

Inquiries (Board of Inquiry—Criminal Justice System) Amendment Appointment 2023*

Notifiable Instrument NI2023–232

made under the

Inquiries Act 1991, s 5 (Appointment of Board of Inquiry)

1 Name of instrument

This instrument is the *Inquiries (Board of Inquiry—Criminal Justice System) Amendment Appointment 2023*.

2 Commencement

This instrument commences on the day after it is signed.

3 Amendment

This instrument amends Schedule 1 to the *Inquiries (Board of Inquiry—Criminal Justice System) Appointment 2023* (NI2023-49) as follows

Sub-paragraph D.c. to read

Whether the Director of Public Prosecutions failed to act in accordance with his duties or acted in breach of his duties in:

- i. making his decisions to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann; and*
- ii. his conduct of the preparation of the proceedings for hearings; and*
- iii. his conduct of the proceedings.*

Paragraph E. to read

The Board will report to the Chief Minister by 31 July 2023.

Note: Schedule 1 to the *Inquiries (Board of Inquiry—Criminal Justice System) Appointment 2023* (NI2023-49) has been reproduced at Schedule 1 to this instrument with the above amendments identified by strikethrough or underlining.

Andrew Barr MLA
Chief Minister
28 April 2023

Shane Rattenbury MLA
Attorney-General
25 April 2023

*Name amended under Legislation Act, s 60

Schedule 1

Board of Inquiry (Criminal Justice System)

Preamble

- A. The ACT Government acknowledges the need for public confidence in the criminal justice system in the Australian Capital Territory.
- B. Recent public reporting and commentary in relation to the case of *R v Lehrmann* and in relation to a letter sent by the ACT Director of Public Prosecutions to the Chief Police Officer, ACT Policing dated 1 November 2022 raise issues that may have wider implications for the prosecution of criminal matters in the Territory.
- C. The ACT Government is concerned to ensure that:
 - a. the ACT's framework for progressing criminal investigations and prosecutions is robust, fair and respects the rights of those involved; and
 - b. the ACT's criminal justice entities work effectively together, and appropriately within their respective statutory frameworks.

Terms of Reference

- D. The board will inquire into
 - a. Whether any police officers failed to act in accordance with their duties or acted in breach of their duties:
 - i. in their conduct of the investigation of the allegations of Ms. Brittany Higgins concerning Mr Bruce Lehrmann;
 - ii. in their dealings with the Director of Public Prosecutions in relation to his duty to decide whether to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann in relation to those allegations;
 - iii. in their dealings with the legal representatives for Mr Lehrmann before, during or after the trial in the matter of *R v Lehrmann*;
 - iv. in their provision of information to any persons in relation to the matter of *R v Lehrmann*.
 - b. If any police officers so acted, their reasons and motives for their actions.

- c. Whether the Director of Public Prosecutions failed to act in accordance with his duties or acted in breach of his duties in:
 - i. making his decisions to commence, to continue and to discontinue criminal proceedings against Mr Lehrmann; and
 - ii. his conduct of the preparation of the proceedings for hearings; and
 - iii. his conduct of the proceedings.
 - d. If the Director of Public Prosecutions so acted, his reasons and motives for his actions.
 - e. The circumstances around, and decisions which led to the public release of the ACT Director of Public Prosecutions' letter to the Chief Police Officer of ACT Policing dated 1 November 2022.
 - f. Whether the Victims of Crime Commissioner acted in accordance with the relevant statutory framework in terms of support provided to the complainant in the matter of *R v Lehrmann*.
 - g. Any matter reasonably incidental to any of the above matters.
- E. The Board will report to the Chief Minister by ~~30 June 2023~~ 31 July 2023.