

### Topics

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### TOPICS

#### APH - Criminal Investigation of 2019 incident

- The AFP does not comment on allegations or complaints to protect the privacy of those concerned and to maintain the integrity of the complaints process.
- As publicly reported, this matter is under active consideration by the police.
- It is not appropriate to comment further.

#### ***Brief timeline of key events***

- **1 April 2019**, the AFP received a report of a sexual assault that occurred at APH in a Minister's office.

#### ***If pressed:***

- *At the last estimates hearing, I was asked numerous times whether the date of AFP's first contact with the complainant was correct.*
- *I immediately directed my team to undertake an assurance review to satisfy ourselves that the recorded date was correct.*
- *This review has now been undertaken, and I am satisfied that the evidence supports our first contact with the complainant on this date.*
- **4 April 2019**, ACT Policing (ACTP) Sexual Assault and Child Abuse Team (SACAT) commenced investigation.
- **13 April 2019**, the complainant advised ACTP SACAT that she did not wish to proceed with the investigation.
- **25 October 2019**, ACTP SACAT finalised investigation.
- **4 February 2021**, the complainant contacted the AFP advising she wish to provide a formal statement in regards to the sexual assault in 2019.
- **5 February 2021**, ACTP SACAT reopened investigation

#### Gaetjen's Review

- On **22 February 2021**, the AFP wrote to Mr Gaetjens acknowledging the review that was announced by the Prime Minister, and raised some concerns.
- The AFP will inform Mr Gaetjens when we have more clarity that there is no problematic intersection between his administrative inquiry and our criminal investigation.
- I expect this will be after I receive advice that ACT Policing is satisfied it has:

- Interviewed and finalised the statements of key witnesses,
- Obtained and secured any other relevant evidence, and
- Finalised all other lines of inquiry.

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### REVIEW OF PARLIAMENTARY WORKPLACE – Responding to Serious Incidents

- On 4 June 2021, the Government released a consultation report for the *Review of the Parliamentary Workplace: Responding to Serious Incidents* by Stephanie Foster PSM (the Review).
- The Review was conducted at the direction of the Prime Minister in response to the alleged sexual assault at Parliament House in 2019.
- The Review found current procedures and processes at Parliament House are not designed or able to respond appropriately to serious incidents in the parliamentary workplace, particularly in relation to sexual assault matters.
- The report makes ten recommendations, **3** of which have specific implications for the AFP.
- The AFP has worked collaboratively with the Department of Parliamentary Services, Department of Finance, and Department of Prime Minister & Cabinet to develop internal governance to support Serious Incident Procedures at APH.
- As a result of this consultation a draft protocol has been developed to address the recommendations made in the Foster Review.
- DPS sent the draft protocol to the Security Management Board at APH for out of session endorsement by COB Wednesday 20 October 2021.

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***IF ASKED is the AFP able to confirm whether any other person/s are under investigation in relation to events surrounding the APH alleged sexual assault – i.e. security breaches?***

- The AFP has provided all information it is in a position to disclose about the allegation of sexual assault at Parliament House, both in response to questions posed at previous committee hearings and in response to senate estimates questions on notice.
- It could prejudice the current criminal investigation and/or any future proceedings to provide specific details in relation to what information the AFP has received, how the AFP has acted on this information and who the AFP may have spoken to as part of the ongoing criminal investigation.

s 22(1)(a)(ii)

**ACTION OFFICER:**

**Name:** A/Supt. s 22(1)(a)(ii)

**Ext:** s 22(1)(a)(ii)



### INVESTIGATIONS INTO PARLIAMENTARIANS

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- It is not appropriate for the AFP to comment in detail on any matters the subject of ongoing or completed investigations.
- It is also not appropriate to discuss the content or context of any allegations that may have been referred to the AFP.
- Commenting in this forum or otherwise in public on on-going investigations or matters before court, could have an adverse effect on the willingness of other victims of crime to report matters to the Police.

Investigations into Parliamentarians

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# Senate Estimates Briefs

## Investigations into Parliamentarians

- [Redacted]
- [Redacted]
- **4 reports were received** alleging that the incident **occurred at APH**. **Of these 4 reports, 3** relate to people believed to be employed at APH at the time of the alleged offence, and in 1 report the alleged offender is unknown.

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### REPORTS TO AFP FOLLOWING C'S LETTER TO PM (February 2021)

- On 24 February 2021, AFP Commissioner Kershaw sent a letter to the Prime Minister requesting Australian Office Holders report any allegations of criminal offences received by their offices to the AFP.
- It is not appropriate to discuss the content or context of any allegations that may have been referred to the AFP, including ongoing or completed investigations.
- Commenting in this forum or otherwise in public on ongoing investigations or matters before court, could have an adverse effect on the willingness of other victims of crime to report matters to the Police.

s 22(1)(a)(ii)

- **4 reports** alleged the incident **occurred at APH**. Of these, 3 relate to people believed to be employed at APH at the time of the alleged offence, and in 1 report the alleged offender is unknown.

