

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 IAN ROBERT SAMUEL MCCARTNEY

I, Ian Robert Samuel McCartney, of Edmund Barton Building, 47 Kings Avenue, Barton ACT 2600, state as follows:

1. I provide the following statement voluntarily in response to a written request I received from the Board of Inquiry into the Criminal Justice System in the Australian Capital Territory. Attached and marked 'AFP.0015.0001.0065' is a copy of the written request.
2. The Board of Inquiry emailed AFP.0015.0001.0065 to my lawyers at 6.42pm on Tuesday 28 March 2023. It asked for a written response by 5.00pm on Tuesday, 4 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: Q1, Q2, Q3, Q4

3. My current rank is Deputy Commissioner of the Australian Federal Police (AFP). I hold the position of Deputy Commissioner National Security (DCNS).
4. At the time of making this statement, I am the Acting Commissioner of the AFP.
5. My core responsibilities as a Deputy Commissioner are:
 - a. Strategic leadership and building capability.
 - b. Accountability for large complex activities within the AFP, such as overseeing the establishment of the new AFP Cyber Command.
 - c. Leading whole-of-government approaches to complex crime and security challenges.
 - d. Building and maintaining relationships with stakeholders including other government agencies, international partners, and the private sector where appropriate.
 - e. Modelling and upholding a professional culture within the AFP based on the AFP's core values.
 - f. Building and maintaining community confidence in the AFP and its members.
 - g. Representing the interests of the Australian Government, the AFP, and strategic partners at high level forums.

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6. Attached and marked '**AFP.0013.0001.0076**' is a Candidate Information Pack which contains a formal role description for a Deputy Commissioner.
7. As DCNS, I sit on several boards and committees, including:
- a. The Sensitive Investigations Oversight Board (**SIOB**), as Chair. I address this in further detail at paragraph [53] below.
 - b. The Executive Leadership Committee (**ELC**). This is a weekly meeting hosted by the Commissioner and attended by the Senior Executive. The ELC is not a part of the AFP Strategic Board Framework.
 - c. The Investigations, Operations and Compliance Board of Management (**IOCBOM**). The IOCBOM makes decisions and provides advice and assurance to the Commissioner, the Strategy and Performance Board (**SPB**) and other internal governance bodies on the AFP's investigative and operational priorities, strategies and plans.
 - d. The Enterprise Operations Board (**EOB**). The EOB monitors and governs AFP corporate and business programs including: workforce, budget, legal, integrity, internal audit and compliance, and enterprise risk matters to ensure national coordination and to meet strategic and operational priorities.
8. Attached and marked '**AFP.0013.0001.0105**' is a list of boards and committees I have sat on in my role as Deputy Commissioner.
9. Attached and marked '**AFP.0017.0001.0001**' is a current CV.

Tertiary Qualifications: Q6

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Courses, Diplomas and Designations: Q7


12. I have completed the following internal AFP courses and designations:
- a. In 1993, I completed the Introduction to Management of Serious Crime Course (Melbourne).

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- b. In 1996, I completed the Detective Course and attained my Detective Designation.
- c. 
- d. In 2003, I completed the Management of Serious Crime Course.
- e. In 2012, I undertook the Police Executive Leadership Program.
- f. In 2015, I completed the Australia New Zealand Police Leadership Strategy Program.


Employment Chronology: Q8, Q9, Q10, Q11, Q12, Q13, Q14

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14. I joined the AFP in October 1990 and commenced Recruit Training at the AFP College in Canberra. Recruit Training consisted of assessable practical and theory components, covering Operational Safety Training, driver training, legislation, investigations and AFP processes and procedures. Recruit Training was delivered by AFP Learning and Development staff.
15. In February 1991, I successfully completed Recruit Training and became a sworn AFP officer.
16. Between 1991 and 1995, I worked as an Investigator in the Fraud and General Crime Division in Melbourne. In that role, I investigated Commonwealth fraud offences, including fraud against Centrelink and the Australian Taxation Office.

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18. Between 1997 and 2004, I held various Team Leader and Coordinator roles related to Commonwealth operations.
19. In 2004, I became the Manager of the AFP Adelaide Office.
20. Between 2005 and 2009, I was posted to Beijing as Senior Liaison Officer for the AFP.
21. In 2009, I returned to Australia and held various Manager roles, including Manager Crime, Manager Criminal Assets and Manager Counter Terrorism.

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22. In 2013, I became Assistant Commissioner Crime Operations.
23. In 2015, I became Assistant Commissioner Organised Crime and Cyber.
24. In 2017, I became Assistant Commissioner Counter Terrorism.
25. In December 2019, I was promoted to Deputy Commissioner Investigations (**DCI**). As DCI, my responsibilities included oversight of Crime Command, Cybercrime Command, Counter Terrorism and Special Investigations Command, International Command, the Confiscation of Criminal Assets Taskforce, and the Asia Pacific Group on Money Laundering.
26. Attached and marked '**AFP.0013.0001.0127**' is a copy of the Deputy Commissioner Candidate Information Pack from 2019.
27. On 20 February 2023, I became DCNS. As DCNS, my responsibilities include oversight of Counter Terrorism and Special Investigations Command, Specialist Protective Command, and Security Command. Through my role as Chair of the Sensitive Investigations Oversight Board (**SIOB**), I also maintain strategic oversight of sensitive investigations that come before the SIOB.
28. All positions I have held in my career with the AFP have been in national investigations. I have never held a position within ACT Policing.

Organisational Structure: Q15, Q16


29. The AFP is structured into chains of Command. The Commissioner is the head of the AFP. Deputy Commissioners report directly to the Commissioner and are each responsible for a separate chain of Command.
30. As at 8 February 2021, the AFP was structured into the following chains of Command:
 - a. Operations Command;
 - b. Investigations Command;
 - c. ACT Policing; and
 - d. Enabling services.
31. Attached and marked '**AFP.0011.0001.0017**' is an organisation chart for the AFP as at 8 February 2021.

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32. On 20 February 2023, an updated AFP structure came into effect. This change occurred to ensure the senior leadership structure is aligned for effective and timely decisions on major operational and policy issues. As part of that change, an additional Deputy Commissioner was designated and I became DCNS.
33. As at 20 February 2023, the AFP was structured into the following chains of Command:
- a. Crime Command;
 - b. National Security Command;
 - c. International and Specialist Capabilities Command;
 - d. ACT Policing; and
 - e. Enabling services.
34. Attached and marked 'AFP.0011.0001.0018' is an organisation chart for the AFP as at 22 March 2023.

Duties and Responsibilities: Q17

35. As Deputy Commissioner, I work with other Deputy Commissioners and the Chief Operating Officer as part of the AFP's strategic leadership team.
36. I report directly to the AFP Commissioner, Reece Kershaw.
37. As at 8 February 2021, the following personnel reported directly to me as DCI:
- a. Assistant Commissioner International Command, Michael Pannett;
 - b. Assistant Commissioner Crime Command, Nigel Ryan;
 - c. Assistant Commissioner Counter-Terrorism and Special Investigations Command, Scott Lee; and
 - d. Executive Secretary Asia Pacific Group, Gordon Hook.
38. As at 22 March 2023, following an organisational restructure, the following personnel report directly to me as DCNS:
- a. Assistant Commissioner Counter-Terrorism and Special Investigations Command, Krissy Barrett;
 - b. Assistant Commissioner Specialist Protective Command, Alison Wegg; and
 - c. National Manager Security, Jorge Robinson.

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39. I also have responsibility for leadership of Southern, Central and Western Commands in relation to stakeholder engagement and management. In that capacity, the following officers report directly to me:
- a. Assistant Commissioner Central Command, Peter Harvey;
 - b. Assistant Commissioner Southern Command, Hilda Sirec; and
 - c. Assistant Commissioner Western Command, Pryce Scanlan.
40. I have a standing weekly meeting with each of my direct reports. I also receive ad hoc briefings as required from my direct reports on operational matters within my role as Deputy Commissioner.
41. As Deputy Commissioner, I am subject to certain statutory duties, conditions and responsibilities, including under:
- a. The *Australian Federal Police Act 1979* (Cth). My duties under this Act include the duty to follow directions in section 40, the obligations of secrecy under section 60A, and particular duties that attach when the Commissioner is absent or the office of Commissioner is vacant; and
 - b. The *Crimes Act 1995* (Cth), as an Authorising Officer for Major Controlled Operations, in accordance with Part 1AB.
42. As Deputy Commissioner, I am also subject to duties imposed by the AFP professional standards. These are set out in the AFP Commissioner's Order on Professional Standards, dated 22 September 2020 (**Commissioner's Order 2**). I understand that compliance with the Commissioner's Order 2, which includes the AFP Core Values, the AFP Code of Conduct, and a requirement in section 10.2 to report contraventions of the AFP professional standards by other AFP members, is mandatory.

