

Subpoena Number: 2023/S/0024

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

SUBPOENA TO PROVIDE A WRITTEN STATEMENT

To: Mr Peter Crozier

Of: Australian Federal Police
C/- Mr Tony Giugni
Australian Government Solicitor
Level 5, 4 National Circuit
BARTON ACT 2604

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 4 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: 28 March 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.

Subpoena 2023/S/0024**Schedule of Questions for Statement****Peter Crozier****Current Employment**

1. What is your current rank?
2. What is your current position within the Australian Federal Police (AFP)/Australian Capital Territory (ACT) Policing?
3. Outline the job description for your current position. If you have a formal job description, **attach** a copy.
4. Have you sat, or do you currently sit, on any boards, committees, working groups, or taskforces? If so, provide details of the name of the board, committee, working group, or taskforce, when you started (and finished if applicable) and what role you had/have on the board, committee, working group, or taskforce.
5. **Attach** a current CV.

Tertiary Qualifications

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

Courses and/or Diplomas

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

Employment Chronology

8. Outline any previous policing experience you had before joining the AFP/ACT Policing. Include any previous service history, with dates, and your station, rank and role.
9. When did you first join the AFP?

10. Why did you join the AFP?
11. What did your recruitment to the AFP involve? Include details of any training you received during recruitment to the AFP/ACT Policing. Include details about what the training involved, the organisation/department that provided the training and when you received the training.
12. Outline your service history with the AFP. Include your rank, where you were stationed, the dates you held the various positions and the description of the role/job/work performed by you in the various positions. Include your rank at the relevant times. Outline the section and unit in which the position sat and the general description of the purpose of the relevant section and unit.
13. When did you start recruitment training with the AFP/ACT Policing? Include details of the training involved and the organisation/department that provided the training.
14. Outline your appointment to Assistant Commissioner for ACT Policing. Include details of the job description. **Attach** a job description if one exists.
15. Outline your experience, if any, in conducting sexual assault investigations. If you have conducted sexual assault investigations, state approximately how many have you conducted in your police career. Of those investigations, state approximately how many have you conducted in the ACT.

Training and Education

16. Outline the training and education you have received on and related to conducting sexual assault investigations. Include information about the dates you underwent the training, what the training and education involved and the name of the training provider.
17. Outline any training/course you are currently in the process of completing. Include information about the date you commenced the training/course, what the training/course involves and the name of the training provider. **Attach** a copy of the relevant training documentation/course material.
18. Outline your observations and/or opinions of the experience and training levels of the

Sexual Assault and Child Abuse Team (SACAT) members.

19. What training and experience did a member of SACAT require as at July 2021 when you commenced in the role of Assistant Commissioner ACT Policing. Has that changed? If so, when and what was changed? **Attach** a copy of the relevant training documentation/course material.
20. To the extent not addressed above, provide details of your involvement in amending the training and education for SACAT members. Provide details of whether models from other jurisdictions were considered.
21. State whether, prior to and/or during your time as Assistant Commissioner ACT Policing, you were aware of any requirements in relation to psychological assessments for Criminal Investigations/SACAT officers to ensure wellbeing and welfare of staff. If so, provide details of:
 - (a) whether the assessment is mandatory;
 - (b) when the requirement for psychological assessments for Criminal Investigations/SACAT was introduced;
 - (c) your understanding of how frequently psychological assessments for SACAT members was required; and
 - (d) your awareness of any policy, procedure, guideline and/or governance in relation to psychological assessments for your position.

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

Organisational Structure

22. Outline the AFP/ACT Policing structure/chain of command as at February 2021. Include information about who occupied the positions at that time (including the rank and position that person holds). **Attach** a copy of the organisational structure/chart for the AFP/ACT Policing as at February 2021. Identify in the organisational structure/chart the chain of command for the Criminal Investigations/SACAT division, their rank, name and the position they occupied.

