though. She also suggested sending the redacted version to The Guardians Christopher Knaus and asking him to use that version of the letter from now on. I will then respond to any further FOI applicants who are after this letter and let them know that it will be on the disclosure log as of Monday.

The letters must go up on the disclosure log between three and ten working days, no earlier and no later. I will prepare them today and will ask Cam to put them up on Monday 19 December.

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: (02) 6207 5399 (Reception)
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From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 10:41:05 +1100
To: [REDACTED], Cam
Cc: Drumgold, Shane
Subject: Documents for public disclosure log
Attachments: Elizabeth Lee FOI 2 Dec 2022_Redacted.pdf, FOI Final Letter - Elizabeth LEE - 07.12.2022.pdf, FOI Final Letter - Christopher Knaus - 07.12.2022.pdf, Letter to CPO re. R v Lehrmann - 01.11.2022_Redacted.pdf

OFFICIAL

Hi Cam,

These FOI releases need to go up on the disclosure log on Monday 19 December. I am on leave next week to move so I am just sending them through to you now. I don't believe the decision letters need to go up with the disclosed documents but I have included them as they have the relevant info for you (i.e. date of application etc. – you might need this but not sure), follow what we have done in the past.

Thanks,

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
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ACT Office of the Director of Public Prosecutions

Our Reference: 200929085
Your Reference:

7 December 2022

Ms Elizabeth Lee MLA

Via email: RE@parliament.act.gov.au; REDACTE@parliament.act.gov.au

Dear Ms Lee,

REQUEST FOR DOCUMENTS UNDER THE ACT FREEDOM OF INFORMATION ACT 2016

I refer to your request dated 2 December 2022, in which you sought access to information under the *Freedom of Information Act 2016* (the Act).

I have collated all documents held by my office which fall within the scope of your request.

Please find attached a copy of those documents.

Yours sincerely,

K. Cantwell

Katie Cantwell
Information Officer
ACT Director of Public Prosecutions

From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 10:46:00 +1100
To: Christopher Knaus
Subject: FOI application - redacted letter
Attachments: Letter to CPO re. R v Lehrmann - 01.11.2022 _Redacted.pdf

OFFICIAL

Good morning Mr Knaus,

The DPP has sought further advice regarding your recent FOI application. Please see **attached** document with redactions. This document will support publication on the disclosure log and I am seeking your agreement to limit the circulation of the copy of the letter originally supplied to you.

Kind regards,



Katie Cantwell
Executive Officer
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T: (02) 6207 5399 (Reception)
E: **REDACTED**@act.gov.au
W: www.dpp.act.gov.au

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ACT Office of the Director of Public Prosecutions

Our Reference: 202113941, 200928063

Your Reference:

1 November 2022

Mr Neil Gaughan
Chief Police Officer
Australian Federal Police

Via email: **REDACTED** [@afp.gov.au](mailto:REDACTED@afp.gov.au)

Dear Chief Police Officer,

R v LEHRMANN – SCC 264 OF 2021

I write to raise serious concerns I hold with what I perceive as some quite clear investigator interference in the criminal justice process in the matter of R v Lehrmann SCC 264 of 2021. I had intended to address this at the conclusion of the trial, however the trial's recent vacation and the setting of a new trial date commencing 20 February 2023 demands that I address it now to protect the integrity of the pending trial.

I will first outline some historic context in this matter.

Investigation stage

My engagement in the matter of R v Lehrmann began on 31 March 2021, with what was first touted as a briefing in relation to a sensitive matter. I attended at Belconnen Police Station and met with [REDACTED] [REDACTED] and most other members of the SACAT team. My immediate perception of this meeting was that it was not a briefing at all, rather a clear and overt attempt to use loaded characterisations of some very select evidence in an attempt to persuade me to agree with a position police had clearly adopted, specifically that the allegations should not proceed to charge. During the meeting I corrected a number of misconceptions about the importance or otherwise of a number of

pieces of evidence for police to take on board as part of what I understood was a continuing investigation.

Then on 12 April 2021, at the request of [REDACTED] I met with him in the conference room of the DPP offices. This meeting was again along a similar vein to the meeting of 31 March 2021, leaving me with the very clear impression that [REDACTED] was not seeking my views, rather was very clearly attempting to secure my agreement to a position he had clearly adopted that the matter should not proceed to charge.

