



AUSTRALIAN FEDERAL POLICE TRANSCRIPT

AFP Record of Conversation

Location: Personal information Sydney, New South Wales

Persons Present: Detective Sergeant David FLEMING

Subject/s: John Warwick KORN

Date: Thursday, 16 June 2022

Time Commenced: 12.29 pm

FLEMING:

Q1. This is a record of conversation between Detective Sergeant David FLEMING and Mr John KORN conducted at his chambers in Personal information, Sydney in the State of New South Wales. The time is now 12.29 pm on Thursday the 16th of June 2022. Can all persons present please state their full name for the recording? So, with myself, Detective Sergeant David FLEMING.

A Ah, John Warwick KORN, barrister. And we're in my chambers on the first floor of Personal information Sydney. Um, and there is no other person present apart from myself and Mr FLEMING.

Q2. And just your age, Mr KORN.

A I'm 69 at the present time.

It's important that you understand that any statement or answer that you may care to make during this conversation today has to be true to the best of your knowledge or belief - - -

(Phone ringing)

KORN: Would you just pardon me for a moment?

FLEMING: Yep.

KORN: This is a call I've got to take.

FLEMING: Just going to suspend.

ROC BETWEEN FLEMING AND KORN ... CONTINUED**ROC SUSPENDED****ROC RESUMED AT 12.31 PM**

FLEMING:

Q3. The time is now 12.31 pm. Record of conversation with Mr John KORN has been resumed. Do you agree that during the suspension, we just stopped to enable you to field a phone call, and that we didn't discuss the matter in the suspension?

A No, no, no. I asked you, 'Could I take this call?' It was a return call from, um, **Personal information** who is my accountant in respect of a business that I'm buying at the end of the month, and I needed to make an appointment to see him next week.

Q4. I'll just go back through what I was reading through there at the start. It's important you understand that any statement or answer that you may care to make during this conversation today has to be true to the best of your knowledge or belief, and that it accurately sets out the evidence you would be prepared to give in court as a witness. Do you understand?

A I understand. And it will be, um, accurate and true to the best of my knowledge and belief.

Q5. If you knowingly state anything false or anything that you do not believe to be true, and it is tendered in evidence, you will be liable to prosecution. Do you understand?

A I certainly do.

Q6. Do you clearly understand what I've just explained to you?

A I certainly do.

Q7. Okay, Mr KORN. We'll just start with just your background involvement in this matter, being the matter of R v LEHRMANN.

A The Queen v LEHRMANN? Um, I believe – if I can consult a file note for a moment.

Q8. Yes.

A Um, I believe that my first involvement, according to a file note, dates back to Tuesday the 2nd of March 2021. I've got a note here which says that, 'At 12.40 pm this afternoon, Bruce LEHRMANN discharged himself from hospital and came to my chambers with his mother.' Um, there's – it's quite an extensive file note, as you can see from the printing on my screen, um, Detective FLEMING. But, um, that's – that's probably all I need to say to answer your question at this stage.

Q9. And then from that point onwards, you were legal counsel for Mr LEHRMANN?

A Um, at that stage, there – there – there – there was – there was no

ROC BETWEEN FLEMING AND KORN ... CONTINUED

charges on foot.

Q10. Yep.

A But from that time onwards, it was always understood that if, um – um, if there were to be charges, were to be proceedings, um, I would become and would be his counsel. So, the effective answer is, yes, I remained his legal representative from that time onwards.

Q11. Yep. I'll just take you forward through to around the 6th of August 2021, just in relation to the first service of the brief in relation to the matter.

A Certainly.

Q12. What can you tell me about that?

A Um, I remember between the 2nd of March and – and the 6th of August, I had a – I made inquiries to see whether, in fact, it was likely that the matter was ever going to proceed to a court.

Q13. Yep.

A I was instructed to do that by Mr LEHRMANN. Um, I'm not sure how I started that process, but I'm sure that I would have rung, um, the ACT Police. Um, after that, I was contacted and I end up speaking with a New South – with a police officer. And I believe it was probably early – either late July or early August. And I was informed that – words to the effect of, um, 'Mr KORN, I'm such-and-such from the ACT Police. I understand that you are looking after Mr LEHRMANN. Um, I, um, am in a position to inform you that it's been – a determination has been made that the matter will proceed to court.' Full stop. Um, I then had a conversation with that officer about by what means it would – to court. I said to him, um, I was concerned that, ah, because of the obvious publicity that had already been generated and that Ms, um – Ms HIGGINS was so devoutly intent upon generating, I was concerned that this not become a media circus. And I asked the police officer, um – um, that if Mr LEHRMANN was required to attend the ACT Police, could it be done in a way that it was not leaked to the media so it didn't become a media frenzy? The conversation went on where it was suggested by the officer that the ACT Police, um – ah, had no interest in the matter being a, um – a media circus, and were – was considering, um, initiating proceedings by way of a court attendance notice. Um, I indicated that if at any stage – once the decision was made, we will of course cooperate. But if it was determined that he would come down, um, we would, ah – I would arrange for Mr LEHRMANN to come down from **Personal** and we would attend the ACT Police. My next recollection is that was early in the week. And I believe my next recollection is my next contact was later in the week. It was either a Wednesday or a Thursday. And I believe it's probably a Wednesday. A male police officer called me to tell me that the court attendance notice was going to be the method of initiating proceedings. And I was concerned, um, whether there would be any leaks. Was there going to be any, um, police media unit leaking that to the police? And he said, 'No.' And he explained to me that, um – and I can't remember whether he said they didn't have such a unit, but he said, 'No. Um, we will do everything we can to avoid a media circus. Um, however, once we file the

