

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

ADDENDUM STATEMENT OF EMMA FRIZZELL

I, Emma Louise Frizzell, of Winchester Police Centre, Coroner Benjamin Way and College Street, Belconnen in the Australian Capital Territory (ACT), state as follows:

The following statement is provided in response to the subpoena I received from the Board of Inquiry into the Criminal Justice System in the Australian Capital Territory requiring me to give information in a written statement regarding my knowledge of matters set out in the Schedule attached to that subpoena.

1. I provided an initial statement dated 13 April 2023. This statement is an addendum to that statement.
2. I have had the opportunity to observe some of the evidence of Superintendent Scott Moller before the Board of Inquiry given on 23 May 2023.
3. As a result of questioning about the two disclosure certificates, I have made inquiries by returning to the 'Word' versions of the certificates. I created both certificates.
4. I can confirm I last modified the certificates on 27 April 2022 at 5:42pm. I know I last updated these two certificates on this date because I have accessed the meta data on the 'Word' formatted files.
5. I understand as part of the Board of Inquiry materials that the 'first certificate' commences at DPP.005.008.5332 and the 'second certificate' commences at DPP.005.008.5356.
6. I have seen at AFP.2003.0010.8821 an email from Sergeant David Fleming to Inspector Callum Hughes (CC'd to me) attaches the two separate certificates as:
 - 'FINAL Defence Copy Disclosure statement 27Apr22.docx' (this is the defence copy of the certificate)
 - 'FINAL Disclosure statement 27Apr22.docx' (This is the DPP Copy).

7. I can confirm that two copies of the certificate are always created. One certificate is for DPP and the other for defence. The only difference is that at the beginning of the certificate the address and telephone number columns (personal details columns) are removed from the defence copy for privacy reasons. Those columns are included in the DPP copy.
8. If you look at the certificate which commences at DPP.005.008.5332 you will see it includes the address and telephone number columns. This means this certificate is the DPP copy.
9. If you look at the certificate which commences at DPP.005.008.5356 you will see it does not include the address and telephone number columns. This means this certificate is the Defence copy.
10. The questioning of Superintendent Moller has been around the fact that there is one piece of information missing from the defence copy in schedule 3 which was included in the DPP copy in schedule 3. This is an administrative error on my behalf. I know this because I have now compared the two original 'word' versions of the certificates.
11. When I created the two certificates, they should have been a mirror image of each other except for the address and telephone number columns (personal details columns) are removed from the defence copy. My usual practice when creating the two certificates is I do not cut and paste the entire document to create the second certificate so as to mitigate the risk of leaving personal details in the defence copy. In this case I believe I have cut and pasted each individual 'bar' of information from the table and inadvertently failed to include the following information in schedule 3 of the defence copy:

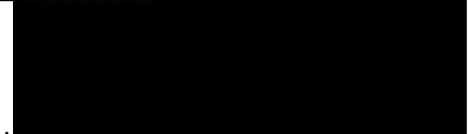
Investigative review documents	This document outlines versions of events as supplied by Ms Higgins during the course of her engagements with
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Personal information



Emma Louise Frizzell

Personal information



Witness

	Police since 2019 against the available evidence and subsequent discrepancies. Available upon request and in consultation with DPP.
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12. This above entry related to the ‘discrepancies document’. I note from the evidence at the Inquiry that it seems to be believed this entry includes the ‘Moller Report, The Boorman Minute and Evidence matrix’. That was not my intention.

13. My intention was that the ‘Moller Report, The Boorman Minute and Evidence matrix’ be included in another entry which is included in both certificates within schedule 3 which states:

Administrative correspondence and documentation in relation to Mr Lehrmann and Ms Higgins	Internal AFP briefing and investigative material inclusive of situation, evidentiary reviews, enquiries and identified issues and/or discrepancies
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14. I am confident I am correct in this regard given the similar wording contained in the contents of the below email of 1 March 2022 (which is Exhibit 66 to my original statement). I have looked at my email records and can say that the attachment attached to this email included a copy of the ‘Moller Report’, the Boorman Minute and the evidence matrix.

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Emma Louise Frizzell

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Witness

From: Personal info Stephanie
To: Frizzell, Emma
Cc: Hughes, Callum; Madders, Trent; Personal Shelley; Personal James; Personal Andrew
Subject: RE: Operation Covina (R v Bruce Lehrmann) [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege] [AFPL FID44314]
Date: Tuesday, 1 March 2022 12:08:39 PM
Attachments: DRAFT Disclosure statement 19Feb22 (Legal comments).docx
 scan_afp18974_2021-06-09-13-33-49.pdf

**OFFICIAL: Sensitive
 Legal privilege**

Hi Emma

Thank you for your email. If you and/or the DPP consider the attached internal briefing documents disclosable, in our view, the documents would fall under Schedule 3 of the disclosure certificate and would be captured by the following item:

Administrative documents and results in relation to the request and response of external enquiries in relation to both Mr Lehrmann and Ms Higgins.

From our review of the documents, there does not appear to be an obvious claim of public interest immunity or legal professional privilege which would protect the documents from disclosure. However, please let us know if you consider otherwise.

Kind regards
 Steph

STEPHANIE Personal information
 LAWYER – AFP LEGAL
 CHIEF LEGAL COUNSEL
 Tel: Personal information
www.afp.gov.au

15. In regard to the two certificates, I emailed them to Sergeant David Fleming on 27 April 2022 asking him to forward to Superintendent Moller and Inspector Hughes for signing (see AFP.2003.0010.8821). That is why there are two separate signatures on the two certificates. Again, one is a defence copy and one is a DPP copy.

16. By referring to my email records and my diary note (Diary D15993 page 33) I have established that on 29 April 2022 I attended the ODPP and provided a USB containing the following material:

1. Full cellebrite download of the complainant's mobile device – Redacted;
2. Full cellebrite download of the accused's mobile device – Redacted;

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- 3. Full Cellebrite download of the accused’s mobile device – not redacted (as requested);
- 4. SC/ James [Personal information] supplementary statement and attached images of the items contained within the ‘blue folder’ on the accused mobile device;
- 5. D/Supt Scott Moller statement;
- 6. Commander Michael Chew statement;
- 7. [Personal information] witness statement and signed APH building entrances document;
- 8. [Personal information] (Department of Defence) witness statement and accompanying gateway logs;
- 9. Updated disclosure statement – DPP copy;
- 10. Updated disclosure statement – Defence copy.

17. Items numbered 9 and 10 were a PDF copy of each certificate signed on 28 April 2022.

AFFIRMED before me at Canberra in the Australian Capital Territory on 23 May 2023.

[Redacted signature area]

Emma Louise Frizzell

[Redacted signature area]

Signature of witness

.....
Calvin Gnech

[Redacted signature area]

Emma Louise Frizzell

[Redacted signature area]

Witness

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