On 1 June 2021, there was a third meeting at the DPP, this time with both [REDACTED] and [REDACTED] in similar vein to the previous two meetings, this time with some further cherry-picked elements of potential evidence advanced as constituting weaknesses in the case. This meeting concluded with me reminding the officers that there are provisions for them to seek a formal advice under the AFP/DPP collaborative agreement, however I would require the actual brief of evidence rather than selected characterisations and summaries of evidence.

I have since become aware from [REDACTED] diary notes of a meeting between [REDACTED] and [REDACTED] held on 17 June 2021, in which [REDACTED] advanced a view to [REDACTED] that there was *"insufficient evidence to proceed. DCPO advised he had a meeting with DPP who stated they will conduct Prosecution...DCPO stated if it was my choice I wouldn't proceed, but it's not my choice, there is too much political interference."* The notes further record [REDACTED] stating *"I said, that's inappropriate given I think there is insufficient evidence."*

Notwithstanding their clearly expressed views that the matter should not proceed to charge, on 21 June 2021, [REDACTED] served a brief of evidence on myself, attached to a letter purporting to request advice, however really outlining further mischaracterisations and other inaccurate select summaries of evidence that were clearly advanced as a list of reasons why I should agree with a position clearly already being taken by [REDACTED] and shared by [REDACTED], that the matter should not proceed to charge. This document contained blatant misrepresentations of evidence such as suggestions that key evidence was deliberately deleted by the complainant, a proposition not supported by the tested evidence at trial, as well as a list of evidence that is clearly inadmissible in trial. The letter concludes with a further overt attempt to apply pressure to the conclusion of my resulting advice:

*Ms Higgins creditability (sic) is the cornerstone of the prosecution case and given the above articulated issues and that there is limited corroborative evidence of sexual intercourse taking place or consent being withdrawn or not provided, investigators have **serious** concerns in relation to the strength and reliability of her evidence, but also more importantly her mental health and how any further prosecution may affect her wellbeing.*

On 28 June 2021, I provided a minute to [REDACTED] advising that I was of the view that there were reasonable prospects of conviction, and the matter should proceed to charge.

It transpired that on the day the summons was sworn, being 6 August 2021, [REDACTED] directed that a full brief of evidence be served directly on the first defence team rather than through the DPP, which was extremely unfortunate as it unlawfully included both protected counselling notes and evidence in chief interview videos.

It further transpired that Mr Lehrmann's summons was at first mention on 16 September 2021 and the matter was committed for a trial that eventually commenced on 4 October 2022, with the jury being discharged due to misconduct by one juror on 27 October 2022.

Collateral to this, the complainant has long expressed concerns that during the investigation stage, she also felt bullied by police who she felt were pressuring her into discontinuing the complaint. This is an observation corroborated by at least two of her support people. Although this is a matter for her to raise directly with the AFP, it is relevant for our purposes as it impacted the trial process, as she presented as highly anxious in dealing with either the police or by extension, the DPP. This resulted in her requesting all engagement be conducted through the Victims of Crime Commissioner, to insulate her from direct contact and further pressure by police either directly or vicariously through the DPP. Then on 22 September 2021, investigators purported to make the Victim of Crime Commissioner a witness by conducting a record of interview, in which they asked her two highly unusual lines of questions. The first was how she became involved with the complainant, and the second was her recollection of a conversation between the complainant, [REDACTED] and [REDACTED] that she was present at. On 2 October 2021, I received a letter from yourself, stating that because she was now a witness, the AFP could no longer communicate through her. This was a highly unusual step as the complainant was also a witness, yet police still had extensive contact with her until she requested all contact be made through the Victim of Crime Commissioner.

Concerns relating to trial process

During the conduct of the trial, a number of disturbing events have occurred, including prosecution witness [REDACTED] firstly giving evidence directly contradictory to her Chief of Staff, then directly soliciting transcripts of other evidence to tailor her evidence direct from the defence Barrister Steven Whybrow. She further engaged in direct coaching of the defence cross-examination of the complainant by directing them to evidence she should not have access to. This was all done through direct contact with defence barrister Steven Whybrow. [REDACTED] further organised for her partner to attend the court for the entire trial, with him regularly seen conferencing with the defence team during the course of the entire trial.