23. Outline the current structure/chain of command for the AFP/ACT Policing. Include information about when the structure changed, including the introduction of an Assistant Commissioner ACT Policing, why it changed, the function you perform within that structure, who you reported to and your direct reports. **Attach** a copy of the current organisational structure/chart for the AFP/ACT Policing. Identify in the organisational structure/chart the chain of command for the Criminal Investigations/SACAT division, their rank, name, and the position they occupy.

Duties and Responsibilities

24. Outline your duties and responsibilities as Assistant Commissioner in ACT Policing in relation to the Criminal Investigations/SACAT. Include information about who you directly report to, your direct reports and the approximate number of officers you supervise. Include information about who you directly report to, your direct reports and whether there were/are any scheduled regular meetings with your direct reports. **Attach** a copy of any relevant agreements, policies and/or guidelines.
25. Explain your understanding of what a police officer's duties and responsibilities are in conducting a sexual assault investigation. Include references to relevant agreements, policies, procedures, guidelines and/or governance where appropriate. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.

Investigating Sexual Assault Complaints

26. Outline the extent of your involvement (if any), as Assistant Commissioner, in relation to a sexual assault investigation. State whether this has changed during the past four years. If so, provide details of how your involvement was different and how, when and why the process changed.
27. Outline the typical process of conducting a sexual assault investigation from the perspective of your position. Include the following information:
- (a) when the Office of the Director of Public Prosecutions (**ODPP**) or the Director of Public Prosecutions, Mr Shane Drumgold SC (**DPP**) would ordinarily be consulted; and
 - (b) whether you typically have any direct contact with the DPP/ODPP, the complainant

and/or the accused. If so, provide examples of the instances in which you would have direct contact with these persons.

Attach a copy of any policies, procedures, guidelines or documents which guide a sexual assault investigation.

28. State the duties and responsibilities of the following officers generally and in relation to conducting a sexual assault investigation:
 - (a) Detective Superintendent;
 - (b) Detective Inspector;
 - (c) Detective Sergeant; and
 - (d) Constable (of all relevant divisions).
29. Outline which officer has the responsibility of making decisions in relation to charging. Provide details of your responsibilities in relation to making decisions about gathering evidence and decision to charge. **Attach** a copy of any relevant documents, guidelines, policies, procedures and/or governance material.
30. Explain the adjudication process for compiling briefs of evidence for the ODPP. Provide details as to why the adjudication process is conducted. **Attach** a copy of any relevant documents, guidelines, policies, procedures and/or governance material. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed.
31. Describe the AFP/ACT Policing's "victim-centric" approach to liaising with sexual assault complaints. Provide examples to illustrate the approach where appropriate.
32. Explain your understanding of the threshold to charge a person with a sexual offence in the ACT. Provide examples of what is required and what may affect the threshold, including your understanding of corroboration and whether it is required before charging a person for a sexual offence.
33. If your understanding of the threshold to charge a person with a sexual offence has

changed in any way over the past four years, explain when, how and why it has changed.

34. Explain the process that is undertaken by AFP/ACT Policing when a further statement or further information is required from a complainant. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance material. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed.
35. Following an investigation, explain the process that is undertaken by AFP/ACT Policing in advising and/or consulting with complainants when a decision is made to charge or not to charge. If the process has changed during the past four years, outline how the process was different and how, when and why the process changed. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance material.
36. State whether you believe any underlying cultural views have existed within the AFP in the past four years with respect to conducting sexual assault investigations. Specifically, whether sexual assault complainants are treated differently to other victim/survivors of crime.
37. Outline your involvement (if any) when a complainant requests to discontinue an investigation. Provide details of whether you receive a briefing in relation to this and whether you provide a subsequent briefing to your direct report(s). If the process has changed during the past four years, outline how the process was different and how, when and why the process changed. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance.
38. State whether you believe any underlying cultural views have existed within the AFP in the past four years with respect to conducting sexual assault investigations after it has been reinstated by a complainant. Specifically in such instances, whether the sexual assault complainant is treated differently to other victim/survivors of crime and whether the conduct of the investigation is therefore affected in any way.