ROC BETWEEN FLEMING AND KORN ... CONTINUED

proceedings in the, um – in the court, obviously we can't control what happens from there.' Um, I wanted to know that – because at some stage, I would have to tell, um, Mr LEHRMANN what was about to happen. And, um, I knew that he was in a pretty – he was fairly fragile at that time as a result of all of the publicity the matter was getting, and the – the way his name was being blackened. Um, I think that was – I think that he told me in that conversation that they – we discussed how the court was – oh, that's right. He asked, 'Would I have instructions to, um – to take service of the court attendance notice?' And I said, 'Yes.' I – I was sure I would. And the indication was given to me that, um, the court attendance notice would be, um, effected by – by – through the Sydney AFP Office over in Goulburn Street. And I believe that happened on the 6th of August, um, '21.

- Q14. Okay. So, to your knowledge, was that – and those conversations, were they just about the service of the court attendance notice or summons? And did that include the actual brief of evidence itself?
- A Yes. There was a conversation where I was told – and I remember these words very – very well. Um, the male police officer said to me, 'Mr Korn, we have prepared a brief. Um, we've put it on a – either a USB stick or a stick. And we either have delivered or are delivering a, um, copy of that to the, um, ACT DPP. And we propose to give you an identical copy, um, of what we deliver to the, um – to the, ah, Director's office.'
- Q15. And who did you discuss the arrangement with in relation to that process? Was that just one of the police officers that - - -
- A I only ever dealt with, um, two police officers. They were both male police officers. Um – ah, their names, if I can recall them – is that what you're after, Mr FLEMINGTON?
- Q16. Yeah.
- A Um, the first police officer I spoke to is a, um – ah – a – and his rank, I think, was an – was he an inspector or a superintendent? Um, BOORMAN. Marcus BOORMAN.
- Q17. Yep.
- A He was the person I initially spoke to. I think I might have spoken to him either once, or at the most twice.
- Q18. Yep.
- A But I think that by the time – around August, I think on this occasion, I was in – I was contacted by a – a – an officer of a higher rank. I think he told me that he was Mr BOORMAN's boss, and his name was Scott MOLLER, M-O-L-L-E-R.
- Q19. In these discussions that you've had with police, was there any specific discussion around why the brief would not be sent through the DPP?
- A No. No, in fact, the only conversation was, 'We have prepared a brief.'
- Q20. Yep.
- A And, um, 'We either have or will be delivering it to the Director's office.'

ROC BETWEEN FLEMING AND KORN ... CONTINUED

And, um, 'We think it's – we think it's, ah – it's appropriate that you have – have the same as they, um, will be having – will be receiving.'

Q21. After the summons for Mr LEHRMANN had been served and it was discovered that the brief was not available to be served on yourself, did you have any further discussions with Detective Superintendent MOLLER in relation to the arrangement of a USB containing the brief that was going to be express posted to you?

A No, I don't believe I did. I think that the next thing that happened was actually I received, um, an express post with what I understood to be a, um – a – which I saw a USB in it. I can remember it was a black one. Um, I can't remember the brand, but it was a little black one.

Q22. Yep. Did you receive a second copy of the brief in the mail?

A You mean a hardcopy?

Q23. I don't - - -

A I've never had – I've never had, um, from anybody – um, ACT Police or ACT DPP. I never had a hardcopy of the brief. I only ever received from both sources, um, USBs. There were – I can – I'm not sure whether this is relevant to your inquiry – to your inquiry. But further down the track, um, when there were updates, the, um, ACT DPP tried to – tried to include me on, um, an electronic means of access.

Q24. Yep.

A Which I won't bore you with the details. Never worked.

Q25. Yep.

A And so I got from them on a number of occasions updated USBs. But I believe that I only ever got one USB from the ACT Police.

Q26. And so did anyone from Sydney office provide you with the brief?

A I can't remember whether they came over there. I think they did.

Q27. Yep.

A But, um – but I remember when I gave it back, um, I went and – to 286 Goulburn Street, the federal police building here in Goulburn Street, to return it.

Q28. Yeah. Just reading between the lines here. Did you receive two copies of the brief? Was one physically served – given to you, and then one through the mail? Or - - -

A I believe I only ever had one in the mail.

Q29. Yep. Okay.

A One from the police anyway.

Q30. Yeah.

