

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 ROBERT DAVID ROSE

I, ROBERT DAVID ROSE, of the Australian Federal Police 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. Attached and marked '**Exhibit 1**' is a copy of the relevant subpoena.

Current Employment

1. I am a Detective Sergeant of the Australian Federal Police ("AFP"), currently performing the role of Team Leader/Registrar of the ACT Child Sex Offender Registry Team, Australia Capital Territory Policing ("ACTP")
2. I have a Master of Leadership and Management, a Diploma of Law, and a Graduate Certificate of Transnational Crime Prevention.
3. My current role includes the day to day and overall supervision of four sworn members of the ACT Child Sex Offender Registry Team ("CSORT"), to ensure that those members administer the ACT Child Sex Offender Register in accordance with the provisions as provided for in the *Crimes (Child Sex Offenders) Act 2005* (ACT) ("the Act"). My role further includes ensuring the accuracy of information entered onto the Register, as provided by registerable offenders in accordance with their obligations under the Act; to oversight the activities of the team in ensuring registerable offenders meet their obligations as provided by the Act; and overseeing investigations conducted by the team when registerable offenders fail to meet their obligations. I do not have a job description for my current role.

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ROBERT DAVID ROSE

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Courses and Diplomas

4. Personal information
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5. I completed my Detective Training Program in 1996 and attained my Detective Designation in 2001. Personal information
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Employment Chronology

- 6. Prior to joining the AFP, I had no previous policing experience.
- 7. I first joined the AFP on the 22nd of June 1987.
- 8. My recruitment to the AFP involved a 13-week recruit training program conducted at the AFP Weston Police College facility, while we were housed at the AFP College on Brisbane Avenue, Barton. The training program consisted of classroom lessons on legal theory, including legislation, and police practice, as well as drill, practical exercises in attending incidents, driver training, and “use of force” training, and firearms training. An exam was held on the Monday of each week of the 12 weeks of the training program, with an 80% pass mark. Each week the breadth of questions contained in the exam expanded to include all of the previous material studied throughout the entire training program, until in the final week, the exam included questions from all of the previous 13 weeks of lessons. Should a member fail three exams in the 13 weeks, they were failed from the course.
- 9. In September 1987 I was sworn in as a Constable of the AFP, deployed to the Australian Capital Territory (“ACT”) Region.

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10. After satisfactorily completing my recruit training program I attended a four-week “Local Procedures” Program for the ACT Region as ACT Policing was then known. This involved exposure to the processes and procedures then relevant in the ACT Region. I then undertook a two-week Traffic Policing placement, where I learnt about the practices and procedures for the detection, and interception of traffic offenders, and the subsequent issuance of traffic infringement notices, and summonses for traffic offences.
11. In mid-October 1987 I was deployed to Woden Police Station and worked alongside experienced general duties police officers on a shift work basis, consisting of dayshift, afternoon shift and nightshift.
12. In December 1987 I was deployed to City Police Station, and then in April 1988 I attended “Stage 4” Investigator Training, which was a mandatory training program for all new Constables. The four-week program introduced us to typed records of interview, the preparation of search warrant affidavits, and other basic investigative techniques.
13. In May 1988, I was then deployed to Tuggeranong Police Station as a General Duties Constable. I performed General Duties as part of a patrol team attending a variety of incidents from shoplifting, burglaries, domestic violence, minor collisions, as well as other matters such as traffic direction, general patrol duties, and traffic duties.
14. In early 1990, I deployed to the Safety Education Team for about three months, where I attended schools, and the ACT Region bicycle safety centre in Belconnen to instruct children in stranger danger, and other related topics.
15. In mid-1990, I transferred to the Police Technical Unit where I undertook training in the installation, maintenance and removal of electronic listening devices, and video surveillance devices, including covert entry to premises, and vehicles. I supported investigations in the ACT in relation to the above techniques.
16. In 1992, I transferred to the Driver Training Unit where I taught police officers, police recruits, and some Government employees specialised driving techniques.

