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Executive Briefing

*Please Note: Red text is information only and will neither be saved nor printed)
If classification/DLM not required, please delete.*

Addressee DCPO - R

Title Seeking direction in relation to Operation COVINA - alleged sexual intercourse without consent, Australian Parliament House 23rd March 2019.

Action required:

For information and decision

A brief description of the reasons for this submission and summary of action proposed – consider what is the purpose of the submission – eg: for information; for decision; for signature to correspondence/instrument; etc.

Deadline:

ASAP

Insert here the phrase “No deadline”, alternatively state in BOLD any deadline by which recipient action is required, or, if no precise deadline is identifiable, whether early attention is desirable and why. Failure to indicate deadline may mean no action being taken until after the deadline has passed. Claiming urgent action when it is not the case means a real deadline may not be taken seriously.

The term Urgent should be reserved for issues of significance or matters with potential to embarrass the Commissioner or the AFP if they are delayed.

Reasons for proposed actions:

Please find attached a summary report and time line of disclosures made in relation to Operation COVINA. Operation COVINA is a current investigation being conducted by ACTP Criminal Investigations in response to an allegation of Sexual Intercourse without Consent, contrary to section 54 (1) *Crimes Act 1900* made by Ms Brittany Higgins (Ms Higgins).

54 (1) - Sexual Intercourse without Consent

A person who engages in sexual intercourse with another person without the consent of that other person and who is reckless as to whether that other person consents to the sexual intercourse is guilty of an offence punishable, on conviction, by imprisonment for 12 years.

The investigation to date has identified a number of potential evidentiary and psychological issues that may affect any future prosecution. Throughout the investigation Ms Higgins has been evasive, uncooperative and manipulative including:

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- Since the reactivation of the investigation police have requested on numerous occasions for Ms Higgins to provide the mobile phone she was utilising at the time of the incident for examination. She repeatedly refused to provide this phone however she has since provided her current phone for examination not the phone she utilised at the time of the alleged incident.
- Investigators identified phone messages which indicate Ms Higgins deliberately deleted content from her phone prior to providing it to police.
- Ms Higgins made a number of disclosures publicly, and to Op COVINA Investigators over an extended period that she had sought medical attention, including visiting Doctors and receiving the morning after pill after the alleged incident. In spite of extensive inquiries, no records have been identified for Ms Higgins receiving any medical assistance after the incident.
- On 26th May 2021, an EIC was conducted between investigators and Ms Higgins where investigators sought to clarify the nature of the medical care Ms Higgins received after the alleged incident. During this clarification, Ms Higgins admitted that she had not in fact sought medical attention for the alleged sexual assault.
- Investigators have identified a message exchange on Ms Higgins phone approximately one month prior to the alleged incident in March 2019 whereby she discussed inappropriate behaviour by staffers at Parliament House. During this exchange Ms Higgins agreed with her then partner about the need for an impressive political sex scandal. She said, [REDACTED]
- Investigators also identified a message exchange on Ms Higgins phone whereby she states [REDACTED]
- Investigators also identified in the Notes section, what seems to be a diary entry or mantra. [REDACTED]
- Ms Higgins has a history of anxiety and depression. [REDACTED]

Ms Higgins creditability is the cornerstone of the prosecution case and investigators have serious concerns in relation to the reliability of her evidence but also more importantly her mental health and how any future prosecution may affect her.

ACTP CI are committed to a victim-centred approach which investigators adopt towards sexual assault victims and encourages positive steps be taken to maximise opportunities for victims to make genuine choices about the commencement or continuation of an investigation and to change their mind at any stage, if they wish. A victim's right to recovery is respected and takes priority. With this in mind and appreciating the mental health concerns identified during the investigation I believe Ms Higgins is at risk of self-harm should this matter progress to prosecution.

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To include Background, identification of issues, options and analysis of options. It is under this heading that the substantive text of the submission really commences. The final sentence of the first paragraph should identify the bottom line of the submission.

Include under this heading a concise and relevant history of the matter raised making sure that the recipient will be aware of the broader context within which a decision or action is required.

Subsequent paragraphs normally develop the arguments leading to the recommendation in a logical/chronological manner.

Resource implications:

Indicate whether the recommended course of action can be undertaken within existing resources or whether additional resources are required, and if so, how it is proposed that these resources be sought. It is not always possible to estimate the precise resource implications of a recommended course of action, particularly at the early stages of development of a proposal, but it is important that the mere fact that there is a resource implication be recognised as early as possible so that policy or project development does not proceed in an unrealistic vacuum.

Consultation:

State what consultation has taken place (including internal consultation) in developing the recommendation that is to be put, and advise whether or not there is any known or expected disagreement with the recommended course, and if so, why.

It is imperative to indicate when there has been consultation with the Minister's Office, including the name(s) of those officers and whether or not they agree with the recommended course.

Op Covina investigation team
ACT DPP

Expected Reaction:

State here the reaction which those effected by the recommended course of action are expected to take. Note that this group may not be the same as those who have been consulted on the proposed course of action – this expectation may arise because those persons have been consulted directly. Alternatively, it may be based on other intelligence or our estimation of the likely reaction – the basis of the expectation is to be stated – one “expected reaction” often foreseen is media interest.

Recommendation:

Set out the precise course of action recommended. In drafting recommendations consideration should be given to whether or not it would be preferable for the recipient to meet personally with AFP officers rather than take a decision solely on the papers.

1. For decision/direction re progression of Op Covina.
2. Should you believe the attached brief of evidence meets the threshold as set out in Section 26 of the *Magistrate Courts Act 1930* please forward to ACT DPP for their review.

Author
Position title

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Scott Moller
Detective Superintendent
SIO Operation COVINA

Date

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