

AUSTRALIAN CAPITAL TERRITORY

**BOARD OF INQUIRY
CRIMINAL JUSTICE SYSTEM**

In the matter of the Inquiries Act 1991
Inquiries (Board of Inquiry – Criminal Justice System) Appointment 2023
Board of Inquiry into the Criminal Justice System in the Australian Capital Territory

STATEMENT OF PETER BARRINGTON CROZIER

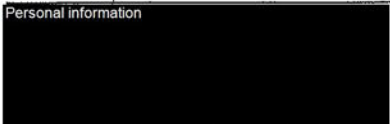
I, PETER BARRINGTON CROZIER, of 47 Kings Avenue, Barton, ACT, state as follows:

1. The following statement is provided voluntarily in response to the request I received from the Board of Inquiry into the Criminal Justice System in the Australian Capital Territory asking me to give information in a written statement regarding my knowledge of matters set out in the Schedule attached to that request. Attached and marked 'AFP.0022.0001.0001' is a copy of the request.
2. The Board of Inquiry emailed the request for a statement to my lawyers on Tuesday 28 March 2023 seeking a written response by Tuesday, 4 April 2023. I am grateful to the Board for granting me an extension until Friday, 14 April 2023. I have done my best, in the time available, to answer the questions as fully and accurately as possible to the best of my knowledge and recollection.

Current Employment

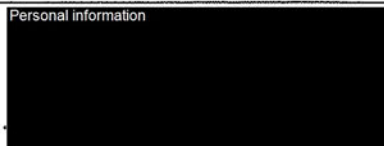
3. [Q1] My current rank is Assistant Commissioner of the Australian Federal Police (AFP).
4. [Q2] I currently hold the position of Assistant Commissioner Learning and Development Command. This is an AFP national position (not ACT Policing).
5. [Q3] As the Assistant Commissioner Learning and Development Command I lead an enterprise level capability that contributes to the development of a skilled and capable workforce and ensures the AFP continues to focus on business improvement and innovation in all elements of the delivery of its services to the Australian community.
6. My current position leads the following areas:
 - a. Foundational Development and Learning.
 - b. Recruit and Regional Training.

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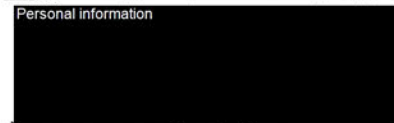
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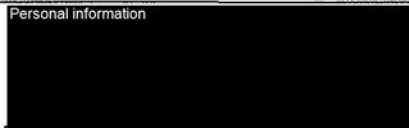
- c. Operational Safety Practice.
 - d. Enterprise Learning and Standards.
 - e. Future Strategies – Online Learning and Immersive Simulated Environments.
 - f. Reform and Improvement Office.
 - g. Corporate Improvements Program Team.
 - h. Corporate Helpdesk.
 - i. Integrated Portfolio Office.
 - j. Policing Development and Innovation.
 - k. Research and Innovation.
 - l. Leadership Centre.
 - m. Global Policing Exchange.
 - n. Investigations and Operational Learning.
 - o. Investigations Standards & Practices.
 - p. Investigations & Specialist Training.
 - q. Investigations Management Solution.
7. I do not attach a formal role description for an Assistant Commissioner because I am not aware that there is one.
8. [Q4] I currently sit on a panel and several committees:
- a. Professional Standards Panel as a Panel Member. I resumed on this panel in July 2021 on my return from Sport Integrity Australia (SIA). I previously sat on the PRS Panel from October 2018 to June 2020.
 - b. Leadership Development Committee as an Advisor. I joined this committee in March 2023.
 - c. Executive Leadership Development Committee as an Advisor. I joined this committee in March 2023.

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- d. Senior Leadership Committee as a Member. I joined this committee in October 2018.
 - e. The Investigations, Operations and Capability Board of Management as an Advisor. I joined this Board in July 2021, having previously been a Member of the Board in the role of Deputy Chief Police Officer (**DCPO**).
9. Until recently, I sat on the following boards and committees:
- a. From July 2021 to March 2023, I sat on the Sensitive Investigations Oversight Board (**SIOB**) as an ACT Policing representative.
 - b. From July 2021 to March 2023, I sat on the Serious & Organised Crime Coordination Committee as an ACT Policing AC representative.
 - c. From July 2021 to March 2023, I sat on the ACT Policing Senior Leadership Committee as a Member.
10. [Q5] Attached and marked '**AFP.0018.0001.0520**' is a copy of my current CV.

Tertiary Qualifications

11. [Q6] My tertiary qualifications are as follows:

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Courses and/or Diplomas

12. [Q7] I have completed the following courses:
- a. In 2023, as the Senior Officer for the 63rd Management of Serious Crime Program, delivered by the AFP.
 - b. In 2021, the Company Directors Program, delivered by the Australian Institute of Company Directors.
 - c. From 2019 to 2021, Australia & New Zealand Police Leadership Strategy, delivered by the Australian Institute of Police Management.

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- d. In 2017, Strategies for Building and Leading Diverse Organisations, delivered by the Harvard Kennedy School.
- e. In 2017, as the Senior Officer for the - 1st Commonwealth Agencies Management of Serious Crime Program, delivered by the AFP.
- f. In 2014, the National Security Senior Executive Development Program, delivered by the National Security College of the Australian National University.
- g. In 2011, the 3rd Counter Terrorism SIO Skills Enhancement Course, delivered by the National Counter Terrorism Committee.
- h. From 2010 to 2011, Leadership in Counter Terrorism, delivered by the Harvard Kennedy School and the Australian Institute of Police Management.
- i. In 2007, SIO Counter Terrorism Course - Association of Chiefs of Police Officers, delivered by Loughborough University.
- j. In 2005, Asia Region Law Enforcement Management Program, delivered by the Royal Melbourne Institute of Technology.
- k. In 2005, NCTC Counter –Terrorism Negotiators Course, delivered by the National Counter Terrorism Committee.
- l. In 2004, the 34th Management of Serious Crime Program, delivered by the AFP.
- m. In 1993, the Australian Federal Police Financial Investigators Course.
- n. In 1990, the Australian Federal Police Investigator Program.
- o. In 1987, the Australian Federal Police Recruit Training Program.

Employment chronology

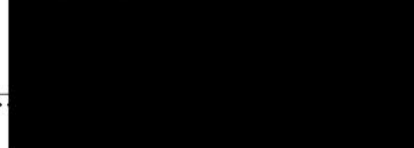
- 13. [Q8, Q9] I joined the AFP in 1987. I did not have any prior policing experience.
- 14. [Q10] After completing my school education, I commenced work in the Australian Public Service in 1986. Although joining a police organisation was not my immediate intention, I was interested in serving the community in some form and over time I became interested in joining the police. I was drawn to the AFP as it was the community policing agency in Canberra where I lived at the time. I was aware of

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additional opportunities outside of Canberra with the AFP, but this was not a key reason for choosing the AFP over any other policing service. In any case I applied for the AFP in late 1986 and was accepted.

15. [Q11] My recruitment to the AFP included preparing a written application, undertaking various literacy, numeracy and other tests, and completing group exercises. I do not recall the specific details of these tests. The recruitment process also involved provision of a medical clearance provided by the AFP, as well as a psychological test and subsequent scenario process which was undertaken in a group of about 10 applicants. All these activities were facilitated by experienced members of the AFP who I understood were part of the recruitment process including AFP Psychologists.
16. I completed the three-month AFP recruit training program from August to November 1987. I recall it was focused on legislation and case law, exercise of police powers, defensive skills and use of force, driver training, physical ability, and management of crisis situations.
17. [Q12] My service history with the AFP is set out below.
 - a. From November 1987 to December 1989, I held the role of Constable – Eastern Region. I was stationed in Sydney. This role involved general policing duties.
 - b. From 1989 to October 2018 I performed operational roles across the AFP’s community policing, national and international responsibilities. These roles included:
 - c. From 1990 to 1994: Constable National Criminal Investigations Branch. I was stationed in Canberra.
 - d. From 1994 to 2002: Constable-Sergeant (Detective where applicable) ACT Policing including general duties and investigations roles (including a 6 month deployment to the UN Mission in Cyprus). I was stationed in Canberra.
 - e. From 2002 to 2006: Detective Sergeant (Federal Agent), AFP Counter Terrorism. I was stationed in Canberra.
 - f. 2006: Superintendent Staff Officer to the Deputy Commissioner. I was stationed in Canberra.
 - g. From 2007 to 2008: Detective Superintendent, seconded to the Metropolitan Police Service (MPS). I was stationed in London.

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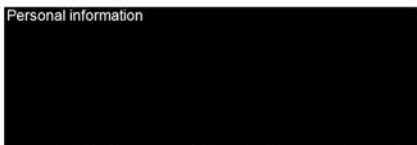
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- h. From 2008 to 2011: Detective Superintendent, AFP Senior Liaison Officer Singapore. I was stationed in Singapore.
 - i. From 2011 to 2013: Detective Superintendent, Coordinator Joint Counter Terrorism Team (JCTT) Sydney. I was stationed in Sydney.
 - j. From 2013 to 2015: Commander, Counter Terrorism Operations. I was stationed in Canberra.
 - k. From 2015 to 2018 Commander Criminal Assets, Fraud & Anti-Corruption. I was stationed in Canberra.
 - l. From October 2018 to December 2019, I held the role of Assistant Commissioner People, Safety and Security Command. I was stationed in Canberra. This role involved leading the AFP's people strategies, well-being and security priorities.
 - m. From December 2019 to June 2020, I held the role of Assistant Commissioner Crime Command. I was stationed in Canberra. This role involved leading the AFP's people strategies, well-being and security portfolios.
 - n. From July 2020 to July 2021, I was seconded by the AFP to SIA.
 - o. From July 2021 to March 2023, I held the role of Deputy Chief Police Officer (DCPO) of ACT Policing. I was stationed in Canberra. I set out further details of this role in response to Question 14.
18. [Q13] I refer to my response to Question 11.
19. [Q14] On 19 July 2021 I commenced the role of DCPO for ACT Policing. As the DCPO I led the strategic direction, risk management and resource commitment of the operational and investigational teams delivering policing services to the community of the ACT. I also led the ACT Policing Welfare Team and the inter-related activities of the AFP Shield Team in the provision of support to ACT Policing.
20. I directly supported the CPO in the development and delivery of the strategic goals of ACT Policing. I lead critical engagements with ACT and Australian Governments partners, together with law enforcement, non-government, private and public sector stakeholders.
21. I do not attach a job description as I do not believe there is one.

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22. [Q15] My experience in conducting sexual offence investigations is limited to the period I worked across general duties and investigations roles in ACT Policing, from 1994 to 2002. During that period, I conducted approximately five to ten sexual assault related investigations. All those investigations were conducted in the ACT.

Training and Education

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23. [Q16] In 1999 I was selected to participate in a development program focussed on sexual offence investigations titled the Sexual Offences Investigations Program. At that time, I was working as a general investigator. The AFP delivered the program internally. I do not now recall the specifics of what the training involved; however, I recall that elements of the programme included interviewing vulnerable witnesses, managing crime scenes, investigation of child abuse matters and engaging with victims and support persons.
24. [Q17] I am currently completing the following courses:
- a. Graduate Certificate in Leadership, delivered by Deakin University. I commenced the course in 2021 and have completed the core units with a number of professional credential units to complete. I expect to complete this program in 2023. The program integrates theoretical investigation, contemporary knowledge, and professional practice to develop leadership capability. This program is the prerequisite to the Deakin University Master of Leadership program.
 - b. Graduate Diploma in Executive Leadership, delivered by the Australian Institute of Police Management. I commenced the course in 2022 and expect to complete it in July 2023. This program focuses on governance structures, power systems, innovation, accountability, compliance, ethics and public policy. The curriculum is designed to enhance research and critical thinking skills of senior leaders in respect to new ideas, better-practice methodologies, and theories surrounding the twin areas of public policy and executive leadership.

SACAT members

25. [Q18] During my time as DCPO, I observed that SACAT was generally comprised of experienced investigators who had commenced roles in SACAT after having spent time gaining experience in general duties and general investigations areas.

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26. Investigators who commence roles in SACAT after undertaking lateral programs (that is, who had joined the AFP from other police services) would also typically be expected to have solid investigative experience obtained in other policing environments.
27. Senior investigators in SACAT generally have significant prior experience in conducting investigations, including sexual assault investigations. Having only recently transferred from ACT Policing, I expect that this is still the case.
28. To the best of my knowledge, all members of SACAT will have completed the core training on interviewing vulnerable witnesses. I also expect that they would all be aware of the Standard Operating Procedure on Interviewing Vulnerable Witnesses. Attached and marked 'AFP.0015.0001.0626' is the Procedure.
29. During my time as DCPO, SACAT was taking steps to ensure that every member completed the Sexual Offence and Child Abuse (SOCA) training program (or had undertaken its predecessor the Sexual Offences Investigations Program) or another training program focused on sexual offences delivered by one of our law enforcement partners. I understand that those steps are continuing. Those programs provide specialist training on the conduct of sexual assault and child abuse investigations. The special sexual offences investigations training was not strictly mandatory while I was DCPO (and I understand that is still the case), however all members of SACAT are expected to undertake it during their attachment to SACAT.
30. Beyond formal training, SACAT members continue to develop their skills through ongoing mentoring and on the job operational experience. The AFP Learning Strategy reflects the importance of each of these elements for professional development of police officers. It estimates that 70% of learning occurs on the job, 20% occurs through mentoring and 10% through formal theory-based training. Based on my experience, this is an accurate reflection of how police officers learn their skills and, in my opinion, it is an appropriate mix of theoretical and practical learning.
31. [Q19] On my commencement as DCPO, I understood that the members of SACAT had undertaken relevant training to ensure they were properly equipped to carry out the investigative roles they were performing. I expected them to have undertaken all basic training and training on interviewing vulnerable witnesses, and it was my expectation that they would undertake the specialist sexual offences investigations training program when it was available. As outlined above, I also expected them to have experience as an investigator prior to joining SACAT.
32. At some point between July and October 2021 (I do not now recall exactly when), I became aware that the curriculum of the Sexual Offences Investigations Program

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required an update. That update was undertaken in late 2021 and during 2022 and led to the creation of the new the Sexual Offences and Child Abuse (SOCA) Program. This new training program was first delivered in January 2023.

33. [Q20] In and around October 2021, I requested the training program for SACAT members be updated. I engaged with the AFP Training College and transferred my Executive Officer to support the Detective Inspector for SACAT to contribute to support this area of work and other process and investigative oversight changes. Members from my team worked with the SACAT and other stakeholders including AFP Learning and Development Command and our state and territory partners to develop an updated sexual offences investigations training program.
34. This was in part as a response to pending recommendations of the report of the Sexual Assault Prevention and Response Steering Committee (**SAPR report**) and in part due to the police's ongoing requirement and commitment to ensure appropriate training was available for the SACAT specifically and other members of ACT Policing.
35. Coinciding with the update to the specialist sexual offences investigations program, ACT Policing also engaged our colleagues from Queensland Police Service to leverage resources and training material. We sent SACAT members to training courses delivered by the Queensland Police Service and the Victoria Police. As DCPO I engaged with the leadership of our partners to support these activities and to ensure ACT Policing members were able to draw on these opportunities as much as possible. I refer again to the updated training as outlined in the SOCA Program attached in my response to Question 19.
36. [Q21] During my time as DCPO, I was aware of an expectation that ACT Policing Criminal Investigations and SACAT members participate in an assessment with a psychologist once per year. I do not know when the requirement was introduced. I am not certain whether the assessment was mandatory, but it was certainly an expectation for SACAT members given their routine exposure to high criminality and distressing investigations and some of the alleged behaviours and the explicit evidential material related to those investigations. My expectation is that the Detective Inspector leading SACAT had oversight of whether members were attending these assessments, and responsibility for ensuring they did. I understand that the psychological assessment is set out in the AFP Learning Strategy 'Functional Governance on Managing the Psychological Health Impact on Staff from Explicit Material', attached and marked '**AFP.0016.0001.0001**'.