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ROBERT DAVID ROSE

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17. In 1995, I was temporarily attached to the Operations and Intelligence Branch of Internal Investigations into the investigation of malfeasance by a police officer.
18. In mid-1996, I undertook Detective Training, and successfully completed the program.
19. Later that year, I transferred to City Police Station.
20. In 1997 I resigned from the AFP and moved to Queensland where I worked as a Private Investigator, and subsequently as a Local Law Officer for Logan City Council.
21. In September 1998, I re-joined the AFP, and after two weeks of an abridged recruit training program, was deployed to ACTP as a Senior Constable. The training was conducted by the AFP College at Barton and was largely a recognition of prior learning, where it became apparent that I still retained the experience and understanding of policing.
22. In March 1999, I transferred to ACT Criminal Investigations and was deployed to the ACT Sexual Assault and Child Abuse Team.
23. I received my Detective designation on the 14th of June 2001.
24. In February 2015, as a substantive Detective Sergeant I transferred from Canberra Airport to ACT Policing, and was deployed to the ACT Watch House, which is part of Judicial Operations.
25. In August 2015, I performed higher duties as the Officer in Charge (then Station Sergeant – now referred to as Inspector) for two months before transferring into the role of Team Leader Brief Management Team (“BMT”). However, between that time and the end of my time in Judicial Operation in September 2018, I spent relatively little time as the Team Leader of the BMT as I was performing higher duties as both the OIC of Judicial Operations, and on occasion, the Superintendent of Judicial Operations.

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ROBERT DAVID ROSE

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26. The role of the BMT is to receive adjudicated summons briefs of evidence, along with all hearing briefs of evidence (for prosecutions commenced by summons, and arrest, where a plea of not guilty is made) for recording into a database to ensure Key Performance Indicators (“KPIs”) are recorded. Timeliness of hearing briefs, as well as records of the numbers of summons briefs, and originating locations of briefs are all recorded in the database. The BMT also facilitates the swearing of summonses, and provision of summons briefs, as well as hearing briefs to the ACT Director of Public Prosecutions (“DPP”).
27. The BMT liaises with Adjudication and Practice (“AP”) Teams based at all 5 police stations in the ACT, as well as Road Policing, and Criminal Investigations. This liaison relates to the timeliness of briefs of evidence, and “chasing up” “late” briefs of evidence as defined in accordance with timeframes set out in the ACT Magistrates Court Practice Directions.
28. The role of the BMT is not to adjudicate briefs of evidence, but merely process them as required, as indicated above. I am not aware of a job description for the Team Leader BMT.
29. While I was a member of the ACT Sexual Assault and Child Abuse Team, I conducted 65 investigations, over a two year period including 37 sexual assaults. I also assisted other members to investigate a further 20 to 30 sexual assault matters. All were in the ACT, other than one offender WIT_Confidential_sensitive_AFP.

Training and Education

30. In the course of a 35-year police career, I have undertaken numerous training courses on and related to compiling briefs of evidence. As a recruit; while undertaking my “Stage 4 Investigator Training”; while undertaking Detective training; and on a practical basis as an operational investigator and Detective; as well as a Team Leader of patrol and investigation teams, I have not only compiled briefs of evidence, but also assessed briefs

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ROBERT DAVID ROSE

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of evidence for sufficiency of evidence, and negation of possible defences. As a Watchhouse Sergeant, I assessed approximately hundreds of Statements of Fact, to ensure there was at least sufficient grounds to commence a proceeding by arrest. Further, in the course of my studies towards my Diploma of Law, I have reviewed hundreds of civil and criminal cases as well as judgements handed down by local, and district courts as well as the High Court, and judgements from the Privy Council.

31. I am not undertaking any training or courses at present.
32. I was not a member of the BMT in August 2021, consequently, I am unable to provide the information sought.

Organisational Structure

33. I do not have access to the Organisational Structure of the AFP as at August 2021, and in particular to the specificity of each person in the BMT and Adjudication “divisions”.

Duties and Responsibilities

34. A police officer’s duties and responsibilities in compiling briefs of evidence are to firstly identify the offence which may be subject of investigation. Then, a police officer should establish the elements of that offence, together with any legislated defences which may be relevant in relation to the offence. Thereafter, a police officer should create a plan to collect evidence in order to establish the existence of the elements of the offence, and simultaneously be alerted to gathering evidence of any defence such that there may be any exculpation of the offender in relation to the offence.
35. The evidence should then be compiled into a form in accordance with the wishes of the prosecuting authority and the tribunal of fact. Prior to submission of the brief, the police officer should check that the evidence as gathered sufficiently establishes the existence of each element of the offence, and that any defences are sufficiently negated.