A A small, black one. I can even – I can even remember, um, the – because I've got a box full of them here. I believe it was one of these. This. It's called a ScanDisk.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- Q31. Yep.
A And it's got a tapered end, and you just slide the little button, and out it comes. I believe it was – if not that style, it was very similar to that.
- Q32. Yep.
A Um, I'm sure it doesn't matter. Um, it wasn't that one. It was either – it was either this Verbatim little black stick or the - - -
- Q33. ScanDisk.
A The ScanDisk.
- Q34. Yep.
A But I'm – I'm reasonably certain, Mr FLEMING, that I only ever got one stick, one USB, one brief from the ACT Police.
- Q35. Yep.
A And there's a reason for that, um, why I think I'm confident that I'm right about that. Would you like me to explain why?
- Q36. Yep.
A Um, when I got it, I opened it up and I saw that there were a number of folders. But the folders were – and I'm going from memory. Um, because for reasons which I'll explain in a minute, I didn't progress very far into it.
- Q37. Yep.
A I remember – my memory is that there was one blue little folder which said, 'Statements.' And that was the – the only thing I was really interested in. I think that I – I expected to find a statement of facts – a police statement of facts in – in – in the usual form. Because I'm – I'm seeing it in front of me now. I've got a New South Wales Police factsheet.
- Q38. Yep.
A I was expecting to find, um, something similar from the ACT.
- Q39. Yeah.
A And we get them – they come in a different way these days.
- Q40. Yeah.
A But the one I'm holding up now is AFP on it, and you've got a factsheet. And very often, that's accompanied by the charge sheet.
- Q41. Yep.
A So, that's always my starting point to look for something like that. I thought that would be in one folder, and I had a look at it. And when I looked at it, I saw – I did see a fact sheet, which I've still got to this – to this day. And – but it didn't – it wasn't – the way in which that folder was arranged, it wasn't what I'm used to.
- Q42. Yep.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A I normally get what we call a Crown case statement.
- Q43. Yeah.
A Um, we get, ah, the indictment, ah, from the DPP. Um, so we get the indictment. We get a copy of the Crown case statement, and we get a lot of other official documents.
- Q44. Yep.
A And that's what I expect when I'm getting a trial brief. The way this looked - the way this was set out, it looked to me like it was a, um, an - for want of a better word, I thought it was a, um - it was certainly not a - what I considered to be a trial brief set out in the way in which I was used. And I thought, 'Well, I must be going to be getting one from the DPP.' So, I actually closed it up. I only ever looked, I believe, at the fact sheet. It was a 20-page fact sheet.
- Q45. Yeah.
A I can remember that. I only ever - and I - I had printed off a copy of that.
- Q46. Yep.
A I only ever looked at that document, and I did read that document. I've got it marked, and I've still got, I think, the same marked copy here in my bookshelf now. And I never looked further into that disk at all. I actually put it away thinking that now that it's going to the DPP, I will get effectively a trial brief, and I'll start with that.
- Q47. So, for you, it was pretty unusual. The majority of the time when you get given a brief, it comes through the DPP, or the police come and serve it.
A No. No, no, no, no. Initially - no. Initially in the - here in - in all - I've been here now, um, since - since August 1980 doing nothing but, um - um - well, nothing but criminal work.
- Q48. Yep.
A So I am, after 42 years, experienced at receiving briefs. What happens here is the police lay the charges, and the police conduct the charges in the early stages. And the police make an election, which they serve upon the New South Wales - sorry, the - the Director - the New South Wales Director makes an election to take something over.
- Q49. Yep.
A Um, particularly matters which are indictable, but which can either be dealt with summarily, or can go on indictment.
- Q50. Yep.
A Um, there are matters which are obviously always going to go to the District Court on indictment - commercial and large - commercial quantity drug trafficking, um, manslaughter and things like that. But it always starts with the police, and it's - it's - it's common for me to get - I don't get a trial brief at that stage. I get like what I'm showing in front of you now. I get a fact sheet, I get the police charges, and that's what I usually

ROC BETWEEN FLEMING AND KORN ... CONTINUED

start with.

Q51. Yep.

A When I saw this stick, that's what it – I thought it was. And since the matter was already immediately going to the DPP, here it might take at – at – at the quickest, it might go – stay with the New South Wales Police for four weeks or eight weeks, or even months before it gets to the DPP. And then I get a Crown case statement in – in what I call a trial brief form. So, I'm used to getting the – everything initiates with coming from the police.

Q52. Yeah. And then when you're talking about the trial brief, that's when you get all the evidence, police statements, witness statements, everything.

A Yep. And – and because I was told – I remember the police officer who spoke to me and told me. What he said to me, 'We've put it – ah, we've put it – we have, um, put together a brief on a – on a stick, a USB. And we either have given or will be giving that to the ACT, um, DPP. And we'll give you, um, a copy of the same material.'

Q53. Yep.

A That told me straightaway that the DPP was going to be immediately involved. Therefore, I expected that once they were involved, they would go through. They would work out a witness list, and then I would get something in the nature of a trial brief.