Challenges, Issues and/or Pressures

39. Explain any issues, challenges and/or pressures you perceive to have existed within the AFP/ACT Policing in the past four years that have hindered the conduct of sexual assault

investigations. Provide examples where possible.

40. Explain any issues, challenges and/or pressures you perceive to exist external to the AFP/ACT Policing that hinder the conduct of sexual assault investigations. Provide examples where possible.

Report of the Sexual Assault Prevention and Response Steering Committee

41. State whether you have read the Sexual Assault Prevention and Response Steering Committee's report titled "Listen. Take Action to Prevent, Believe and Heal" published in December 2021 (**the Steering Committee's Report**).
42. Outline the steps taken by the AFP/ACT Policing in response to the Steering Committee's Report in relation to:
- (a) cross-agency cooperation and communication with the Victims of Crime Commissioner for the ACT (**the Victims of Crime Commissioner**), Canberra Rape Crisis Centre and other relevant agencies;
 - (b) implementing training for police officers in relation to conducting sexual assault investigations; and
 - (c) dealing with sexual assault complainants generally.

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

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

45. State whether have had any involvement in relation to the Oversight Committee that was formed in response to recommendation 15 of the Steering Committee’s Report. If so, provide details of:
- (a) the extent of your involvement;
 - (b) when it was formed;
 - (c) what the Terms of Reference are;
 - (d) what reviews/investigations the working group is undertaking/seeking to undertake; and
 - (e) where the working group is up to in their reviews/investigations.

Sensitive Investigations Oversight Board (SIOB)

46. State whether you have read the “Review into the AFP’s Response to and Management of Sensitive Investigations” by Mr John Lawler AM APM dated 17 January 2020 (**the Lawler Review**).
47. Outline the circumstances, which you are aware of, that gave rise to the formation of the Sensitive Investigations Oversight Board (**SIOB**). State when the SIOB was formed.
48. Outline the purpose of the SIOB. Provide details of the types of matters the SIOB review and what role the SIOB undertakes in relation to a sensitive investigation (i.e. whether the SIOB evaluates or investigates sensitive investigations). State whether the SIOB reviews investigations in both the Commonwealth and ACT jurisdictions. If so, provide details of whether the process for reviewing Commonwealth and ACT jurisdiction sensitive investigations differs and, if so, how the process differs. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.
49. Outline the AFP positions which sit on the SIOB. Provide details of whether you have sat on the SIOB during your time as Assistant Commissioner and what your duties and responsibilities are (if any) in reporting to the SIOB. **Attach** a copy of any referenced agreement, policy, procedure, guideline and/or governance.
50. Explain the definition of a ‘*sensitive*’ investigation and how this differs from the definitions of ‘*politically sensitive investigation*’ in the AFP National Guideline on Politically Sensitive Investigations and ‘*politically sensitive matters*’ in the

Memorandum of Understanding (**MOU**) between the AFP and the Australian Electoral Commission (**AEC**). Provide practical examples where appropriate. **Attach** a copy of the AFP National Guideline on Politically Sensitive Investigations, the MOU between the AFP and the AEC, and any referenced agreement, policy, procedure, guideline and/or governance.

51. Outline the process of how an investigation is classified as a sensitive investigation and how sensitive investigations are evaluated by the SIOB. Provide details of:
- (a) what stage of an investigation a matter is typically classified as a sensitive investigation. Include details of the circumstances which may give rise to the need to brief the SIOB and the nature of the evidence typically obtained at that stage. Provide practical examples where appropriate;
 - (b) What is the process for a matter to be referred to the SIOB, including the chain of command for raising a potential sensitive investigation to SIOB and the briefings that are required. Include references to the briefing templates utilised;
 - (c) whether any preliminary briefings are prepared and/or provided to you, as Assistant Commissioner, in relation to a potential sensitive investigation. Include references to what preliminary briefings are required and your duties and responsibilities in actioning the briefings; and
 - (d) the actions SIOB takes once a brief in relation to a potential sensitive investigation is received. Provide detail of whether recommendations from SIOB are typically in writing or verbal and to whom the recommendations are provided to.