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ROBERT DAVID ROSE

Personal information

Witness

36. Where a review of the evidence identifies that an element of the offence is not made out, or that a defence is unable to be negated and that no further investigation, inquiry, or examination of other evidence or evidential sources is likely to establish that element or negate the defence; a critical decision should be made by the police officer that in the absence of sufficient evidence or existence of the un-negated defence, no charges should be laid, or criminal process be undertaken.
37. This decision, along with the brief of evidence as compiled, and the investigation plan, should be reviewed by the police officer's supervisor, or an adjudication and practice member to concur that there is not sufficient evidence to charge.
38. Where the decision of the police officer is concurred with, by either the police officer's supervisor or the adjudication and practice member, a case note entry to that effect should be entered into the relevant PROMIS case, and the case finalised.
39. I have never performed the role of an adjudication and practice member or Team Leader. However, from interactions with them in my limited experience as BMT Team Leader, adjudication and practice members review summons and hearing briefs for both arrests and summonses, to determine whether there is sufficient evidence to proceed (in the case of a summons brief), or that the hearing brief contains sufficient evidence to establish a *prima facie* case. The process is to contrast the evidence contained in the brief against the elements of the offence charged, and determine whether each element is established, and/or defence negated. Having never worked in Adjudication and Practice, I do not have access to relevant agreements, or policies. Attached and marked '**Exhibit 2**' is the ACT Brief of Evidence Marking Guide.
40. During the past four years, I have been the Team Leader of the ACT Child Sex Offender Registry Team ("**CSORT**"). Between December 2019, and March 2022, I was also the Team Leader of the ACT Joint Anti-Child Exploitation Team ("**JACET**"). After March 2022, I relegated responsibility of the JACET to an acting Sergeant, to enable me to focus on CSORT.

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ROBERT DAVID ROSE

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41. As Team Leader of both teams, my reporting line was through firstly the Officer in Charge of “Crime Targeting” (Detective Station Sergeant Harry ^{Personal info} [REDACTED], then Detective Station Sergeant Matt ^{Personal info} [REDACTED] for a short time – then I performed the role for 9 months, and then Detective Acting Inspector Mark ^{Personal info} [REDACTED]), and then after a Criminal Investigations portfolio realignment, through the Officer in Charge “Major Crime”, Detective Inspector Marcus Boorman.
42. In October 2021, Detective Inspector Callum ^{Personal info} [REDACTED] was established as a third Inspector in ACT Criminal Investigations, and CSORT/JACET was aligned under Sexual Offences and Child Abuse (“SOCA”) that also includes the three Sexual Assault and Child Abuse Teams (“SACAT”).
43. Until that time, I had no direct interaction with the SACAT teams, other than on occasion utilising members of SACAT to assist with JACET search warrants. Consequently, at that time I had no direct knowledge of issues, challenges and/or pressures that [may] have hindered the conduct of sexual assault investigations and/or brief compilation processes.

Challenges, Issues and/or Pressures

44. In similar terms to paragraph 23, not being part of SOCA for the majority of the past 4 years, I cannot provide any examples of issues, challenges or pressures that [may] have hindered sexual assault investigation or brief compilation processes.
45. Additionally, CSORT is largely a compliance-based area, and while the team does conduct investigations and put registerable offenders before court for breaches of their obligations when failing to report changes of details, these matters do not involve victims of crime per se (other than the Sovereign) and my interaction with the Office of the Director of Public Prosecutions (“ODPP”) has largely been excellent, even when circumstances eventuated where prosecutions failed.

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46. As the Team Leader of the ACT JACET, I had an excellent relationship with the Commonwealth DPP, as did the team members of the JACET.

Report of the Sexual Assault Prevention and Response Steering Committee

47. As investigations, and offences relating the *Crimes (Child Sex Offenders) Act 2005* (ACT) do not involve victims of crime per se, I have not read the “*Sexual Assault Prevention and Response Steering Committee*” report titled “*Listen, Take Action to Prevent, Believe and Heal.*”
48. Similarly, JACET investigations are largely Commonwealth Offences relating to the access and trade of Child Abuse Material (“CAM”), and rarely involves the detection and rescue of children. There have been investigations when it has been discovered that an offender accessing CAM has been abusing their own child, but this occurred after I ceased to be the Team Leader of the JACET.
49. I have no direct knowledge of the steps taken by the AFP/ACT Policing in response to the Steering Committee’s report.
50. I have no direct knowledge of any cultural shift within the ODPP in the prosecution of sexual assault offences since the release of the Steering Committee’s Report.
51. I have neither observed nor driven a cultural shift within the AFP/ACT Policing in its investigation and charging of sexual assault offences since the release of the Steering Committee’s Report.