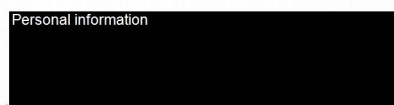
Investigating Sexual Assault Complaints: Q18

43. I have never conducted a sexual assault investigation. My career in the AFP (as set out above) has been exclusively within the AFP's national Commands. I have never held a position within ACT Policing.
44. Nor have I held any positions of Command with responsibility for conducting sexual assault investigations. As DCNS, I do not sit in the chain of Command between the Chief Police Officer of ACT Policing and the Commissioner. None of my previous roles have sat within the ACT Policing chain of Command.

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45. However, in my role as Chair of the SIOB since 2020 (discussed below), I have had occasional involvement in discrete aspects of sexual assault investigations that have been designated as ‘sensitive investigations’ and come before the SIOB.

Challenges, Issues and Pressures: Q19, Q20

46. My roles as DCNS, and before that as DCI, are not part of ACT Policing. I therefore do not have routine oversight of sexual assault investigations in ACT Policing.
47. In my role as DCNS, and before that as DCI, I have not perceived any internal or external challenges, issues or pressures that may have hindered the conduct of sexual assault investigations conducted by ACT Policing. In giving that answer, I do not intend to say that there are no such challenges, issues or pressures; only that I have not perceived any in my roles as DCNS and DCI, which are removed from the day-to-day conduct of sexual assault investigations.

Sensitive Investigations Oversight Board (SIOB): Q21, Q22, Q23

48. I have read the Review into the AFP’s Response to and Management of Sensitive Investigations by Mr John Lawler AM APM dated 17 January 2020 (**Lawler Review**).
49. The Lawler Review was initiated by Commissioner Kershaw in October 2019, shortly after he was appointed as AFP Commissioner. I am aware that the Commissioner initiated the Lawler Review following the AFP’s involvement in several high-profile investigations involving journalists.
50. The Lawler Review was delivered to the Commissioner on or about 17 January 2020. It set out 24 recommendations for consideration. Two of them were:
- a. To endorse the Lawler Review’s definition of what constitutes a sensitive definition; and
 - b. To establish a Senior Executive Group within an escalation framework for the oversight and management of the full range of AFP sensitive investigations.
51. On 14 February 2020, the Lawler Review was publicly released. To the best of my recollection, the Commissioner agreed in principle to implement all 24 recommendations.
52. Shortly thereafter, the Commissioner established the Lawler Review Implementation Team to implement the 24 recommendations arising from the Review. The

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Implementation Team reported to the Lawler Review Implementation Oversight Board, chaired by Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee. As DCI, I maintained oversight of the activities of the Implementation Team and the Oversight Board and had overall responsibility for implementing the recommendations, which included establishment of the SIOB.

53. The SIOB was established in February 2020 in response to the two recommendations I referred to at [50]. Since that time, the SIOB has sat at the top of an escalation framework to support the AFP's conduct of sensitive investigations.
54. The SIOB is governed by the following three documents:
- a. Terms of Reference;
 - b. AFP National Guideline on Sensitive Investigations; and
 - c. AFP National Guideline on investigative action involving professional journalists or news media organisations.
55. Attached and marked '**AFP.0013.0001.0273**' is a copy of the SIOB Terms of Reference as at July 2020. To the best of my knowledge, the SIOB Terms of Reference have not been amended since July 2020.
56. Attached and marked '**AFP.2001.0001.0071**' is a copy of the AFP National Guideline on Sensitive Investigations.
57. Attached and marked '**AFP.0013.0001.0249**' is a copy of the AFP National Guideline on Investigative Action involving Professional Journalists or News Media Organisations.

Definition of 'sensitive investigation': Q24(a), Q24(b)

58. There is no restriction on the types of matters that can be deemed to be a sensitive investigation, including both national and ACT Policing investigations.
59. The AFP has adopted the definition of a sensitive investigation proposed in the Lawler Review. That definition is contained in the SIOB Terms of Reference and the AFP National Guideline on Sensitive Investigations, which formed part of the AFP's implementation of the Lawler Review's recommendations.

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60. The definition of an AFP sensitive investigation is:

“... a process of inquiry that:

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

a. Australia’s international relationships or agreements;

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.”

Politically sensitive investigations: Q26

61. The AFP’s definition of a sensitive investigation outlined at [60] includes politically sensitive investigations.

62. The AFP National Guideline on Sensitive Investigations applies to sensitive investigations, including politically sensitive investigations.

63. The AFP National Guideline on Politically Sensitive Investigations formerly applied to politically sensitive matters that had been referred to the AFP for evaluation, but that had not yet been accepted for investigation.

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64. The AFP National Guideline on Politically Sensitive Investigations was superseded by the framework introduced in 2020 following the recommendations of the Lawler Review, including the AFP National Guideline on Sensitive Investigations.
65. The AFP National Guideline on Politically Sensitive Investigations contained the following definition of ‘politically sensitive matter’:

“Politically sensitive matter – means matters under investigation which either:

- *are likely to be of particular interest to:*
 - *the Commonwealth Government*
 - *MPs*
 - *foreign governments*
 - *the media*
 - *the community.*
- *involve interference with the administration of good government*
- *have the ability to adversely impact on international relationships*
- *have potential adverse implications concerning:*
 - *an MP*
 - *MP staff*
 - *a senior member of the Commonwealth Public Service*
 - *another politically significant figure.*
 - *are triggered by Australia s international obligations.*

Examples of politically sensitive matters include:

- *war crimes*
- *bribery or corruption of domestic and foreign officials*
- *unauthorised disclosure of Commonwealth information*
- *ministerial misconduct.”*

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66. Attached and marked ‘**AFP.0012.0001.0013**’ is a copy of the AFP National Guideline on Politically Sensitive Investigations.
67. The Memorandum of Understanding between the AFP and the Australian Electoral Commission (AEC) signed by Commissioner Kershaw on 8 March 2022 (MOU) is a separate framework to the AFP’s internal framework for sensitive investigations. Attached and marked ‘**AFP.0013.0001.0277**’ is a copy of the MOU.
68. The MOU provides a framework for the AFP and the AEC to cooperate in the investigation of serious, complex or politically sensitive electoral offences.
69. To the best of my knowledge, the MOU does not contain a definition of ‘politically sensitive matters’. It does, however, define ‘politically sensitive Electoral Offences’ as:
- “An alleged Electoral Offence that is likely to attract significant media and/or political attention and scrutiny due to alleged circumstances, conduct or persons involved.”*
70. Investigations into politically sensitive electoral offences which have been referred by the AEC to the AFP under the MOU are likely to be designated as sensitive investigations within the AFP based on the AFP’s definition set out in [60].

Determining an investigation to be a sensitive investigation: Q27(a), Q24(d)

71. Under the AFP National Guideline on Sensitive Investigations, AFP officers should regularly assess investigations against the definition of a sensitive investigation.
72. The Guideline draws attention to the following stages of an investigation as key points at which to assess against the definition:
- a. On receipt of a report or request;
 - b. During the decision-making process about the actions the AFP will take on a report or request;
 - c. On allocation to an investigations team;
 - d. When preparing a situation report for the investigation;
 - e. Leading up to and after milestones in the investigation;
 - f. Where the nature of the investigation changes; or
 - g. When external factors change, such as the political environment.

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73. Any AFP investigation may be designated as sensitive, including national and ACT Policing investigations.
74. Once an investigation has been designated as sensitive, it must be briefed through the chain of Command to the relevant Commander and Assistant Commissioner. In the case of ACT Policing investigations, sensitive investigations are briefed to the relevant Commander and the Deputy Chief Police Officer (**DCPO**).
75. At any one time, it is typical for the AFP to have over 100 investigations designated as sensitive investigations across the AFP's national and ACT Policing jurisdictions. This may, at any one point, include aviation-related crimes, drug importation and exportation offences, espionage and foreign interference, people smuggling and human trafficking, online child exploitation and child sex offences by Australians in foreign countries, terrorism, war crimes, and crimes against the Commonwealth Government or Commonwealth officials such as fraud, theft, assault, and cybercrime.