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

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

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

concerns.

53. During 2021, did you attend regular meetings with the DPP/ODPP? If so, outline your involvement in those meetings. Include details about the general nature of those meetings, including who was required to attend, the purpose and frequency of the meetings, whether any file notes were kept and by whom, and the extent of your involvement (if any).
54. Outline the typical level of involvement you have, as Assistant Commissioner, with the DPP directly or with the ODPP in an investigation/matter concerning sexual assault.
55. Detail your professional relationship with the DPP prior to the commencement of the Investigation. Include details about whether the relationship was positive or whether you held any concerns about the relationship and the nature of those concerns. Provide examples where appropriate.
56. State whether your professional relationship with the DPP and/or ODPP changed after the commencement of the Investigation. If so, provide details about how the relationship changed and provide examples where appropriate.

Victims of Crime Commissioner

57. Outline your professional dealings (if any) with the Victims of Crime Commissioner prior to the matter of *R v Lehrmann*.
58. Based on your experience as of 31 March 2021, describe the role performed by the Victims of Crime Commissioner (or her staff) exercising statutory functions under the *Victims of Crime Act 1994* (ACT) in relation to a victim of a sexual offence. Provide examples and details where appropriate.
59. Prior to *R v Lehrmann* state whether you been involved in any sexual offence investigations where the Victims of Crime Commissioner (or her staff) had supported a complainant at court or acted as an intermediary between the police and the complainant or between the ODPP and the complainant. If so, provide an estimate of the number of investigations and a brief description of the nature of those investigations.

Investigation

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

Briefings to the Sensitive Investigations Oversight Board (SIOB)

61. Outline who, during your time as Assistant Commissioner, sat on the SIOB. Provide details of their rank, name and the position they occupied. If any changes occurred, provide details of those changes.
62. Outline the criteria for investigations that are considered ‘sensitive investigations’, how investigations are referred to the SIOB, how they are briefed on an ongoing basis and the reason for the briefing. Include information about whether it was common to invite AFP/ACT Policing officers who were not members of the SIOB to brief SIOB on particular sensitive investigations. Provide practical examples where appropriate.
63. Outline when the Investigation was referred to SIOB and accepted as a “sensitive investigation’ and whether you were a member of SIOB at that time.
64. Provide details of who was allocated as the Sensitive Investigations Officer (**SIO**) for the Investigation and what the duties and responsibilities of that role is. State whether it is unusual to allocate a SIO to a sexual assault investigation. If so, provide details of why a SIO was allocated in the Investigation. **Attach** a copy of the relevant documents, guidelines, policies, procedures and/or governance material. If already attached and/or provided, refer to the relevant parts of your statement.
65. In chronological order, outline the briefings you provided to SIOB in relation to the Investigation and/or matter of *R v Lehrmann*, including details of the recommendations you were seeking from SIOB. Provide details of:

- (a) who initiated/arranged briefing;
- (b) the purpose of the briefing and if any recommendations were sought from SIOB;
- (c) the date of the briefing;
- (d) whether the briefing was provided during a SIOB meeting or “out of session”;
- (e) the people in attendance for the briefing;
- (f) whether any AFP/ACT Policing officers attended with you to provide further information to support the briefing and, if so, the names and rank of the officer(s).
- (g) any evidence/material/supporting documents you were provided to assist with the briefing, including who provided this evidence/material/supporting documents and when you reviewed the evidence/material/documents prior to briefing;
- (h) whether the briefing was provided in writing, oral or both;
- (i) the nature of the briefing (if any) in relation to:
 - i. the progress of the Investigation, including the evidence obtained and yet to be obtained;
 - ii. your views in relation to the prospects of the matter and the reasons for your views (in particular, in relation to threshold to charge); and
 - iii. your views you held in relation to the conduct of the Investigation to date, including the reasons for your views; and
- (j) the recommendations made by SIOB as a result of the briefing.

