

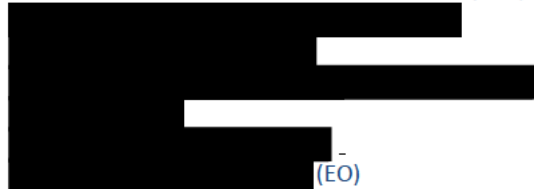
From: Drumgold, Shane
Sent: Mon, 27 Sep 2021 17:39:55 +1000
To: Jerome, Skye; Priestly, Erin
Subject: FW: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]
Attachments: Minute to DPP - brief changes and outstanding docs.docx

UNOFFICIAL

Hi Skye and Erin
 I might make you guys primary contact to discuss the disclosure certificate if that is OK.



Shane Drumgold SC
 Director
 Office of the Director of Public Prosecutions (ACT)



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From: Moller, Scott <[REDACTED]@afp.gov.au>
Sent: Monday, 27 September 2021 4:46 PM
To: Drumgold, Shane <[REDACTED]@act.gov.au>
Cc: Frizzell, Emma <[REDACTED]@afp.gov.au>; Madders, Trent <[REDACTED]@afp.gov.au>;
 Rose, Robert <[REDACTED]@afp.gov.au>; To [REDACTED] Damien <[REDACTED]@afp.gov.au>; Jerome,
 Skye <[REDACTED]@act.gov.au>; Priestly, Erin <[REDACTED]@act.gov.au>
Subject: RE: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

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OFFICIAL:Sensitive

Shane,
 Response to your questions attached.

Regards Scott.

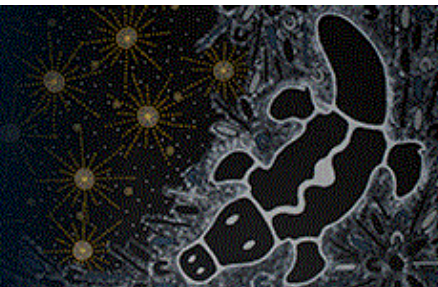
DETECTIVE SUPERINTENDENT SCOTT MOLLER
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From: Drumgold, Shane [REDACTED] <[REDACTED]@act.gov.au>
Sent: Monday, 27 September 2021 10:30 AM
To: Moller, Scott [REDACTED] <[REDACTED]@afp.gov.au>
Cc: Frizzell, Emma [REDACTED] <[REDACTED]@afp.gov.au>; Madders, Trent [REDACTED] <[REDACTED]@afp.gov.au>;
 Rose, Robert <[REDACTED]@afp.gov.au>; [REDACTED] Damien [REDACTED] <[REDACTED]@afp.gov.au>; Jerome,
 Skye [REDACTED] <[REDACTED]@act.gov.au>; Priestly, Erin [REDACTED] <[REDACTED]@act.gov.au>
Subject: RE: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]
Importance: High

OFFICIAL: Sensitive

Dear Scott

This matter is listed in the ACT Magistrates Court on 14 October (just over 2 weeks) for committal for trial. At this time, we will be required to produce the indictment, cases statement and a Supreme Court questionnaire, and will be required to formally advise the court of the status all outstanding material.

In an email on 17/9/21 at 2.31pm I requested advice of when the following items would be provided, and I have not as yet received a response:

- i. Audio visual copies of the complainant's Evidence in Chief Interviews dated 24 February 2021 and 26 May 2021
- ii. Police statements
 1. Gareth Saunders
 2. Jason McDevitt
 3. Kristy [REDACTED]
- iii. Statements regarding complaint evidence
 4. [REDACTED]
 5. [REDACTED]
 6. [REDACTED]
 7. [REDACTED]

8. [REDACTED]
9. [REDACTED]

ii. Documents:

1. Photos of Lehrmann's Phone – SC James [REDACTED]
2. Floor plan of Ministerial Suite [REDACTED] – Trent Madders
3. Complete download – Complainant's 3 phones
4. Complete download – Accused's phone
5. Transcript – [REDACTED]
6. Transcript – [REDACTED]
7. Transcript – [REDACTED]

In an email of 22/9/21 I requested statements in relation to the brief service on defence. On 24/9/21 I received an answer to questions 2 and 3, but have not received a response to the remainder, nor an indication of when the statements will be received:

1. Who from the AFP provided the brief to defence on 6 August 2021?
2. Who it was provided to?
3. How it was provided (posted or handed to defence)?
4. If handed to defence, the circumstances under which it was handed to them (ie if it was a meeting, what the meeting was for)?
5. Who made the decision to hand the brief directly to defence?
6. The reasons for the decision to hand the brief directly on defence?