The role of the SIOB: Q24(c), Q27(d)

76. The SIOB's role is to provide strategic direction and oversight in relation to high-level strategic issues that may arise in a sensitive investigation (irrespective of whether it occurs in the AFP's national or ACT jurisdictions). It functions as a decision-making body for those high-level strategic issues which are escalated to the SIOB for discussion and decision.
77. The SIOB:
- a. Sets strategic direction and priorities for sensitive investigations subject to the SIOB's oversight;
 - b. Reviews the progress of sensitive investigations as required;
 - c. Considers and approves, through me as Chair, certain aspects of future investigate activity, particularly any overt or sensitive information gathering;
 - d. Considers operational and broader risks regarding sensitive investigations and ensures investigative strategies sufficiently mitigate these risks;
 - e. Ensures sufficient stakeholder consultation for investigational strategies to consider Whole of Australian Government interests;
 - f. Determines whether the appointment of a Senior Investigating Officer (**SIO**) is required to lead the sensitive investigation and make critical case management decisions; and
 - g. Considers resourcing requirements and access to specialist capabilities where required.

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78. However, the SIOB does not *conduct* sensitive investigations. Nor does it provide general oversight over all routine aspects of an investigation deemed as sensitive.

Escalation to the SIOB: Q24(e), Q27(c)

79. Not all sensitive investigations are escalated for discussion or a decision by the SIOB. That may occur, for example, because none of the ‘escalation points’ identified below are ever reached in a given investigation.
80. While the SIOB provides oversight of all AFP sensitive investigations, only some of those investigations are escalated for direct deliberation and decision by the SIOB. A sensitive investigation may be escalated to the SIOB for decision or discussion where there is a decision required for a specific investigative action or strategy.
81. While not all sensitive investigations are escalated to the SIOB, Commands with operational responsibility are expected to:
- a. Actively oversee their own sensitive investigations;
 - b. Ensure regular reviews of the progress of those investigations; and
 - c. Where an escalation point is reached, escalate the relevant aspect of the investigation to the SIOB.
82. Particular escalation points determine when a sensitive investigation should be escalated to the SIOB. Those escalation points include where:
- a. The investigation involves obtaining evidence from or about a professional journalist or news media organisation;
 - b. The investigation involves significant legal complexity, including with legal professional privilege or parliamentary privilege;
 - c. Certain allegations or crime types arise, including war crimes, serious unauthorised disclosures, bribery, corruption, offences by high office holders;
 - d. Certain investigative actions are likely to be undertaken, such as sensitive capabilities, a journalist information warrant, search warrants, arrest of a high-profile person;
 - e. The investigation identifies an increase in criminality; or
 - f. The significance to the Australian community increases, such as an expected increase in media reporting or political impact.

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83. A sensitive investigation may need to be escalated to the SIOB on more than one occasion as different escalation points arise.
84. In my capacity as Chair of the SIOB, Assistant Commissioners may informally advise me that a sensitive investigation will be or may need to be escalated to the SIOB, but it is not usual practice for me to receive formal preliminary briefings on an issue before it is escalated to the SIOB.
85. As Deputy Commissioner, it is usual practice for me to be briefed as required by Assistant Commissioners on investigations within my chain of Command, including sensitive investigations.

Briefing the SIOB: Q24(e), Q27(b), Q27(d)

86. The SIOB meets on a monthly basis. For urgent issues, out-of-session SIOB briefings can occur.
87. Briefings to the SIOB are prepared by the relevant investigation team in consultation with the responsible Assistant Commissioner or, for ACT Policing investigations, the DCPO.
88. It is the usual practice for requests for a decision by the SIOB to be in writing, by completing the SIOB Briefing-Decision Template. The template includes the following:
- a. The decisions or actions sought to be endorsed by the SIOB;
 - b. An outline of the current situation relevant to those decisions or actions;
 - c. The rationale for the general investigative strategy and how the decisions or actions will contribute to the strategy;
 - d. The level of harm associated with the offence under investigation;
 - e. The options considered and the pros and cons of each;
 - f. A brief summary of the background of the matter; and
 - g. Any previous SIOB outcomes.
89. Attached and marked '**AFP.0016.0001.0056**' is a copy of the SIOB Briefing-Decision Template.
90. At a SIOB meeting, briefings may be provided in writing or verbally.
91. The usual practice is for briefings to the SIOB to be delivered by the AFP officer best placed to address the issue that has been escalated. It is common practice to invite AFP

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officers who are not members of the SIOB to deliver briefings on issues that have been escalated, such as the relevant Commander or Senior Investigating Officer (SIO).

92. Sensitive investigations which have been escalated to the SIOB may be brought back for further decision, discussion or update as required. The SIOB may also request updates or situation reports on a sensitive investigation, either following a critical investigation point or on a monthly basis.
93. It is not usual practice to brief the SIOB on the routine progress of a sensitive investigation, even where one or more aspects of the investigation have previously been escalated to the SIOB. I cannot recall any instance where that has occurred.

Members of the SIOB: Q25

94. I have been the Chair of the SIOB since it was established in February 2020.
95. Under the AFP's organisational structure effective from 20 February 2023, the SIOB will comprise:
- a. Myself as Chair;
 - b. Deputy Commissioner Crime, Grant Nicholls;
 - c. Deputy Commissioner International and Specialist Capability, Lesa Gale;
 - d. Assistant Commissioner Counter Terrorism and Special Investigations Command, Krissy Barrett;
 - e. Assistant Commissioner Americas, Africa, Middle East and Europe, Michael Pannett;
 - f. Assistant Commissioner Chief of Staff, Joanne Cameron;
 - g. Assistant Commissioner Crime Command, Kirsty Schofield;
 - h. Assistant Commissioner Specialist Protective Command, Alison Wegg;
 - i. Chief Counsel, Samantha Nichol;
 - j. Commander Special Investigations, Stephen Nutt; and
 - k. General Counsel Operations, Alison Macdonald.
96. As Chair, I am the decision-maker on issues that are escalated to the SIOB.
97. Members of the SIOB provide input and advice to me as the decision-maker. It is my usual practice to consult with members of the SIOB in meetings or, for out-of-session matter, over email.

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Appointing a Senior Investigating Officer (SIO): Q28, Q33

98. Not all sensitive investigations have a SIO appointed.
99. It is the SIOB's usual practice to appoint a SIO to sensitive investigations which require senior leadership due to the dimensions of the investigation, including risk, scale, complexity or duration.
100. A SIO may be appointed for a national or ACT Policing investigation.
101. It is my understanding that most sexual assault investigations do not have a SIO appointed. However, in accordance with the AFP's usual practice, a SIO may be appointed to a sexual assault investigation which requires senior leadership due to the dimensions of the investigation, including risk, scale, complexity or duration.
102. A SIO leads an investigation and makes critical case management decisions over the course of the investigation.
103. A SIO reports on an investigation through the relevant chain of Command. A SIO's rank depends on the complexity of the investigation, but is typically an Inspector or Superintendent.
104. I am aware that there are training courses AFP investigators must complete before they are eligible to become a designated SIO.
105. The AFP has a guidance document for SIOs. Attached and marked 'AFP.0013.0001.0082' is a copy of the Senior Investigating Officer Guide.

Briefing outside the AFP: Q29

106. It is not the AFP's usual practice to brief anyone outside the AFP about a SIOB meeting.
107. There are some circumstances in which it is the AFP's usual practice to brief a person outside the AFP about an AFP investigation. While those investigations may include investigations which have been escalated to the SIOB, the fact of an investigation being escalated to the SIOB is not in itself a reason for a person outside the AFP to be briefed on the investigation.

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108. It is the AFP's usual practice to brief Ministers only in the circumstances set out in the Better Practice Guide on Ministerial Briefings for Investigations. Attached and marked 'AFP.0012.0001.0039' is a copy of the AFP's Better Practice Guide on Ministerial Briefings for Investigations.
109. In considering whether it is appropriate to brief the Minister responsible for the AFP or any other Minister, the AFP will consider the factors set out in the AFP Better Practice Guide on Ministerial Briefings for Investigations. One of the factors is whether media attention on an investigation or issue is reasonably anticipated.
110. It is not uncommon for sensitive investigations to attract media attention.
111. The timing and level of detail provided in ministerial briefings are determined by the circumstances of each investigation, including to ensure the operational security and integrity of the investigations.

The Investigation: Q30

112. I first became aware of the investigation of the allegations of Ms Brittany Higgins concerning Mr Bruce Lehrmann (**the Investigation**) in 2019. To the best of my recollection, I became aware of the Investigation as a result of media coverage. I recall being aware that Ms Higgins had initially made a complaint to ACT Policing and had subsequently withdrawn it. I do not recall having any involvement in the Investigation at that time. I do not recall briefing anyone in relation to the Investigation at that time.
113. The Investigation first came before me in my role as Chair of the SIOB in February 2021.
114. Except as outlined in this statement, I do not recall discussing the Investigation with anyone outside of the SIOB.