Attach a copy of any relevant evidence/material/supporting documents, written briefings, minutes and communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

66. To the extent not addressed above, state whether you were aware of the internal investigation review conducted by Commander Andrew Smith in July/August 2021 in relation to the Investigation. If so, provide details of:
- (a) who informed you;
 - (b) when you were informed;
 - (c) what you were informed of;
 - (d) whether any recommendations from the review were considered prior to charging Mr Lehrmann, and if so provide details of:
 - i. when the recommendation(s) were actioned;

- ii. who actioned the recommendation(s); and
 - iii. whether a recommendation was not actioned and the reasons as to why; and
- (e) your overall impressions.

Attach a copy of the investigation review conducted by Commander Andrew Smith in July/August 2021 in relation to the Investigation and relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

Interactions in relation to the Investigation between 5 February 2021 and 6 August 2021

67. In chronological order, outline your interactions in relation to the Investigation between 5 February 2021 and 6 August 2021. Include in your response any involvement with AFP/ACT Policing officers, the DPP/ODPP staff, Mr Lehrmann, legal representatives for Mr Lehrmann, Ms Higgins, legal representatives for Ms Higgins and/or the Victims of Crime Commissioner. Include information about:
- (a) who initiated/arranged the interaction;
 - (b) the purpose of the interaction;
 - (c) where the interaction took place;
 - (d) the people in attendance;
 - (e) any evidence/material you were provided, including when you reviewed the evidence/material;
 - (f) the nature of the interaction in relation to:
 - i. the progress of the Investigation, including the evidence obtained and yet to be obtained;
 - ii. your views in relation to the prospects of the matter and the reasons for your views (in particular, in relation to threshold to charge); and
 - iii. your views you held in relation to the conduct of the Investigation to date, including the reasons for your views;
 - (g) any briefings you received by AFP/ACT Policing officers in relation to the Investigation, including information/briefings you received in Musters;
 - (h) any briefings you provided in relation to the Investigation, including to AFP Commissioner Reece Kershaw in relation to the receipt and clearance of Question

Time/Senate Estimates briefs, hot topics and weekly briefings;

- (i) any briefings you provided to Chief Police Officer Gaughan;
- (j) whether you cancelled any plans for travel with Detective Superintendent Scott Moller and/or Detective Inspector Marcus Boorman in relation to the Investigation. If so, provide details of the reasons for the cancellation; and
- (k) your overall impressions of the interaction.

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

68. To the extent not addressed above, state whether any concerns were raised to you (either indirectly or directly) in relation to any of the AFP/ACT Policing officers involved in the Investigation by:
- (a) the DPP/ODPP;
 - (b) the Victims of Crime Commissioner;
 - (c) Ms Higgins and/or her legal representatives;
 - (d) Mr Lehrmann and/or his legal representatives; or
 - (e) any other persons.

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

Advice Provided by the DPP

69. State whether you have read the advice provided by the DPP to Detective Superintendent Moller on 28 June 2021 (**the DPP Advice**). If so, provide details about the date you read the advice and your impression of the advice (including the reasons for your impressions). **Attach** a copy of the DPP Advice.
70. State whether there was a suggestion by you or made to you by other AFP/ACT Policing officer to obtain independent legal advice in relation to the Investigation. If so, provide

details of who made the suggestion, what decision was made (if any) and the reasons for the decision.

71. State whether you had any interactions with any AFP/ACT Policing officers in relation to the DPP Advice. If so, provide details of:
- (a) who initiated/arranged the interaction;
 - (b) where the interaction took place;
 - (c) the people involved;
 - (d) what was discussed; and
 - (e) your overall impressions, including whether you perceived there to be any pressure to charge Mr Lehrmann and/or do so quickly.