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

52. My own experience of the relationship between the (ACT) ODPP and AFP/ACT Policing prior, during and subsequent to the Investigation has largely been positive. As indicated above, CSORT do not routinely put registerable offenders before court, however, there

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ROBERT DAVID ROSE

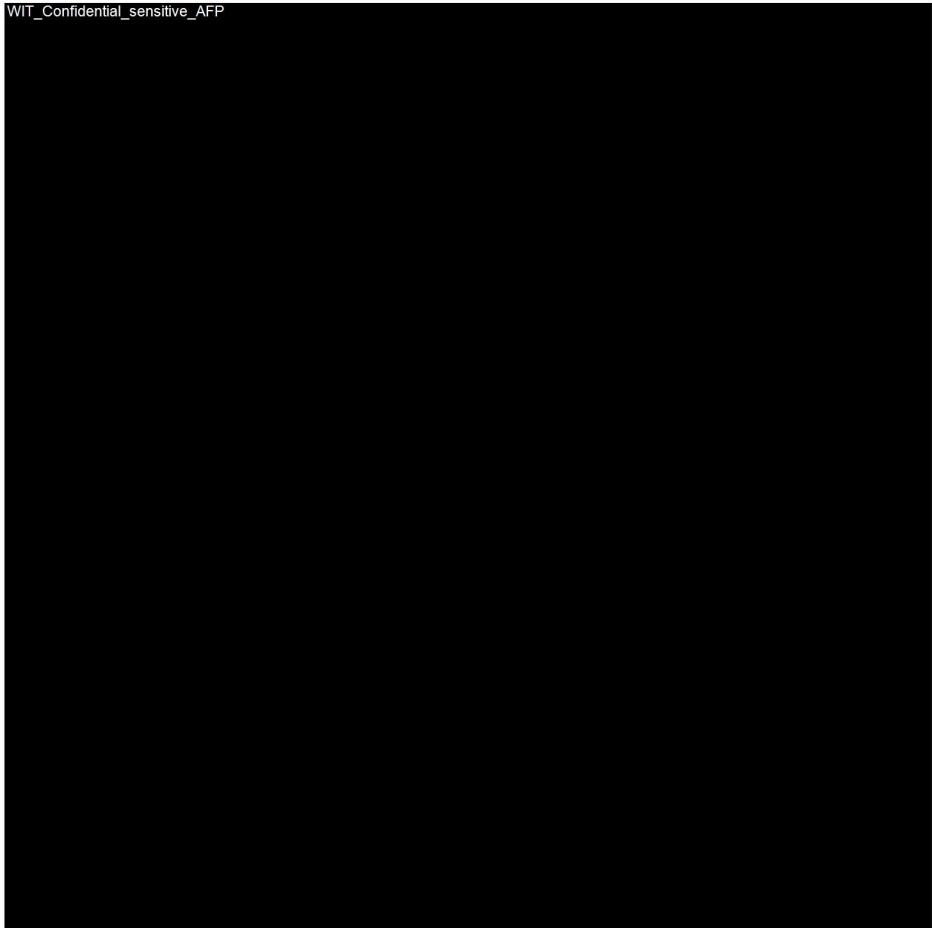
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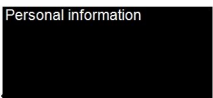

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have been instances over the past four years when the team has done so. The maximum penalty for breaches of reporting obligations is a five-year jail term, or 500 penalty unit fine. Consequently, it would appear from interactions I have had with prosecutors via email, and on the phone, that prosecutors assigned to CSORT matters are relatively junior, but professional, and willing, and able to prosecute matters in accordance with the prosecution policy of the DPP, and as the law requires.

53. There have only been two examples in the past 10 years when I was personally disappointed with the performance of prosecutors at the ACT DPP;

a. the first was a minor traffic matter and is of no consequence;

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54. I have no knowledge of whether or not the ODPP and AFP/ACT Policing held regular meetings in relation to brief compilations during 2021.

55. I have had no interactions with any of the members of the ODPP as listed in the question, other than Mr Andrew [Personal information]. In short, I received no reply from Mr [Personal information] in response to my email.

Victims of Crime Commissioner

56. I have had no interactions with the Victims of Crime Commissioner at any time.

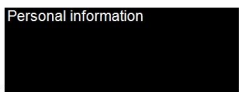
57. As indicated previously, as the teams I supervise do not investigate sexual offences, I have no experience of the role performed by the Victims of Crime Commissioner or her staff in relation to victims of sexual offences.

Brief Management Team & Adjudication

58. As indicated previously, the BMT and Adjudication and Practice Teams intersect in relation to the timeliness of briefs of evidence, and with the BMT being the central “clearinghouse” for briefs to be recorded onto a database, and then disseminated to the ACT DPP. As it has been 4 and a half years since I left the BMT, I do not have any contemporary documents, guidelines, policies, procedures and/or governance material.