We will also need to add:

7. Directions to defence and their responses regarding potential use of the offending material.
8. The impact of disclosure (ie, any undertakings or responses that offending material was not accessed or distributed to accused)
9. The provision of replacement material for any deleted offending documents.

In the email to John Korn 7.59am 23/9/21 you indicated that replacement documents would be provided, however we have not as yet received those replacement documents. Can you please advise when this will be received. Further, in the same email you sought a response from Mr Korn, and I have not received a response as yet, can you please chase that up.

Can you please respond ASAP to enable us to progress this matter.



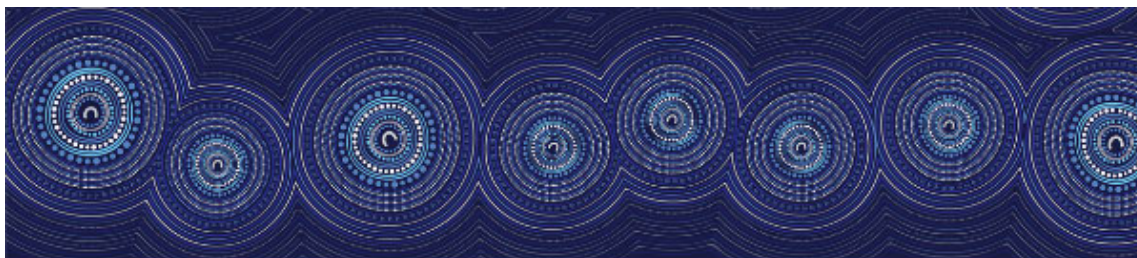
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 Director
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Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Moller, Scott <[REDACTED]@afp.gov.au>
Sent: Friday, 24 September 2021 10:41 AM
To: Drumgold, Shane <[REDACTED]@act.gov.au>
Cc: Frizzell, Emma <[REDACTED]@afp.gov.au>; Madders, Trent <[REDACTED]@afp.gov.au>;
Rose, Robert <[REDACTED]@afp.gov.au>; [REDACTED] Damien <[REDACTED]@afp.gov.au>; Jerome,
Skye <[REDACTED]@act.gov.au>
Subject: RE: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

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Good morning Shane,

In response to your email dated Wednesday 22 September 2021, I contacted Mr Korn by email (which I CC'd you into) notifying him of the issues that had been identified in the copy of the brief provided to him on 6 August 2021.

I requested that he delete the documents that were identified as not being correctly redacted, as well as the audio copy of the EICI and the complainant's counselling notes. I advised Mr Korn that updated, correctly redacted documents would be provided as soon as possible. I then had a follow up telephone conversation with Mr Korn, **who confirmed to me that he had not accessed the brief, other than to read the fact sheet.** Mr Korn agreed to destroy the brief and provide written confirmation of doing so. I advised Mr Korn that your office will be providing him with a new copy of the brief in due course.

My team has since corrected the documents within the brief ensuring the redactions are accurate and locked. A new defence copy of the brief has been prepared and I will arrange for this to be provided to your office.

With respect to communication with the complainant, advice was received from Heidi Yates and confirmed by yourself on 26 August 2021, that your office would take on responsibility for providing Ms Higgins with all information, updates and advice. As such, and in line with this agreement it is more appropriate that the DPP provide the requested update noting that Mr Korn has not accessed any of the documents.

To briefly answer your questions below regarding service of the brief on Mr Korn. I can confirm that the brief was served on Mr Korn in person shortly after the service of the summons for Mr

Lehrmann. Mr Korn requested a copy of the brief at that time and arrangements were made for a copy to be provided. This occurred at his office in Sydney.