Briefings to the SIOB on the Investigation: Q34, Q35

115. As is the usual practice for investigations escalated to the SIOB, the SIOB did not receive ongoing briefings on all steps taken in the Investigation. The Investigation came before the SIOB for decision and update at escalation points in accordance with the AFP National Guideline on Sensitive Investigations.

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SIOB meeting of 11 February 2021: Q31, Q32, Q33

116. The SIOB met on 11 February 2021. At the meeting, the Investigation was escalated to the SIOB for the first time.
117. The minutes record the following people being present at the meeting:
- a. Myself as Chair;
 - b. Deputy Commissioner Operations, Brett Pointing;
 - c. Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee;
 - d. Assistant Commissioner Crime Command, Nigel Ryan;
 - e. Assistant Commissioner International Command, Michael Pannett;
 - f. Chief of Staff, David McLean;
 - g. Commander Counter Foreign Interference and Special Investigations, Stephen Nutt;
 - h. Deputy Commissioner Chief Police Officer (CPO), Neil Gaughan;
 - i. Deputy Chief Police Officer – Response (DCPO-R), Michael Chew;
 - j. Superintendent Criminal Investigations, Scott Moller;
 - k. Staff Officer to Assistant Commissioner Counter Terrorism and Special Investigations Command, Peter [WIT_Personal];
 - l. Secretariat, Lia [WIT_Personal_In], and
 - m. Secretariat, Natalie [WIT_Per].
118. I do not have an independent recollection of who was present at the meeting, but I do not have any reason to doubt the accuracy of the minutes.
119. The minutes record that a paper on the Investigation was noted as read. The meeting papers include a briefing paper on the Investigation by Detective Sergeant Gareth Saunders dated 9 February 2021. I do not have an independent recollection of receiving and reading the briefing paper. That said, it is my usual practice to read briefing papers that are provided to the SIOB, and in accordance with that usual practice, I expect that I received and read the briefing paper prior to the SIOB meeting in question.
120. I have reviewed the briefing paper in preparation for giving this statement. I note that the briefing paper sought the following decisions from the SIOB:
- a. Separate the Investigation and the investigation of Ms Higgins' allegations of misconduct involving Commonwealth Departments and High Office Holders;
 - b. Refer the misconduct allegation to National Investigations; and

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- c. Appoint Detective Superintendent Scott Moller as the Senior Investigating Officer for the Investigation.
121. The briefing paper recommended Supt. Moller be appointed as SIO in accordance with the AFP National Guideline on Sensitive Investigations as a risk management option, to ensure that case management decisions would be made by an investigator with a high level of experience, investigative ability and management skill.
122. I consider that appointing a SIO to the Investigation aligned with the SIOB's usual practice as outlined at [99] above.
123. The minutes record that Supt. Moller provided a verbal overview of the Investigation, and the CPO and Supt. Moller responded to questions from the SIOB. The minutes record that the verbal briefing included:
- a. Ms Higgins had submitted a USB to ACT Policing containing Uber receipts and recorded conversations;
 - b. ACT Policing had offered to take a statement but Ms Higgins had not yet committed to providing one, and ACT Policing could not engage with witnesses under ACT legislation until this occurred;
 - c. Inquiries would need to be undertaken into the deep clean the next morning of the office where the alleged assault took place;
 - d. The possibility that Ms Higgins would notify the media about the Investigation; and
 - e. Further details of the allegations of misconduct by High Office Holders;
124. The minutes also record that I advised the SIOB that I would discuss ministerial engagement with the Commissioner.
125. I do not have an independent recollection of Supt. Moller's briefing, or the advice that I gave to the SIOB concerning my proposed interaction with the Commissioner. However, I have no reason to doubt the accuracy of the minutes.
126. The minutes record that the SIOB agreed to endorse the steps set out in [120]. A decision paper records that on 4 March 2021, I signed a decision to that effect as Chair of the SIOB. I do not recall signing the decision paper, but I have no reason to doubt that I did so.

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127. Attached and marked ‘AFP.0013.0001.0073’ is a copy of the agenda of the SIOB meeting on 11 February 2021.
128. Attached and marked ‘AFP.0013.0001.0009’ is a copy of the briefing paper by Detective Sergeant Gareth Saunders dated 9 February 2021 and signed decision paper.
129. Attached and marked ‘AFP.0013.0001.0004’ is a copy of the minutes of the SIOB meeting on 11 February 2021.
130. As DCI and Chair of the SIOB, I did not maintain direct oversight of Supt. Moller’s duties and responsibilities as SIO of the Investigation after he was appointed to the role. In accordance with usual practice, his decisions as SIO were to be reported through the ACT Policing chain of Command and escalated to the SIOB where required under the AFP National Guideline on Sensitive Investigations.
131. Shortly after the SIOB meeting on 11 February 2021, I provided a verbal briefing to the Commissioner on the Investigation. I recall the fact of the briefing, but I do not now recall what I said to the Commissioner or what, if anything, he said to me. I do not recall sending any correspondence or making any notes in relation to this briefing, and I have been unable to locate any correspondence or notes in my emails or notebooks.
132. Although I do not recall the contents of the briefing, I expect that the view I expressed to the Commissioner was that the Minister should be briefed in accordance with the AFP’s Better Practice Guide on Ministerial Briefings for Investigations, given the public and media attention the Investigation would attract.

SIOB meeting of 3 March 2021

133. The SIOB met on 3 March 2021.
134. The minutes record the following people being present at the meeting:
 - a. Myself as Chair;
 - b. Deputy Commissioner Operations, Brett Pointing;
 - c. Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee;
 - d. Assistant Commissioner Crime Command, Nigel Ryan;
 - e. Assistant Commissioner International Command, Michael Pannett;
 - f. Chief of Staff, David McLean;

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- g. General Counsel, Alison Macdonald, representing the Chief Counsel;
- h. Commander Counter Foreign Interference and Special Investigations, Stephen Nutt;
- i. CPO, Neil Gaughan;
- j. Assistant Commissioner Specialist Protective Command, Fiona Drennan;
- k. DCPO– R, Michael Chew;
- l. Detective Superintendent Counter Foreign Interference and Special Investigations, Anita [WIT_Personal_Inf];
- m. Detective Acting Inspector Special Investigations, Josh [WIT_Personal_Info];
- n. Staff Officer to DCI, Joel [WIT_Personal_Inf];
- o. Staff Officer to Assistant Commissioner Counter Terrorism and Special Investigations Command, Brad [WIT_Personal_Inf];
- p. Secretariat, Lia [WIT_Personal_Inf]; and
- q. Secretariat, Natalie [WIT_Personal_Inf];

135. I do not have an independent recollection of who was present at the meeting, but I do not have any reason to doubt the accuracy of the minutes.
136. The minutes record that a paper on the Investigation was taken as read. The meeting papers include a briefing paper on the Investigation by Detective Sergeant Jason McDevitt dated 2 March 2021. I do not independently recall receiving or reading the briefing paper, but accordance with my usual practice, I expect that I received and read the briefing paper prior to the SIOB meeting in question.
137. The minutes record that DCPO-R Chew gave the following verbal update on the Investigation:
- a. On 19 February 2021, Ms Higgins participated in a recorded interview with ACT Policing; and
 - b. The previous recommendation to the SIOB to separate the investigation of misconduct allegations no longer applied as Ms Higgins had not made a complaint about any High Office Holders.
138. The minutes record that I asked questions about the briefing paper and the change to the recommendations, which were answered by the CPO and DCPO-R Chew.
139. I do not have an independent recollection of the verbal briefing, or the exchange I had with the CPO and DCPO-R Chew. However, I have no reason to doubt the accuracy of the minutes and a change to a previous recommendation (such as that reflected in the minutes) is precisely the kind of matter I would typically ask questions about.