Q54. Yep.

A And I would – it would save me reading – instead of, I don't know, 30 or 50,000 pages, I might only have to read something less than that. So, um, the trial brief is what I had to deal with, so I thought I'll – the black stick that I got, I put it to one side, and I didn't look at it again.

Q55. Yep. So, did you ever get a brief from the DPP at all?

A Ah, yes. I did.

Q56. Yep.

A And do you want me to tell you how that came about?

Q57. Yep.

A Um, I don't remember how much – how – how long afterwards. But I got a phone call from, um – um, the Director himself. Um, Mr DRUMGOLD.

Q58. Yep.

A And he asked me had I received, um, a brief from the police, and I confirmed that I did. And he then proceeded to tell me that there was material in it that by law should not have been provided. Um, and I said, 'Well, um, I' – I told him immediately what I've just told you. I said I opened it up. I saw – I saw straightaway, um, that it was in folders. And the folders – it looked like an – what I called to him, 'An investigator's brief, not a trial brief.' So, having looked at it very briefly – and I don't think I actually told him that, um, I'd only looked at the Ms HIGGINS statement. But I said, 'Look, I looked at it very, very briefly and I was

ROC BETWEEN FLEMING AND KORN ... CONTINUED

expecting a – a – a trial brief from your office, so I put it to one side.’ And he said, ‘Well, um, there is material on there that should not have been disclosed.’ And I didn’t ask what it was. He proffered that it was, um, counselling notes. And I said, ‘I’ve never seen or looked at any counselling notes.’ And, um, I don’t know what we said after that. But I do remember the – the end of the conversation resulted was he said, ‘Well, can you, um – can you, um, destroy that, um, USB and we will organise a replacement?’ And I said, ‘Well, um, instead of destroying it, why don’t I give it back? That way there can be no concerns.’ And he said, ‘Well, if you’re happy to do that.’ Um, and that’s what was done. Afterwards, um, the return of that was facilitated, and I ended up going across to, um – ah, ACT – ACT – ah, federal police in Goulburn Street.

- Q59. Yep.
A And there was a young female. Um, and I signed a receipt for documents, and I gave them back. The one that, um – that had been given to me initially.
- Q60. Yep. And the second brief that you received, have you still got that?
A Ah, I believe I do. I believe I do. But that got superseded as well.
- Q61. Yep.
A That’s been superseded a number of times.
- Q62. And when you say superseded, is that – you’ve been provided - - -
A Updated, updated.
- Q63. - - - additional material by the DPP?
A Well, what happened next was they tried to get me onto something I think called PowerPoint.
- Q64. Yep.
A And it wouldn’t work.
- Q65. Yep.
A And it never worked. And we tried for weeks and weeks and weeks. I had consultations right down to techs in the admin department, and it never worked. And – and finally, I can show you right now what I’ve got in my little sliding door, which I have kept there.
- Q66. Yep.
A I – I was given these two sticks. Quite different to the original one. They pivot on that arrangement. And this was the final brief I got. But how many – how many, um, iterations of that brief? I think that I got probably three. Three briefs on – on a USB form from the, ah, Director’s office.
- Q67. So, you just received them in the mail, did you?
A Yes.
- Q68. And do you have all those other USBs for – in relation to the brief?