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

Decision to Charge

72. When were you advised that Mr Lehrmann would be charged? Provide details of the date you were advised, by whom, what you were advised of and your overall impressions. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.
73. State whether you had received any pressure from within the AFP/ACT Policing and/or the DPP to charge Mr Lehrmann and whether you relayed this information onto any AFP/ACT Policing officers (either directly or indirectly) to charge Mr Lehrmann. If so, provide details as to from where and whom the pressure arose/was directed to.
74. State whether you were aware that Ms Higgins and/or the Victims of Crime Commissioner had been consulted following the decision to charge Mr Lehrmann. Provide details of the extent of your awareness. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions

occurred verbally, provide the usual particulars.

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

Summons, Brief of Evidence and Disclosure

76. Outline whether the usual adjudication process was followed in the Investigation in the first instance. If not, provide details of what alternate process was followed and:
- (a) why the usual process was not followed;
 - (b) whether you raised any concerns or questioned why the usual process was not followed;
 - (c) who (if anyone) advised you to proceed with an alternate process including when you were advised, or alternatively, whether you directed this alternate process and when;
 - (d) what you were told in relation to serving the Summons and/or brief of evidence directly on the legal representatives for Mr Lehrmann;
 - (e) what were the risks and benefits of the alternate process and whether these risks and benefits were considered by you; and
 - (f) whether you were aware of anyone reviewing the brief of evidence prior to it being served, and if so, who/which officers you understood to be undertaking the review.

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

77. In chronological order, outline your involvement in and interactions with AFP/ACT Policing officers, the DPP/ODPP, legal representatives for Mr Lehrmann and/or Ms Higgins and the Victims of Crime Commissioner in relation to:
- (a) the service of the brief of evidence along with the Summons for Mr Lehrmann on his legal representatives;
 - (b) the rectification of the issue of the service of the brief of evidence containing protected counselling records on the legal representatives for Mr Lehrmann; and
 - (c) any related intervening events.

Include the following information:

- (d) who initiated/arranged any interaction;
- (e) the purpose of the interaction;
- (f) where the interaction took place;
- (g) the people in attendance;
- (h) any evidence/material you were provided, including when you reviewed the evidence/material;
- (i) the nature of the interaction in relation to:
 - i. the direction that the brief of evidence to be served directly on the legal representatives for Mr Lehrmann;
 - ii. if it was you who made the direction, the reasons why you directed the brief of evidence to be served directly on the legal representatives for Mr Lehrmann;
 - iii. whether any concerns were raised about the disclosure issue; and
 - iv. steps taken by the AFP/ACT Policing to rectify the issue;
- (j) any briefings in which you were involved in;
- (k) the plan devised to serve the Summons and/or brief of evidence (“the plan to serve the brief”). Provide details of each stage during which the plan to serve the brief was devised, who devised the plan to serve the brief and was involved in its execution, what the plan to serve the brief involved (and whether it changed at any stage), why a plan to serve the brief was devised and whether it was usual in such investigations;
- (l) whether you directed the AFP/ACT Policing officers involved in the Investigation in any way to serve the brief of evidence quickly. Provide details of what you meant by your remarks;
- (m) in the development of the plan to serve the brief, who decided and/or directed that the brief of evidence be directly served on the legal representatives for Mr Lehrmann with the Summons and how was this communicated to the Investigation team;
- (n) whether the DPP was consulted in the development of the plan for the service of the brief of evidence directly on the legal representatives for Mr Lehrmann with the Summons, including why or why not;
- (o) whether the service of the brief of evidence with the Summons on the legal representatives for Mr Lehrmann was outside the usual process for service, and if

so, how was the plan to serve the brief different to the usual process and what were the reasons for the different process in this instance;

- (p) in the development of the plan to serve the brief did you, or anyone else to your knowledge, consider the risks and benefits of the serving the brief of evidence directly on the legal representatives for Mr Lehrmann;
- (q) whether you directed any AFP/ACT Policing officers to not contact Ms Higgins and/or the Victims of Crime Commissioner in relation to when the brief of evidence would be or was served;
- (r) the plan devised to rectify the service of the brief of evidence (“the plan to rectify”). Provide details of each stage during which the plan to rectify was devised, who devised the plan to rectify and was involved in its execution, what the plan to rectify involved (and whether it changed at any stage) and why a plan to rectify was devised; and
- (s) your overall impressions of the development of the plan to serve, the service of the brief of evidence on the legal representatives of Mr Lehrmann, the development and execution of the plan to rectify and discussions surrounding these events.