59. As indicated previously, each of the five police stations in the ACT together with Road Policing, and ACT Criminal Investigations has an Adjudication and Practice Team Leader and Brief Adjudication member. I have no contemporary knowledge as to how many Brief Adjudication members there are in each police station, however I can advise that there is one Adjudication member in Criminal Investigations.

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60. A summons brief is the result of an investigation where sufficient evidence is identified (if not actually gathered and compiled as yet) to provide for the submission of a “Statement of Facts” along with a brief synopsis of the evidence available, to result in a summons being issued, and a charge to be laid by the court. No arrest has been made with a summons brief. The summons brief should provide sufficient grounds for a defendant to make a determination as to whether or not they wish to plead guilty, and for that plea to withstand the scrutiny of a Magistrate in his or her decision as to whether or not to accept the plea. The amount of evidence included in the summons brief can vary from just the Statement of Facts along with a synopsis of what evidence is available through to a comprehensive inclusion of all statements, electronically recorded statements, CCTV footage, etc. There is no hard and fast rule as to the maximum amount of evidence to be included, just that at the minimum should be able to justify the laying of the charge at court, and the acceptance of any plea should it be forthcoming.
61. A hearing brief is the result of a not-guilty plea being advised by a defendant. A hearing brief must contain all of the relevant evidence sufficient to establish the guilt of the defendant, and include any exculpatory evidence as gathered during the investigation.
62. In both cases, the investigating member is responsible for the compilation of both types of briefs. Attached and marked “**Exhibit 4**” is the ACT Policing Statement of Facts Guide, for guidance in relation to the preparation of Statements of Facts, and attached and marked as “**Exhibit 5**” is the ACT Policing Police Statement Guide, for guidance in relation to the preparation of Police Statements.
63. While I have never performed the role of an Adjudicator as part of the Adjudication and Practice Team, I have performed the role of Watch House Sergeant, where I assessed the Statements of Facts for arrested persons to be charged with a criminal offence. The adjudication process for compiling arrest briefs of evidence for the ODPP entails a review of the Statement of Facts to ascertain the conduct and relevant facts asserted by the investigator in relation to the offence to be charged. Typically, with an arrest, there is very little in the form of additional evidence to be included in the arrest brief. The

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Statement of Facts should include a narrative of the conduct of the defendant, as depicted with reference to statements obtained by the investigating member from witnesses to the conduct, and firsthand observations of evidence to be adduced by the investigating member. The Statement of Facts should address each element of the offence and indicate what evidence is available to provide the existence of each element.

64. An adjudication of the investigation is conducted so as to ensure that the charging process (whether in the Watchhouse by the Watchhouse Sergeant) or at court by the presiding magistrate is able to communicate with sufficient specificity, the nature of the offence charged, and that the defendant is to be so charged with that offence. The Statement of Facts then can be used by the magistrate to outline the case against a defendant and provide the defendant the opportunity to enter an appropriate plea, or to seek legal advice. A copy of the Statement of Facts is provided to the defendant at the first attendance at court, usually to provide the defendant the opportunity to review the facts, and to seek legal advice should they wish to do so.
65. I have not ever served brief of evidence directly on a legal representative for a defendant.
66. The redaction process undertaken by AFP/ACT Policing investigating members in compiling briefs of evidence depends on the nature of the format of the evidence which presented. For written or physical documents including photographs, etc, they are reduced to an electronic form referred to as a “portable document format” or PDF which is then subject to software which is able to “cover” words, sentences, etc with a black rectangle. This is a two-test process where the black rectangle is placed on a document, and subsequently “locked”.
67. In relation to video and/or audio recordings, other software is utilised to obscure parts of the video or audio sought to be redacted.
68. The details typically redacted includes dates of birth, home addresses, phone numbers not relevant to the offence under investigation, personal information subject to Health

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ROBERT DAVID ROSE

Personal information

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Privacy legislation, and the like. The ACT Policing Brief of Evidence Marking Guide provides guidance on redaction.