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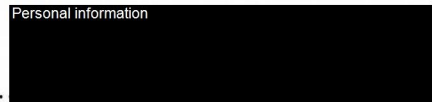
140. To the best of my recollection, I did not sign a decision paper for the Investigation relating to the SIOB meeting on 3 March 2021.
141. Attached and marked '**AFP.0014.0003.0038**' is a copy of the agenda of the SIOB meeting on 3 March 2021.
142. Attached and marked '**AFP.0013.0001.0051**' is a copy of the briefing paper by Detective Sergeant Jason McDevitt dated 2 March 2021.
143. Attached and marked '**AFP.0013.0001.0065**' is a copy of the minutes of the SIOB meeting on 3 March 2021.
144. On 5 April 2021, I received an email addressed to the ELC attaching a timeline review of the Investigation dated 1 April 2021 (**Investigation Timeline Review**). The email noted it was in response to the extraordinary ELC convened on 23 March. Attached and marked '**AFP.2003.0014.8254**' is a copy of the email addressed to the ELC at 10:35am on 5 April 2021. Attached and marked '**AFP.2003.0014.8256**' is a copy of the Investigation Timeline Review.
145. I do not have an independent recollection of reading the email or attending the ELC on 23 March, however I do not have any reason to doubt that I did so.
146. I recall being aware that a timeline review of the Investigation was being prepared for the Commissioner around that time. To the best of my recollection, the Investigation Timeline Review was ordered by the Commissioner to assist him to consider and respond to questions raised about the Investigation in Senate Estimates.
147. I do not recall having any involvement in preparing the Investigation Timeline Review.
148. On 7 April 2021, I received an email attaching an agenda, papers and decision/action register for an ELC meeting on 8 April 2021. The agenda included an item titled 'Higgins – Legal advice'. Attached and marked '**AFP.2003.0014.8471**' is a copy of the email. Attached and marked '**AFP.2003.0014.8480**' is a copy of the agenda.
149. I do not have an independent recollection of receiving or reading the email. I do not have an independent recollection of attending an ELC meeting on 8 April 2021.

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SIOB meeting of 3 August 2021: Q36

150. On 30 July 2021, I emailed the Assistant Commissioner Deputy Chief Police Officer (DCPO), Peter Crozier, requesting the AFP's operation name being used for the Investigation. Attached and marked 'AFP.2003.0005.0392' is a copy of my email to the DCPO at 8:12am on 30 July 2021.
151. Shortly after, I emailed the SIOB Secretariat to request that the CPO, the DCPO and Commander Andrew Smith be invited to the SIOB meeting on 3 August 2021. Attached and marked 'AFP.2003.0005.0238' is a copy of my email to the SIOB Secretariat at 8:19am on 30 July 2021.
152. The SIOB met on 3 August 2021.
153. The minutes record the following people being present at the meeting:
- a. Myself as Chair;
 - b. Acting Deputy Commissioner Operations, Lesa Gale;
 - c. Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee;
 - d. Acting Assistant Commissioner Crime Command, Doug Boudry;
 - e. Assistant Commissioner International Command, Michael Pannett;
 - f. DCPO, Peter Crozier;
 - g. Chief of Staff, David McLean;
 - h. Chief Counsel, Samantha Nichol;
 - i. Commander Counter Foreign Interference and Special Investigations, Stephen Nutt;
 - j. Acting Assistant Commissioner Northern Command, Andrew Donoghoe;
 - k. Commander International Engagement, Andrew Smith;
 - l. Detective Superintendent Crime Northern Command; Helen [WIT_Personal_Info];
 - m. Secretariat, Lia [WIT_Personal_Info]; and
 - n. Secretariat, Natalie [WIT_Perso]
154. Again, I do not have an independent recollection of who was present at the meeting, but I do not have any reason to doubt the accuracy of the minutes.
155. The minutes do not record any briefing paper on the Investigation being provided. I do not have an independent recollection of reviewing a briefing paper before the meeting, and I have been unable to locate one in my emails.

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156. The minutes record that DCPO Crozier provided a brief verbal briefing on the status of the Investigation, including:
- a. Ms Higgins' welfare was the main concern;
 - b. ACT Policing would contact Ms Higgins' about a summons to Mr Lehrmann; and
 - c. ACT Policing media proposed to provide a media statement before a summons was issued.
157. The minutes record that Commander Smith provided a verbal briefing on the internal review of the Investigation (**Investigation Review**).
158. The minutes record that Commander Smith advised the SIOB that:
- a. The Investigation was conducted in a thorough, reasonable and proportionate manner;
 - b. No significant additional avenues of inquiry were identified; and
 - c. There were concerns about conducting a second Evidence in Chief Interview.
159. I do not have an independent recollection of the verbal briefings by the DCPO or Commander Smith. Again, I have no reason to doubt the accuracy of the minutes.
160. I do recall the circumstances in which the Investigation Review was initiated by the ACT Policing Senior Executive. It was initiated following a discussion between myself and the CPO. Although I do not now recall the details of that discussion, I recall that it was my understanding following the discussion that the Investigation Review would come to the SIOB once completed. My understanding was (and is) that the Investigation Review was initiated because, in light of the high-profile nature of the matter, it was considered appropriate to have an additional layer of review and assurance that the Investigation was being conducted appropriately and in a competent manner.
161. To the best of my recollection, I did not sign a decision paper for the Investigation following the SIOB meeting on 3 August 2021.
162. Attached and marked '**AFP.0013.0001.0001**' is a copy of the agenda of the SIOB meeting on 3 August 2021.
163. Attached and marked '**AFP.0013.0001.0059**' is a copy of the minutes of the SIOB meeting on 3 August 2021.

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164. On 5 August 2021, the CPO emailed a copy of the Investigation Review to me by email as Chair of the SIOB.
165. On 19 August 2021, I sent an email to the CPO in response:
- “I note the review stated that the investigation was conducted in a thorough, reasonable and proportionate manner, adhering to the lawful requirements for interviewing suspects and witnesses. And that the exercise of search, seizure and examination of material was lawful.”*
166. I did not understand there to be any issue requiring the SIOB’s attention arising from the Investigation Review, and I do not recall any aspect of the Investigation Review being escalated to the SIOB after the 3 August 2021 meeting. For that reason, I do not believe I was aware at the time (and if so I do not now recall) whether any recommendations from the Investigation Review were actioned prior to charging Mr Lehrmann.
167. Attached and marked ‘**AFP.2003.0015.0392**’ is a copy of the Investigation Review.
168. Attached and marked ‘**AFP.2003.0015.0391**’ is a copy of the CPO’s email to me at 8:23am on 5 August 2021.
169. Attached and marked ‘**AFP.2003.0015.0567**’ is a copy of my email to the CPO at 10:04am on 19 August 2021.
170. Around this time, I became aware that Minister Andrews would be briefed about a summons being served on Mr Lehrmann by ACT Policing. I do not recall how I became aware of that matter. Nor do I recall having any involvement in Minister Andrews being briefed.

SIOB meeting of 5 October 2021

171. The SIOB met on 5 October 2021.
172. The minutes record the following people being present at the meeting:

- a. Myself as Chair;
- b. Deputy Commissioner Operations, Brett Pointing;

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- c. Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee;
- d. Assistant Commissioner Crime Command, Nigel Ryan;
- e. Assistant Commissioner International Command, Michael Pannett;
- f. DCPO, Peter Crozier;
- g. Acting Chief of Staff, Samantha Nichol;
- h. Acting Chief Counsel, Alison Macdonald;
- i. Commander Counter Foreign Interference and Special Investigations, Stephen Nutt;
- j. Assistant Commissioner Northern Command, Lesa Gale;
- k. Commander ACCCE, Child Protection and Human Trafficking, Hilda Sirec;
- l. Detective Superintendent Counter Foreign Interference and Special Investigations, Anita WIT_Personal_Inf
- m. Secretariat, Lia WIT_Personal_Inf; and
- n. Secretariat, Natalie WIT_Pers

173. As with the other SIOB meetings discussed above, I do not independently recall who was present at the meeting, but I have no reason to doubt the accuracy of the minutes.
174. The minutes do not record any briefing paper on the Investigation being provided. I have no independent recollection of reviewing a briefing paper before the meeting, and I have been unable to locate one in my emails.
175. The minutes record that the DCPO provided a short verbal update on the Investigation to advise that ACT Policing had confirmed that any future engagement between ACT Policing and Ms Higgins would be via the Office of the ACT DPP, and not the ACT Victims of Crime Commissioner. I do not have an independent recollection of this briefing, but again, I do not doubt the accuracy of the minutes.
176. To the best of my recollection, I did not sign a decision paper for the Investigation following the SIOB meeting on 5 October 2021.
177. Attached and marked '**AFP.0014.0003.0040**' is a copy of the agenda of the SIOB meeting on 5 October 2021.
178. Attached and marked '**AFP.0013.0001.0303**' is a copy of the minutes of the SIOB meeting on 5 October 2021.

