

TAB 1

Subpoena Number: 2023/S/0016

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

SUBPOENA TO PROVIDE A WRITTEN STATEMENT

To: Ms Izzi Johnstone

Of: ACT Office of the Director of Public Prosecutions
Reserve Bank Building
20-22 London Circuit
CANBERRA CITY ACT 2601

I, WALTER SOFRONOFF KC, Chairperson of the Board of Inquiry established by the Inquiries (Board of Inquiry – Criminal Justice System) Appointment 2023 (NI2023-49)¹ dated 1 February 2023 require you to give a written statement to the Board of Inquiry pursuant to sections 18(c), 26(1)(b) and 26(3)(b) of the *Inquiries Act 1991* in regard to your knowledge of the matters set out in the Schedule annexed hereto.

YOU MUST COMPLY WITH THIS REQUIREMENT BY:

Giving a written statement signed and witnessed in accordance with section 7 of the *Oaths and Affirmations Act 1984* (ACT) to the Board of Inquiry on or before **5:00 pm AEDT on 28 March 2023**, by delivering it to Nara House, 3 Constitution Avenue, Canberra City ACT 2601.

A copy of the written statement must also be provided electronically by email at BOI.Notices@inquiry.act.gov.au with the subject line "Requirement for Written Statement".

If you believe that you have a reasonable excuse for not complying with this notice, you will need to satisfy me of this by the above date.

Failure to comply with this notice without lawful excuse is a Contempt of Board and you may be dealt with accordingly.

Date: 21 March 2023



Walter Sofronoff KC
Chairperson
Board of Inquiry

¹ The terms of reference of the Board of Inquiry, contained in NI2023-49 dated 1 February 2023 are set out as **Annexure A** to this subpoena.

Notes

Informal service

1. Even if this notice has not been served personally on you, you must, nevertheless, comply with its requirements, if you have actual knowledge of the notice and its requirements.

Where the addressee is a corporation or agency

2. If this notice is addressed to a corporation or agency, the corporation or agency must comply with the notice by its appropriate person or proper officer.

Objections

3. If you object to a document or thing produced in response to this notice being inspected by a party to the proceeding or anyone else, you must tell the Board of Inquiry about your objection and the grounds of your objection either orally on the return date for this notice or in writing before or after the return date.

Production of copy instead of original

4. If the notice requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.
5. The copy of the document may be—
 - (a) a photocopy; or
 - (b) in PDF format; or
 - (c) in any other electronic form that the issuing party has indicated will be acceptable.

Contempt of Board of Inquiry

6. A person commits an offence if the person does something in the face, or within the hearing, of a board that would be contempt of court if the board were a court of record (see *Inquiries Act 1991*, s 36 (**Contempt of Board**)).
7. Failure to comply with a subpoena without lawful excuse is a Contempt of Board and may be dealt with accordingly.
8. Failure to comply with a subpoena may also be a criminal offence (see *Criminal Code*, s 719 (Failing to attend) and s 720 (Failing to produce document or other thing)).

Protections

9. Where a person is required to produce a document (or other thing) or answer a question to the Board of Inquiry, that person is not able to rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to produce the document or other thing or answer the question (see *Inquiries Act 1991*, s 19 (Privileges against self-incrimination and exposure to civil penalty)).
10. However, anything obtained because of the producing of the document or other thing, or the answering of the question, is not admissible in evidence against that person in a civil or criminal proceeding, except for an offence relating to the falsity or misleading nature of the document or other thing or answer, and for an offence against chapter 7 of the *Criminal Code* (see *Inquiries Act 1991*, s 19 (Privileges against self-incrimination and exposure to civil penalty)).