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# Senate Estimates Briefs

## Reports to AFP following C's Letter to PM

### Attachment A – Inquiries into the Parliamentary Workplace

Title	TOR	Status / notes	AFP Role	Outcome
<b>Gaetjens inquiry</b>	Verify the advice provided to the Prime Minister about when his staff became aware of the alleged sexual assault in Parliament House (including checking relevant phone records) taking into account matters discussed in the media.	<b>ONGOING</b>  <b>PAUSED</b>	Advised Gaetjens to pause inquiry.	The Inquiry has been paused for a second time, no AFP involvement.

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### 2019 APH ALLEGED SEXUAL ASSAULT (OPERATION COVINA)

s 22(1)(a)(ii)

- The allegation is serious, and the AFP, through ACT Policing, has investigated this matter with due care and attention, with oversight by our Sensitive Investigations Oversight Board.
- The AFP has provided all information it is in a position to publicly disclose about the matter, in response to questions at previous committee hearings and questions on notice.

s 22(1)(a)(ii)

***If asked: How could questions at Senate Estimates impact a prosecution?***

- Giving certain evidence before parliament has the potential to prejudice a criminal trial. We have seen before that discussions in this setting have resulted in extensive media coverage that could be detrimental to a fair trial.
- Questions and answers given in the proceedings of parliament cannot be admitted or examined in court proceeding. However they may be reported upon, and become known to, and influence, individuals involved in the criminal proceedings.

**Current status of criminal proceeding**

- On 16 September 2021, the matter was listed in the ACT Magistrates Court.
  - The Accused (who was not required to be present) was charged with one count of sexual intercourse without consent.
- The matter has been set down for trial in June 2022.



s 22(1)(a)(ii)

***If asked: Why did the AFP confirm the PM&C Secretary inquiry could continue after the conclusion of the investigation, if it could impact the prosecution?***

- On 10 May 2021, the AFP wrote to the PM&C Secretary to advise that the criminal investigation has sufficiently advanced, such that there is no problematic intersection between his inquiry and the criminal investigation.
  - The AFP further advised that accordingly the inquiry could now be progressed at the PM&C Secretary's discretion.
- On 6 August 2021, ACT Policing served the accused's legal representative with a summons to appear before the ACT Magistrates Court.
  - The ACT DPP is responsible for the progress of this matter before the ACT courts.
  - Any effect/impact of the PM&C Secretary's inquiry on these proceedings is a matter for the ACT DPP.

## Operation Covina

***If asked: When was the AFP Commissioner first made aware of the allegation?***

- Commissioner Kershaw was first made aware of the allegations in March 2020.
  - At the time of the October 2019 media inquiry, the Commissioner was overseas (in Chile for the INTERPOL General Assembly).
  - The matter was not an active investigation at the time.

***If pressed: Why was the (then new) Commissioner not aware before that date, if there was a brief in his October 2019 Senate Estimates pack?***

- The AFP Briefing Pack included a Backpocket Brief titled 'Security Breaches at APH'.
- The inclusion of a Backpocket Brief does not automatically indicate personal notification to all Executive – the AFP prepares more than 60 briefs on an extensive range of issues in advance of every Senate Estimates hearings.

***If asked: Why did the AFP take so long to brief MHA on the alleged sexual assault at APH?***

- The allegation was initially reported to the AFP on 1 April 2019.
- The complainant chose not to proceed with making a formal complaint.
- When the media inquiry was received in October 2019, the AFP did not brief further detail (other than notification of the inquiry) to the then Minister's office because there was no active investigation at the time.
- The former MHA (Dutton MP) was briefed by the AFP Commissioner about the matter on 11 February 2021.