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SIOB out-of-session decision of 14 June 2022

179. On 13 June 2022, I received an email circulating an out-of-session briefing paper by Supt. Moller dated 9 June 2022 to the SIOB. I do not recall reading the briefing paper, but in accordance with my usual practice, I expect that I did.
180. The briefing paper sought approval for ACT Policing to execute a s 3E *Crimes Act 1914* (Cth) search warrant on 7PM Company for the recording of a meeting between Lisa Wilkinson and Brittany Higgins which took place ahead of the Channel 10 interview (Option 1 in the briefing paper).
181. On 14 June 2022, I sent an email to members of the SIOB, stating:
- “Team, unless there is a strong contrary view I am supportive of Option 1. The investigation does not relate to a journalist, nor does it seek to identify any journalists' sources. The planned search warrants on the 7PM Company relates to the provision of a physical recording only, and 7PM are supportive of the warrant action.”*
182. A decision paper records that on the same day, I signed a decision as Chair of the SIOB endorsing the execution of the warrant by ACT Policing.
183. Attached and marked ‘**AFP.2003.0003.3596**’ is a copy of the briefing paper by Supt. Moller dated 9 June 2022.
184. Attached and marked ‘**AFP.2003.0003.3605**’ is a copy of my email to the SIOB at 1:58pm on 14 June 2022.
185. Attached and marked ‘**AFP.2003.0003.3676**’ is the signed decision paper of 14 June 2022.

SIOB meeting of 15 June 2022

186. The SIOB met on 15 June 2022.
187. The minutes record the following people being present at the meeting:
- a. Myself as Chair;
 - b. Deputy Commissioner Operations, Brett Pointing;
 - c. DCPO, Peter Crozier;

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- d. Assistant Commissioner Counter Terrorism and Special Investigations Command, Scott Lee;
- e. Acting Assistant Commissioner Crime Command, Hans Koenderink;
- f. Chief of Staff, Doug Boudry;
- g. Assistant Commissioner International Command, Michael Pannett;
- h. Acting Chief Counsel, Alison Macdonald;
- i. Commander Special Investigations, Stephen Nutt;
- j. Acting Assistant Commissioner Specialist Protective Command, Jason Kennedy;
- k. Commander ACCCE and Human Exploitation, Hilda Sirec;
- l. Acting Commander Investigations – Northern Command, Helen Schneider;
- m. Inspector Eastern Command, Ben [WIT_Personal_Inf];
- n. Staff Officer to DCI, Simon [WIT_Personal_Inf];
- o. Secretariat, Natalie [WIT_Pers] and [WIT_Personal_Inf];
- p. Secretariat, Chris [WIT_Personal_Inf];

188. Again, I do not have an independent recollection of who was present at the meeting, but I have no reason to doubt the accuracy of the minutes.

189. The meeting papers include a briefing paper which included a short update on the Investigation by Detective Inspector Hughes. I do not have an independent recollection of receiving or reading the briefing paper, but in accordance with my usual practice, I expect that I did.

190. The DCPO provided a short verbal update on the timeframe for the search warrant endorsed by the SIOB on 14 June 2022. I do not have an independent recollection of this briefing, but again, I do not doubt the accuracy of the minutes.

191. To the best of my recollection, I did not sign a decision paper for the Investigation following the SIOB meeting on 15 June 2022.

192. Attached and marked ‘**AFP.0014.0003.0033**’ is a copy of the agenda of the SIOB meeting on 15 June 2022.

193. Attached and marked ‘**AFP.0014.0003.0035**’ is a copy of the briefing paper by Detective Inspector Hughes.

194. Attached and marked ‘**AFP.0013.0001.0044**’ is a copy of the minutes of the SIOB meeting on 15 June 2021.

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SIOB meeting of 13 September 2022

195. The SIOB met on 13 September 2022.

196. The minutes record the following individuals being present at the meeting:

- a. Myself as Chair;
- b. Acting Deputy Commissioner Operations, Lesa Gale;
- c. DCPO, Peter Crozier;
- d. Chief of Staff, Doug Boudry;
- e. Assistant Commissioner International Command, Michael Pannett;
- f. Assistant Commissioner Crime Command, Nigel Ryan;
- g. Attending for Assistant Commissioner Counter Terrorism and Special Investigations Command, Acting Commander Special Investigations, Anita van Hilst;
- h. Attending for Chief Counsel, General Counsel, Alison Macdonald;
- i. Acting Assistant Commissioner Western Command, John Tanti;
- j. Acting Commander Western Command; Graeme Marshall;
- k. Detective Inspector Western Command; Andrea [WIT_Personal_Inf];
- l. Acting Assistant Commissioner Northern Comment, Danielle Woodward;
- m. Detective Superintendent ACCCE, Glyn [WIT_Personal];
- n. Detective Inspector ACCCE Operations, Craig [WIT_Personal];
- o. Detective Superintendent Special Investigations – Victoria, Nick [WIT_Personal];
- p. Detective Inspector Special Investigations, Glenn [WIT_Personal];
- q. Detective Superintended International Operations Centre, Conrad [WIT_Personal];
- r. Staff Officer to DCI, Emma [WIT_Personal];
- s. Secretariat, Natalie [WIT_Personal];
- t. Secretariat, Olivia [WIT_Personal_Inf] and
- u. Secretariat, Chris [WIT_Personal];

197. I do not have an independent recollection of who was present at the meeting, but I have no reason to doubt the accuracy of the minutes.

198. The minutes note that a paper on the Investigation was taken as read. The meeting papers include a briefing paper on the Investigation by Detective Acting Inspector Ryan [WIT_Personal] dated 10 August 2022. I do not have an independent recollection of reading the briefing paper, but in accordance with my usual practice, I expect that I did.

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200. A decision paper shows that on 27 September 2022, I signed the following decision as Chair of the SIOB:

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201. The decision paper records that I made this decision for the following reasons:

WIT_Confidential_sensitive_AFP

202. The decision paper accurately records my reasons for making this decision.

203. Attached and marked '**AFP.0014.0003.0031**' is a copy of the agenda of the SIOB meeting on 13 September 2022.

204. Attached and marked '**AFP.0013.0001.0036**' is a copy of the briefing paper by Detective Acting Inspector Ryan ^{WIT_Personal} dated 10 August 2022 and signed decision paper of 27 September 2022.

205. Attached and marked '**AFP.0015.0001.0916**' is a copy of the minutes of the SIOB meeting on 13 September 2022.

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'**AFP.0014.0003.0080**' is a copy of the email.

207. I do not have an independent recollection of receiving the email. I do not recall whether I had any involvement in the decision to send the email. In my view, the AFP sending this email aligns with the AFP's usual practice as set out in the Better Practice Guide on Ministerial Briefings for Investigations.

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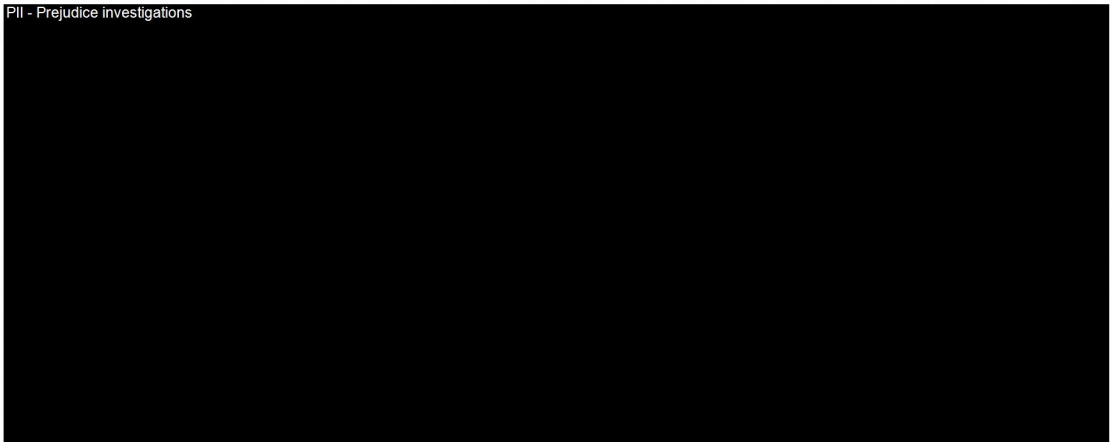
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SIOB meeting of 1 November 2022: Q37

208.