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A Mr – Mr FLEMING, I didn't keep this because I was expecting to ever hear from you. But it just so happens that I've actually got the two sticks that I've now just shown you.
- Q69. Yep.
A There's the bag it came in. It's exactly how it came. There's this bubble wrap inside.
- Q70. Yep.
A Um, and you will see that it's a Toll overnight.
- Q71. Yep, correct.
A And you will see on the back of it, 'From Office of the Director of Public Prosecutions,' and the address given. And then, 'To **Personal information** **Personal**.' My telephone – ah, my name, John KORN. And my telephone number, **Personal**.
- Q72. That's correct.
A That's how – that's how I got every brief from the Director's office.
- Q73. Okay. And do you still have the other USBs as well?
A I believe I do.
- Q74. Okay.
A I put them to one side because, um – um, they were no longer – they were – these were updated briefs.
- Q75. Yep.
A And, in fact, I – I – I've got – if I look through my computer, it's probably superfluous to what you need. But if I – if I go to Outlook and type – type in LEHRMANN, I've got all of the correspondence. You'll see the name there, Erin PRIESTLY.
- Q76. Yep.
A Um, 'We've received a record of conversation with Lisa WILKINSON. The file is too large to send via, so I've sent two' – yeah, there. That's – that's – 'Two USBs to your chambers today containing the audio. We'll provide a transcript once received.'
- Q77. Yep.
A Um, that's – that's – that's what happened, um, whenever – whenever I got material.
- Q78. Yep.
A It was just sent to me in the mail.
- Q79. Yep. All right. Again, we're just going to go back to the initial brief service - - -
A Mm-hmm.
- Q80. - - - around the 6th of August 2021.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A Mm-hmm.
- Q81. What arrangements were made on the 6th of August 2021 to have you served a copy of the brief post the earlier service of the summons?
A Could you say that again? 'What - what arrangements were made' - - -
- Q82. So, what arrangements were made on the 6th of August 2021 to have you served with a copy of the brief post the earlier service of the summons? So, did you get the court attendance notice, the summons, served to you first before you got the brief? Or did it all come in together in one?
A Um, I actually don't remember.
- Q83. Yep.
A I - I remember that I - going over and getting the - I remember getting a court attendance notice. And I don't recollect whether they came to my chambers for that, or whether I actually went over there. Ah, from here to the Goulburn Street is only a five-minute walk. So, I was always happy to walk over there. And I probably walked over there to get it, but they might have come here. But as - I've got a feeling - and I won't be a hundred per cent on it. But I've got a feeling that the USB - the only USB I got from the AFP came with the, um, court attendance notice.
- Q84. Yep. Okay. Was there any mention of the earlier express posted brief during these discussions that you've had with police, and whether it would still be sent through to you?
A I'm not sure I understand what you mean by that. There was only - the only conversation - I keep - I'm sorry. I will stick with this.
- Q85. Yep.
A I was told that, 'We have, um, put the brief on a - on a stick, a USB stick. We either have given or will be giving a - giving a copy to the, ah, Director's office. And, um, we'll be giving you the same, um, as they - as they receive.'
- Q86. Yeah.
A That's the only conversation I ever had, really, about a brief coming to me.
- Q87. Yep.
A From the ACT Police.
- Q88. Yep. When we go back to the first brief that you ever received - - -
A Mm-hmm.
- Q89. - - - that's the one where you went over to AFP headquarters in Goulburn Street, and were given - or an officer came over here to give you the USB.
A And - and that's the one where I - my best recollection is that I got the, um - the court attendance notice. And I - I think it was even a Friday.
- Q90. Yep.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A Um, a court attendance notice. My best recollection is that I received the, um – that – the black stick either at that time or very shortly thereafter.
- Q91. Yeah. And any further briefs that you got? Or, you know, updates with additional material came through express post delivery from the DPP?
A Just as – as per the item I just happened to still have sitting here right – I really didn't have that for – because I wasn't expecting you to ever – it's just been sitting there because I haven't got rid of it yet.
- Q92. Yep. When you were given the brief, did you have any - - -
A Brief by whom? From whom?
- Q93. Sorry, I'll take you back to the first time that you actually received the brief.
A You mean – can we call it the, um – the – when the police gave me a USB brief?
- Q94. Yep.
A Mm-hmm. Okay.
- Q95. Yeah. So, the time that the police gave you the USB brief. Was there any discussion as to why the brief was not served by the DPP?
A No. Um, and can I just say again, the conversation was – was – I remember it very clearly. The – the conversation was as simple as what I have said.
- Q96. Yep.
A 'We have put it. We have, um – the matter has been determined. It will proceed to trial. We have prepared a brief. It's been put on a USB. It either has been or will be given to the Director's office, and we'll be giving you, um, an identical copy.'
- Q97. Okay.
A That was – that was it.
- Q98. Did you download the contents of the USB at all?
A Did I – no. Not that I can recollect.
- Q99. Yeah.
A Because I very quickly put it to one side once I had a look at it, and looked at that first folder, and saw that it wasn't in the form that I recognised. And because I knew the – it was going to the DPP straightaway, so there would be no election made. We wouldn't be waiting weeks and months. I figured that, um, they would put together, um, a trial brief.
- Q100. Yep. So - - -
A And I – that's what I told, um, Mr DRUMGOLD.
- Q101. Yeah.
A All I'm telling you now is what I told Mr DRUMGOLD.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- Q102. Yeah.
A And, in fact, I believe I wrote him an email confirming in writing that I had not progressed into that. And I had not, um, looked into the brief, and certainly had never even noticed or therefore accessed anything to do with counselling notes.
- Q103. Yep. And again, as you said earlier, you looked at the brief initially. It was - - -
A I looked at one folder, I believe.
- Q104. Yep. And - - -
A There was about half a dozen folders, and I only looked at the first one.
- Q105. Yeah. And it wasn't something that was, you know, usual for you to see, and you shut it down.
A Yeah. There was nothing wrong with it.
- Q106. Yeah.
A It's just that it wasn't - I was used to receiving something that would be a trial brief.
- Q107. Yep. When did you become aware that there was an issue with the brief served on you, and how did this occur?
A When the Director, Mr DRUMGOLD, rang me.
- Q108. Okay. And what actions did you take after becoming aware of the issues with the brief?
A I - I made the offer to return it. Um, rather, he - he asked me to destroy it. I said, 'No. Why don't we do better than that? Why don't I return it?'
- Q109. Yep.
A And so after that, um, arrangements were - were made to return it. And that was done through the, um, AFP. Um, and I do remember doing that. I attended over, ah, and met two police officers. I dealt with a lady a young lady with glasses, and she was accompanied by a male. And we did it just outside the doors of the AFP - of the ACT - ah, sorry, the AFP in Goulburn Street.
- Q110. Yep. What conversations did you have with Detective Superintendent MOLLER concerning these issues?
A Conversation I've had since then?
- Q111. Just in relation to when the - after you had discussions with Mr DRUMGOLD in relation to the issues with the initial brief, what conversation did you have with Detective Superintendent MOLLER in relation to those issues?
A Um, I'm pausing because I'm actually - I don't have a recollection of speaking with him about it again at all. Um, I'm not saying I didn't but I just don't actually remember speaking to him.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

Q112. Yep.