The following dates must be included:

- (a) 23 September 2021; and
- (b) 24 September 2021.

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

78. State whether you referred the issue with the service of the brief of evidence on the legal representatives for Mr Lehrmann to AFP Professional Standards. If so, provide details of:
- (a) whether you consulted any AFP/ACT Policing officer or any other person prior to doing so;
 - (b) when you made the referral;
 - (c) why you made the referral; and
 - (d) the outcome of the AFP Professional Standards investigation.

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

79. Outline your involvement (if any) in the preparation of the Disclosure Certificates in the matter of *R v Lehrmann* and any communications had with AFP/ACT policing officers, AFP Legal and/or the DPP/ODPP. Include details about who was involved in those communications, the purpose of the communications, what was discussed, and your impressions of any communications. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.
80. In relation to the questions above, outline if you had any time over this period where you were not at work due to leave and/or personal reasons.

Other Involvement in the Investigation and/or Trial in the Matter of *R v Lehrmann*

81. To the extent not addressed above, in chronological order, outline any other interactions you had in the Investigation and/or trial in the matter of *R v Lehrmann*. Include in your response any involvement with AFP/ACT Policing officers, the DPP/ODPP staff, legal representatives for Mr Lehrmann, Ms Higgins, legal representatives for Ms Higgins and/or the Victims of Crime Commissioner. Include the following information about the interaction:
- (a) who initiated/arranged the interaction;
 - (b) the purpose of the interaction;
 - (c) where the interaction took place;
 - (d) the people in attendance;
 - (e) any evidence/material you were provided, including when you reviewed the evidence/material;
 - (f) the nature of the interaction;
 - (g) any briefings you received or provided;
 - (h) whether any concerns were raised by the DPP/ODPP in relation to alleged missing CCTV footage, including what you did in relation to the DPP/ODPP's concerns;

- (i) whether it was unusual and the basis for your views. Provide examples where appropriate;
- (j) whether any concerns were raised to you in relation to Ms Higgins' mental health. If so, provide details of what you were aware of, when you became aware and who raised the concerns;
- (k) any discussions with the DPP/ODPP in relation to the Moller Executive Briefing and claims for Legal Professional Privilege;
- (l) when and how you became aware that the Victims of Crime Commissioner was identified as a witness in the Investigation; and
- (m) your overall impressions.

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

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

Bail

84. Outline your interactions (if any) with the DPP/ODPP and/or the legal representatives for Mr Lehrmann in relation to the considerations for bail for Mr Lehrmann. State whether it is unusual for legal representatives to speak to the AFP/ACT Policing in relation to bail considerations. Include details about who was involved in those communications, the purpose of the communications, what was discussed, and your impressions of any communications. **Attach** a copy of relevant communications

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

1 November 2022 Correspondence

85. Outline how you became aware of the correspondence addressed to the Chief Police Officer for ACT Policing from the DPP dated 1 November 2022 regarding the conduct of the Investigation and trial in the matter of *R v Lehrmann* (**1 November 2022 Correspondence**). Include information about:
- (a) when you became aware;
 - (b) how you became aware;
 - (c) what you were aware of;
 - (d) your overall impressions; and
 - (e) what actions were taken by you and/or whether you directed any actions.

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

86. State whether you discussed the content of the 1 November 2022 with any person (including any AFP/ACT Policing officers, the DPP/ODPP, the Victims of Crime Commissioner or media). If so, provide details of:
- (a) who initiated/arranged the interaction;
 - (b) where the interaction took place;
 - (c) the people in attendance;
 - (d) what was discussed; and
 - (e) your overall impressions.