Regards
Scott

DETECTIVE SUPERINTENDENT SCOTT MOLLER

CRIMINAL INVESTIGATIONS

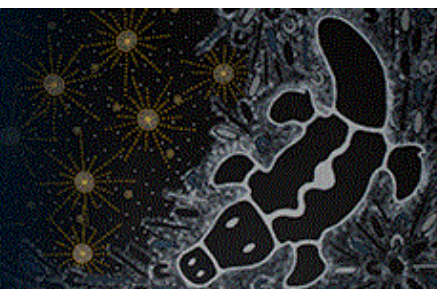
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From: Drumgold, Shane [REDACTED] [@act.gov.au](mailto:[REDACTED]@act.gov.au)>
Sent: Wednesday, 22 September 2021 8:17 AM
To: Moller, Scott [REDACTED] [@afp.gov.au](mailto:[REDACTED]@afp.gov.au)>
Cc: Frizzell, Emma [REDACTED] [@afp.gov.au](mailto:[REDACTED]@afp.gov.au)>; Madders, Trent [REDACTED] [@afp.gov.au](mailto:[REDACTED]@afp.gov.au)>; Rose, Robert [REDACTED] [@afp.gov.au](mailto:[REDACTED]@afp.gov.au)>; [REDACTED] Damien [REDACTED] [@afp.gov.au](mailto:[REDACTED]@afp.gov.au)>; Jerome, Skye [REDACTED] [@act.gov.au](mailto:[REDACTED]@act.gov.au)>; Priestly, Erin [REDACTED] [@act.gov.au](mailto:[REDACTED]@act.gov.au)>
Subject: RE: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

This is deeply concerning. Can you please advise, as a matter of urgency, what is being done to correct the situation?

May I suggest the following as a start:

1. AFP contact whoever the brief was handed to, and direct them to delete the offending documents.
2. AFP provide my office with a copy of documents that can be served on defence, complete with locked redactions for us to serve as replacements.
3. Write to the complainant through her representatives, and inform her
 - a. Her counselling notes were served on defence

- b. Other documents were served with unlocked redactions enabling contact information to be revealed
 - c. The recordings of her EIC interviews were served on defence
 - d. What remedial action was taken
4. Copy myself into the actions.

This will also become relevant to a fact in issue, as well as credibility issues in the trial, so can I please also be advised:

1. Who from the AFP provided the brief to defence?
2. Who it was provided to?
3. How it was provided (posted or handed to defence)?
4. If handed to defence, the circumstances under which it was handed to them (ie if it was a meeting, what the meeting was for)?
5. Who made the decision to hand the brief directly to defence?
6. The reasons for the decision to hand the brief directly on defence?

I will also require statements from the relevant parties outlining all of the above activity, including the remedial activity.



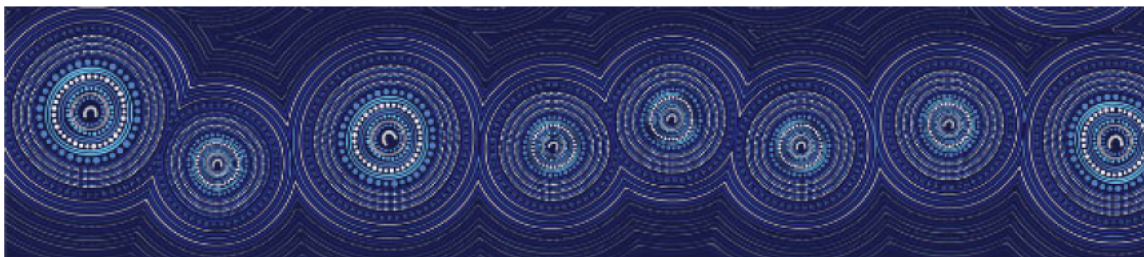
Shane Drumgold SC
 Director
 Office of the Director of Public Prosecutions (ACT)



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 to the life of this city and this region**

Artwork by Ngarrindjeri artist Jordan Lovegrove

From: Moller, Scott [redacted] <[\[redacted\]@afp.gov.au](mailto:[redacted]@afp.gov.au)>
Sent: Wednesday, 22 September 2021 6:41 AM
To: Drumgold, Shane [redacted] <[\[redacted\]@act.gov.au](mailto:[redacted]@act.gov.au)>
Cc: Frizzell, Emma [redacted] <[\[redacted\]@afp.gov.au](mailto:[redacted]@afp.gov.au)>; Madders, Trent <[\[redacted\]@afp.gov.au](mailto:[redacted]@afp.gov.au)>;

Rose, Robert [REDACTED]@afp.gov.au>; [REDACTED] Damien [REDACTED]@afp.gov.au>

Subject: FW: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

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Shane,
Please see response below as requested.