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Organisational Structure

Prior to July 2021

37. [Q22] In February 2021 I was on secondment to Sport Integrity Australia from the AFP. I understand that the structure of ACT Policing at that time is shown in the attached organisational structure chart.
38. Attached and marked '**AFP.0011.0001.0017**' is the organisational structure chart as at February 2021.

Post July 2021

39. I commenced as DCPO in ACT Policing in July 2021. At that time, the chain of command was as follows:
- a. Deputy Commissioner Neil Gaughan APM held the position of Chief Police Officer of ACT Policing (**CPO**). He reported to the Commissioner of the AFP.
 - b. I held the position of DCPO of ACT Policing. I reported to the CPO.
 - c. Commander Michael Chew held the position of DCPO Response (**DCPO-R**) of ACT Policing. As the new structure had not been introduced, Michael retained the title of DCPO-R, however he reported to me.
 - d. Detective Superintendent Scott Moller (**DS Moller**) held the position of Superintendent, Criminal Investigations. He reported to Commander Michael Chew.
 - e. Detective Inspector Marcus Boorman (**DI Boorman**) held the position of Crime Manager – Major Crime which included SACAT. He reported to DS Moller.
40. [Q23] Prior to my arrival, the DCPO role in ACT Policing was split between two officers who held the rank of Commander. As noted above, the role of DCPO-R was held by Commander Michael Chew. The role of DCPO-CCS was held by Commander Elizabeth (Liz) McDonald. In about May 2021, the AFP Commissioner, in consultation with the CPO and the ACT Minister for Police and Emergency Services, approved a structural change to the ACT Policing Senior Executive Service by elevating the DCPO role to Assistant Commissioner level directly reporting to the CPO. As a result of the changes, my role as DCPO-R was inserted between the CPO and the two Commanders who had held the positions of DCPO and DCPO-CCS. Under the revised structure, those two Commanders reported to me rather than the CPO.

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41. This decision reflected the increasing complexity of the policing environment in the ACT and the need to ensure parity of this role across the AFP and our external law enforcement and public and private sector partners in the ACT, nationally and internationally. I commenced as the DCPO at my substantive rank of Assistant Commissioner on 19 July 2021.
42. In September 2021, further structural changes to ACT Policing were initiated to align ACT Policing with the portfolio structures implemented across the broader AFP. This resulted in the renaming of the DCPO-R and DCPO-CCS under a Senior Executive Staff Band 1 level of:
- a. Investigations – initially led by Commander Elizabeth McDonald and then by Commander Joanne Cameron.
 - b. Operations – led by Commander Linda Champion.
 - c. Corporate – led by Executive General Manager Peter Whowell.
43. In early 2023, I transferred from the role of DCPO and commenced as Assistant Commissioner Learning and Development Command. Following my departure, the current command structure for ACT Policing is:
- a. CPO – Deputy Commissioner Neil Gaughan.
 - b. DCPO – Assistant Commissioner Doug Boudry.
 - c. Commander Investigations – Commander Andrew Bailey.
 - d. Commander Operations - Commander Linda Champion.
 - e. Executive General Manager Corporate - Peter Whowell.
44. Attached and marked 'AFP.0015.0001.0883' is a current organisational chart for ACT Policing.

Duties and Responsibilities

My role as Assistant Commissioner in ACT Policing

45. [Q24] As per my answer to question 14, as the DCPO I led the strategic direction, risk management and resource commitment of the operational and investigational teams delivering policing services to the community of the ACT. The Investigations portfolio included Criminal Investigations, with the SACAT under Criminal Investigations. The

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Commander Investigations would report to me on any issues that were considered appropriate concerning Criminal Investigations and in turn I reported directly to the CPO, if necessary.

46. I had regular scheduled meetings with the Commander Investigations on a fortnightly basis. I would also meet with the Commander Investigations on an almost daily basis to discuss issues as necessary. I had the same fortnightly scheduled meetings and regular ad hoc meetings with the Commander Operations. I had monthly scheduled meetings and regular ad hoc meetings with the Executive General Manager Corporate. These meetings were complemented by the full Senior Executive 'catch-up' meetings on Tuesdays and the Senior Executive Committee (SEC) on Fridays.

Police officers conducting sexual assault investigations

47. [Q25] I understand that the principal duties and responsibilities of a police officer in conducting a sexual assault investigation are no different to any other investigation. A police officer is to conduct all investigations without fear or favour, affection or ill will. At all times, in all their duties, a police officer is to act in a professional and respectful manner, to show an appropriate level of concern, commitment and empathy, and to build trust with the community and to demonstrate the values of the organisation.
48. Specific duties and responsibilities applicable to all police officers, including those conducting sexual assault investigations, are set out in the *Australian Federal Police Act 1979 (Cth) (AFP Act)*, the Regulations made under the AFP Act, and the Commissioner's Orders which include the professional standards. The AFP Act contains our core duty to follow directions and the duty of secrecy (as reflected in the AFP Act). The professional standards (which are set out in the AFP Commissioner's Order on Professional Standards dated 22 September 2020) includes both the AFP Code of Conduct and the AFP Core Values.
49. In the ACT, the *Victims of Crime Act (1994) (ACT)* imposes further duties on the CPO, which as a practical matter, are delegated to members of ACT Policing to be performed on his behalf.
50. A number of additional guidance documents and standard operating proceedings within the AFP are relevant to police officers in conducting a sexual assault investigation and are annexed to my statement:
- a. The AFP Investigations Doctrine (Attached and marked 'AFP.0009.0001.0062').

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- b. The Better Practice Guide on Sexual Offence and Child Abuse Investigations and First Response (attached and marked 'AFP.0015.0001.0577').
- c. Standard Operating Procedure on Interviewing Vulnerable Witnesses (attached and marked 'AFP.0015.0001.0626').
- d. Standard Operating Procedure on Victims of Crime (attached and marked 'AFP.0015.0001.0756').
- e. The Senior Investigating Officer Guide (attached and marked 'AFP.0013.0001.0082').
- f. The Better Practice Guide on Victims' Rights (attached and marked 'AFP.0009.0001.0214').
- g. The Better Practice Guide on Criminal Investigations Response and Notification (attached and marked 'AFP.0002.0001.0017').
- h. Functional Governance on Managing the Psychological Health Impact on Staff from Explicit Material Procedure (attached and marked 'AFP.0016.0001.0031').

INVESTIGATING SEXUAL ASSAULT COMPLAINTS

My involvement

51. [Q26] As Assistant Commissioner DCPO of ACT Policing and as Assistant Commissioner Learning and Development Command, it is rare that I have any direct involvement in the actual investigation of criminal matters reported to police. In my roles as Assistant Commissioner Crime Command I did have more direct involvement in the leadership of investigations. In all my Assistant Commissioner roles, my role is to ensure that the members with the specialist skills to conduct those investigations are adequately resourced and supported to do so. I provide objective oversight of strategic, policy and resourcing issues as they relate to my leadership roles.
52. On occasion, senior members may escalate an issue arising in an investigation or other significant policing activity to my level. This would normally occur through the respective chain of command. For example, it might be appropriate for me to address issues concerning specialist resourcing or deployments, challenges or areas of divergence with internal or external stakeholders and partners or potential reputational issues that may impact of ACT Policing or the broader AFP. In that context, I will seek to provide advice or guidance to the member seeking it.

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Standard process of investigation

53. [Q27] From the perspective of my position, a standard investigation is one that is conducted by the relevant teams and officers. In a standard investigation, I would have no direct involvement in the actual investigation and would only deal with those issues that were escalated up to me through the chain of command or that (on my membership of the SIOB) I had cause to consider as a member of that body.
54. The matter of when the ACT DPP or the DPP (Mr Shane Drumgold) would ordinarily be first engaged in a sexual assault investigation will depend on the circumstances of each case. In my experience, contact with the ACT DPP would ordinarily become regular once the respective Criminal Investigations Inspector or ACT Policing Judicial Operations referred the investigations case through the case management system and the ACT DPP has accepted the case through that process. It was less regular (although by no means unusual) for the ACT DPP to be consulted or briefed at an early phase in a sexual assault investigation if the circumstances warranted that early engagement. This accords with the Collaborative Agreement between the AFP (ACT Policing) and the ACT DPP, attached and marked '**AFP.0015.0001.0651**'.
55. Typically, I do not have direct contact with the DPP or the ACT DPP, the complainant, or the accused in relation to a sexual assault investigation. To the best of my recollection, in my role as DCPO ACT Policing from July 2021 to March 2023, I did not have any direct contact with any complainant or accused person on any sexual assault investigation. In respect to the Lehrmann investigation (Operation Covina) I only recall one direct meeting with the DPP in September 2022 (I refer to my answer to Question 54).
56. In terms of the relationship with the DPP, I would ordinarily only become involved in the immediate communication with the DPP on an investigation or prosecution if particular issues arose and needed to be escalated. As I outlined above, to the best of my recollection, as DCPO I did not have any direct contact with a complainant or an accused in any sexual offences investigations.
57. There are formal structures in place that regulate the dealings between ACT Policing and the ACT DPP in the context of an investigation. Those structures are set out in the Collaborative Agreement between the AFP (ACT Policing) and the ACT DPP.
58. [Q28] I refer to my above response to Question 25 in relation to the duties and responsibilities of officers in conducting investigations generally.

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59. Generally, the key differences between the duties and responsibilities of members of different ranks in conducting an investigation are the day-to-day tasks and the levels of supervision and leadership of each officer.
60. In practical terms, the responsibilities of the following members in relation to conducting a sexual offence investigation would be expected as follows:
- a. A Constable (including senior ranks of Constable up to and including Detective Leading Senior Constable) typically has day to day carriage of an investigation. The identity of the case officer is usually (although not always) determined by who is on shift at the time the complaint is received. A Constable would typically be responsible for 5 to 10 number of cases at any given point in time.
 - b. A Detective Sergeant provides oversight of the investigation. A Detective Sergeant is an experienced police officer and is expected to provide a level of expertise, leadership, mentoring and coaching of team members. In my experience, a Detective Sergeant could be expected to have some involvement in the day-to-day running of an investigation on an as-needs basis. A Detective Sergeant would typically be responsible for overseeing a large number of cases at any given point in time. A Detective Sergeant may also perform the role of a Case Officer depending on the circumstances of the investigation.
 - c. A Detective Inspector provides leadership and management on a range of issues. For example, they are typically responsible for ensuring that resourcing is available, that health and welfare issues are managed, that reporting mechanisms are in place, that engagement with stakeholders is managed, and that decision-making frameworks are sound. In my experience, a Detective Inspector would typically have limited involvement in the day-to-day running of an investigation, if any. A Detective Inspector would typically be responsible for oversight of a significant number of cases at any given point in time being conducted by teams under their leadership.
 - d. A Detective Superintendent leads the investigative capacities and capabilities across all criminal investigations for ACT Policing. This position typically has key responsibility for decision making, broader priority setting and resource allocation, strategic direction of criminal investigations, relationship and partnership development and engagement with all other area leads across ACT Policing. In my experience, in the ACT, it was unusual (although not unprecedented) for a Detective Superintendent to be involved in the day-to-day running of an investigation. A Detective Superintendent would typically

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be responsible for high level oversight of all cases at any given point in time across Criminal Investigations.

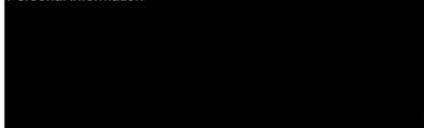
Decision to charge an accused

61. [Q29] Whilst the circumstances of each police response or investigation are different, the responsibility for making decisions in relation to charging rests with the individual case officer. Notwithstanding that the officer may not be directed to lay a charge, it is common practice (in my experience) that officers may test their conclusion with other officers. For example, if the officer indicates that they do not think they have sufficient evidence to charge, other officers may offer their views, experience or perspectives on that. I consider that to be a very appropriate course for officers to leverage the experience of senior officers and it provides an excellent opportunity for mentoring and coaching. It remains however a fundamental principle that it is at the discretion of the individual officer to prefer a charge.
62. As DCPO I do not determine how evidence is collected and the decision to charge. I may provide guidance or advice if a particular issue about evidence or charging was escalated to my level. However, it would be unusual for such an issue to reach my level, given the points of escalation as described above in my response to Question 25.

Adjudication process

63. [Q30] The adjudication process for compiling briefs of evidence involves a second review of the brief of evidence by a senior officer. The manner in which the adjudication occurs depends on the type of matter the brief relates to. For example, a brief for a routine traffic matter is likely to be subject to a different adjudication process than a more serious common assault matter. In turn, a sexual assault brief is likely to be subject to more scrutiny during the adjudication process than a traffic matter or a common assault.
64. The requirements of the usual adjudication process are set out in a checklist in the Hearing Brief Adjudication Sheet, attached and marked '**AFP.0015.0001.0660**'.
65. My understanding of the process is that the brief of evidence in Criminal Investigations is referred directly to Crime Inspectors and subsequently through Judicial Operations. A senior officer reviews the brief and considers issues including whether the evidence thresholds have been achieved and whether the guidelines and requirements of the brief are met.

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66. The senior officer will provide advice to the case officer, who is expected to action their advice. For example, if the senior officer is of the view that additional material is required, the case officer is expected to follow up that material. If the senior officer is of the view that the matter should not proceed because there is insufficient evidence, that advice will be considered to determine whether there may be further avenues that can be explored to collect further evidence. Should that not be available or achievable, that matter may be suspended or finalised depending on the nature of the offence. Suspension of investigations for a period of time is a standard process in managing investigations.
67. I am not aware of whether the adjudication process has changed during the past four years.

Victim-centric approach

68. [Q31] ACT Policing - like many policing agencies responsible for the investigation of sexual related offences - adopts a 'victim-centric' approach which focuses on ensuring that the best interests of the victim are central to the decision making in terms of the direction of investigations. ACT Policing investigate all sexual offence and child abuse related matters that are reported. However, should the victim or the victim's representative indicate that the victim does not wish for further action or that the matter should not proceed (at whatever phase that may take ranging from undertaking initial investigative processes through to compilation of a brief of evidence to be referred for consideration of a prosecution or in the prosecution phase), this will be a key consideration by ACT Policing.

Threshold test to charge an accused

69. [Q32] My understanding of the threshold for police to charge a person with a sexual offence in the ACT is that the responsible officer must have reasonable and probable cause to prefer a charge. I understand that reasonable and probable cause exists where the responsible officer holds a reasonable belief that the offence has occurred.
70. The factors affecting whether the charging threshold is met turn on the circumstances of each individual case.
71. In my view, corroboration means where two or more pieces of evidence support an element of the offence. In those circumstances, those two (or more) pieces of evidence corroborate each other. If only a single piece of evidence supports an element of an offence, that piece of evidence is uncorroborated. The fact that a piece of evidence is

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uncorroborated does not however mean the evidence is insignificant or an element of the offence cannot be established to the required evidential threshold.

