

Police v Lehrmann CC2021/8143

From: "Drumgold, Shane" <[Personal Information]>
To: "Moller, Scott" <[WIT_Personal_Info]>, emma.frizzell <[WIT_Personal_Info]>, "Boorman, Marcus" <[WIT_Personal_Info]>
Cc: "Jerome, Skye" <[Personal Information]>, "Priestly, Erin" <[Personal Information]>
Date: Fri, 17 Sep 2021 14:30:52 +1000

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. [WIT_Personal_Info] Counselling Records;
- ii. Canberra Rape Crisis Centre Records;
- iii. [WIT_Personal_Info] Medical 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 "[WIT_Personal_Info]" and "Canberra Rape Crisis Centre" 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

1. Gareth Saunders
2. Jason McDevitt
3. Kristy [WIT_Personal_Info]

iii. Statements regarding complaint evidence

4 [WIT_Personal_Info]
 5 [WIT_Personal_Info]
 6 [WIT_Personal_Info]
 7 [WIT_Personal_Info]
 8 [WIT_Personal_Info]
 9 [WIT_Personal_Info]

viii. Documents:

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

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)

GPO Box 595, Canberra ACT 2601 (DX 5725)

T: [Personal information]

T: [Redacted]

M: [Redacted]

E: [Redacted]

E: [Redacted]

W:www.dpp.act.gov.au

For a full range of victims rights, please go to www.dpp.act.gov.au and follow the Witnesses and Victims link.

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**We acknowledge the Traditional Custodians of the ACT, the Ngunnawal people
 We acknowledge and respect their continuing culture and the contribution they make
 to the life of this city and this region**

Artwork by Ngarrindjeri artist Jordan Lovegrove

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