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

87. Outline your involvement in enquiries surrounding documents disclosed by the DPP through a Freedom of Information request received on or about 8 December 2022 in relation to the 1 November 2022 Correspondence. Provide details of the extent of your involvement in any discussions surrounding the disclosure and whether a complaint was referred to the ACT Ombudsman. **Attach** a copy of the email correspondence dated 9 December 2022 titled “Draft complaint to the ACT Ombudsman” and any accompanying relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

AFP Internal Reviews

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

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

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

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

90. Outline any issues and concerns you had regarding the DPP's conduct during the Investigation and/or trial in the matter of *R v Lehrmann*. Did you express these issues and concerns to anyone? If so, provide information about to whom you disclosed your concerns to and the reasons or circumstances which gave rise to your concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.
91. State whether you observed a breakdown of the relationship with the DPP/ODPP and the AFP/ACT Policing during the Investigation and/or trial in the matter of *R v Lehrmann*. If so, provide details to the extent of the breakdown of the relationship and the effect this had on the Investigation and subsequent prosecution. Provide examples where appropriate.
92. Outline your impression of the treatment by the DPP/ODPP in relation to the Investigation and/or trial in the matter of *R v Lehrmann* towards you and other AFP/ACT Policing officers involved. Provide details of your impressions and examples where appropriate.

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

93. Outline any issues and concerns you had regarding the Victim of Crime Commissioner's conduct during the Investigation and/or trial in the matter of *R v Lehrmann*. Did you express these issues and concerns to anyone? If so, provide information about to whom you disclosed your concerns to and the reasons or circumstances which gave rise to your concerns. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.
94. State whether you observed a breakdown of the relationship with the Victims of Crime Commissioner (or her staff) and the AFP/ACT Policing during the Investigation and/or trial in the matter of *R v Lehrmann*. If so, provide details to the extent of the breakdown

of the relationship and the effect this had on the Investigation and subsequent prosecution. Provide examples where appropriate.

95. Outline your impression of the treatment by the Victims of Crime Commissioner (or her staff) in relation to the Investigation and/or trial in the matter of *R v Lehrmann* towards you and other AFP/ACT Policing officers involved. Provide details of your impressions and examples where appropriate.
96. To the extent not addressed above, state whether you perceived there to be any AFP/ACT Policing officers felt intimidated in any way by the presence of the Victims of Crime Commissioner during the Investigation and/or trial in the matter of *R v Lehrmann*. State whether any officers raised concerns with you. If so, provide details of when the concerns were raised and the nature of the concerns.

Media

97. State whether you believe the level of media involvement in the matter of *R v Lehrmann* affected the conduct of the Investigation. If so, include details about the basis for your views and provide examples where possible.
98. Outline your involvement (if any) in communication between the ODPP and the AFP/ACT Policing in relation to the preparation of implementation of the AFP media plan in relation to the Investigation, including but not limited to the AFP media plan distributed on 5 August 2021. Include details about whether you perceived the AFP's media plan to be adequate and provide reasons and examples where appropriate. **Attach** a copy of relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.
99. Outline any media releases from the AFP/ACT Policing you were involved in preparing or otherwise discussed with any other persons (including the DPP/ODPP and Victims of Crime Commissioner). Provide details of the AFP/ACT policies, procedures, guidelines and/or governance in relation to publicly commenting on investigations. Include information about whether comments are typically made in relation to referring investigations to the DPP or the status of an investigation. **Attach** a copy of the media

release(s), any relevant policy, procedure, guideline, governance, and any relevant communications including but not limited to correspondence, emails, text messages, file notes, diary notes and calendar invitations/appointments. In the event discussions occurred verbally, provide the usual particulars.

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

Board of Inquiry

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

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

5. 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.
6. 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

7. 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**)).
8. Failure to comply with a subpoena without lawful excuse is a Contempt of Board and may be dealt with accordingly.
9. 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

10. 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)).

11. 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.