ANNEXURE A
Terms of Reference

1. The Board will inquire into:
 - (a) Whether any police officers failed to act in accordance with their duties or acted in breach of their duties:
 - (i) in their conduct of the investigation of the allegations of Ms Brittany Higgins concerning Mr Bruce Lehrmann;
 - (ii) in their dealings with the Director of Public Prosecutions in relation to his duty to decide whether to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann in relation to those allegations;
 - (iii) in their dealings with the legal representatives for Mr Lehrmann before, during or after the trial in the matter of *R v Lehrmann*;
 - (iv) in their provision of information to any persons in relation to the matter of *R v Lehrmann*.
 - (b) If any police officers so acted, their reasons and motives for their actions.
 - (c) Whether the Director of Public Prosecutions failed to act in accordance with his duties or acted in breach of his duties in making his decisions to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann.
 - (d) If the Director of Public Prosecutions so acted, his reasons and motives for his actions.
 - (e) The circumstances around, and decisions which led to the public release of the ACT Director of Public Prosecutions' letter to the Chief Police Officer of ACT Policing dated 1 November 2022.
 - (f) Whether the Victims of Crime Commissioner acted in accordance with the relevant statutory framework in terms of support provided to the complainant in the matter of *R v Lehrmann*.
 - (g) Any matter reasonably incidental to any of the above matters.
2. The Board will report to the Chief Minister by 30 June 2023.

Subpoena 2023/S/0016

Schedule of Questions for Statement

Ms Izzi Johnstone

Background and Professional History

1. Outline your tertiary qualifications, including when and where you obtained them.
2. Outline your diploma qualifications including when and where you obtained them.
3. Outline your current occupation, when you commenced in this occupation and the job description for your current role (if applicable).
4. Outline your work history since commencing at the ACT Office of the Director of Public Prosecutions (ODPP).

Involvement in the Matter of *R v Lehrmann*

5. Outline when you first worked on, or had any involvement in, the matter of *R v Lehrmann* and provide a broad overview of the nature of your involvement and the nature of the work you undertook in relation to the matter of *R v Lehrmann*.

Interactions and correspondence with witness Fiona Brown

6. Outline, in chronological order, any interactions you had with Ms Fiona Brown in relation to the matter of *R v Lehrmann*. Include information about:
 - (a) the person who initiated the interaction;
 - (b) the purpose of the interaction;
 - (c) where and how the interaction took place;
 - (d) the people in attendance;
 - (e) what was communicated and by whom;
 - (f) documents (if any) you were provided in relation to the interaction, including whether you reviewed the documents prior to or after the interaction; and
 - (g) the nature of any discussions.

Attach copies of relevant communications or documents including but not limited to

correspondence, emails, text messages, file notes and diary notes. To the extent communications were verbal outline the parties to the communications and the effect of the words spoken (**usual particulars**).

The following periods of time/dates must be included:

- a) prior to Ms Brown giving evidence; and
 - b) 14 October 2022.
7. Did you inform anyone from the ODPP of any interactions with Ms Brown on 14 October 2022? If yes, include information about:
- a) who you informed,
 - b) how you informed them (for example by email or verbally etc),
 - c) what you informed them,
 - d) when you informed them; and
 - e) any response you received following provision of the information.

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

8. Did you have any interactions, conversations or correspondence with Ms Fiona Brown subsequent to 14 October 2022? To the extent not addressed above, provide details of these interactions, conversations or correspondence. **Attach** copies of any relevant communications or documents including but not limited to correspondence, emails, text messages, file notes, calendar invitations, calendar appointments and diary notes. In the event discussions occurred verbally, provide the usual particulars.