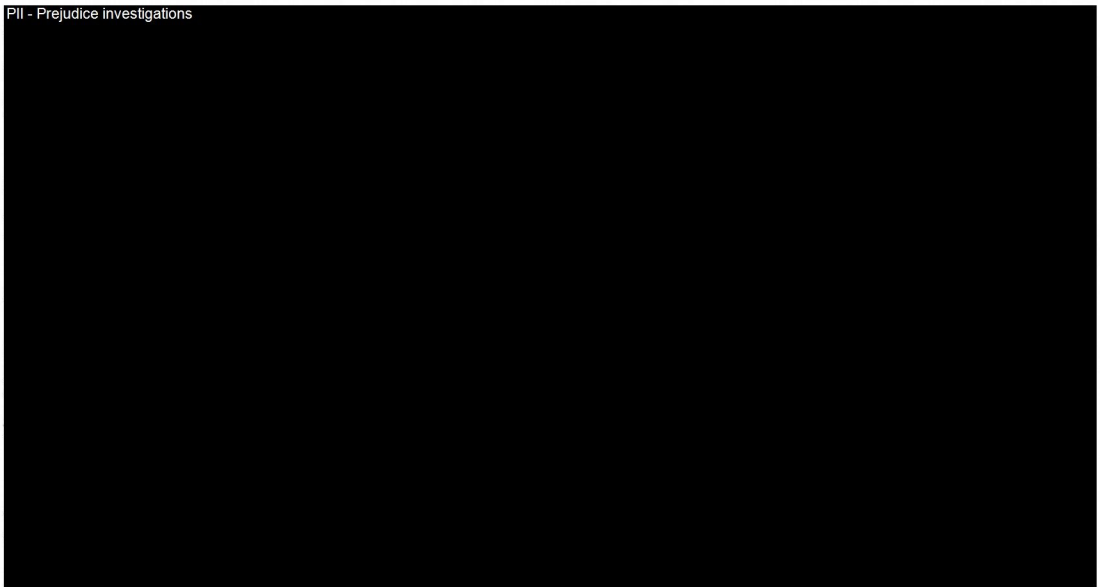
PII - Prejudice investigations



209. Attached and marked 'AFP.0014.0003.0054' is a copy of the email sent to me by the CPO at 5:41pm on 18 October 2022.

210.

PII - Prejudice investigations



211.

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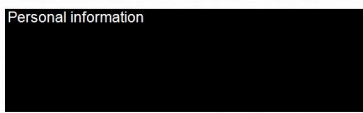
213.

214. The SIOB met on 1 November 2022.

215. The minutes record the following individuals being present at the meeting:

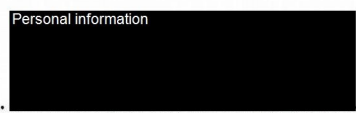
- a. Myself as Chair;
- b. Chief of Staff, Doug Boudry;
- c. Acting Assistant Commissioner Counter Terrorism and Special Investigations Command, Sandra Booth;

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- d. In place of Assistant Commissioner Crime Command, Commander Transnational Operations, Richard Chin;
- e. Assistant Commissioner International Command, Michael Pannett;
- f. DCPO, Peter Crozier;
- g. Chief Counsel, Samantha Nichol;
- h. Acting Commander Special Investigations, Anita van Hilst;
- i. General Counsel, Alison Macdonald;
- j. Assistant Commissioner Eastern Command, Kirsty Schofield;
- k. Acting Commander Western Command, Graeme Marshall;
- l. Detective Inspector Special Investigations NSW, Brad [WIT_Personal_];
- m. Staff Officer to DCI, John [WIT_Personal_];
- n. Secretariat, Natalie [WIT_Personal_];
- o. Secretariat, Olivia [WIT_Personal_] and
- p. Secretariat, Chris [WIT_Personal_].

216. I do not have an independent recollection of who was present at the meeting, but I do not have any reason to doubt the accuracy of the minutes.

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PII - Prejudice investigations

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PII - Prejudice investigations

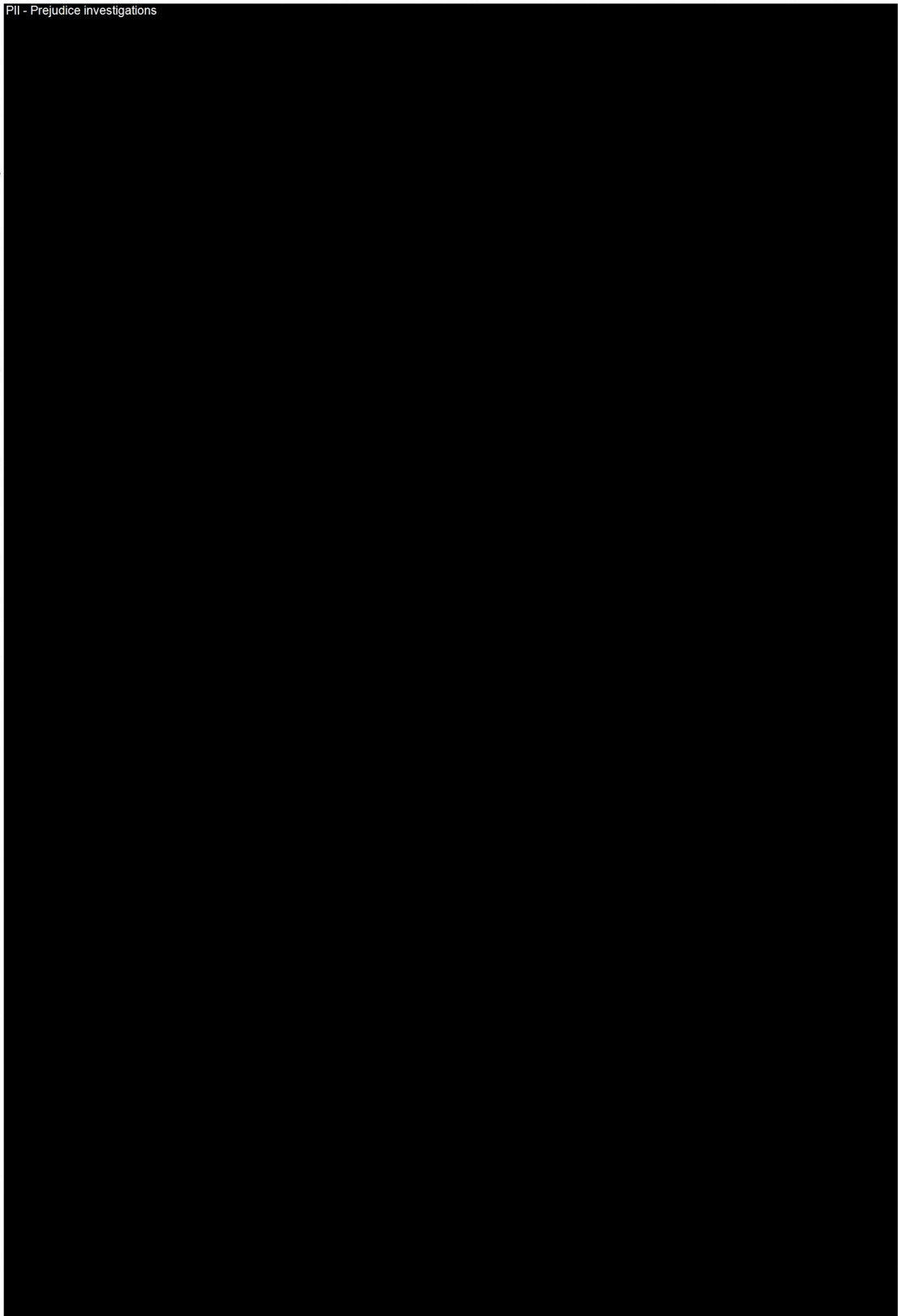
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226. PII - Prejudice investigations

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231. The decision paper accurately records my reasons for making this decision.

232. PII - Prejudice investigations

Complaints: Q38

233. My involvement with the complaint lodged by Mr Whybrow is outlined at [208] to [231].

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234. PII - Prejudice investigations
[REDACTED]

235. I do not recall any concerns about ACT Policing officers involved in the Investigation being raised with me, directly or indirectly, by:
- a. The DPP or ODPP;
 - b. The Victims of Crime Commissioner;
 - c. Ms Higgins or her legal representatives;
 - d. Mr Lehrmann or his legal representatives; or
 - e. Any other persons.

Briefing Request and Advice Provided by the DPP: Q39, Q40, Q41

236. I was shown copies of the briefing request to the DPP from Detective Superintendent Scott Moller dated 18 June 2021 (**DPP Briefing Request**) and the accompanying Minute titled “Op Covina Direction / Decision – Alleged Sexual Assault Australian parliament House 23 March 2019” by Detective Inspector Marcus Boorman dated 4 June 2021 (**Boorman Minute**) by the Board of Inquiry on 22 March 2023.
237. I do not recall being provided with the DPP Briefing Request or the Boorman Minute on any other occasion. I do not recall ever having read the DPP Briefing Request or the Boorman Minute. I therefore do not attach a copy of the DPP Briefing Request or the Boorman Minute.
238. I do not recall being provided with the advice provided by the DPP to Detective Superintendent Moller on 28 June 2021 (**DPP Advice**) on any occasion. I do not recall ever having read the DPP Advice. I therefore do not attach a copy of the DPP Advice.
239. It is not usual practice for me to be sent, or for me to read, documents of that kind. I am not part of ACT Policing and I have no role in approving documents at that level.
240. I do not recall having any interactions with ACT Policing officers in relation to the DPP Briefing Request, the Boorman Minute, or the DPP Advice.
241. Engagement between ACT Policing and the DPP once a matter is at the prosecution stage is routine and would not usually be escalated to the SIOB.