A I can say that by pure coincidence, I've been going down to Lake **Personal** for a very long time, since about 1977 or '78 and staying at **Personal information**. And by complete coincidence, I wanted to teach – I've got effectively an eight and a seven-year-old boy.

Q113. Yep.

A And I was given the name of a fishing tutor, guide, and I got to – I engaged his service. And I got him on the phone, and indicated that we would be going down to, um, **Personal** at – in January this year. And it turned out that he was a serving – well, an ex-serving member of the, um, ACT Police.

Q114. Yep.

A And was still on contract from time – time to time. And I'd been out fishing with him with my kids.

Q115. Yep.

A We caught some great fish in his boat. And I think I remember saying something about – he raised with me that I was in the LEHRMANN-HIGGINS matter.

Q116. Yep.

A And I – because we were in a boat for a couple of hours. And he was teaching the kids fishing and showing them all that. But the only thing I can really remember coming up is that I think I was told that I'd originally been – I told him that I'd originally spoken to an officer by the name of Marcus BOORMAN.

Q117. Yep.

A And then I found out Mr BOORMAN – and I'm not sure how I found this out. May well be that it was Mr MOLLER who told me when he rang me that he was ringing me because **Personal information**
Personal information

Q118. Yep.

A **Personal information**

Q119. Yep.

A **Personal information**

Q120. Yep.

A He had – and I'm not sure how this came about. He had passed on to Mr MOLLER that I had been unwell. And Mr MOLLER had sent – and just – he – Harry, the fisherman – fishing guy said, um, 'Mr MOLLER sent his best regards.' So I, um, rang Mr MOLLER, um, and just, um, thanked him for – for that. But there was no – nothing to do with, um, the brief or

ROC BETWEEN FLEMING AND KORN ... CONTINUED

anything like that. It was just a purely, um, social conversation for a relatively short period of time.

- Q121. Yep.
A And I said, 'What a coincidence it is. You know, that my fishing guy that I'm going to use again, you two know each other.'
- Q122. Yeah. I've got a statement here from Cilla [Personal information]. She's the police officer - - -
A Who?
- Q123. Cilla [Personal information].
A Ah, that was the lady - [Personal information]. Ms [Personal information].
- Q124. Yeah.
A That was the one I returned the, um - the stick to.
- Q125. Yeah. So, it's a five-page statement, and - - -
A Five pages for our relatively short dealings?
- Q126. So, paragraph seven. Yeah. So, paragraph seven. It's got here, 'About 2.08 pm' - and this is in reference to the 6th of August.
A Would you just pardon me? My accountant's ringing me back again. I've got to take this call.

All right. Time is now 1.06 pm. I'm just going to suspend the record of conversation.

ROC SUSPENDED AT 1.06 PM**ROC RESUMED AT 1.07 PM**

FLEMING:

- Q127. Time is now 1.07 pm. Record of conversation with Mr John KORN is resumed. As we were just discussing earlier, I've just got a statement here from AFP member Cilla [Personal information] just in relation (indistinct) service of the brief.
A Yep.
- Q128. Paragraph seven, she's just got here about 2.08 pm, she met with you.
A 2.08 pm?
- Q129. Yep, on the 6th of August 2021. She's met with you out the front of the Sydney headquarters. And just in brackets here, just in relation to the conversation that she's had with you, it's got here, 'Mr KORN had asked for a copy of the brief of evidence, which I advised I did not have. Mr KORN advised that he would contact Mr MOLLER and ask after the brief.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A About that time, I observed Mr KORN make a telephone call and overheard him inquire after an electronic copy of the brief of evidence.' I do remember that.
- Q130. A short time later, Cilla **Personal Information** spoke with Detective Superintendent MOLLER, who advised her that the electronic copy of the brief had been express posted to Mr KORN's office and would likely arrive on Monday. So, I think that's the – goes back to that point we were sort of talking about before. Did you receive multiple copies? So, you received one from Cilla **Personal Information**.
- A Did I get one from Ms **Personal Information**? No, no.
- Q131. No?
- A No, no, no, no. No, remember I – I thought I said to you before that I either got the USB – the only one I've ever got from the ACT Police was one – the little black one. Um, and I thought I had said before I either got it the same time as the court – or shortly thereafter.
- Q132. Yep.
- A Yep. And from what I – from you've just read out, Ms **Personal Information** is confirming that – because – that I got it shortly thereafter. Because I do – I do – I do specifically now remember. Um, we were on the forecourt outside there where those bollards are.
- Q133. Yep.
- A And right next to the laneway next to it. Um, and I actually rang Mr MOLLER. She didn't have a stick for me. The – the stick. And it was being express – it was being sent. Yep.
- Q134. Yep.
- A So, I'm sorry. That – that – that, I think, confirms what I have said earlier.
- Q135. Yep. Okay. Just further in her statement on her - - -
- A Was that a Friday that I had that conversation, um, Mr FLEMING? As to - - -
- Q136. It was the 6th of August, so I'd have to have a look at a calendar.
- A I'm just – I'm just – I'm just curious.
- Q137. It was a while ago. Sorry.
- A No, no. There it is. Oh, is that yours?
- Q138. Yeah.
- A Oh, sorry. I don't just take that. Sorry. I've got – I've got a very – look. I've got a very similar one. Um, 6th of August last year?
- Q139. Yep.
- A Yes, Friday is the 6th of August. Yep. Yep, okay.
- Q140. Yeah. So, Cilla **Personal Information** just – because it's got here she – at about 2.18