Regards Scott.

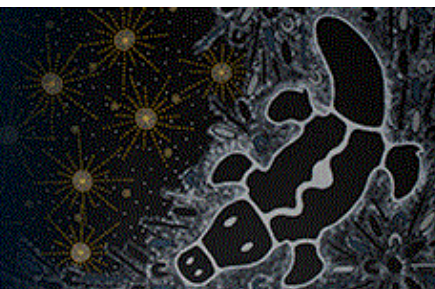
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From: Rose, Robert [REDACTED]@afp.gov.au>

Sent: Tuesday, 21 September 2021 3:43 PM

To: Moller, Scott [REDACTED]@afp.gov.au>

Subject: RE: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Dear Sir,

As requested by Mr Drumgold, I can provide the following response:

Can you please confirm that the above mentioned unlocked redactions were not in the defence copy, and they could not be removed revealing the redacted material from those documents?

I can confirm the unlocked redactions in the material referenced below **are** in the defence copy, and that the redactions **could and in fact can** be removed revealing the redacted material from documents listed below.

- i. [REDACTED] Records;
- ii. [REDACTED] Records;

- iii. [REDACTED] Records (page 8 only);
- iv. Medicare Report;
- v. PBS Report;
- vi. Consent to acquire data;

Can you please confirm the address or telephone number of any person was not disclosed?

I can confirm the address and/or phone number of the following people **is capable of being disclosed**, should someone with access to the document “click” on the redacted element as referred to above and “drag” the redaction away from the underlying material.

[REDACTED];
Ms Brittany Higgins;
[REDACTED];

Can you please confirm that counselling records were not disclosed on defence without such leave?

I can confirm the counselling records as referred to below **were** included in the defence copy of the brief, apparently without leave under s.79E being sought.

Can you please confirm that the audio recordings of the evidence in chief interviews were not disclosed to defence?

I can confirm the **audio** recordings of the evidence-in-chief interviews with Ms Higgins **were** disclosed to the defence.

Kind Regards,

Bob

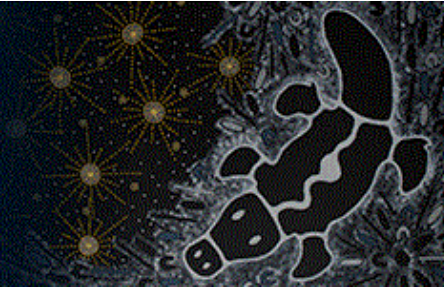
DETECTIVE SERGEANT ROBERT ROSE
TEAM LEADER JACET & CSORT - CRIMINAL INVESTIGATIONS
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From: Moller, Scott <[REDACTED]@afp.gov.au>
Sent: Tuesday, 21 September 2021 1:34 PM
To: Rose, Robert <[REDACTED]@afp.gov.au>
Subject: FW: Police v Lehrmann CC2021/8143 [SEC=OFFICIAL:Sensitive]

OFFICIAL:Sensitive

Bob,
 A response by cob today please.

Regards Scott.

DETECTIVE SUPERINTENDENT SCOTT MOLLER
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From: Drumgold, Shane <[REDACTED]@act.gov.au>
Sent: Tuesday, 21 September 2021 1:31 PM
To: Moller, Scott <[REDACTED]@afp.gov.au>; Frizzell, Emma <[REDACTED]@afp.gov.au>; Boorman, Marcus <[REDACTED]@afp.gov.au>
Cc: Jerome, Skye <[REDACTED]@act.gov.au>; Priestly, Erin <[REDACTED]@act.gov.au>
Subject: RE: Police v Lehrmann CC2021/8143

OFFICIAL: Sensitive

Dear All

Is it possible to get an answer to the questions in red ASAP, as depending on the answer, we may need some urgent remedial activity.