72. The question of whether the threshold to charge is met does not turn on the matter of corroboration. There are many cases where the threshold may be met without the existence of corroborating evidence for one or more elements of the charge. In other cases, the officer in question may be unable to reach the threshold to charge without corroboration due to particular circumstances that exist in that case.
73. [Q33] My understanding of the threshold to charge has not changed during the past four years.
74. I am aware that, following the release of the SAPR report, ACT Policing introduced some new processes that are directed at assisting members to make decisions in investigations, including in relation to the decision about whether to lay a charge. I understand that there is a tiered layer of oversight as described in Question 59 to assist in determining the strength of an investigation and what other avenues may be available to collect evidence if necessary. I expect that decisions of this kind should be reflected on the PROMIS case log. Where appropriate, the PROMIS case log should include the Sexual Offences Finalisation Case Note Entry (CNE). Attached and marked 'AFP.0009.0001.0009' is the CNE.

Seeking further evidence from a complainant

75. [Q34] There is no formal process to be followed by a member of ACT Policing if the member seeks a further statement or further information from a complainant, following the initial interview.
76. There are a range of circumstances in which an investigation may benefit through the reinterviewing of a complainant or a witness. For example, it may be appropriate for a case officer to reinterview a complainant if they are seeking to clarify a particular matter that requires the perspective of the complainant. Other examples of circumstances in which it may be appropriate to reinterview a complainant include when the complainant has recalled certain things that they seek to relay to the police, or when other evidence has come to light after the first interview (for example, new evidence or evidence that has only become apparent following a forensic review of material). In my view, it is preferable, unless extraordinary circumstances exist, to deal with such matters during the investigation rather than leaving those issues to arise at a late phase of the investigation or in the court process.

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77. I refer to the Standard Operating Procedure on Interviewing Vulnerable Witnesses, attached to my response to Question 25.
78. [Q35] I am aware that the *Victims of Crime Act 1994* (ACT) requires the chief police officer to update a complainant “as soon as practicable” after a person is charged with an offence, unless doing so would prejudice the investigation (or any other investigation). However, in my experience, the precise timing and content of a conversation with a complainant about a decision to charge will depend on the circumstances of the case. For example, it may be appropriate (consistent with AFP’s victim-centric approach) to inform a complainant in advance of a decision to charge. In all cases – whether the conversation occurs before or after a charge is laid – it is important that a complainant is not told in a way that might increase their anxiety and trauma, or that places the complainant at further risk from the accused.

Cultural views within the AFP

79. [Q36] I do not believe that any underlying negative cultural views have existed within the AFP in relation to conducting sexual offence investigations.
80. In my experience, victims of sexual assaults are typically treated differently to victims of other crimes, but not due to any negative cultural view. The difference in treatment recognises that victims of a sexual offence have been subject to a highly traumatic and deeply personal experience and that a range of specialised investigative and support arrangements are essential to assist the person’s emotional and physical well-being. This is not intended to downplay the impact on victims of other forms of criminal offending; it simply recognises that there are particular features of sexual offence victims require particular support arrangements to be put in place.
81. As an example of the way in which a victim of sexual offence is treated differently, an officer dealing with a sexual assault victim would immediately concern themselves with the victim’s physical and mental trauma. The officer would ensure that the victim is receiving treatment for their medical injuries and they are engaging with providers to receive support. It is critical to note that there may also be a time-critical aspect to investigations of some sexual offences where a forensic medical examination is likely to be necessary to secure evidence from the victim – this can be a very difficult personal experience for the victim and a process that is approached very sensitively and in accordance with processes established between the investigation and medical practitioners. Whilst the circumstances may be different in reports of historical sexual offences, the victim-centric approach is again a critical element of how these reports are responded to which is likely to differ to reports of historical offences for less serious offences.

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82. Annexed and marked 'AFP.0009.0001.0214' is the Better Practice Guide on Victim's Rights.
83. [Q38] In relation to conducting sexual assault investigations that are reinstated at the request of the complainant, I do not believe that any underlying negative cultural views have existed within the AFP. I would expect that officers as a part of their investigation would seek to understand the reasons why the investigation was initially suspended if these were not otherwise available through reporting frameworks. However, in my view, this is a natural step of the investigation rather than a reflection of any negative cultural view.

Suspension of an investigation

84. [Q37] Typically, during my time as DCPO, I would not be involved in the decision to suspend or cease an investigation at the request of a complainant. It would also be unusual that I would receive a briefing if this occurred. Nor would I typically expect to brief the CPO when an investigation of a sexual offence has been discontinued because of a request from the complainant.
85. There have however been situations where I was made aware of investigations that were ceased. I recall one occasion where I was briefed in relation to a finalised investigation after the complainant made a formal complaint through the Minister's Office about the conduct of the investigation and alleging they had not been advised or engaged about the decision to cease the investigation. This was however very infrequent. There are occasions where I would seek advice on decisions recorded through a Management Significant Entry on PROMIS which I would routinely read. I did on occasion seek further advice on some of the background of a matter if this was not clear however these situations were irregular.

Challenges, issues and/or pressures

86. [Q39] I am not aware of any unmanageable challenges, issues and/or pressures within the AFP/ACT Policing that have hindered the conduct of sexual assault investigations. Of course, resourcing is an ongoing consideration and ACT Policing would always welcome more resources, which would enable ACT Policing to undertake more investigations across all crime types together with undertaking some additional proactive engagement with the community or with stakeholder groups. However, it is not my perception that any resourcing pressures have hindered the conduct of sexual offence investigations or caused a report of a sexual offence or child abuse not to be actioned.

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87. [Q40] With respect to challenges, issues and/or pressures external to the AFP/ACT Policing, I consider that there are external factors which can increase the complexity of sexual offence investigations. For example, with the rise of social media, people may make an allegation of sexual offence online that have not been reported to police; some of those allegations are proving more difficult to respond to and might require more resourcing for police to follow up. The sheer volume of evidence in a typical case has also increased enormously during my time as a police officer. For example, a Cellebrite download of a single mobile phone can produce many thousands of pages of data that requires review and analysis. However, while these things raise additional challenges for police, they have also increased opportunities to secure crucial evidence to support investigation which may have not been available previously and can assist in countering defences presented to evidence. To this end, I would not go so far as to say they have hindered the conduct of investigations.

Report of the Sexual Assault Prevention and Response Committee

88. [Q41] I have read the SAPR Committee's report titled "Listen. Take Action to Prevent, Believe and Heal" (SAPR report).
89. I contributed to the SAPR Report in my capacity as a member of the Sexual Assault Prevention and Response Steering Committee.

Response of ACT Policing

90. [Q42] The SAPR report resulted in 24 recommendations to be considered by all relevant ACT agencies. ACT Policing has taken several steps in response to recommendations in the SAPR report.
- a. ACT Policing has been directly involved in the response to Recommendation 15, including through supporting the Oversight Committee (comprised of the ACT DPP, ACT Policing and the Victims of Crimes Commissioner) by participating in the SAPR Working Group established in April 2022.
 - b. The introduction of the Detective Inspector SACAT has provided the opportunity to developing greater consistency and coordination of ACT Policing cross-agency cooperation and communication with the key stakeholders and partners including the Victims of Crime Commissioner, the Canberra Rape Crisis Centre or the Domestic Violence Crisis Service.
 - c. The training for police offices conducting sexual offence investigations was updated. I refer to my response to Question 20.

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- d. The steps for dealing with sexual offence complainants generally has changed in some respects. As mentioned previously there is more consistent and accountable processes for managing investigations including increased resourcing, better decision-making and recording of investigation actions.
- e. The requirement for officers to complete a Sexual Offence Finalisation Case Note Entry was introduced following the release of the SAPR Report. I refer to my answer to Question 33.

Cultural shift within the ACT DPP

91. [Q43] I have not observed a cultural shift within the ACT DPP in the prosecution of sexual assault offences since the release of the SAPR report. It is my view the ACT DPP have a committed and professional approach to prosecution of sexual offences in the ACT. Whilst the investigation and prosecution of these offences are challenging and can be subject to robust and considered positions, this in my view is appropriate to enable the best possible outcome for the victim can be achieved.

Cultural shift within the AFP/ACT Policing

92. [Q44] On commencing in my role in ACT Policing in July 2021, I observed a positive culture in the investigation of sexual assault offences. Due to the nature and challenges that many of these investigations present, I do hold those members who seek to serve the community in this field of investigations in high regard.
93. Following the release of the SAPR Report, the executive in ACT Policing initiated several changes to our processes to manage the reinvestigation of sexual assault crimes, prompted by Recommendation 15 of the SAPR Report. These included reallocating resources of the Organised Crime team to support SACAT. In my view, this change in structure has strengthened the SACAT teams through increases in experience and resourcing.

SAPR Report oversight committee

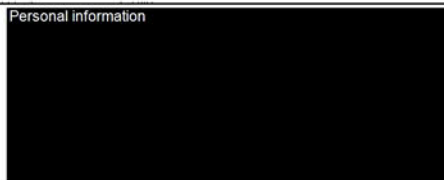
94. [Q45] I only attended two meetings of the Oversight Committee from April 2022 to March 2023 (when I commenced a new role outside of ACT Policing). I only attended as Acting CPO.
95. Attached and marked 'AFP.0022.0001.0030' are the Terms of Reference of the Working Group.

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96. There are two aspects to the work being undertaken by ACT Policing as part of the Working Group.
- a. First, the Investigative Case Review element. ACT Policing is working with the ACT DPP to review 747 sexual offence investigations that did not proceed to prosecution in the period from 1 July 2020 to 31 December 2021 (that is, the 18 months prior to the release of the SAPR Report).
 - b. Second, the Process Review element. ACT Policing is working with Victims Support ACT and an independent researcher from Swinbourne University to consider why charges were not laid in the above investigations.
97. Whilst I am aware there has been considerable progress made on the review of those investigations, I do not have precise details of what progress the Working Group has made since March 2023.

Sensitive Investigations Oversight Board

98. [Q46] I have read the Review into the AFP's Response to and Management of Sensitive Investigations by John Lawler AM APM dated 17 January 2020 (Lawler Review).
99. [Q47] The SIOB was developed in response to the recommendations of the Lawler Review to assist the AFP's approach to decision-making in investigations with particular sensitivities (for example, investigations with a political interest, high profile individuals or entities or subject to significant media reporting).
100. [Q48] The purpose of the SIOB is to act as an advisory body that oversees the management of investigations that carry higher levels of risk. All AFP members who sit on the SIOB are senior officers who contribute a range of insights, opinions and expertise that inform decision-making on sensitive investigations.
101. The SIOB is not responsible for the conduct of sensitive investigations. Instead, the SIOB provides advice and makes decisions on discrete matters that arise in the course of those sensitive investigations. The SIOB may consider issues that arise in sensitive investigations in the Commonwealth, the ACT and international jurisdictions. I have not experienced any differences in the SIOB processes for sensitive investigations in the AFP's Commonwealth and ACT jurisdictions.
102. The SIOB Terms of Reference, the National Guideline on Sensitive Investigations, and the National Guideline on investigative action involving professional journalists or news media organisations sets out the framework for managing sensitive investigations. Attached is a copy of the SIOB Terms of reference (marked 'AFP.0013.0001.0273'),

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the National Guideline on Sensitive Investigations (marked 'AFP.2001.0001.0071') and the National Guideline on investigative action involving professional journalists or news media organisations (marked 'AFP.0013.0001.0249').

103. [Q49] To the best of my knowledge, the current AFP positions on the SIOB are:
- a. Ian McCartney, Deputy Commissioner National Security and Chair of the SIOB;
 - b. Grant Nicholls, Deputy Commissioner Crime;
 - c. Lesa Gale, Deputy Commissioner International and Specialist Capabilities Command;
 - d. Krissy Barrett, Assistant Commissioner Counter Terrorism and Special Investigations Command;
 - e. Nigel Ryan, Assistant Commissioner Asia & Pacific Command;
 - f. Michael Pannett, Assistant Commissioner Americas, Africa, Middle East and Europe;
 - g. Joanne Cameron, Assistant Chief of Staff to the Commissioner and formerly Commander Investigations ACT Policing;
 - h. Kirsty Schofield, Assistant Commissioner Crime Command;
 - i. Alison Wegg, Assistant Commissioner Specialist Protective Command;
 - j. Doug Boudry, Deputy Chief Police Officer ACT Policing;
 - k. Samantha ^{WIT_Personal} Chief Counsel;
 - l. Stephen ^{WIT_Persc} Commander Special Investigations; and
 - m. General Counsel Operations, Alison ^{WIT_Personal_Info}

104. At the time the SIOB was established I held the position of Assistant Commissioner Crime Command. I was a member of the SIOB from commencement to June 2020. I did not sit on the SIOB during my period of secondment to Sport Integrity Australia. On commencing at the DCPO in July 2021 I resumed on the SIOB as the ACT Policing representative. As a member of the SIOB I represented ACT Policing and briefed the SIOB on any matters undertaken by ACT Policing that fell under the remit of the SIOB. I further provided insights, advice and perspectives on other matters that came under the consideration of the SIOB from other Commands.

105. [Q50] The definition of a sensitive investigation is set out in the SIOB terms of reference and the National Guideline on Sensitive Investigations. Those documents state that a sensitive investigation is one that:

"1. Involves, or is likely to impact on and/or be of significant interest to:

a. Australia's international relationships or agreements;

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b. The operation or administration of the Federal Government or Parliament, or a State, Territory, Local or foreign government or parliament;

c. An/a:

i. Elected Member;

ii. Associate or staff member of an Elected Member;

iii. Election candidate; and/or

iv. Senior or prominent member of a public service entity, of a Federal, State, Territory, Local or foreign government or parliament;

d. A professional journalist or news media organisation; and/or

e. An organisation, entity or individual prominent in the Australian community or politics, and

2. Is or possibly would be of significant interest to the Australian community; and/or

3. Is determined to be a sensitive investigation by the AFP Commissioner.”

106. I am not aware of a guideline called the “AFP National Guideline on Politically Sensitive Investigations.” To my understanding, a “politically sensitive investigation” is covered by the sections 1(b), (c) and (e) of the definition of “sensitive investigation” outlined above.

107. To the best of my knowledge, the MOU between the AFP and the Australian Electoral Commission does not define the term “politically sensitive matter”. It does contain a definition of the term “politically sensitive electoral offences”, which is one that is “likely to attract significant media and/or political attention and scrutiny due to alleged circumstances, conduct or persons involved”.

108. [Q51] The process by which an investigation is determined to be a “sensitive investigation” and escalated to the SIOB is set out in the National Guideline on Sensitive Investigations. In response to questions [51(a)] to [51(d)]:

a. In my experience, there is no typical point for an investigation to be determined as a “sensitive investigation”. However, the National Guideline identifies several stages of an investigation at which officers should assess the investigation against the definition. This includes on received of a report, on

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assignment to an investigation team, at key milestones in the investigation, or due to a change in external factors.

- b. Once an investigation has been determined to be a “sensitive investigation”, it must be briefed to the relevant Commander and Assistant Commissioner. In the ACT, sensitive investigations are briefed to the Commander Investigations and subsequently to the DCPO. However, not all sensitive investigations are escalated to the SIOB. Instead, particular issues are escalated to SIOB for advice and/or a decision. Briefings to the SIOB are typically prepared in writing by the investigations team. If the brief is from an ACT Policing matter, it may have input and subsequently cleared by the Commander Investigations and the DCPO. I attach a copy of the SIOB Briefing Decision template marked ‘AFP.0016.0001.0056’.
- c. I am not aware of the occurrence of any “preliminary briefings” in relation to a “potential sensitive investigation”. Whilst there would almost certainly be discussions within respective Commands in relation to a potential sensitive investigation, in my experience, matters only get escalated to the SIOB once determined to be a sensitive investigation.
- d. Once the SIOB receives a briefing, it will then issue advice or a decision as appropriate. To the best of my knowledge, advice and decisions by the SIOB are recorded in the SIOB decision papers and SIOB minutes. Those are then passed back down, typically via email, to the investigative team. I identify examples of this in my answer to Question 61 below.