The conduct of investigators has been equally as concerning. [REDACTED] and a number of other current and former SACAT members have been attending key parts of the latter stages of the trial, and I have noted they have also been regularly conferencing with the defence team during the breaks. The defence team have further been directing further investigations directly through investigators, in one case relating to the evidence of a member of SACAT, [REDACTED], after her evidence was concluded. We discovered this when we received an unsolicited email from [REDACTED] on 13 October 2022 outlining some additional points to her evidence. This was followed by an email from [REDACTED] dated 14 October 2022 at 2.54pm stating *"I have also attached the email Em sent yesterday regarding the Phillip Medical Centre enquiries. **The bosses just want to confirm it has been seen and passed onto defence.**"* Then 16 minutes later at 3.10pm [REDACTED] attempted to recall this email and replace it with another one stating *"I have attached the email [REDACTED] sent yesterday regarding Phillip Medical Centre. **I'm just checking that it was received and passed onto defence.**"* It appears that he wanted to replace *"The bosses just want to confirm"* with *"I'm just checking"*.

Finally, on the discharge of the jury on 27 October 2022, defence barrister Steven Whybrow spoke to my junior [REDACTED] and stated that he had a meeting with the investigators, and that they had suggested that he contact me and firstly suggest I was not impartial, and consequently request that I should outsource the decision as to whether or not to re-run the trial to someone outside of the office. Further, during discussion with defence regarding the potential application for a bail condition that the accused surrender his passport, Mr Whybrow stated on the transcript *"we have spoken with the Australian Federal Police. They have no concerns at all about Mr Lehrmann being a flight risk."* This is emblematic of the constant exclusive direct engagement police have had with the defence rather than the prosecution in the lead up and during the trial.

Later that day I phoned Mr Whybrow and sought clarification on his comment relating to his request to outsource the decision of whether to re-run the trial. Firstly, he acknowledged the comment was made, but then stated that his *"ongoing discussions with investigators"* were none of the prosecutions business.

From first engagement it has been clear that from [REDACTED] down, key AFP members have had a strong desire for this matter not to proceed to charge. Then when charges resulted, the investigator's interests have clearly aligned with the successful defence of this matter rather than its prosecution, the motive for both of which remains concerning. As a corollary however, there has now been over one and a half years of consistent and inappropriate interference by investigators, firstly directed towards my independence with a very clear campaign to pressure me to agree with the investigators desire not to charge, then during the conduct of this trial itself, and finally attempting to influence any decision on a retrial.

I am of the view that at the conclusion of the trial, there should be a public inquiry into both political and police conduct in this matter, however it appears clear that this is continuing to be a significant factor during the ongoing conduct of this trial.

I accordingly request that a direction be issued to all police to remove themselves from any engagement in this matter beyond being called as a witness for the prosecution. This includes no further contact with defence or other prosecution witnesses, no contact with the complainant, and prohibiting attendance at court beyond formal evidence if required.

I further seek your support for an inquiry to be conducted at the conclusion of the trial process into the conduct of police investigators in the lead up to charge and beyond, during the trial process itself.

Yours faithfully,



Shane Drumgold SC
Director - ACT Director of Public Prosecutions

From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 10:51:36 +1100
To: [REDACTED], Cam
Cc: Drumgold, Shane
Subject: Re: Documents for public disclosure log

I was of the understanding that you had the logins for open access too.

Call me on my mobile when you get a chance. Thanks Cam!

REDACTED

Get [Outlook for iOS](#)

From: [REDACTED], Cam <[REDACTED]@act.gov.au>
Sent: Friday, December 9, 2022 10:50:13 AM
To: Cantwell, Katie <[REDACTED]@act.gov.au>
Cc: Drumgold, Shane <[REDACTED]@act.gov.au>
Subject: RE: Documents for public disclosure log

OFFICIAL

Hi Katie,

In the pass this was done by Meliaine [REDACTED] I will give you a call to discuss.