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The Trial in the Matter *R v Lehrmann*: Q42, Q43, Q44

242. I do not recall precisely when I was advised that a summons would be served on Mr Lehrmann by ACT Policing, however it is referred to in the minutes of the SIOB meeting on 3 August 2021 and I recall being aware around that time.
243. I recall my overall impression being that this was the natural progression of an investigation. In accordance with the AFP's usual practices, I did not consider it to be an escalation point to bring the Investigation back to the SIOB.
244. I did not attend any part of the Trial. It is not usual practice for me to attend any part of a trial as a Deputy Commissioner, unless I am called to give evidence as witness.
245. I do not recall receiving routine updates or briefings on the Trial. It is not usual practice for me to receive routine updates on a trial.
246. It is usual practice for me to be briefed on a trial only if an issue requiring escalation to the SIOB or otherwise within my role as a Deputy Commissioner arises.
247. On 17 October 2022, the CPO forwarded me an email containing an update on the daily events in the Trial prepared by Senior Constable Emma Frizzell.
248. The email included:
- “... Once a verdict has been reached the media reporting is expected to be significant and a Management Significant Case Note Entry will be submitted. ...”*
249. I responded to the CPO at 7:42pm stating: “Copy”.
250. Attached and marked ‘AFP.0014.0003.0087’ is a copy of the emails between me and the CPO on 17 October 2022.
251. I do not have an independent recollection of receiving or responding to the 17 October 2022 email.
252. As outlined above at [208], on 18 October 2022, the CPO forwarded me an email foreshadowing the Complaint, an issue which was escalated to the SIOB.
253. I do not recall receiving any other updates about the Trial.

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1 November 2022 Correspondence: Q45, Q46

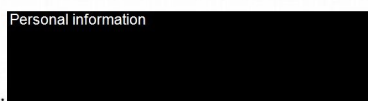
254. I recall having some general awareness of the correspondence addressed to the CPO from the DPP dated 1 November 2022 regarding the conduct of the Investigation and trial in the matter of *R v Lehrmann (1 November 2022 Correspondence)* in November 2022.
255. I also recall being aware of the nature of the allegations contained in the 1 November 2022 Correspondence, through my conversations with the CPO and the briefing I gave to the Commissioner on 18 December 2022 (outlined below). However, I do not recall whether, and if so when, I was provided with a copy of the 1 November 2022 Correspondence. Nor do I recall whether I have read the 1 November 2022 Correspondence. I therefore do not attach a copy of the 1 November 2022 Correspondence.
256. I do not recall any overall impressions that I may have had at the time about the 1 November 2022 Correspondence or the allegations made therein.
257. From 3 December 2022 to 18 December 2022, I was Acting Commissioner. I recall becoming aware of the 1 November 2022 correspondence in more detail around 9 December 2022, when it was released publicly.
258. I recall discussing the release of the 1 November 2022 Correspondence with the CPO around that time. I understood, from that discussion, that the CPO was concerned about the letter being released under FOI without the AFP being consulted.
259. I did not take or direct any actions in relation to the 1 November 2022 Correspondence. I was aware that the allegations in the 1 November 2022 Correspondence were referred through the AFP's normal processes, but I had no direct involvement in that process.
260. I do not recall having any further discussions about the 1 November 2022 Correspondence after the allegations were referred through the AFP's normal processes. It was not usual practice for matters referred through those processes to be discussed with me either as DCI or Chair of the SIOB.
261. On 8 December 2022, the CPO forwarded me an email he had sent to ACT Policing about the 1 November 2022 Correspondence for my information. Attached and marked '**AFP.2003.0012.8259**' is a copy of the email I received from the CPO at 3:39pm on 8 December 2022

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262. On 14 December 2022, the CPO forwarded me an opinion piece that had been published about the 1 November 2022 Correspondence. Attached and marked ‘AFP.2003.0012.8672’ is a copy of the email I received from the CPO at 12:18pm on 14 December 2022.
263. On 18 December 2022, I emailed the Commissioner an update on activities over the preceding fortnight while I was Acting Commissioner. The update included:

“ 1 November 2022, ACT DPP Drumgold SC wrote to AFP CPO raising concerns re: his perception of investigator interference in the criminal justice process in the matter of R v Lehrmann. The letter referenced ACT DPP view that at the conclusion of the trial there should be a public enquiry into both political and police conduct in the matter and sought CPO support for same.*

** The letter also requested a direction be issued to all police to remove themselves from any engagement in the matter beyond being called as a witness for the prosecution, including no further contact with defence or other prosecution witnesses, no contact with the complainant, and prohibiting attendance at court beyond formal evidence if required.*

** The letter was released by DPP under FOI, ACT Policing was not consulted in the FOI process (as required pursuant to s38(2) FOI Act 2016 (ACT)), and the letter was subsequently referenced in the media on 8 December.*

PII - Prejudice investigations




** Numerous FOI requests have been received seeking documents relevant to Op Covina investigation.*

** Of note, media reported on 14 December that Ms Higgins has settled a confidential agreement with the Commonwealth.*


** The Australian reporting (3 December 2022) that Bruce Lehrmann is considering civil action.*

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** There are current deliberations by the ACT Government to initiate a review of the Higgins case. CPO will continue to keep you updated. "*

264. Attached and marked 'AFP.2003.0010.8512' is a copy of my email to the Commissioner at 2:53pm on 18 December 2022.

Victims of Crime Commissioner: Q47

265. I do not recall ever having any professional dealings with the Victims of Crime Commissioner.

Media: Q48, Q49, Q50, Q51

266. I am not aware of whether the level of media involvement in the matter of *R v Lehrmann* affected the conduct of the Investigation by the investigation team. In my role as Chair of the SIOB, I was briefed on the Investigation at escalation points as outlined in this statement, but I was not involved in the day-to-day conduct of the Investigation.

267. The AFP routinely deals with high-profile investigations that attract significant media attention. I have observed that many investigations designated as sensitive investigations attract media attention.

268. My understanding is that Minister Dutton and Minister Andrews were briefed on the Investigation because it was reasonably anticipated that the Investigation would attract significant media attention, in accordance with the AFP's Better Practice Guide on Ministerial Briefings on Investigations.

269. I do not recall having any involvement in preparing a media plan for the Investigation.

270. I do not recall having any involvement in preparing media releases about the Investigation. I do not recall discussing any media releases about the Investigation with anyone.

271. On 1 March 2021, I was copied to an email from Renee [WIT_Personal_1] requesting thoughts on draft media lines for the Commissioner. Attached and marked 'AFP.0014.0003.0082' is a copy of that email chain.

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EMILY CALDWELL

272. I do not have an independent recollection of receiving or reading the email. To the best of my knowledge, I did not send an email in response. I do not recall whether I spoke to Ms [WIT_Personal_Inf] or anyone else about the media lines in the email of 1 March 2021.
273. On 12 May 2021, I was copied to an email from the Commissioner's Executive Assistant forwarding a response by the Department of Prime Minister and Cabinet to a media inquiry about the Investigation. Attached and marked 'AFP.0014.0003.0073' is a copy of that email.
274. I do not have an independent recollection of receiving or reading the email. To the best of my knowledge, I did not send an email in response. I do not recall whether I spoke to anyone about the email.
275. As outlined above, between 3 December 2022 and 18 December 2022, I was Acting Commissioner.
276. On 7 December 2022, I was copied to an email from Renee [WIT_Personal_Inf] which states: "Acting Commissioner McCartney is comfortable with the lines below for media going forward for CPO." The email chain includes media lines about the Investigation which were also copied to me. Attached and marked 'AFP.2003.0012.8091' is a copy of that email chain.
277. I do not have an independent recollection of reading or clearing the media lines in the email chain, but I do not have any reason to doubt that I did so.
278. I do not recall personally communicating with the media in relation to the matter of *R v Lehrmann*.
279. Attached and marked 'AFP.0013.0001.0110' is a copy of the AFP's National Media Handbook

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Board of Inquiry: Q52

280. I have not discussed my evidence to the Board of Inquiry with anyone except my staff officer and my legal advisers.

SWORN before me at Canberra in the Australian Capital Territory on 5 April 2023.

Personal information
[Redacted]

.....
Ian Robert Samuel McCartney

Personal information
[Redacted]

.....
Signature of witness

.....
Emily Caldwell

Personal information
[Redacted]

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IAN ROBERT SAMUEL MCCARTNEY

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EMILY CALDWELL