

Op COVINA - Redactions [SEC=OFFICIAL]

From: "Moller, Scott" <[Personal information]@afp.gov.au>
To: [Personal information]@eschambers.com.au
Cc: "Drumgold, Shane" <[Personal information]@act.gov.au>
Date: Thu, 23 Sep 2021 07:58:54 +1000

OFFICIAL

Good morning Mr Korn,

A review of the defence copy of the brief of evidence in the matter of Police v Lehmann CC2021/8143, provided to your office on 6 August 2021, has revealed the presence of documents with redaction errors as well as others should not have been included in the brief. I would be grateful if those documents could be deleted. The review has revealed 6 documents as listed below, which have been subject to redaction of personal information not relevant to a fact in issue. However, those documents were erroneously "not locked", and some of the redactions are capable of being removed to reveal the underlying information. I would ask that those documents are deleted. Replacement copies will be supplied by the ACT DPP.

I am aware that the brief provided to your office included audio copies of the complainant's Evidence-in-Chief Interview (EICI) as well as personal counselling records from appointments with 'Her Time Counselling'. As you would be aware, Defence counsel are entitled to copies of the transcript of the complainant's EICI, although access to recordings must be through application pursuant to sections 54 and 55 of the Evidence (Miscellaneous Provisions) Act 1991 (EMPA). Additionally, the counselling records related to the complainant's appointments with 'Her Time Counselling' are considered 'Protected Confidences', pursuant to section 79A of the EMPA and as such are subject to general immunity from disclosure under section 79D of the EMPA. Consequently, 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.

The documents for deletion and references are:

Section 1 - Civilian Witnesses

Item 1 - Complainant - Ms Brittany Higgins, EICI - Audio - Dated 24/02/2021 - EICI
 Complainant - Ms Brittany Higgins, EICI - Audio - Dated 26/05/2021 - Second EICI

Section 4 - Investigation Documents

Item 20 - Medical Records - Medical Records for Ms Higgins - Dated 5/03/2021 - Her Time Counselling

The documents for deletion for which replacements will be provided by the DPP are:

Section 4 - Investigation Documents

Item 23 - Medical Records - Canberra Rape Crisis Service notes for Ms Higgins - Dated 29/03/2021
 Item 24 - Medical Records - Ochre Health Kingston notes for Ms Higgins - Dated 08/04/2021
 Item 26 - Medical Records - Medicare Report for Ms Higgins - Dated 27/04/2021
 Item 27 - Medical Records - PBS report for Ms Higgins - Dated 27/04/2021
 Item 93 - Consent Form - Consent to acquire phone data - Ms Higgins - Dated 26/05/2021
 Item 94 - Consent Form - Consent to access iCloud information - Ms Higgins - Dated 26/05/2021

I would be grateful if you could respond to this email including Mr Shane Drumgold, Director ACT DPP, into the reply to the effect of the deletions occurring.

Sincerely,

Scott Moller

DETECTIVE SUPERINTENDENT SCOTT MOLLER
 CRIMINAL INVESTIGATIONS
 ACT POLICING

Tel: [Personal information]

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