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

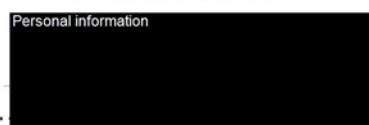
109. [Q52] The investigation of the allegations of Brittany Higgins concerning Bruce Lehrmann (the **Lehrmann Investigation**) commenced in 2019. Prior to the Lehrmann Investigation commencing in 2019, my only professional relationship with the ACT DPP was in the period between 1994 and 2002. Over that time, I shared a positive and professional relationship with the officers of the ACTDPP that I engaged with in the course of my duties. From my perspective, whilst there were times the relationship was subject to robust discussions and stating of respective positions, these are to be expected in the circumstances of the roles we respectively fulfilled.
110. [Q53] Between 2002 and July 2021, I did not work in ACT Policing. After my return to ACT Policing on 19 July 2021, I attended several meetings in the second half of 2021

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at which the DPP/representatives from the ACT DPP were present. To the best of my recollection, the regular meetings I attended with the DPP / ACT DPP in 2021 were:

- a. In my capacity as the acting CPO, the Director of the ACT DPP and I were both members of the Justice Community Services Group and attended meetings together.
- b. On 13 October 2021, I participated in a video conference meeting with Mr Drumgold in the position of acting CPO which related to several issues concerning the SAPR Report (this was originally scheduled for 7 October 2021). These discussions focused on the proposed process of undertaking a review of a significant number of sexual offence related matters reported to ACT Policing. The email invitation for the video conference is attached and marked 'AFP.2003.0004.9113'. My email accepting the invite to the video conference is attached and marked 'AFP.2003.0004.9302'.

111. In reviewing my notes of the conversation on 13 October 2021, I can see that the Lehrmann Investigation was referenced. I do not recall the context in which the Lehrmann Investigation was discussed, however, my notes of the conversation record a reference to 'Moller', being DS Moller, and 'Trent Matters' which is a reference to Detective Senior Constable Trent Madders. Having regard to the rest of my notes of this conversation, I believe these references are in the context of the broader conversation with respect to the planning between ACT Policing and the ACT DPP to address the issues are referred to in Recommendation 15 of the Listen Report. My diary notes are attached and marked 'AFP.0006.0001.0001' (at 0010 to 0017).
112. [Q54] As DCPO my direct involvement with the DPP/ACT DPP in relation to sexual assault investigations was generally very limited as these issues were being directly addressed with the respective case officers and nominated ACT DPP members. To the best of my recollection, I only had direct involvement with the DPP in an investigation on two occasions: (a) where privilege issues were raised in the Lehrmann Investigation (discussed immediately below); and (b) where a question about an individual officer in an unrelated (non-sexual assault) investigation was elevated to my level. Should a matter be escalated to my level, I generally seek clarification on why the issues have not been dealt with at a respective level and at an earlier stage.
113. I met directly with the DPP to discuss the Lehrmann Investigation on one occasion that I can recall. On 15 September 2022 I attended a meeting with Shane Drumgold, Commander Investigations (CI) Cameron, Helen ^{WIT_Pers} [REDACTED] (AFP Legal) and another representative of the ACT DPP to discuss a report prepared by DS Moller and DI Boorman in the context of the Lehrmann Investigation, following a subpoena by the

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defendant's legal representatives for provision of the report. DS Moller might have also attended the meeting; however, I cannot clearly recall this.

114. At the meeting we discussed issues relating to legal professional privilege. I recall that Shane Drumgold expressed a view that the ACT DPP or the AFP could claim legal professional privilege over the report. The AFP's view was different; that legal professional privilege could not be claimed. I also recall that Mr Drumgold expressed concerns about the content of the report being disclosed. Mr Drumgold expressed the view that it was potentially damaging to the prosecution as it reflected views of the investigators on a number of matters including the victim's well-being and evidence issues.
115. [Q55] Prior to my commencement as DCPO in July 2021, I did not have any professional interactions with the ACT DPP other than in the period from 1994 to 2002. I addressed this in my answer to Question 52.
116. [Q56] Following my commencement as DCPO in July 2021 I believe had a good working relationship with the DPP/ACT DPP. Our relationship was professional even when we disagreed on things and despite the areas of tension that I outline below. I always felt like I could contact Mr Drumgold or my counterpart on his senior leadership team and be confident that Mr Drumgold or his colleagues would answer my call or respond to my communication, and that was my experience.
117. One example of our relationship remaining professional, despite significant professional disagreements, was an exchange I had with Mr Drumgold on 18 October 2021 concerning interpretation of the SAPR review data. Mr Drumgold had interpreted some data in the SAPR review in a manner that I considered to be unfair to ACT Policing and he raised it in what I considered to be an unfairly negative about the integrity of investigators. Mr Drumgold maintained his position, but the interaction was professional throughout. Attached and marked '**AFP.2003.0005.9613**' is a copy of this interaction.
118. Another area of tension between the DPP and ACT Policing concerned the untimely assessment of some police briefs. That issue came to a head in November 2022, shortly after the Lehrmann trial, when the DPP withdrew a matter three days into a hearing. Attached and marked '**AFP.2003.0011.9488**' is an email chain on this issue. My view was (and is) that a timely review of a brief reduces the prospect of a case being withdrawn during trial and reduces the burden on the AFP in responding to late requests and evidence requisitions.

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119. A further matter of tension between ACT Policing and the DPP concerned direct engagement by the DPP with junior AFP case officers, including in relation to the decision to charge. On one occasion, on 3 May 2022, Shane Drumgold wrote directly to a senior constable and “directed” that a charge be laid. Mr Drumgold’s email stated:

After reviewing the relevant witness accounts, CCTV, photographs and receiving advice of the cause of death, I am satisfied that there is a reasonable prospect of conviction for the offence of Murder under section 12 Crimes Act 1900, and direct that a charge be prepared. Legal Aid has appeared on a duty basis, and I will contact them and advise them the charge is pending.

120. Attached and marked ‘AFP.2003.0003.5607’ is a copy of that email exchange.
121. Shane Drumgold’s email was escalated to me. I was concerned about the purported direction – not because I disagreed that a charge should be laid – but because it was outside the DPP’s authority, it undermined the independence of the police officer’s decision to charge, and it was outside of the scope of the Collaborative Agreement. I was also concerned about direct contact between the DPP personally and a junior police officer: I viewed it as unusual and was the equivalent of the CPO or DCPO making direct contact with a junior member of the ODPP – which we would not do without advising Mr Drumgold or a member of his executive team. I cannot now recall whether representations were made to the DPP to address my concerns relating to the “direction” and the broader issue of the DPP personally making direct contact with junior officers..

Victims of Crime Commissioner

122. [Q57] Prior to the matter of *R v Lehrmann* I did not have any professional interactions with the Victims of Crime Commissioner (VOCC).
123. [Q58] As at March 2021, to the best of my recollection, I had a limited understanding of the role of the VOCC. That is because I did not hold a position in ACT Policing at the time and had not been a member of ACT Policing since 2002. To the best of my recollection, I was aware that the position provided a coordination role for victims and victim support with the ACT, in accordance with the relevant legislation.
124. [Q59] Prior to the Lehrmann Investigation, my knowledge of the VOCC was confined to my time in ACT Policing between 1994 and 2002. I do not recall seeing the VOCC directly supporting a complainant at court or acting as an intermediary between the police and the complainant or between the ACT DPP and the complainant during that period.

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The Investigation

125. [Q60] To the best of my recollection, I first became aware of the Lehrmann Investigation through media reporting in early 2021 while I was on secondment to Sport Integrity Australia. The matter was very high profile and I recall being aware of the responses the AFP Commissioner provided to questions at Senate Estimates. I recall being aware that the alleged offence had occurred at Parliament House, but I cannot recall whether I was aware of any additional details at the time. I do not recall being aware of the original complaint back in 2019. Nor did I brief anyone when I first became aware of the allegation in early 2021.
126. By the time I commenced in the position of DCPO on 19 July 2021, I was aware that ACT Criminal Investigations was undertaking the Lehrmann Investigation. I do not recall precisely how I became aware of that matter, but it was sometime before I returned to ACT Policing. As it was a profile investigation, I expect that it was part of the initial conversations and engagements I had with the Senior Executive team on my commencement.
127. To the best of my recollection, I had my first substantive involvement in the Lehrmann Investigation on or around 29 July 2021. The day before, the AFP Commissioner was asked a question at the National Press Club in relation to the Lehrmann Investigation and his response indicated that the matter was with the ACT DPP. Shane Drumgold responded to the Commissioner's comments by issuing his own statement to the media, which resulting in further media interest and an internal response to clarify the position. I worked with the AFP National Media, the Office of the Commissioner and the ACT Policing Criminal Investigations and Media Team to formulate a media response to clarify the issues.
128. My email correspondence with the ACT Policing Media Team about this issue is referenced in my answer to Question 99.

Briefings to the SIOB

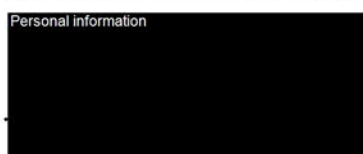
129. [Q61] During the time that I sat on the SIOB from July 2021 to March 2023, the standing members of the SIOB were as follows:
- a. Deputy Commissioner Investigations (DCI) Ian McCartney, Chair of the SIOB;
 - b. Deputy Commissioner Operations (DCO) Brett Pointing, to around November 2022;

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- c. Assistant Commissioner Counter-Terrorism (ACCTSI) Scott Lee, occasionally represented by Sandra WIT_Personal
- d. Assistant Commissioner Crime Command (ACCC) Nigel Ryan;
- e. Assistant Commissioner Specialist Protective Command Fiona Drennan, acting Assistant Commissioner Jason Kennedy and Assistant Commissioner Scott Lee ;
- f. Chief Counsel Samantha WIT_Personal_In
- g. Assistant Commissioner International Command Michael Pannett;
- h. Myself as Deputy Chief Officer ACT Policing – on occasion I was represented by CI Cameron or Commander Linda Champion;
- i. Regional Assistant Commissioners would participate in the meeting where specific investigations under their lead were being addressed.

130. Other AFP members may be called to sit on the SIOB on an ad hoc basis.

131. [Q62] I refer to my above answer to Question 51. In my experience, it was common practice for the SIOB to invite AFP officers who were responsible for a particular sensitive investigation to brief the SIOB on their investigation or issues that had been escalated to the SIOB for advice or decision.

132. [Q63] I do not know exactly when the Lehrmann Investigation was assessed to be a “sensitive investigation” (it occurred at some point prior to my return to ACT Policing in July 2019). Based on my review of the SIOB minutes, I understand that the investigation first came before the SIOB on 11 February 2021, which I understand to mean that the designation as a “sensitive investigation” had already occurred. I was not a member of the SIOB in February 2021.

133. [Q64] A ‘Sensitive Investigations Officer’ is not a position description that I recognise. I expect this is a reference to the role of ‘Senior Investigations Officer’ (SIO) who is appointed under the Senior Investigating Officer Guide , which I believe Question 64 is referring to. The duties and responsibilities of the SIO role are set out in the AFP Senior Investigating Officer Guide (attached and marked ‘**AFP.0013.0001.0082**’).

134. I understand DS Moller was appointed by the SIOB as SIO of the Lehrmann Investigation in February 2011. I was not present at the SIOB meeting where the

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appointment was made, and I cannot speak personally to the reasons why the SIOB made that decision.

135. In my experience, it is not unusual for an SIO to be appointed to an investigation prior to it being determined to be a sensitive investigation and coming before the SIOB. Equally, in my experience, it is not unusual for an SIO to be formally appointed to a sensitive investigation once investigation has come before the SIOB for advice or a decision. SIOs are appointed to a full range of investigations in accordance with the SIO Guide.
136. I recall a number of sexual offence investigations undertaken by ACT Policing, including the Lehrmann Investigation (Operation Covina), that were determined to be a sensitive investigation and had SIOs assigned.
137. [Q65] To the best of my knowledge and recollection, my interactions with the SIOB in relation to Operation Covina were as follows.
138. On 3 August 2021, I provided a verbal briefing to a formal meeting of SIOB in relation to the status of the investigation. I understand that the briefing was initiated by the Chair of SIOB. Attached and marked 'AFP.2003.0005.0238' is a copy of an email from the Chair of the SIOB, DCI Ian McCartney, organising the briefing. The minutes of the meeting state:

AC DCPO provided a verbal briefing on the status of the matter and ACT Policing's (ACTP) position post C IE review. C IE advised his focus is on reviewing the material provided by the SACAT team, with a focus on the draft Statement of Facts, record of interview with alleged offender, Evidence in Chief Interviews, record of conversations with witnesses and further documentation obtained in the course of this investigation. Not all material was reviewed.

C IE advised the investigation was conducted in a thorough, reasonable and proportionate manner and the review team did not identify and significant additional avenues of enquiry. C IE advised there are some procedural concerns around a second Evidence in Chief Interview.

AC DCPO noted that the main concern is the welfare of the victim and advised ACTP will contact the victim regarding the issue of a summons to the alleged offender. AC DCPO advised ACTP media propose to provide a media statement prior to the summons. CC queried if this is required as AFP's stance is we do not comment on active investigations.

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139. Attached and marked ‘AFP.0013.0001.0059’ is a copy of the minutes of that meeting.
140. To the best of my recollection, the minutes accurately record the date of the briefing, the contents of my briefing, and the list of attendees. The references in the minutes to “C IE” are references to Commander Andrew Smith. The reference in the minutes to “the main concern is the welfare of the victim” is consistent with my recollection of the investigative team’s position, as well as ACT Policing’s victim-centric approach. I do not recall any other ACT Policing officers being present to support the briefing. I do not recall that any recommendations were sought from or made by SIOB in relation to Operation Covina.
141. On 5 October 2021, I provided a verbal briefing to a formal meeting of SIOB in relation to the status of the Lehrmann investigation. The Lehrmann briefing was one of three updates I provides to the SIOB that day in relation to on-going ACT Policing sensitive investigations. The minutes of the meeting state:

AC DCPO noted that in relation to the matter of Ms Brittany Higgins, correspondence has been sent to the ACT DPP to confirm that any further engagement between ACTP and the victim will be through the Office of the ACT DPP and not to the ACT Victims of Crime Coordinator, who is also the victim’s nominated advocate in this matter. This accords with the advice from the victim that ACT DPP will be the conduit for communication.