The Investigation

69. I don't recall the exact time or date I became aware of the Investigation, or any specificity of the offence as alleged. However, I became acutely aware of the Investigation on Tuesday 6 July 2021 when I was requested by Detective Inspector Marcus Boorman to supervise a team of four members, Detective Leading Senior Constable Trent Madders, Senior Constable Emma Frizzell, Detective Senior Constable Sarah Harman, and Detective Leading Senior Constable Kirsten [Personal info] to gather additional material identified by the Director of Public Prosecutions, Mr Shane Drumgold in a letter sent by him to Detective Superintendent Scott Moller. Attached and marked "Exhibit 6" is email correspondence from Robert Rose to Trent Madders, Emma Frizzell, Sarah Harman, Kirsten [Personal info] dated 7/7/2021 at 11:15am.
70. The letter sent by Mr Drumgold articulated that he had formed the view that "...on a preliminary basis..." he "...was of the view there are reasonable prospects of conviction on a charge pursuant to section 54 *Crimes Act* 1900, being 'On 23 March 2019, Bruce Lehrmann engaged in sexual intercourse with Brittany Higgins without her consent, and being reckless as to whether Brittany Higgins was consenting to sexual intercourse.' And further that Mr Drumgold was of the view there was a public interest in proceeding with the charge as described above.
71. Below are my diary entries of my involvement with Operation COVINA with reference from 6 July 2021 through to the end of my involvement, when I handed over responsibility for the "additional evidence gathering team" to Detective Sergeant David FLEMING on 5 October 2021. Attached and marked "Exhibit 7" is the official AFP Diary No. D11673, page 307

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ROBERT DAVID ROSE

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72. On 28 June 2021, Mr Drumgold sent a letter to Detective Superintendent Moller as referred to above. Attached and marked “**Exhibit 8**” is the correspondence dated 28 June 2021 from Mr Drumgold to Detective Superintendent Moller.
73. In providing a response to this question as per below, it should be borne in mind that while I was supervising the four investigators for Operation COVINA in gathering additional evidence as requested by Mr Drumgold, I was also supervising four other investigators within the CSORT and another four investigators in the JACET. Later in the month, I was also on-call as the “Criminal Investigations Reception Officer” (“**CIRO**”) 24 hours a day for 7 days from Wednesday 28 July 2021 to Wednesday 4 August 2021.
74. On Tuesday 6 July 2021, around mid-morning, I had a conversation with Detective Inspector Boorman who requested that I assist with Operation COVINA by tasking the four members referred to above in paragraph 42 to assist in gathering additional evidence as alluded to by Mr Drumgold in his correspondence to D/Supt Moller on 28 June 2021.
75. On Wednesday 7 July 2021, at about 11:15am, I sent an email to Detective Leading Senior Constable Trent Madders , Senior Constable Emma Frizzell , Detective Senior Constable Sarah Harman advising of their temporary deployment to Operation COVINA reporting to me to gather additional evidence as per the letter from Mr Drumgold . I kept track of the task allocations via a spreadsheet which was updated as tasks were completed.
76. On Friday 9 July 2021, during the day I had conversations with Senior Constable Frizzell, and Detective Senior Constable Harman in relation to taskings. I do not recall the nature of the conversations, however a diary note entry indicates that I had a conversation with each of them.
77. On Monday 12 July 2021, during the day I allocated taskings as per the spreadsheet and had a conversation with Senior Constable Frizzell in relation to same.

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78. On Wednesday 14 July 2021, at about 3pm I had a short meeting with Detective Inspector Boorman in relation to the allocation of tasks and whether the task would be complete by 31 July 2021. I advised that the tasks would be complete.
79. On Thursday 15 July 2021, during the day I perused the Operation COVINA investigation to gain some familiarity with it.
80. On Friday 16 July 2021, during the day I reviewed the results of tasks as they were completed.
81. On Wednesday 21 July 2021, during the day I updated the spreadsheet as tasks were completed.
82. On Thursday 22 July 2021 at about 10am, I had a meeting with Mr Peter ^{Personal Info}, Mr Damian ^{Personal Info} (from AFP Digital Forensics), Senior Constable Frizzell, Detective Inspector Boorman, and Detective Superintendent Moller in relation to Operation COVINA. I don't recall the substance of the meeting, other than it would have related to Digital Forensics, and some aspects of information contained on Google Drive.
83. On Friday 23 July 2021, during the day, I continued to review the Operation COVINA PROMIS case, and reviewed a police statement prepared by Senior Constable Frizzell, as well as a police statement prepared by Detective Senior Constable ^{Personal Info}.
84. On Monday 26 July 2021, during the day I continued to review the Operation COVINA PROMIS case.
85. On Tuesday 27 July 2021, during the day I continued to review the Operation COVINA PROMIS case.
86. On Thursday 29 July 2021, during the day I reviewed statements provided by witnesses in relation to Operation COVINA.