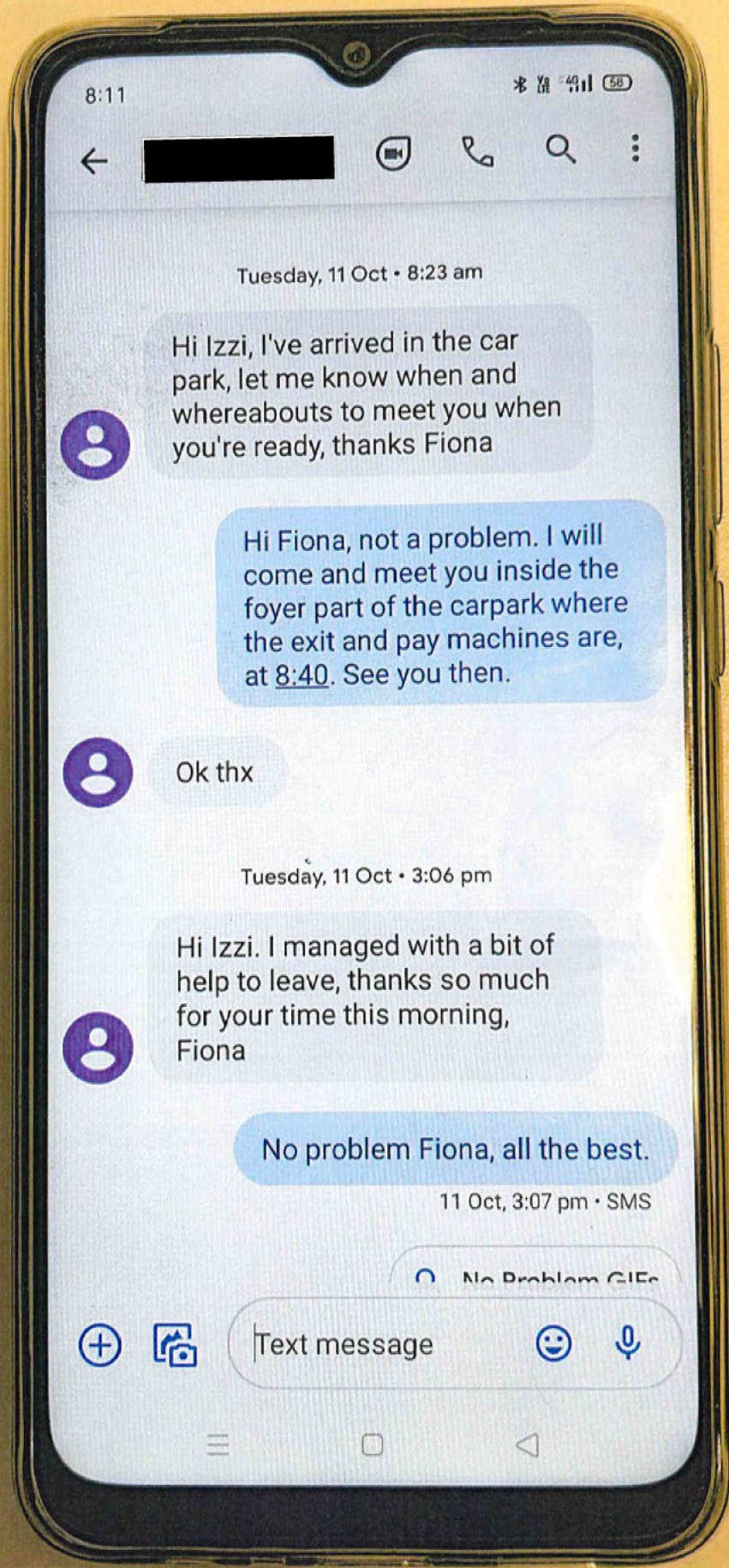
Board of Inquiry

9. Outline any other matters you wish to raise with respect to the Terms of Reference of the Board of Inquiry.

TAB 2

- sunday night Norotel, her name?
- link booking

TAB 3



8:11

Bluetooth 4G LTE 50



Tuesday, 11 Oct • 8:23 am



Hi Izzi, I've arrived in the car park, let me know when and whereabouts to meet you when you're ready, thanks Fiona

Hi Fiona, not a problem. I will come and meet you inside the foyer part of the carpark where the exit and pay machines are, at 8:40. See you then.



Ok thx

Tuesday, 11 Oct • 3:06 pm



Hi Izzi. I managed with a bit of help to leave, thanks so much for your time this morning, Fiona

No problem Fiona, all the best.

11 Oct, 3:07 pm • SMS

No Problem GLE



Text message



TAB 4

'defaming me'
100% incorrect
i will come back
if i need to

TAB 5