142. Attached and marked ‘AFP.0013.0001.0303’ is a copy of the minutes of that meeting.
143. To the best of my recollection, the minutes accurately record the date of the briefing, the contents of my briefing, and the list of attendees. I do not recall any other ACT Policing officers being present to support the briefing. I do not recall that any recommendations were sought from or made by SIOB in relation to Operation Covina.
144. On or about 7 June 2022, I provided an update to the SIOB. The update was provided in a formal briefing paper authored by DI Hughes (attached and marked ‘AFP.0014.0003.0035’). I also recorded its contents in an email (attached and marked ‘AFP.2003.0003.3417’). Based on my review of my email, I believe the briefing was an “out of session” update. The update read:

STATUS UPDATE

** The investigation is complete and trial preparation is underway. The trial is presently scheduled to commence on 6 June 2022 and last for four to six weeks.*

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** On Friday 28 May 2022, the accused's counsel (John KORN) withdrew from the matter citing personal reasons.*

** On Tuesday 31 May 2022, Legal Aid (representing the accused) attempted to have the trial data vacated due to an inability on Legal Aid's part to find new counsel. CJ McCallum was not inclined to vacate, but indicated a delayed start (20 June or 27 June) may be possible.*

** The matter is next in court on Thursday 2 June for call over.*

** A number of high-profile individuals have been subpoenaed by the DPP including Michaelia Cash and Lisa Wilkinson.*

KEY INVESTIGATION MANAGEMENT ISSUES

** The DPP believe a certain file of CCTV footage is missing. The DPP (including the Director) are adamant that the file was provided to them by police upon service of the advice brief. Based on the description of the contents of the CCTV footage, investigators maintain that this file was not provided by police, and believe the DPP are conflating investigative CCTV with footage from the Four Corners re-enactment. Investigators have obtained a new copy of the original CCTV recordings (retained by DPS at APH) and confirmed the file does not exist, however this has not dissuaded the DPP. Investigators are now having the original hard drive (which has subsequently been overwritten and reused) analysed by AFP DFT to verify whether or not any additional CCTV files ever existed on the hard drive.*

RECOMMENDATION

** Given the investigation is finalised and trial preparation is nearing completion, SIOB may elect to cease oversight of Op Covina. Routine court progress updates can be provided via normal channels.*

145. On 9 June 2022, I received a draft SIOB briefing paper prepared by DS Moller for provision to the SIOB out of session. The draft SIOB briefing paper and its covering email are attached and marked 'AFP.2003.0003.3522' and 'AFP.2003.0003.3521' respectively. There were some changes made to the draft SIOB briefing paper to align it with SIOB processes. That process is reflected in the email and attached draft briefing paper attached and marked 'AFP.2003.0003.3515' and 'AFP.2003.0003.3517'.

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146. On 10 June 2022, I provided the SIOB briefing paper to the SIOB Secretariat. The emails and attached briefing paper are attached and marked ‘AFP.2003.003.3594’, ‘AFP.2003.0003.3596’ and ‘AFP.2003.0003.3408’.
147. On 13 June 2022, the briefing paper was circulated as an “OOS SIOB paper”, which I understand to be an out-of-session paper. The email circulating the briefing paper is attached and marked ‘AFP.2003.0003.3591’. The briefing paper asked the SIOB to endorse a recommendation that ACT Policing execute a search warrant on 7PM Company Pty Ltd for a recording of an interview with the complainant.
148. My understanding is that the SIOB endorsed this recommendation on 14 June 2022. A copy of that endorsement is attached and marked ‘AFP.2003.0003.3611’.
149. On 15 June 2022, I provided a verbal briefing to a formal meeting of SIOB in relation to the search warrant endorsed by the SIOB on the previous day. I instigated this briefing as an update to the SIOB. The minutes of the meeting state:
- Operation Covina – AC DCPO updated the SIOB of the progress of an Out-of-Session paper for Operation Covina endorsed on 14 June 2022. A statement will be taken this week with overt search warrant to be undertaken in the week commencing 20 June 2022. The trial is scheduled to commence on 27 June 2022.*
150. A copy of the minutes of that meeting are attached and marked ‘AFP.0013.0001.0044’.
151. To the best of my recollection, the minutes accurately record the date of the briefing, the contents of my briefing, and the list of attendees. I do not recall any other ACT Policing officers being present to support the briefing. I do not recall that any recommendations (beyond those already approved on 14 June 2022) were sought from or made by SIOB in relation to Operation Covina.
152. On 20 June 2022, I received the signed SIOB decision paper in relation to the out of session paper circulated on 13 June 2022. The email chains attaching the signed decision paper are attached and marked ‘AFP.2003.0003.3665’ and ‘AFP.2003.0003.3672’. A copy of the signed decision paper is attached and marked ‘AFP.2003.0003.3676’.
153. I forwarded the signed SIOB decision paper to CI Cameron and DS Moller on the same day. My emails to CI Cameron and DS Moller are attached and marked ‘AFP.2003.0003.3677’ and ‘AFP.2003.0003.3681’.
154. On 6 September 2022, CI Cameron on my behalf sent a briefing paper to the SIOB in relation to Operation Covina. A copy of that email is attached and marked

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'AFP.2003.0003.4818'. The paper was authored by Detective Acting Inspector Ryan O'Hara and sought a decision by the Chair of the SIOB ^{WIT_Confidential_sensitive_Third_P}

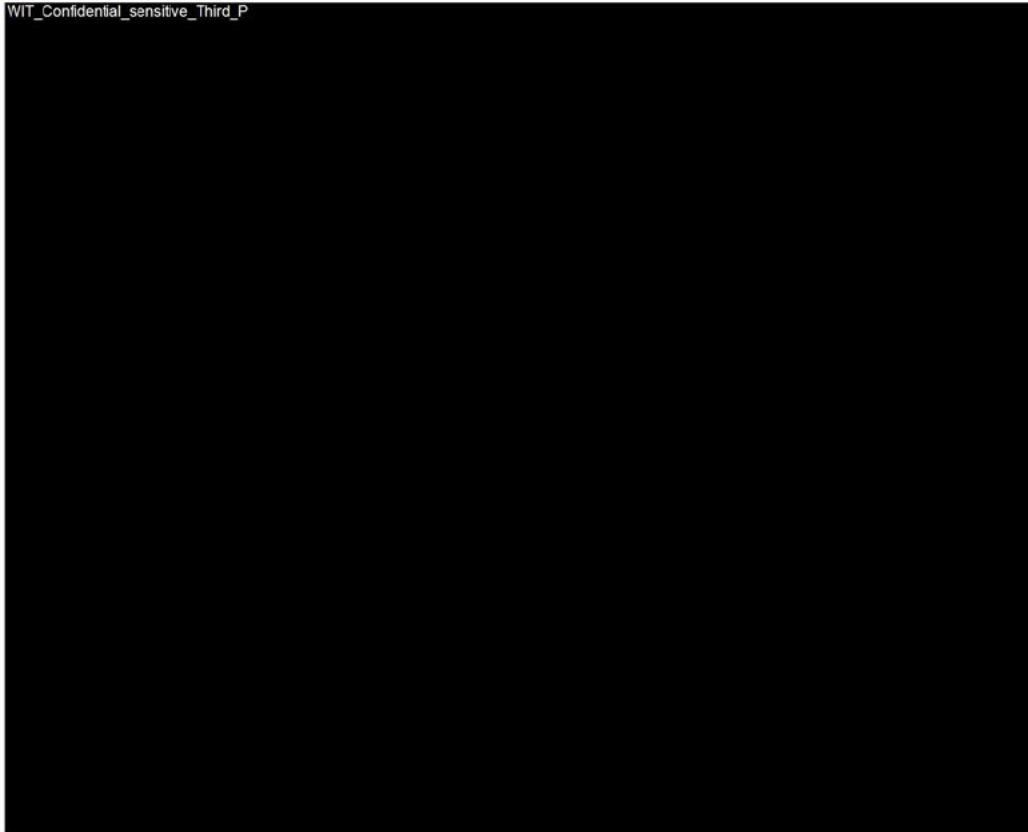
^{WIT_Confidential_sensitive_Third_P}

^{WIT_Confidential_sensitive_Th} A copy of the briefing paper is attached and marked

'AFP.2003.0003.4819.'.

155. On 13 September 2022, I provided a verbal briefing to a meeting of the SIOB in relation to the briefing paper by DAI ^{WIT_Confidential_sensitive_Third_P} The minutes of the meeting read:

^{WIT_Confidential_sensitive_Third_P}



156. The minutes of that meeting are attached and marked 'AFP.0015.0001.0916'.

157. To the best of my recollection, the minutes accurately record the date of the briefing, the contents of my briefing, the list of attendees, and that the SIOB endorsed the recommendation in DAI ^{WIT_Personal_Inf} paper (in fact I recall proposing some amendments a few days after the meeting). The email chain containing my proposed amendments is attached and marked 'AFP.2003.0011.5228'. I do not recall any other ACT Policing officers being present to support the briefing.

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158. On 27 September 2022, I received the signed SIOB decision paper following the 13 September 2022 SIOB meeting. The covering email and the signed SIOB decision paper are attached and marked 'AFP.2003.0011.5933' and 'AFP.2003.0011.5934' respectively.

159. PII - Prejudice investigations
[Redacted]

160. PII - Prejudice investigations
[Redacted]

161. PII - Prejudice investigations
[Redacted]

162. PII - Prejudice investigations
[Redacted]

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163. To the best of my recollection, the minutes accurately record the date of the briefing, the contents of my briefing, the list of attendees, and the course of action recommended by the SIOB. I do not recall any other ACT Policing officers being present to support the briefing.

164. PII - Prejudice investigations
[Redacted]

165. PII - Prejudice investigations
[Redacted]

166. PII - Prejudice investigations
[Redacted]

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Internal Investigation Review

167. [Q66] Shortly after commencing as DCPO, I became aware of the internal review to be conducted by Commander Andrew Smith. I do not recall who informed me, but I believe I first became aware of the review as my incoming Executive Officer Sergeant Lauren Gilliland was attached to the review and would not commence in her position supporting my office until she completed her roles on the review.
168. On 2 August 2021 5.09pm, Commander Smith sent an email to me attaching his draft report which contained the results of the internal review. A copy of that email is attached and marked '**AFP.2003.0005.0535**'. The email was sent in advance of the SIOB meeting to be held the following day.
169. Later that day, at 7.10pm, I forwarded the email from Commander Smith to Commander Chew, noting the positive conclusions of the report. A copy of that email is attached and marked '**AFP.2003.0005.9976**'.
170. On 3 August 2021, Commander Smith provided a verbal briefing at the SIOB meeting on the internal review. I address this at paragraphs 138 and 139 above.
171. Later that day, at 4.11pm, Commander Smith sent me an email attaching a copy of the final report, along with the Terms of Reference and the document log. A copy of that email is attached and marked '**AFP.2003.0005.0660**'. A copy of the report is attached and marked '**AFP.2003.0021.5715**'.
172. On 4 August 2021, I sent an email to Commander Smith thanking him for providing the report. A copy of that email is attached and marked '**AFP.2003.0021.5714**'.
173. The report made two recommendations concerning further avenues of potential inquiry: (a) that further inquiries be conducted to obtain certain CCTV footage; and (b) that SACAT discuss any avenues that may allow the complainant to provide further comment to the DPP regarding entries in her telephone that had been obtained since her second EICI. I expect that these recommendations were considered during the investigation, but I am not aware of whether they were considered or actioned by the investigative team prior to charging Bruce Lehrmann on 6 August 2021.
174. My impression of the internal review of the Lehrmann Investigation was that it accorded with usual practice. It was a high-profile matter with a significant level of complexity. Conducting an internal review to consider any other actions that could be taken was appropriate. I also recall that I considered the results of the internal review

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were a positive reinforcement of the team's commitment to the Lehrmann Investigation.

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

175. [Q67] I had a number of interactions in relation to the Investigation between commencing in the role of DCPO of ACT Policing on 19 July 2021 and 6 August 2021. I do not recall having any interactions in relation to the Lehrmann Investigation prior to my commencement as DCPO on 19 July 2021.
176. On 28 July 2021, the AFP Commissioner responded to a question at the National Press Club to the effect that the Lehrmann matter was with the DPP. The next morning, 29 July 2021, the Commissioner's officer received a copy of a draft story from a journalist which contained quotes from Shane Drumgold that appeared to contradict the Commissioner's statement. At 11.11am, the Commissioner's Chief of Staff asked me to provide advice along with an appropriate response to the media. A copy of that email chain is attached and marked '**AFP.2003.0005.0111**'.
177. Shortly afterwards I spoke with DS Moller who I understand was already aware that Shane Drumgold had spoken to the media and contradicted the Commissioner's comment at the National Press Club (see the email chain attached and marked '**AFP.2003.0011.0499**').
178. Shortly thereafter, at 12.16pm, I received an email from DS Moller which forwarded advice from Shane Drumgold dated 28 June 2021 concerning the brief of evidence that was provided by ACT Policing on 18 June 2021. DS Moller raised the DPP's statement that he was yet to review two items in the brief. DS Moller indicated that this provided the impression that the DPP was still working through the brief which I agree this did. A copy of that email is attached and marked '**AFP.2003.0005.0410**'.
179. I infer from my diary notes that around 12:20pm I may have discussed the matter with the CPO. My diary notes are attached and marked '**AFP.0006.0001.0001**' (at 0021). My diary notes state:
- a. 'CPO – advise ACT DPP'.
 - b. '[sic] has advised journalist Samantha Maiden has authority'.
 - c. 'ACT DPP – advise Shane Drumgold of issue'.
180. Between 12.57pm and 1.57pm, I settled wording to provide to the media in response to questions about the provision of the brief of evidence to the DPP. A copy of that email

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chain is attached and marked ‘AFP.0006.0001.0027’, ‘AFP.2003.0005.0150’, ‘AFP.2003.0005.0166’.

181. Between 2 and 4 August 2021, I exchanged various communications in relation to Commander Andrew Smith’s internal review of the Operation Covina investigation. In that regard I refer to my answer to Question 66.
182. On 3 August 2021, I briefed the SIOB in relation to Operation Covina. I refer to paragraphs 138 and 139 above.
183. On 5 August 2021 at 12:46am, I sent an email to CPO Gaughan, other senior executive staff, Commander Chew and DS Moller. I outlined the proposed next steps in relation to the following matters in Lehrmann Investigation:
- a. Service of the summons on Bruce Lehrmann;
 - b. Contact with Brittany Higgins immediately prior to serving the summons;
 - c. Release of a short media statement once the summons was served; and
 - d. Updates to the Question Time Brief.
184. A copy of that email is attached and marked ‘AFP.0006.0001.0037’.
185. My email commences with the words ‘as discussed’, which I understand to mean that the email is a confirmation of informal discussions I had with other AFP colleagues in relation to the service of the Summons. I do not however recall exact my discussions with the CPO or other AFP colleagues about the planned steps. However, I believe they are reflected in the above email.
186. On 5 August 2021 at 12:22pm, I received an email from Ellena ^{WIT_Persc} (ACT Policing Coordinator of Media and Public Engagement) and a response from DS Moller concerning drafts of the AFP’s media release about the alleged sexual assault at Parliament House. A copy of that email is attached and marked ‘AFP.0006.0001.0035’.
187. On 5 August 2021 at 2:16pm, Joanne ^{WIT_Personal} (the Commissioner’s Deputy Chief of Staff) sent an email to me. Ms ^{WIT_Personal} observed that there was ongoing confusion about how the next steps in the Lehrmann Investigation were to occur and asked that the plan be confirmed so she could “get some clarity and keep the C up to speed”. Ms ^{WIT_Personal_Info} email set out a suggested timeline for the service of the summons, notifying the Commissioner and the Commissioner briefing the Minister of Home Affairs, noting

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it was subject to the resolution of questions about service of the Summons. A copy of that email is attached and marked 'AFP.2003.0005.0818'.