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A pm, she's given you the defendant copy of the summons package.
Mm-hmm.
- Q141. And then she's gone back to AFP headquarters in the Sydney office, where she's then downloaded a copy of the e-brief onto a thumb drive. She's had a conversation with you at 3.55 pm just to make arrangements to provide you with the thumb drive. She's put it in a AFP marked envelope. At about 5.26, she met with you out the front of the headquarters on Goulburn Street, where she handed you an AFP marked envelope containing the Samsung USB. Do you recall that at all?
- A I do – I do remember pulling up in a car.
- Q142. Yep.
- A Um, that was the same day, was it?
- Q143. Yeah.
- A Okay. Um, I don't – ah, I don't, um, cavil with that.
- Q144. Yep. Yeah, because - - -
- A But again, that seems to be – to be consistent with what I said, that it was either – remember, I thought I said earlier that I got – I thought I got the, um – the one and only copy that – that I got from the ACT Police either on the same day as the court attendance notice or shortly thereafter. It looks like it was shortly thereafter, but on the same day.
- Q145. Yeah. And again, that was the brief that you've been advised that there was material on it that shouldn't have been placed on there.
- A Yep.
- Q146. That's the one that you arranged through the DPP to return back to us.
- A I only ever had one brief from the ACT DPP.
- Q147. Yep.
- A No, sorry. Not DPP. ACT Police.
- Q148. Yeah.
- A Which I received that. And it turns out to be that it was the same day as I got the court attendance notice, just later on the same day.
- Q149. Yep.
- A Um, and I do recollect that, ah, because I was going I think home, and I went past. I can remember being a bit surprised that Ms BENSLEY was still there. Yep, I do remember that. Um, but I only ever got one brief from the ACT Police.
- Q150. Yep.
- A And that's the one that DRUMGOLD rang me about, and that's the one I returned.
- Q151. Roughly do you recall what day he made contact with you?
- A Um, if you can bear with me, I can – I know I sent him an email.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

Q152. Yep.

A And that'll help me. Can we just have a pause on that for a moment, please, Mr FLEMING, while I just have a look at this?

Yep. Time is 1.14 pm. Record of conversation with Mr John KORN is - - -

ROC SUSPENDED AT 1.14 PM**ROC RESUMED AT 1.16 PM**

FLEMING:

Q153. Time is 1.16 pm. Record of conversation with Mr John KORN is resumed.

A Um, Sergeant, um, I asked for you to just pause that a moment while I just, um, had a look at my computer. I have found, um, two relevant documents. The first one is an email dated the 23rd of September 2021 from, um, Detective Superintendent Scott MOLLER. That's when I - I was put on notice that there was counselling notes, and they're described as, 'Protected confidences.' Um, he asked me - he actually says in the - that, 'I ask that the audio recording of the complainant's EICI and medical records relating to the complainant's appointments with her time counselling be deleted, pending any application for provision of these being made.' Um, he said at the end of his email, 'I would be grateful if you could respond to this email, including Mr Shane DRUMGOLD, Director of ACT DPP, into the reply to the effect of the - of the deletions occurring.' I then go - the very next, um, email that's on my file is Wednesday the 6th of October 2021 at 2.14 pm. And Mr MOLLER says to me, 'Dear Mr KORN. Further to our conversation today, can you please confirm that you have deleted the relevant documents as requested by Detective Superintendent MOLLER?' Um, what I can - what I can probably deduct from that is - remember I told you that I received a phone call from DRUMGOLD?

Q154. Yep.