Cam

From: Cantwell, Katie <[REDACTED]@act.gov.au>
Sent: Friday, 9 December 2022 10:41 AM
To: [REDACTED], Cam <cam.tang@act.gov.au>
Cc: Drumgold, Shane <[REDACTED]@act.gov.au>
Subject: Documents for public disclosure log

OFFICIAL

Hi Cam,

These FOI releases need to go up on the disclosure log on Monday 19 December. I am on leave next week to move so I am just sending them through to you now. I don't believe the decision letters need to go up with the disclosed documents but I have included them as they have the relevant info for you (i.e. date of application etc. – you might need this but not sure), follow what we have done in the past.

Thanks,

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: (02) 6207 5399 (Reception)
E: **REDACTED**@act.gov.au
W: www.dpp.act.gov.au

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From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 12:10:52 +1100
To: [REDACTED], Cam
Subject: FOI disclosure #1
Attachments: Letter to CPO re. R v Lehrmann - 01.11.2022 _Redacted.pdf, FOI Decision - 07.12.2022_Redacted.pdf
Importance: High

OFFICIAL

Hi Cam,

Okay, I have worked out what we need to do, are we able to put a link in our website to the documents, as does JACS? Perhaps a link under the "decision" field? That will save the hundreds of constant requests for these two.

If so, we will put the documents up on our DPP disclosure log only. We need to put up two documents for each disclosure. The decision notice, and the documentation released. If the links could say "decision notice" and "documents" that would be ideal.

I have **attached** the decision notice and documents for the first disclosure, I will send you a separate email for the second.

Below is what we want in each field:

Reference number: 2022-1 – 200929085

Date of application: 5 December 2022

Information requested: Any documented complaint made by the DPP about conduct of the police during the matter of R v Lehrmann which was sent to ACT Policing in the months of October or November 2022

Decision: Document released

Date of decision: 7 December 2022

Fees (paid or waved): -

Time spent on application: -

Ombudsman or ACAT decision (if relevant): -

Date of publication on disclosure log: Monday 19 December 2022

Katie



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
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From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 12:20:02 +1100
To: [REDACTED], Cam
Subject: FOI disclosure #2
Attachments: FOI Documents - 2 Dec 2022_Redacted.pdf, FOI decision - 07.12.2022_Redacted.pdf

OFFICIAL

Hi Cam,

I have **attached** the decision notice and documents for the second disclosure.

Below is what we want in each field:

Reference number: 2022-2 – 200929085

Date of application: 2 December 2022

Information requested: All ministerial briefings, correspondence, meeting minutes, text messages or written interactions on any digital communications platforms between the Attorney-General and the DPP between 1 May 2022 and 2 December 2022.

Decision: Documents released

Date of decision: 7 December 2022

Fees (paid or waved): -

Time spent on application: -

Ombudsman or ACAT decision (if relevant): -

Date of publication on disclosure log: Monday 19 December 2022



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
T: (02) 6207 5399 (Reception)
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From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 12:25:07 +1100
To: [REDACTED], Cam
Subject: Reminder for Monday

OFFICIAL

A reminder to action those last two emails on Monday 19 December.

Also, as discussed, the 'documents' link will be the 'letter to cpo' and the 'FOI documents' for each. The 'decision' link will be the 'FOI decision' letter for each.

Thanks Cam!



Katie Cantwell
Executive Officer
Office of the Director of Public Prosecutions (ACT)
GPO Box 595, Canberra ACT 2601 (DX 5725)
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From: Cantwell, Katie
Sent: Fri, 9 Dec 2022 13:05:40 +1100
To: [REDACTED], Cam
Subject: RE: Reminder for Monday

OFFICIAL

Sorry Cam, my bad 😊

Monday 12 December!



Katie Cantwell
 Executive Officer
 Office of the Director of Public Prosecutions (ACT)
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: (02) 6207 5399 (Reception)
 E: [REDACTED]@act.gov.au
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From: [REDACTED], Cam <[REDACTED]@act.gov.au>
Sent: Friday, 9 December 2022 12:56 PM
To: Cantwell, Katie <[REDACTED]@act.gov.au>
Subject: RE: Reminder for Monday

OFFICIAL

Hi Katie,

Is it Monday the 12th or 19th of December

Cam

From: Cantwell, Katie <[REDACTED]@act.gov.au>
Sent: Friday, 9 December 2022 12:25 PM
To: [REDACTED], Cam <[REDACTED]@act.gov.au>
Subject: Reminder for Monday

OFFICIAL

A reminder to action those last two emails on Monday 19 December.