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ROBERT DAVID ROSE

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Witness

87. On Friday 30 July 2021, during the day I reviewed a police statement prepared by Detective Inspector Boorman.
88. On Monday 2 August 2021, during the day I had a conversation with Detective Inspector Boorman in relation to Operation COVINA. I also had a conversation with Detective Leading Senior Constable Madders and Senior Constable Frizzell in relation to Operation COVINA. I do not recall the nature of the conversations.
89. On Friday 6 August 2021 – During the day, attend to a review of Operation COVINA tasks.
90. During this time period, I had no direct or indirect interaction with any member of the Office of DPP; Mr Lehrmann; legal representatives of Mr Lehrmann; Ms Higgins; legal representatives of Ms Higgins; or the Victims of Crime Commissioner.
91. My reviews of the investigation and the PROMIS case were not exhaustive, nor forensic. I was simply familiarising myself with some of the issues which were the subject of the additional evidence which had been sought by Mr Drumgold. I held no firm view on the prospects of the matter, as Mr Drumgold had already come to a conclusion as of 28 June 2021 that a) there were reasonable prospects of conviction, and b) there was a public interest in a prosecution against Mr Lehrmann proceeding.
92. Consequently, my role in the supervision of the members allocated to the task of collecting further evidence was simply to add to the existing preliminary brief of evidence already held by the DPP.
93. The “threshold to charge” had arguably been already met as a consequence of the views of Mr Drumgold believing there were reasonable prospects of conviction. This test is of a higher certainty than reasonable grounds to believe the offender committed the offence and is arguably on par with a trier of fact’s threshold of “belief beyond a reasonable doubt” of the defendant’s guilt.

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ROBERT DAVID ROSE

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94. The conduct of the investigation was, in my limited review of it within the constraints of my attention being torn between two other teams, and my additional duties as CIRO; was that it had been thorough and professional, gathering as much evidence as possible to determine the truth of the allegation as made by Ms Higgins.
95. In the afternoon of Thursday 7 October 2021, I handed responsibility for Operation COVINA to Detective Sergeant David Fleming during a phone call. At the time, SACAT members were limiting their time in the SACAT offices due to the COVID-19 pandemic. Consequently, during afternoon shifts, SACAT members worked from home unless required otherwise. I provided Detective Sergeant Fleming with a full handover of my involvement, which at the time included some remaining investigative tasks to be conducted by Detective Leading Senior Constable Madders and Senior Constable Frizzell. Attached and marked “**Exhibit 9**” is email correspondence from Robert Rose to Detective Sergeant Fleming regarding Op COVINA ROSE dated 7 October 2021, 08:40am.

Brief of Evidence

96. On Thursday 5 August 2021, at about 10am, I was directed by Detective Superintendent Moller to provide a hand delivered summons and a copy of the summons electronic brief in relation to Operation COVINA to Mr John KORN at his chambers in Sydney by close of business Friday 6 August 2021. I then passed that direction on to Detective Leading Senior Constable Madders and Senior Constable Frizzell. I then sought the assistance of Detective Senior Constable Matthew [Personal Information], and Leading Senior Constable Phillip [Personal Information] from the Financial Investigations Team, to travel to half-way to Sydney with the summons and a Universal Serial Bus memory device containing the e-brief on Friday 6 August 2021, and hand the summons and USB memory device to two members from Sydney Office. Attached and marked “**Exhibit 7**” is the official AFP diary, Diary No. D11673 page 307.

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ROBERT DAVID ROSE

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97. I was not taken “offline” to compile the brief of evidence. Given the timeframe as stipulated by Detective Superintendent Moller was by close of business Friday 6 August 2021, and his direction to me occurred mid-morning on Thursday 5 August 2021, there was need to be taken offline. And for clarity, I did not compile the brief of evidence; that was a task I allocated to Detective Leading Senior Constable Madders and Senior Constable Frizzell.
98. I did not have any interaction with Ms Higgins; the DPP/ODPP staff; legal representatives of Ms Higgins; or the Victims of Crime Commissioner.
99. I cannot recall raising concerns with Detective Superintendent Moller about the decision to depart from the usual adjudication process. Detective Superintendent Moller did advise that the decision had come “from the bunker”, meaning from the ACT Policing Senior Executive.
100. Additionally, there had already been a review of a partial brief of evidence by Mr Drumgold, and he had advised that there were reasonable prospects of conviction, and that it was in the public interest to proceed with a prosecution. Consequently, the “threshold to charge” had already been exceeded by Mr Drumgold’s response to Detective Superintendent Moller’s letter in late June 2021.
101. I cannot recall any member raising any concerns with me about the decision to depart from the usual adjudication process, however if they did in passing, I passed on the advice from Detective Superintendent Moller that the decision had come from the bunker.
102. On Monday 9 August 2021, during the day, attend to a review of Operation COVINA tasks.
103. On Friday 13 August 2021, during the day, I prepared an email for Detective Superintendent Moller in relation to Operation COVINA addressed to Ms Brittany

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Witness

Higgins advising her of the service of the summons and of a brief of evidence on Mr Korn on 6 August 2021.