188. On 5 August 2021 at 2:39pm, I responded to Joanne [WIT_Personal_Inf] email. I stated that the CPO would lead a meeting in the afternoon to confirm some of the proposed steps. In particular, I advised that:

Whilst the attached remains consistent in our planning, the timings are not binary in respect to the absolute hour an element will occur leading to the next element.

I will come back to you once we have confirmed some further aspects including the service arrangements and the issues with contacting Miss Higgins as this does not occur directly - communication initially goes through advocates to arrange to then have a 'three-way discussion'.

189. A copy of that email is contained in the email chain attached and marked 'AFP.2003.0005.0818'.
190. I do not now recall attending a meeting that afternoon led by the CPO or going back to Joanne [WIT_Personal_Inf] with further details of the plan, and I have been unable to identify records of either. However, I consider it likely that I did participate in the meeting and subsequently advise Ms [WIT_Personal_Inf] as that would be my normal practice.
191. On 6 August 2021, I reviewed draft talking points prepared for any AFP members who faced the media in the coming weeks in relation to the alleged sexual assault at Parliament House. I provided my response on the suggested lines to Assistant Commissioner David McLean, Joanne Chidgey and CPO Gaughan. A copy of that email is attached and marked 'AFP.0006.0001.0041'.
192. I do not recall requesting the cancelling of any plans for travel with DS Moller or DI Boorman in relation to the Investigation in the period from 19 July 2021 (when I commenced as DCPO) to 6 August 2021, and to the best of my recollection, I did not do so. I do note however that at that time I was not approving travel for any ACT Policing member unless under extraordinary circumstances due to the travel restrictions across all jurisdictions as a result of Covid-19.

Concerns raised in relation to conduct of the Investigation

193. [Q68] To the best of my recollection, neither Shane Drumgold nor any member of the ACT DPP raised concerns with me about the officers involved in the Lehrmann Investigation. As noted above, I do recall the references to DS Moller and Trent

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Madders addressed at paragraph 111 above, but I do not think these references concerned the Lehrmann Investigation specifically.

194. I was aware through informal discussions with various officers (I do not now recall precisely who) that Mr Drumgold had asked for those members involved in the service of the Summons and the brief of evidence to provide statements explaining how the brief of evidence came to be served with the counselling notes of the complainant. Based on those informal discussions, I understood that Mr Drumgold considered that this disclosure issue might give rise to a credibility issue for the investigation (or at least the officers involved in the disclosure) so he wanted those statements with a view to disclosing them as part of the prosecution. I thought this was an effective process to ensure that any potential concerns that might arise in the prosecution could be anticipated and managed, however I do not recall discussing this issue directly with Mr Drumgold.
195. In September 2021, the VOCC Heidi Yates raised concerns with me about the service of the brief of evidence and disclosure of sensitive information. However, to the best of my recollection, she did not raise specific concerns about any individual officers involved in the Lehrmann Investigation. I refer to my answer to Question 77.
196. To the best of my recollection, neither Brittany Higgins nor her legal representatives raised concerns with me about the officers involved in the Lehrmann Investigation. I do not recall having any interactions with Ms Higgins or her legal advisors.
197. To the best of my recollection, neither Bruce Lehrmann nor his legal representatives raised concerns with me about the officers involved in the Lehrmann Investigation. I do not recall having any interactions with Mr Lehrmann or his legal advisors.
198. I do not recall any other person raising concerns with me about the officers involved in the Lehrmann Investigation.

Advice Provided by the DPP

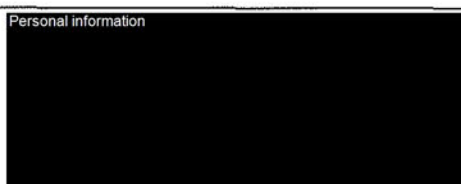
199. [Q69] I do not recall whether I read the advice provided by the DPP to DS Moller on 28 June 2021 at that time (the **DPP Advice**). I was not DCPO at the time the DPP Advice was received. I did read it at a later time.
200. On 29 July 2021, DS Moller sent an email to me that attached a copy of the DPP advice. DS Moller's email concluded that the DPP were still working through the brief of evidence. A copy of that email is attached and marked '**AFP.2003.0005.0410**'. The attachment is marked '**AFP.2003.0005.0412**'. I expect that I read DS Moller's

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comments in relation to the DPP Advice but I do not recall having read the advice itself at that time.

201. My recollection is that DS Moller sent this email to me to provide clarity on public statements given by the AFP Commissioner at the National Press Club on 28 July 2021, and Mr Drumgold's media statements earlier that morning. The precise status of the brief of evidence (that is, whether it was still under review by the DPP), which I understood to be a key point of contention.
202. [Q70] I do not recall making any suggestion or hearing of any suggestion by other AFP or ACT Policing officers to obtain independent legal advice in relation to the Lehrmann Investigation. I cannot recall an occasion where this has been done in ACT Policing in relation to the sufficiency of evidence to charge. I can only recall such advice being sought from the ACT DPP. It does happen, from time to time, that advice is sought from external counsel (such as AGS) on discrete issues such as claims to legal professional privilege. That occurred in this case (as I discuss later in this statement).
203. [Q71] Other than the email exchange with DS Moller referred to in my answer to Question 69, I do not recall any interactions between me and ACT Policing officers in relation to the DPP Advice. I expect that I became aware of the conclusion of the DPP Advice at some point after I commenced as DCPO on 19 July 2021, and that I would have discussed it at a general level with officers including Commander Chew and Commander Andrew Smith. However, I have no specific recollection of doing so.
204. I did not perceive any pressure to charge Bruce Lehrmann and I am not aware of any officers being pressured in relation to their decision to charge him.
205. However, I do recall having a conversation with Commander Chew and possibly in the company of DS Moller (I think around late July or early August 2021) about the timing of the Summons. I understood that the DPP's advice had been received back in June 2021, and that the investigative team had subsequently decided to lay a charge, and in those circumstances, I was of the view that it was in the best interests of the investigation to progress the issuance of a Summons. I recall expressing that view to Commander Chew and possibly DS Moller. I also recall having a similar conversation at about the same time with other officers in relation to an unrelated matter, where a decision to charge had been made but not yet actioned. To be clear, these conversations were not in any way directed at the *decision* to charge, but rather, the need to *implement* those decisions in a timely manner. I consider it appropriate and a core part of my role as DCPO to have conversations with my officers about issues such as this.

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Decision to Charge

206. [Q72] To the best of my recollection, I was advised sometime in late July 2021 (shortly after commencing as DCPO) that a decision had been made to charge Mr Lehrmann. My recollection is that Commander Chew advised me of the decision to charge. I have not been able to identify any written records of such a communication. My impression was that the decision to charge was based on a sound process – including the advice from the DPP - and that it was appropriate for the matter to progress in this way.
207. [Q73] I did not perceive any pressure from within the AFP/ACT Policing and/or the DPP for Bruce Lehrmann to be charged. Nor did I relay any pressure onto ACT Policing officers to decide (one way or another) whether to charge Mr Lehrmann. I also refer to my answers to Question 71 above.
208. [Q74] I was aware of the plan to advise the complainant that Bruce Lehrmann would be Summonsed to appear in court. I described the plan at paragraphs 183 to 188 above and I refer, in particular, to my email extracted at paragraph 188 where I expressly refer to the arrangements for contacting Ms Higgins through her representatives. I cannot recall being informed that Ms Higgins or the VOCC had, in fact, been informed about the summons, but I expect I would have been briefed at the time. This accords with the VoCA and best practice.
209. [Q75] Upon the charging of Bruce Lehrmann, I viewed the commencement of the prosecution as a positive development. I was confident in the quality of the work by the investigative team, particularly following Commander Andrew Smith's internal review. I also viewed it as positive in the sense that it removed a level of uncertainty from various stakeholders in this matter and provided a definitive court date for the matter to proceed.
210. To the best of my knowledge, the ACT Policing officers involved in the Lehrmann *Investigation shared my view that the commencement of a prosecution was a positive development and a sign that the matter was moving forward.* I was aware this matter had presented uncharacteristic challenges for the relationship between the investigation team and the ACT DPP, which I viewed as an unfortunate consequence of a complex, high-profile and demanding matter that had unfolded over an extended period. My view at the time, which I still hold, is that all officers involved in the investigation exhibited high levels of commitment throughout this time.

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Summons, Brief of Evidence and Disclosure

Adjudication process

211. [Q76] My understanding is that the usual adjudication process was not followed in the Lehrmann Investigation in the first instance. The requirements of the usual adjudication process are set out in a checklist in the Hearing Brief Adjudication Sheet (attached and marked 'AFP.0015.0001.0660').
212. The usual internal AFP process is to provide the brief of evidence to Judicial Operations. Judicial Operations will first adjudicate the brief, then upload the brief to an online portal where it may be accessed by the ACT DPP.
213. I do not know why the usual process was not followed in relation to the brief of evidence in the Lehrmann case. To the best of my recollection, I was not aware of an intention to serve the brief directly on the defence. Nor was I aware of any departure from the usual adjudication process. As a result, I did not raise any concerns or pose questions in relation to it, and I did not consider any risks or benefits associated with it. No-one advised me to proceed with an alternative process; nor did I direct anyone else to proceed with an alternative process (either to serve the brief of evidence directly on the defence or to serve it without first going through the adjudication process).
214. On any given day, numerous briefs are sent out by ACT Policing without any knowledge or oversight or input from the DCPO. It would be highly unusual for someone in my role to receive details of routine matters like a plan to serve a brief of evidence or for me to ask whether the usual adjudication process had been followed. I lead a competent and experienced team of investigators who do their job well, and I had confidence in them to follow the usual process or have valid reasons for departing from the usual process. As such, even if I had been told that the plan was to serve the brief of evidence directly on the defence rather than on the DPP, I may not have queried that plan in any event unless it was apparent that the brief of evidence had not been adjudicated.
215. I note that on 26 August 2021, I was involved in an email exchange with Acting Commander Hall O'Meagher concerning whether to include, in an APH Sexual Assault Question Time Brief, a reference to the full brief of evidence being served on the ACT DPP on 6 August 2021. A copy of that email exchange is attached and marked 'AFP.2003.0005.1558'. This exchange is consistent with my recollection that, at the time, I understood that the brief of evidence had been served on the ACT DPP in the usual way.

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216. I recall that Commander Chew first advised me of the proposed arrangements for serving the Summons on Bruce Lehrmann's legal representatives. I do not recall whether Commander Chew or any other police officer advised me at the time of the intention to serve the brief of evidence at the same time as the Summons, however my focus was on the service of the Summons and I do not recall any reference to the brief. The arrangements for the Summons were discussed by the AFP media team, the investigations team, the CPO, and members of the Commissioner's office. I refer to this at paragraphs 177 to 182 above.
217. There were a lot of moving parts in relation to the service of the Summons. We needed to communicate with Ms Higgins about the service of the Summons before it was served. The process to contact Ms Higgins through Heidi Yates and the ACT DPP was an additional factor. The logistics of serving the Summons were also complicated because NSW was in a lockdown occasioned by Covid-19 and Bruce Lehrmann's legal representatives were based in Sydney. There were also increasing concerns about Covid-19 being reported in the ACT. The purpose of the plan was to ensure, as much as possible, that we had control over the process. Devising a plan was also intended to provide AFP members with a level of certainty about their role and what was required.

Service of the brief of evidence and the Summons

218. [Q77] I refer to my above answer to Questions 67 and 76 and set out below further detail on the extent of my involvement in rectifying the issue of the service of the brief of evidence containing Ms Higgins' protected counselling records.
219. I did not direct the investigating officers to serve the brief of evidence "quickly". I do not know who decided or directed that the brief of evidence be served directly on the defence, or how this was communicated to the investigations team. I do not know whether the DPP was consulted in the development of the plan to serve the brief of evidence directly on the defence. I did not direct any ACT Policing officers not to contact Ms Higgins, or Ms Yates, in relation to when the brief of evidence would be or was served.
220. On 23 September 2021 at 10:05pm, Heidi Yates emailed me in relation to the issue with the service of the brief of evidence (attached and marked attached and marked 'AFP.2003.0004.8818'). Ms Yates referred to a brief discussion with me that morning in relation to 'a substantial privacy breach' in the Lehrmann Investigation. To the best of my recollection, that conversation was the first time I became aware of an issue with the service of the brief of evidence. My diary notes of that conversation are attached and marked 'AFP.0006.0001.0001' (at 0018). In her email, Ms Yates:

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- a. stated she would need to update the complainant the following morning regarding her understanding of what occurred, based on advice from the DPP; and
- b. requested written advice from the AFP confirming whether protected records were served (and if so, which ones and on whose authority), what steps ACT Policing had taken to remedy the breach, whether the defence have deleted the records, disclosed receipt of the records or shared them with the accused.

221. On 23 September 2021 at 11:06pm, I sent an email to A/Commander O’Meagher and DS Moller. I referred to an earlier conversation with Hall, which I then followed up with an email:

Hall - as per our discussion this morning please address this issue ensuring Ms Yates is at least provided sufficient advice either directly or in accordance with the agreement by ACTDPP to manage the victim in this matter, to enable her to consider how to shape the advice to Ms Higgins if appropriate based on the actual circumstances.

Please ensure you advise that you are responding on my behalf as I will be responding to Ms Yates in the morning indicating that she will receive advice against the preliminary advice from the ACTDPP. If the preliminary advice of the ACTDPP to Ms Yates as stated by Ms Yates is inconsistent with discussion or agreement on this with our team, please ensure this is reflected and I will also address with the Director through a phone call.

222. A copy of that email is attached and marked ‘**AFP.2003.0004.8818**’.

223. On 24 September 2021 at 10:11am, I sent an email to Heidi Yates and advised that the investigators were providing information about the breach to the ACT DPP to facilitate the ACT DPP conveying that information in accordance with the arrangements to communicate with the victim. A copy of that email is attached and marked ‘**AFP.2003.0005.2134**’.

224. On 24 September 2021 at 10:43am, I received an email from Heidi Yates who said “I have had to inform Ms Higgins of the breach this morning” and noted that the “impacts of this news on her and her family were grave indeed”. A copy of that email is attached and marked ‘**AFP.2003.0005.2134**’.

225. I was aware of communications over a period from the ACT DPP to ACT Policing seeking to identify the officers that were involved in the issue of the brief of service of

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evidence and to receive statements from them. As previously addressed, in my view, this was an important process in order to determine precisely what happened in terms of the disclosure of the material in the brief of evidence, to provide transparency and accountability to the affected parties and to explain the mechanisms that were put in place to recover the brief of evidence and subsequently replace it with a correct version.

226. On 29 April 2022, I received an email from CI Cameron that set out a timeline of events related to the service of the brief of evidence and attached an email shows the interaction between the ACT DPP and DS Moller about identifying the redaction issue and its remedy. In her email, CI Cameron said.

A key issue emerging here is that whilst further review of the BOE for "sufficiency of evidence" was not necessarily needed due to the "red team" efforts of D/Supt Smith etc. , the decision to not adjudicate the BOE any further therefore then meant other adjudication actions such as redactions and removal of material in the Defence copy were not attended to.

It would appear that whilst our existing systems of adjudication and BOE service sufficiently ensure such errors are minimised or excluded completely, but in this instance, the established routine processes were not followed, thereby creating the opportunity for such routine issues (eg. Redaction and removal of legally excluded material) to be overlooked or forgotten – thereby creating the mistake of serving an unredacted brief to the Defence on 6 August 2021.

Attached is an email which if read backwards shows the interaction between primarily DPP Drumgold and D/Supt Moller about identifying the redaction issue and its remedy in Sept 2021.