A Um, that's the phone call, I believe, from the date of the email that he's spoken to me earlier on the - on the Wednesday the 6th of October. That's the occasion I told him about having received it, that I hadn't accessed anything beyond a very superficial, um, look at her statement. And then I - it wasn't in the form in which I was expecting, and - and that I - I shut it away, intending to wait for the official brief to come or a trial brief to come. And that's when he said to me, 'Well, could I delete it?' And I said, 'No.' I remember saying it to him. I said, 'I can do better than that. Why don't I return it?' So, it looks like, um, those two dates are relevant dates. And sometime after the 6th of October - Wednesday the 16th - 6th of October, I returned it. And I'm sure Ms Personal will from - since you've been good enough to indicate she's made a five-page statement, she will, um - will have recorded the date which it was

ROC BETWEEN FLEMING AND KORN ... CONTINUED

returned and the receipt was signed for its return.

Q155. Okay. Just going through the statement of Cilla **Personal**. Page four, paragraph 22, Friday the 15th of October, she's met with you out the front of Sydney headquarters on Goulburn Street, about 1.52 pm it is – paragraph 23. Yep. And she's handed you an Apple iPhone belonging to the defendant.

A Yes.

Q156. And you've provided her with the same USB that had had HIGGINS' tag placed on it.

A Mm-hmm.

Q157. Which was the brief that she'd given you earlier.

A That's right. I – I just normally – what I – it's one of the banes of my life, Mr – Sergeant is that when you get these bloody things, how do you – with all – with all – with all the ones I get, how do you mark them? So, I keep these tiny little things. Ah, little post-its. And I remember the first one, the – the one I got from the police, I had one of these. A pink one.

Q158. Yep.

A I do remember that. And I just wrote 'HIGGINS' on it. And I – it was still on it when I handed that over it. Once I put it away, I never touched it again until I retrieved it to, um, take it to – over to meet Ms **Personal Informatic**.

Q159. And again, just to clarify, how many - - -

A Well, that was nine days after, um, the conversation on Wednesday the 6th of October. I handed it over on, um, Friday the 15th.

Q160. Yep. And again, just to clarify, how many USBs did you hand over to Cilla that day?

A I – one.

Q161. Yeah.

A (Laughs) Only ever had one from them.

Q162. Yep. Okay. And the final point, again just to clarify, did you receive another copy of the brief via express mail at all? So, Cilla **Personal**. You received the brief from her. Did you ever receive one via express post at all?

A From the police? I – I – I – every single – every single brief that I received – well, everything came to me – everything came to me, um – apart from Ms **Personal**, you've now assisted my memory. Um, she actually later that – later on – on the same day that, ah, I was given the court attendance notice, a couple of hours later, I met her again.

Q163. Yep.

A As I said earlier, I remember being surprised she was still at work. And, um, we met again. I think you said at 5.26.

Q164. Yep.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

- A And I remember even pulling up in my car, just parking in the lane. And it was a very short, 30-second or 60-second – she gave me that stick. I only – apart from that, every other brief I have received has come from the Director's office.
- Q165. Yep.
A And it's been by – by mail. There were – apart from the attempt to, um – to, um, give me access via SharePoint, which never worked.
- Q166. Yeah. To me, it's just to clarify. Because you've had – you've been given multiple copies of the brief. But the time that you were given the first brief, you didn't receive another brief that had come - - -
A There's another ScanDisk one.
- Q167. Yep.
A It's got 'HIGGINS' on the back.
- Q168. Yep.
A That's come from the Director's office. That's an earlier version. And that's not it. This is – you will see four USBs.
- Q169. Yep.
A Two of which have CCTV on it. They were two copies. One because we'd had so many problems with the brief being corrupted or not being able to open. The latest version they gave me probably – I don't know. I can find it from – actually, what was the date? It was in my, um – it was in my email. Ms – Ms, um – ah, Erin PRIESTLY sent it to me. Um, she gave me an extra copy of it in case the first one didn't work. Because I said, 'Look, I'm getting sick of this. Um, I can't get access to this brief. It's getting too close to the trial. Can you send me a' – she sent me a spare.
- Q170. Yep.
A But what you need to know, I think what you're asking is I am – I – I will say again, I only ever got one black USB from the ACT Police, which was returned to Ms **Personal**.
- Q171. Yep. Okay.
A And – and more importantly without me ever, ever, um, accessing or knowing that there were counselling notes relevant to Ms HIGGINS on that first stick that the ACT Police had arranged for me and was given to me by Ms **Personal**.
- Q172. Yep. Because as I said before when I just read through Cilla's statement, there's just that bit of confusion that's been created with – in her statement, she's got that MOLLER said he was going to express post another copy to you.
A Yep.
- Q173. Yet then she's also given you a copy. So, you never received one - - -
A No, no, no, no, no.

ROC BETWEEN FLEMING AND KORN ... CONTINUED

Q174. Yeah. Okay. Is there anything further you wish to raise in relation to this?

A No. No, that – I can't think of anything else. I think we've covered it exhaustively.

Q175. During your statement today, has any threat, promise or inducement been made out to you to provide the answers you have given today?

A I'll take that as a serious question and say no.

Q176. Were all the answers you provided today been made of your own free will?

A Absolutely.

The time is now 1.25 pm. The record of conversation is now concluded.

ROC CONCLUDED AT 1.25 PM