104. On Wednesday 18 August 2021, at About 11.46am I received an email from Detective Superintendent Moller in relation to an FOI application made to the Department of Finance regarding "...the events at Parliament House in March 2019..." I drafted a reply citing an exemption to the FOI Act if disclosure "...would or could reasonably be expected to: prejudice a fair trial of a person or the impartial adjudication of a particular case...". Attached and marked "**Exhibit 10**" is email correspondence from Scott Moller sent 18/08/2021 3:15pm.
105. On Friday 3 September 2021, during the day, I provided advice to Senior Constable Frizzell in her efforts to obtain information from Uber by means of a *Crimes Act 1914* search warrant, and Uber's insistence that any legal process had to be provided via their electronic "law enforcement liaison" portal.
106. Friday 17 September 2021, during the day, I had a conversation with Detective Leading Senior Constable Madders and Senior Constable Frizzell in relation to the Operation COVINA brief, and some additional questions raised by Mr Drumgold.
107. Tuesday 21 September 2021, at about 2.33pm I received an email from Detective Superintendent Moller which had been in turn sent to him by Mr Drumgold. In the email, Mr Drumgold identified a number of errors in the crown's copy of the brief of evidence as provided to the DPP on 6 August 2021. 7 electronic documents were identified by the DPP as having redactions applied to them, but the redactions not being locked. As the brief of evidence had also been provided to Mr Korn as the defendant's legal practitioner, as directed by Detective Superintendent Moller on 5 August 2021, those same "unlocked redactions" were present in the defence copy of the brief.
108. I responded to Detective Acting Inspector Personal Info confirming the errors as identified by Mr Drumgold. Attached and marked "**Exhibit 11**" is email correspondence from Robert

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Rose sent to Damien Personal info dated 21/09/2021 3:44pm and attached and marked “**Exhibit 12**” is my official AFP Diary, Diary No. 11673, page 317.

109. On Wednesday 22 September 2021, I received an email from Detective Superintendent Moller which had originated from Mr Drumgold. The email articulated a number of responses he sought to remedy the issues associated with the electronic document’s redactions. Attached and marked “**Exhibit 13**” is email correspondence from Scott Moller to Damien Personal info and Robert Rose dated 22/09/2021 at 08:35am.
110. On Friday 24 September 2021, I received an email from Detective Superintendent Moller outlining a timeline of the issues surrounding the service of the brief of evidence on Mr Korn, and the subsequent discovery of “unlocked redactions.” Attached and marked “**Exhibit 14**” is email correspondence from Scott Moller to Hall O’Meagher dated 24/09/2021 at 07:42am.
111. During this period, I did not have any direct interaction with Mr Higgins; the DPP/ODPP staff; legal representatives for Ms Higgins; or the Victims of Crime Commissioner.

Impressions of the DPP/ODPP during the Investigation

112. I did not have any issues or concerns with the DPP’s conduct during the Investigation.
113. I did not observe a breakdown of the relationship with the DPP/ODPP and the AFP/ACT Policing during the Investigation.
114. I did not have any interaction with the DPP/ODPP during the Investigation.
115. I did not have any issues or concerns with the Victims of Crime Commissioner’s conduct during the Investigation.
116. I did not observe a breakdown of the relationship with the Victims of Crime Commissioner and the AFP/ACT Policing during the Investigation.

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Impressions of the Victims of Crime Commissioner during the Investigation

117. I did not have any interaction with the Victims of Crime Commissioner during the Investigation.

118. I am not aware of any AFP/ACT Policing officers feeling intimidated by the presence of the Victims of Crime Commissioner during the Investigation and or the trial in the matter of *R v Lehrmann*.

Bail

119. I have had no involvement in relation to the DPP/ODPP or legal representatives for Mr Lehrmann in relation to consideration for bail for Mr Lehrmann.

Media

120. From my perspective, in my role from 6 July 2021, the level of media involvement did not impact the Investigation of Ms Higgins' complaint.

121. I have had no involvement in relation to the preparation of the AFP media plan in relation to the Investigation.

122. I have had no communication with the media in relation to the matter of *R v Lehrmann*.

Board of Inquiry

123. I have not spoken with any AFP/ACT Policing staff or other person in relation to the provision of evidence to the Board of Inquiry under s.26(1)(b) of the *Inquiries Act 1991*.

124. I have no other matter I wish to raise with respect to the Terms of Reference of the Board of Inquiry.

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SWORN before me at Canberra in the Australian Capital Territory on 20 April 2023.

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