Importantly, DFT have asserted no copies of the BOE (unredacted) were made and an assertion from Mr Korn that none of the material of concern was accessed by anyone.

227. A copy of that email is attached and marked 'AFP.2003.0003.5577'. The email attachments are marked 'AFP.2003.0003.5580' and 'AFP.2003.0003.5594'.

Other matters

228. [Q78] I did not refer the issue with the service of the brief of evidence on the legal representatives for Bruce Lehrmann to AFP Professional Standards. I am aware, however, that the matter had been referred to AFP Professional Standards.

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229. [Q79] I was not involved in the preparation of the Disclosure Certificates in the matter of *R v Lehrmann*.

230. [Q80] During this period I had took personal leave on the following dates:

- a. 27 August 2021, and
- b. 27 September 2021 to 1 October 2021

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

231. [Q81] I set out below my recollection of any other interactions I had with any person in relation to the Lehrmann Investigation and trial (which have not already been identified in my answers to earlier questions).

August 2021: input into Question Time brief

232. On 26 August 2021 at 5:27pm, I provided input to a Question Time Brief in relation to Operation Covina.

August-September 2021: Awareness of VOCC being identified as a witness

233. On 26 August 2022 at 3:17pm, I received an email from Acting Commander O’Meagher advising that the Victim of Crimes Commissioner continued to advocate for the complainant and that the ACT DPP would be responsible for providing the complainant with all information and advice in relation to the matter, thereby providing the complainant with a single point of contact. Hall confirmed that that the DPP was meeting its legislated obligations under the *Victims Charter of Rights* and that ACT Policing was not further obliged under the Charter to maintain contact with the victim. A copy of that email chain is attached and marked ‘**AFP.2002.0001.2217**’.

234. On 9 September 2021 at 4:51pm, I received an email from Acting Commander O’Meagher informing me that detectives believed the complainant may have made disclosures to Heidi Yates in her support role. DS Moller had contacted Ms Yates her and intended to request a witness statement from her if that was ultimately deemed necessary.

235. On 9 September 2021 at 4:53pm, I responded to Acting Commander O’Meagher and asked if I could presume that the ACT DPP were aware of this. On 9 September 2021 at 4:57pm, Hall replied and said that he was not certain as to whether the ACT DPP were aware, however, he had discussed this with DS Moller and the intention was to consult with the ACT DPP. I recall being satisfied with this answer and considered it an

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appropriate course. A copy of this email chain is attached and marked 'AFP.2003.0004.8358'.

236. On 27 September 2021 at 2:40pm, I sent an email to Acting Assistant Commissioner Linda Champion and Acting Commander O'Meagher. I told them that I had a conversation with the CPO about the issue of identifying Heidi Yates as a witness in the Lehrmann Investigation. The CPO and I were of the view that we should write to the DPP and outline our position that we believe Heidi Yates may be conflicted on this issue and that ACT Policing should not be engaged with Ms Yates any further with respect to this investigation. I asked Linda and Hall to arrange for DS Moller to work with Sergeant David [WIT_Pe] to prepare a draft for consideration. A copy of this email chain is attached and marked 'AFP.2003.0004.8991'.
237. On 2 October 2021, CPO Gaughan wrote to the DPP concerning this issue. A copy of this email is attached and marked 'AFP.0015.0001.0763'. The DPP replied on 7 October 2021, stating that he did not envisage a problem with all AFP communications coming through his office. A copy of that response is attached and marked 'AFP.2003.0004.9168' and 'AFP.2003.0004.9169'.

August-December 2021: Miscellaneous

238. On 21 October 2021, I was copied to an email from Alison [WIT_Personal_Info] of AFP Legal to the Chief Operating Officer Charlotte Tressler. Samantha [WIT_Person] of AFP Legal was also copied. The email contained legal advice in respect of releasing the name of the complainant. A copy of that email is attached and marked 'AFP.2003.0011.0703'.
239. On 18 November 2021, I received an email from Acting Commander O'Meagher, forwarding correspondence from Shane Drumgold setting out the results of the directions hearing of that date. A copy of that email is attached and marked 'AFP.2003.0011.2506'. I forwarded that email to the senior executive staff (see the forwarded email attached and marked 'AFP.2003.0011.2962'.
240. On 24 November 2021, I received an email from CI Cameron to AFP Legal that was also addressed to the CPO and to Coordinator Corporate Services. The email included a legal advice prepared by David Pammenter (Deputy General Counsel) concerning the points raised in the letter sent by Shane Drumgold about the police test for charging. A copy of that email is attached and marked 'AFP.2003.0003.2259' (see [.2260]).

February-March 2022: Preparation of Senate Estimates briefs

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241. On 7 February 2022, I received an email from CI Cameron that was also addressed to the CPO. The email sought my clearance of a Senate Estimates brief on Operation Covina. I cleared the brief and asked ACTP Ministerial to ensure that the brief accurately reflected that the Clearance Officer was the CPO. A copy of that email is attached and marked 'AFP.2003.0011.4881'. The brief was later cleared by the CPO. A copy of that clearance is attached and marked 'AFP.2003.0011.4905'.

242. On 21 March 2022 at 2:00pm I spoke with Shane Drumgold. I do not recall the circumstances or exact conversation with Mr Drumgold on this occasion, however, my diary notes reflect that this conversation did take place. I do not recall whether this conversation was via telephone or video conference and my notes do not reflect this. A copy of my diary notes is attached and marked 'AFP.0006.0001.0001' (at 0007 to 0009). I infer from my diary notes that we discussed the Investigative Case Review Element of the work arising from the SAPR Review. According to my diary notes, Mr Drumgold also raised the Lehrmann Investigation. My diary notes record:

'ACT DPP expressed his concerns about the manner in which Higgins manner was handled and potential agenda of investigation – assurance this is not consideration – individual approaches cannot represent policy position.'

243. I do not recall the exact conversation with Shane Drumgold recorded in my notes. However, I believe, as detailed in my notes, that the majority of the conversation focused on our respective responses to the SAPR Report and how these were to be managed. I also believe that the concerns Mr Drumgold raised in relation to the Lehrmann Investigation were those that created challenges for the investigation and prosecution including the service of the brief and the breakdown of the relationship between the investigation and prosecution teams. I do acknowledge that everything that has occurred since that conversation potentially places Mr Drumgold's comments in a different context. However, I did not have any understanding at the time of this conversation in March 2022 that Mr Drumgold was suggesting that investigators or the AFP had deliberately mismanage or negatively influence the Lehrmann investigation and prosecution.

244. On 21 March 2022, I received an email from Jillian Van Leeuwen attaching a Senate Estimates brief on Operation Covina. A copy of that brief is attached and marked 'AFP.2003.0011.0374'.
 Priv PP

Priv PP CI Cameron sent me a copy of the updated brief (attached and marked 'AFP.2003.0011.0372').

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245. On 22 March 2022, I prepared an amended version of the above-mentioned Senate Estimates brief. The email chain attaching the amended document is attached and marked '**AFP.2003.0011.0385**'.

PII - Prejudice investigations

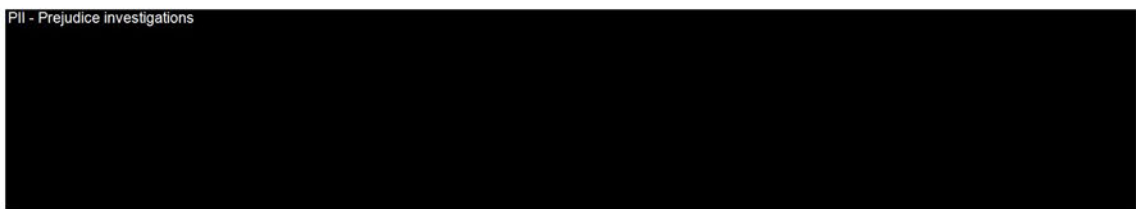


April 2022: stay application

250. On 7 April 2022, I received an email from CI Cameron advising that there was a delay of the Court's consideration of the stay application in Operation Covina. A copy of that email is attached and marked '**AFP.2003.0003.5292**'.

251. On 29 April 2022 I received an email from CI Cameron providing an update on her Honour's comments about risks to the trial in light of the victim engaging in public discourse on the matter. The next day, I was copied on a response from the CPO. A copy of that email chain is attached and marked '**AFP.2003.0003.5538**'.

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253. PII - Prejudice investigations

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June 2022: input in National Minister's Weekly Letter

257. On 1 June 2022, I received an email from my Executive Assistant Sabina [WIT_Personal_Inf] seeking clearance of proposed input regarding Operation Covina to the National Minister's Weekly Letter. I made minor amendments to the proposed input, however, I am aware that the CPO made a decision that ACT Policing would not contribute to the letter. The relevant email correspondence is attached and marked 'AFP.2003.0003.2579', 'AFP.2003.0003.2594', 'AFP.2003.0003.2596', 'AFP.2003.0003.3315'.

June 2022: awareness of contact from the Defence

258. On 7 June 2022, I received an email from CI Cameron. CI Cameron advised that DS Moller was directly contacted by the defendant's legal representative John Korn. Mr Korn told DS Moller that he was aware of a complaint about the brief of service issue and offered to provide a statement confirming that he had never accessed the information on the USB that constituted the initial brief of evidence. CI [WIT_Personal_Inf] passed on the information in case it would be helpful for anyone handling the complaint.

259. On 7 June 2022, I responded to CI Cameron, copying in Acting Commander Phil [WIT_Personal_Inf]. I said I had spoken with Phil about the contact from John Korn. I asked that CI Cameron and Phil discuss the next steps to ensure the integrity of the criminal process. I suggested that the statement could be obtained by a member independent of Operation Covina.

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260. Both the email from CI Cameron and my response to CI Cameron on 7 June 2022 are contained in the attached email chain marked ‘AFP.2003.0003.3417’.

June 2022: awareness of alleged missing CCTV

261. My email of 7 June 2022 also included the recent update on Operation Covina to the SIOB. The overview outlined the inquiries that occurred in response to the DPP’s concern that a certain file of CCTV footage was missing. I observed:

The extra inquiries in respect to the CCTV are being undertaken by the DFT as reflected in the update. In respect to the provision of the extra material which I note DPP have suggested was a further Thumb-drive (I have not been advised of this previously) to work through. Please note due to the issues in respect to COVID restrictions in August last year, there were processes put in place to facilitate proper service of the summons on John Korn which I would suggest would be reflected in the CNE’s as part of the Lehrmann Investigation.

June 2022: the 7PM Company warrant

262. On 10 June 2022 I was copied to an email from DS Moller to CI Cameron that forwarded legal advice from AFP Legal. The advice concerned the correct warrant to use to obtain a physical recording of a meeting between the complainant and Lisa Wilkinson, held by the 7PM Company. A copy of that email is attached and marked ‘AFP.2003.0003.3535’.

263. On 14 June 2022 I sent an email to CI Cameron, Ian McCartney, Natalie [WIT_Perso] Brett [WIT_Personal_Inf] Hans [WIT_Personal_Info] Samantha [WIT_Personal] Michael Pannett, Doug Boundry, and Scott Lee to advise that preparations to serve the warrant on 7PM were underway. A copy of that email is attached and marked ‘AFP.2003.0003.3611’.

August 2022: parliamentary privilege issues

264. On 31 August 2022 I was copied to an email from CI Cameron to the Office of Deputy Commissioner Investigations in relation to investigations where parliamentary privilege may be involved, including Operation Covina. A copy of that email is attached and marked ‘AFP.2003.0003.4850’.

September 2022: disclosure to the defence

265. On 13 September 2022 I received an email from CI Cameron advising that Stephen Whybrow had contacted DS Moller by phone in relation to a request about the disclosure of certain documents. CI Cameron’s email forwarded an email that she

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received earlier from AFP Legal that attached legal advices from AFP Legal dated February 2022 and June 2022 in relation to whether the investigative review documents were disclosable and whether the documents were covered by LPP. The relevant email is attached and marked 'AFP.2003.0011.6615'. The attachments are marked 'AFP.2003.0011.6617', 'AFP.2003.0011.6621', 'AFP.2003.0011.6625', 'AFP.2003.0011.6630', 'AFP.2003.0011.6668', 'AFP.2003.0011.6669'.

266. On 14 September 2022 at 9:56am I was copied to an email from CI Cameron to Alison ^{WIT_Personal_Info} forwarding a separate email from the defendant's lawyers that sought information about the disclosure schedule. CI Cameron's email noted that I had asked that we await the outcome of AFP Legal's external review of the legal advice given so far, then hold a meeting with the DPP about this issue. A copy of that email is attached and marked 'AFP.2003.0003.1965'.
267. On 14 September 2022 at 11:10am my Executive Assistant Sabina ^{WIT_Personal_Info} sent an email on my behalf to Shane Drumgold to seek a meeting with his office to discuss recent emerging issues relating to the disclosure of certain material in the Lehrmann Investigation. The email advised that ACT Policing has been contacted directly by Bruce Lehrmann's legal counsel and that I sought a meeting to discuss the matters raised by Mr Whybrow with Mr Drumgold's office. A copy of that email is attached and marked 'AFP.2003.0011.5115'. I refer to my answer to Question 54 in relation to this meeting that occurred on 15 September 2022.
268. On 17 September 2022 at 2:36pm I received an email from CI Cameron addressed to CPO Gaughan and me in relation to a subpoena issued to the AFP by the defence. The subpoena sought copies of the 'Investigative Review Document' or any document which outlines versions of events as supplied by the complainant during her engagement with the AFP since 2019, including any documents that outline subsequent discrepancies. CI Cameron's email advised that the documents sought were being collated and provided an overview of advice from AFP Legal on whether LPP or PII could be claimed in respect of those documents. CI Cameron also forwarded earlier correspondence with the investigators and from Helen ^{WIT_Persc} of AFP Legal that focussed on making enquiries to assist AFP in working through the subpoena. A copy of the 17 September 2022 email sent at 2:36pm is attached and marked 'AFP.2003.0011.5246'. The attachments are marked 'AFP.2003.0011.5249', 'AFP.2003.0011.5274', 'AFP.2003.0011.5302'.

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269.

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[Redacted]

270. PII - Prejudice investigations
[Redacted]

271. On 27 October 2022 at 12:16pm I received an email from Matthew ^{WIT_Personal}[Redacted] of ACT Policing Media that extracted a copy of the complainant’s comments outside the Court that morning. A copy of that email is attached and marked ‘AFP.2003.0006.6764’.

272. PII - Prejudice investigations
[Redacted]

273. PII - Prejudice investigations
[Redacted]

274. At 2:18pm I received a further email from CI Cameron that forwarded an email from Stephen Whybrow at 1:10pm of the same date, that included a statement on behalf of Bruce Lehrmann in relation to the complainant’s comments that morning. A copy of that further email is attached and marked ‘AFP.2003.0011.8532’.

275. At 2.32pm, CPO Gaughan and I received an email from CI Cameron, stating that “we are not commenting” to the media about Mr Whybrow’s comments to the media that he had referred Ms Higgins to the AFP. A copy of that email is attached and marked ‘AFP.2003.0011.8537’.

276. Priv LPP
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277. PII - Prejudice investigations
[Redacted]

278. PII - Prejudice investigations
[Redacted]

279. PII - Prejudice investigations
[Redacted]

280. PII - Prejudice investigations
[Redacted]

PII - Prejudice investigations
[Redacted]

281. PII - Prejudice investigations
[Redacted]

Awareness of Ms Higgins' mental health issues

282. In relation to my knowledge of Brittany Higgins' mental health, I became aware of the vulnerable nature of her wellbeing soon after commencing as DCPO as it was a matter identified by the investigative team in the first half of 2021. I was also aware, through my interactions with Heidi Yates, that the disclosure of the brief to defence containing

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counselling records had caused additional distress to Ms Higgins. I was also aware of Ms Higgins's mental health issues during the trial, as this was subject to an ACT Policing response.