Also, as discussed, the 'documents' link will be the 'letter to cpo' and the 'FOI documents' for each. The 'decision' link will be the 'FOI decision' letter for each.

Thanks Cam!



Katie Cantwell
Executive Officer
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From: Williamson, Anthony
Sent: Fri, 9 Dec 2022 15:46:57 +1100
To: DPP, FOI
Subject: RE: Release by DPP of correspondence between the ACT DPP and the Chief Police Officer of the ACT [SEC=OFFICIAL]

UNOFFICIAL

Sorry mate been in a trial...My suggestion would be not to respond for now... they'll see the redacted version on the register soon. If the AFP make further requests its probably best to see what Shane wants to do given he was the original decision maker.



Anthony Williamson SC
 Chief Crown Prosecutor for the ACT
 Deputy Director of Public Prosecutions
 Office of the ACT Director of Public Prosecutions
 GPO Box 595, Canberra ACT 2601 (DX 5725)
 T: (02) 6207 5399
 E: REDACTED@act.gov.au
 W: www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

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From: DPP, FOI <REDACTED@act.gov.au>
Sent: Friday, 9 December 2022 1:03 PM
To: Williamson, Anthony <REDACTED@act.gov.au>
Subject: FW: Release by DPP of correspondence between the ACT DPP and the Chief Police Officer of the ACT [SEC=OFFICIAL]
Importance: High

UNOFFICIAL

Hi Anthony,

I am about to go on leave for a week but do we need to deal with this? Given the decision was already made and the document went out. I have now redacted and provided the redacted version to the Guardian. He has assured me the previous version has not gone anywhere. The redacted version will be uploaded to our public disclosure log on Monday 19 December as it cannot be done until after three working days.

I have no doubt that they have already referred this to the Ombudsman to look into. Should we just await that process?

Katie



Katie Cantwell
 Executive Officer
 Office of the Director of Public Prosecutions (ACT)
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From: **REDACTED**, Peter <**REDACTED**@afp.gov.au>
Sent: Thursday, 8 December 2022 4:27 PM
To: DPP, FOI <**REDACTED**@act.gov.au>
Subject: Release by DPP of correspondence between the ACT DPP and the Chief Police Officer of the ACT [SEC=OFFICIAL]
Importance: High

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OFFICIAL

Good Afternoon

I am writing seeking your assistance in relation to the letter which The Guardian has reported on this afternoon from the ACT DPP on 1 November 2022 in which the DPP outlines a number of concerns about the investigation and prosecution known as *R v LEHRMANN - sec 264 OF 2021*.

I am concerned that as the AFP was not consulted about this FOI request, there may be information that was released to the applicant which the AFP would have raised concerns about and sought redactions under the *Freedom of Information Act 2016 (ACT)*.

I am not very familiar with the ACT legislation but I expect at some stage you would need to consider to upload this release on your FOI disclosure log. I ask that the AFP be consulted before that happens.

Could you please provide me with a copy of the original request, your decision letter and the information that was released that formed the basis of this article?

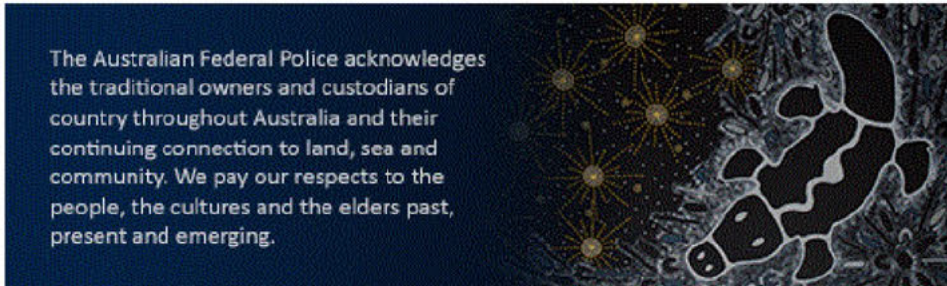
I would be very happy to talk this over with the appropriate officer in the DPP.

PW

PETER [REDACTED]
EXECUTIVE GENERAL MANAGER CORPORATE
ACT POLICING
Tel: [REDACTED] Ext: [REDA] Mob: [REDACTED]
www.afp.gov.au



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AFP Web site: <http://www.afp.gov.au>