Shane Drumgold SC
 Director
 Office of the Director of Public Prosecutions (ACT)



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From: Drumgold, Shane
Sent: Friday, 17 September 2021 2:31 PM
To: Moller, Scott <[redacted]@afp.gov.au>; [redacted]@afp.gov.au; Boorman, Marcus <[redacted]@afp.gov.au>
Cc: Jerome, Skye <[redacted]@act.gov.au>; Priestly, Erin <[redacted]@act.gov.au>
Subject: Police v Lehrmann CC2021/8143

OFFICIAL: Sensitive

Dear Superintendent Moller et al

We have identified an issue with the crown's copy of the brief of evidence, disclosed to my office with the file on 6 August 2021.

Unlocked redactions

Sensitive information redacted electronically from the documents below have not been locked. This means that the redactions are capable of being removed and the sensitive information revealed. We have identified the following documents which have unlocked redactions:

- i. [REDACTED] Records;
- ii. [REDACTED] Records;
- iii. [REDACTED] Records (page 8 only);
- iv. Medicare Report;
- v. PBS Report;
- vi. Consent to access iCloud;
- vii. Consent to acquire data;

Defence copy of the brief

As you are aware, section 3.3 of the AFP/DPP Collaborate Agreement outlines that *“The AFP will provide briefs of evidence to the DPP.”* Prosecution Policy section 4.4 then requires of the DPP, that ‘in fulfilling our disclosure obligations, the prosecution must have regard to the protection of the privacy of victims and other witnesses. The prosecution will not disclose the address or telephone number of any person unless that information is relevant to a fact in issue and disclosure is not likely to present a risk to the safety of any person.’

You have confirmed that contrary to the collaborative agreement, a copy of the brief of evidence was served on the accused’s legal representatives by the AFP on 06 August 2021.

Can you please confirm that the above mentioned unlocked redactions were not in the defence copy, and they could not be removed revealing the redacted material from those documents?

Can you please confirm the address or telephone number of any person was not disclosed?

The Counselling Records from both “[REDACTED]” and “[REDACTED]” are communications for counselling by a person against whom a sexual offence is alleged to have been committed and are accordingly “Protected Confidences” within the definition section 79A *Evidence (Miscellaneous Provisions) Act 1991* making them subject to a general immunity from disclosure under section 79D, requiring leave under s79E before being disclosed.

Can you please confirm that counselling records were not disclosed on defence without such leave?

We also understand that a copy of the complainant’s evidence in chief interviews dated 24 February 2021 and 26 May 2021 were disclosed to the defence. As you would be aware, the accused is entitled to a copy of the transcript of such recordings pursuant to s 53(2)(b) *Evidence (Miscellaneous Provisions) Act (EMPA)*, however, the accused can only access the recording by applying pursuant to ss54 and 55 EMPA.

Can you please confirm that the audio recordings of the evidence in chief interviews were not disclosed to defence?

Further evidence

Please also be advised that the following items remain outstanding on the brief of evidence:

- i. Audio visual copies of the complainant’s Evidence in Chief Interviews dated 24 February 2021 and 26 May 2021

ii. Police statements

8. Gareth Saunders
9. Jason McDevitt
10. Kristy [REDACTED]

iii. Statements regarding complaint evidence

11. [REDACTED]
12. [REDACTED]
13. [REDACTED]
14. [REDACTED]
15. [REDACTED]
16. [REDACTED]

viii. Documents:

17. Photos of Lehrmann's Phone – SC James [REDACTED]
18. Floor plan of Ministerial Suite [REDACTED] – Trent Madders
19. Complete download – Complainant's 3 phones
20. Complete download – Accused's phone
21. Transcript – [REDACTED]
22. Transcript – [REDACTED]
23. Transcript – [REDACTED]

Can you please advise when these items will be provided. Can you please ensure that any redactions from police notes are limited to unrelated investigations and sensitive information. Further, in accordance with the AFP/DPP Collaborative agreement, when available, can you please ensure both prosecution and defence copies are served on the DPP for us to serve defence.



Shane Drumgold SC

Director

Office of the Director of Public Prosecutions (ACT)



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