The trial

283. [Q82] I did not attend the trial in the matter of *R v Lehrmann*.
284. [Q83] On 5 October 2022, CI Cameron sent an email to me and other senior executive staff. Joanne advised that at the end of each day of the trial, a member of the investigations team would prepare an email summarising the developments in court and advising of what was anticipated for the following day, to be distributed to certain individuals. A copy of that email is attached and marked '**AFP.2003.0011.6284**'.
285. I received daily updates on the trial via email from the investigations team. Copies of those updates are attached to my statement and marked:
- a. AFP.2003.0011.6284 (day one of trial);
 - b. AFP.2003.0019.3023 (day two of trial);
 - c. AFP.2003.0011.6311 (day three of trial);
 - d. AFP.2003.0019.3421 (day four of trial);
 - e. AFP.2003.0011.6798 (day five of trial);
 - f. AFP.2003.0019.3726 (day six of trial);
 - g. AFP.2003.0019.3734 (day seven of trial);
 - h. AFP.2003.0011.7123 (day eight of trial);
 - i. AFP.2003.0019.3820 (day nine of trial);
 - j. AFP.2003.0011.7307 (day 10 of trial); and
 - k. AFP.2003.0011.7373 (day 11 of trial).
286. The Executive of ACT Policing have a group on the secure messaging application Signal. We discuss a range of issues relating to activities across ACT Policing in the group chat. I received communications about the progression of the trial through this chat, attached and marked '**AFP.0018.0001.0214**'.
287. On 24 November 2022, I asked CI Cameron via the Signal Group if she knew what was being referred to in the media as 'close' court proceedings set for 2 December 2022 CI Cameron replied 1 hour and 19 minutes later advising that, no one in Criminal Investigations knew, but Ryan would reach out to the DPP.'

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Bail

288. [Q84] I did not interact with the DPP/ACT DPP and/or the legal representatives for Bruce Lehrmann in relation to the considerations for bail for Bruce Lehrmann.
289. In my experience, interaction between police and the defence in relation to bail considerations is not unusual. Many police officers have a professional engagement with legal representatives and issues with respect to bail are discussed in the lead up. These conversations concern the police intentions for bail and conditions that may be suitable where bail is being opposed or sought on conditions.

1 November 2022 Correspondence

290. [Q85] To the best of my recollection, I first became aware of the correspondence from the DPP to CPO Gaughan dated 1 November 2022 (1 November 2022 Correspondence) during a meeting with the CPO and Acting Commander Eagles on 25 November 2023 where they discussed the letter.
291. [Q86] I next heard about the letter through the media on 8 December 2022. At 12.34pm that day, the CPO forwarded to me a draft story by Christopher Knaus at the Guardian which contained extensive detail from the 1 November 2022 Correspondence. A copy of the email forwarded by the CPO to me is attached and marked 'AFP.2003.0012.0437'. I was extremely disappointed at being made aware of this media request and the evident release of this correspondence to a journalist without any prior warning to, or input from, the AFP.
292. After the media reporting I spoke to the CPO as we were required to develop a media response to the request. I was aware the CPO had received the 1 November 2022 Correspondence earlier that month and was required to manage it in accordance with AFP Professional Standards reporting frameworks. I know these frameworks restrict any further disclosure of a professional standards report.
293. I spoke with the CPO and other senior executive staff about the content of the Correspondence and how to manage its public release. In particular, I recall that the senior executive staff sent emails about related matters including responding to an enquiry from the Guardian, as well as draft wording to provide internally to the AFP about the Correspondence. A copy of that email is attached and marked 'AFP.2003.0012.0521'.
294. My actions in relation to the letter are limited to my interactions with senior executive staff as outlined in my answer to Question 87.

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295. I recall reading some of the 1 November 2022 Correspondence but possibly not the complete letter.
296. [Q87] I recall that senior executive staff were concerned that the public release of the 1 November 2022 Correspondence breached the legislation. I was aware that there were discussions with AFP Legal about possible breaches of the FOI Act occasioned by the release of the 1 November 2022 Correspondence. A copy of the relevant email chain is attached and marked 'AFP.2003.0012.0654'.
297. I recall that as a collective, senior executive staff made a decision about the next steps, including the decision to refer the material to the ACT Ombudsman's Office for their consideration.
298. PII - Prejudice investigations
[REDACTED]
299. On 8 December 2022 I received an email from Peter Whowell forwarding correspondence with AFP Legal about possible breaches of the FOI Act occasioned by the release of the 1 November 2022 letter. A copy of that email is attached and marked 'AFP.2003.0012.0654'.
300. On 15 December 2022, Peter Whowell sent an email to me and senior executive staff. The email forwarded an email from ACT FOI that acknowledged receipt of a complaint from AFP to the ACT Ombudsman about the ACT DPP's handling of an FOI application. A copy of that email is attached and marked 'AFP.2003.0003.2444'.
301. On 13 January 2023 I received an email from Jodie WIT_Personal_I to senior executive staff attaching a letter of apology in relation to the release of the 1 November 2022 Letter dated 13 January 2023 from Shane Drumgold. A copy of that email is attached and marked 'AFP.0001.0001.0210' (see [.0278]).

AFP Internal Reviews

302. [Q88] An AFP Internal Review is a quality assurance process that is conducted in respect of an AFP investigation or operation. An Internal Review or a Post Operational Assessment (POA) is initiated by the business area responsible for the investigation or operation and it can occur either during the course of an investigation or operation or following the completion of such activities.

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303. An Internal Review might be initiated for a number of reasons. For example, if a matter is particularly complex, it is appropriate that it be subject to a process to ensure it is being conducted as it should be. It would also be appropriate to initiate an Internal Review if an issue arose during the course of an operation that required a more coordinated response. The timing of when a Review is initiated is dependent on what the intention or the focus of the Review is.
304. The make-up of a review team will depend on the circumstances and intent of the review.
305. Attached and marked 'AFP.0015.0001.0794' is the AFP Better Practice Guide for Investigation Review which guides the conduct of an internal review.
306. [Q89] I refer to my answer above to Question 66 in relation to my awareness of Commander Smith's internal review into Operation Covina.
307. I am not aware of any other AFP Internal Reviews that occurred in relation to the Lehrmann Investigation or the conduct of sexual assault investigations in the ACT generally.

Impressions of the DPP/ACT DPP during the Lehrmann Investigation and Trial in the matter of *R v Lehrmann*

308. [Q90] In relation to my impression of the DPP's conduct during the Lehrmann Investigation and trial of *R v Lehrmann*, I was mindful that the matter had a very high profile. Both the ACT DPP and ACT Policing were under enormous pressure.
309. I was surprised that the ACT DPP did not consult with ACT Policing on the decision concerning whether or not to hold a retrial and I think it is unfortunate that this consultation did not occur. That should have occurred under the Collaboration Agreement. I do not recall formally expressing this opinion to anyone.
310. [Q91] During the Lehrmann Investigation and the trial I was aware of the breakdown of the relationship between the investigators and Shane Drumgold in particular. I was also aware that the investigators felt like the ACT DPP was not communicating with them and that information was being withheld from them. On 2 December 2022 I became aware of concerns of the investigators regarding their perception of treatment by the ACT DPP. I received an email from CI Cameron forwarding an email she had sent to the investigators, following concerns raised by them about the 'lack of professional courtesy during this investigation' of the ACT DPP. Attached and marked 'AFP.2003.0012.0094' is a copy of that email from CI Cameron.

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311. In my view, the breakdown of the relationship in this case was unfortunate. It is always ideal to have a robust, respectful and professional working relationship, irrespective of the outcome in an individual case. The ACT DPP and ACT Policing both work to serve the community and this was reflected in the respective media releases.
312. The relationship breakdown had an impact on the Lehrmann Investigation because such a breakdown creates extra pressure on the capacity of the investigators and the prosecutors to achieve their respective roles. There was a natural reduction in the flow of information and there was less of a willingness to engage. However, I would not go so far as to say that the breakdown hindered the conduct of the investigation or the trial. I think that each of the ACT Policing officers involved in the investigation and trial did their best to approach the matter in a professional way.
313. Despite the breakdown of the relationship in Operation Covina, numerous other matters relying on collaboration between ACT Policing and the ACT DPP continued to proceed efficiently from the investigation to the Court process. The relationship between ACT Policing and the ACT DPP is bigger than one case or one individual.
314. [Q92] I recall being made aware during the course of the trial that the ACT DPP held the view that interactions between the investigators and the defence were inappropriate. From my perspective, the view held by the ACT DPP did not reflect what was actually happening. It is my understanding that police were being approached by the defence rather than the other way around, and I understand that those contacts were reported up the chain of command and the issue was escalated by CI Cameron to the DPP.

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

315. [Q93] I did consider the VOCC's conduct during the investigation and/or trial in the matter or *R v Lehrmann* was unusual.
316. I make this comment as I thought it unusual that the VOCC would provide such direct support to a victim due to the potential precedence this might create. I acknowledge that this impression was based on my limited recent experience of some of the prosecutions in the ACT.
317. [Q94] I was not aware of the relationship between ACT Policing and the VOCC Heidi Yates until I commenced with ACT Policing in July 2021. At that time, I observed that the relationship between the VOCC and ACT Policing was challenging, particularly in the context of the SAPR Report. The positions of our agencies were not consistent on a number of issues.

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318. I thought that the fact that communication with the complainant had to occur through the VOCC, and later the ACT DPP, either caused or amplified this strain and reflected the breakdown in communication – however, it appeared to be an effective process which was supported by the respective parties.
319. I never felt that the relationship broke completely, either in this matter specifically or more generally.
320. [Q95/Q96] The treatment by the VOCC Heidi Yates and her staff towards me and other ACT Policing officers in relation to the Lehrmann Investigation and trial was not unusual. I note that I did not engage with Ms Yates to any great extent in this respect. I do not recall that any ACT Policing officers were intimidated by the VOCC during the matter.

Media

321. [Q97] I do think that the level of media involvement in the matter affected how the matter proceeded. A sexual assault investigation would rarely receive such a level of media attention. To the best of my knowledge, none of the investigations team had previously been involved in a case with such public interest.
322. In a case of this profile, I expect that officers were constantly concerned about being subject to a media attention. I do not recall any officer specifically voicing this concern to me. However, while the officers certainly did their best to manage the investigation within those parameters, I would think that their ability to conduct the investigation was affected in that everything they did had the potential to end up in the media.
323. [Q98] I was aware of the communication between the ACT DPP and ACT Policing on 5 August 2021 in relation to the preparation of implementation of the AFP media plan concerning the Lehrmann Investigation. Attached and marked **AFP.2003.0021.6640** is an email dated 5 August 2021 at 2.09pm and its four attachments which are marked **AFP.2003.0021.6644; AFP.2003.0021.6646; AFP.2003.0021.6647; AFP.2003.0021.6659**.
324. [Q99] I was not involved in drafting media releases in respect of the Lehrmann Investigation. Instead, I was involved in amending and clearing media responses, once they were prepared by the media or investigations team. I also provided input on talking points and proposed wording to respond to questions from journalists. Depending on the complexity of the issue, I may escalate the media material to the CPO.
325. I attach the National Media Handbook (marked '**AFP.0013.0001.0110**').

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326. I was involved in or had visibility of the following media releases or draft media releases:
- a. The media statement regarding the AFP Commissioner's comments at the National Press Club on 28 July 2021. Attached and marked **AFP.0006.0001.0027** is an email regarding the media response dated 29 July 2021 at 1.57pm.
 - b. The media statement proposed to be released to journalist Samantha Maiden on 29 July 2021. Attached and marked **AFP.0006.0001.0039** is an email regarding draft media response dated 29 July 2021 at 12.57pm.
 - c. The media statement proposed to be released following the charging of the defendant, as referred to in response to Question 98 above. Attached and marked **AFP.0006.0001.0035** is an email dated 5 August 2021 at 12.22pm regarding the draft media release and attached and marked **AFP.2003.0005.0674** is an email dated 5 August 2021 at 12.45am.
 - d. The proposed response to the media request from the ABC on 27 April 2022 regarding a complaint by Brittany Higgins regarding protected evidence being provided to the defence. Attached and marked **AFP.2003.0003.5433** is an email dated 27 April 2022 at 10.55am; **AFP.2003.0003.5441** is an email dated 27 April 2022 at 12.30pm; **AFP.2003.0003.5438** is an email dated 27 April 2022 at 2.21pm.
 - e. Proposed media speaking points covering different court outcomes for the Lehrmann trial. Attached and marked **AFP.2003.0011.7407** are emails dated 19 October 2022 at 2.03pm and 2.09pm.
 - f. The proposed response to media requests regarding Stephen Whybrow's comments on 27 October 2022 that he had referred Brittany Higgins to the AFP. Attached and marked **AFP.2003.0011.8537** is an email dated 27 October 2022 at 2.32pm.
 - g. The proposed media response regarding discontinuation of the prosecution of Bruce Lehrmann. Attached and marked **AFP.2003.0011.9719** is an email I sent dated 2 December 2022 at 10.37am.
 - h. The proposed media response to a media request from the Guardian regarding Trent Madders and Stephen Whybrow's complaint regarding Brittany Higgins.

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Attached and marked **AFP.2003.0012.0100** is an email dated 2 December 2022 at 3.25pm.

- i. The proposed media response to a media request from The Guardian regarding an article published in The Australian on 3 December 2022 by Janet Albrechtsen. Attached and marked **AFP.2003.0012.0102** is an email from me dated 3 December 2022 at 11.11am.
- j. The proposed media response to a media request from The Guardian on 8 December 2022 regarding Shane Drumgold's letter dated 1 November 2022 to the Chief Police Officer Neil Gaughan. Attached and marked **AFP.2003.0012.0437** is an email dated 8 December 2022 at 12.34pm, marked **AFP.2003.0012.0453** is an email dated 8 December 2022 at 1.46pm and marked **AFP.2003.0012.0521** is an email dated 8 December 2022 at 3.15pm.
- k. The proposed media response to a media request from The Australian regarding Brittany Higgins' allegations in her EICI where she referred to a "cover'up" of her matter by people in government. Attached and marked **AFP.2003.0003.4887** is an email chain dated 21 December 2022.

327. [Q100] I had no direct communications with the media about the Lehrmann Investigation or the trial.

Board of Inquiry

328. [Q101] Deputy Commissioner Gaughan served a direction on me to assist the Board of Inquiry pursuant to s 40 of the AFP Act. Following that, I recall that I told Deputy Commissioner Gaughan that I was required to attend an interview with the Board. I also served a number of similar directions on other members of the AFP in my position as acting CPO.

329. I have had general discussions in the lead up to the provision of my evidence to the Board of Inquiry but have not discussed the provision of my evidence to the Board of Inquiry with any AFP member. I have however engaged with AFP colleagues on the provision of documents and the like where appropriate.

330. [Q103] I do not have any other matters to raise with respect to the Terms of Reference of the Board of Inquiry.

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~~SWORN~~**AFFIRMED** before me at Canberra in the Australian Capital Territory on 14 April 2023.

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NAME OF PERSON MAKING STATEMENT

Personal information
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Signature of witness

Personal information
[Redacted]

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NAME OF WITNESS