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### TIMELINE

2019	
<b>23 March</b>	Date of alleged sexual assault at APH
<b>1 April</b>	First date victim contacted the AFP
<b>19 October</b>	Media enquiry received, AFP Media notified MHA Office (Dutton MP)
<b>21 October</b>	Supplementary Estimates – AFP Backpocket brief referred to an alleged sexual assault under the heading “Security Breaches at APH”
2020	
<b>March</b>	Commissioner Kershaw first became aware of alleged sexual assault at APH
2021	
<b>11 February</b>	Matter considered by Sensitive Investigations Oversight Board (SIOB).
<b>11 February</b>	Commissioner first briefs former MHA (Dutton MP) on the allegation via phone
<b>21 February</b>	Commissioner telephone contact with PM&C Secretary
<b>22 February</b>	Commissioner telephone contact with PM&C Secretary; C letter to PM&C Secretary (#1)
<b>23 February</b>	PM&C Secretary response letter received. Letter outlined ToR for the four reviews, including lead for each enquiry.
<b>03 March</b>	SIOB considered the matter
<b>04 March</b>	Commissioner letter to PM&C Secretary (#2)
<b>09 March</b>	Commissioner telephone contact with PM&C Secretary
<b>16 March</b>	Commissioner letter to Presiding Officers
<b>21 March</b>	Commissioner Telephone contact with PM&C Secretary
<b>22 March</b>	Commissioner telephone contact with PM&C Secretary (detail corrected on 20 May; Commissioner called PM&C Secretary following estimates hearing)
<b>22 March</b>	AFP Media Statement issued to clarify estimates evidence
<b>10 May</b>	Commissioner letter to PM&C Secretary
<b>21 June</b>	ACT Policing sent partial Brief of Evidence to ACT DPP
<b>28 June</b>	ACT DPP returned the partial Brief of Evidence back to ACT Policing with advice
<b>28 July</b>	National Press Club speech – response to media questions about provision of brief to ACT DPP; MHA (Andrews MP) comment on radio
<b>6 August</b>	Alleged offender served summons to appear before ACT Magistrates court
<b>16 September</b>	First court mention (Accused not required to appear) -
<b>14 October</b>	Matter heard in Court (Solicitor appeared on behalf of accused) , matter was adjourned
<b>5 November</b>	Matter committed to the Supreme Court.

## Operation Covina

<b>18 November 2021</b>	Matter mentioned in Supreme Court
<b>16 December 2021</b>	Trial directions in Supreme Court. Matter listed for trial commencing 6 June 2022. Criminal case conference on 7 February 2022.
<b>7 February 2022</b>	Criminal case conference concluded

### PREVIOUS RESPONSES:

TOPIC	CONTENT / ISSUES	REFERENCE
<b>Engagements with other stakeholders</b>	<ul style="list-style-type: none"> <li>These matters have been comprehensively considered and are addressed in our recently tabled responses to Questions on Notice. AFP has nothing further to add.</li> </ul>	
<b>Matters relevant to ACTP COVINA Investigation</b>	<ul style="list-style-type: none"> <li>Excerpts of the Opening Statements are attached</li> </ul>	<b>22 March Additional Estimates Opening Statement &amp; 25 May Budget Estimates Pg 18 Hansard</b>
<p style="color: red;">s 22(1)(a)(ii)</p>		
<b>October 2019 SE briefing packs – APH Incident</b>	<ul style="list-style-type: none"> <li>Was the allegation included in any Estimates briefing documents? Yes (AFP had a Backpocket Brief titled ‘Security Breaches at APH’)</li> </ul>	<b>25 May Budget Estimates QoN BE21-032</b>
<b>Correcting the evidence</b>	<ul style="list-style-type: none"> <li>AFP provided the correction letter dated 6 May 2021 to MO through Home Affairs</li> <li>Only final copy sent to PM&amp;C (no consultation on draft)</li> </ul>	<b>25 May Budget Estimate QoN BE21-005 &amp; BE21-074</b>
<b>Commissioner first aware</b>	<ul style="list-style-type: none"> <li>Commissioner was travelling at time of October 2019 media inquiry</li> <li>Incoming briefs done over a series of months</li> <li>17 days as Commissioner when appeared at estimates in October 2019</li> <li>Initial focus was estimates and Lawler review, plus the freedom of press.</li> </ul>	<b>25 May Budget Estimates Hansard pg 39</b>

<b>ACTION OFFICER:</b>	
<b>Name:</b> ACTP Ministerial / Ministerial & Parliamentary Liaison	<b>Ext:</b> [Redacted]
<b>Clearance Officer</b>	
<b>Name:</b> CPO Neil Gaughan	<b>Ext:</b> [Redacted]

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Operation Covina

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### OPERATION COVINA [2019 APH ALLEGED SEXUAL ASSAULT]

Operation Covina – Budget Estimates

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<b>ACTION OFFICER</b>
Name: ACTP Ministerial
<b>CONTACT OFFICER</b>
Name: Commander Joanne Cameron

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## Operation COVINA

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### *If asked about former PM&C Secretary (Gaetjens) inquiry*

- The AFP will not comment further on this matter at this time, to ensure the criminal trial is not compromised.
- The AFP has provided all information it is in a position to publicly disclose about the matter.

### *If asked, when was the AFP Commissioner first made aware of the allegation?*

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## Operation COVINA

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## Attachments

A: Operation COVINA – Responses to Questions on Notice

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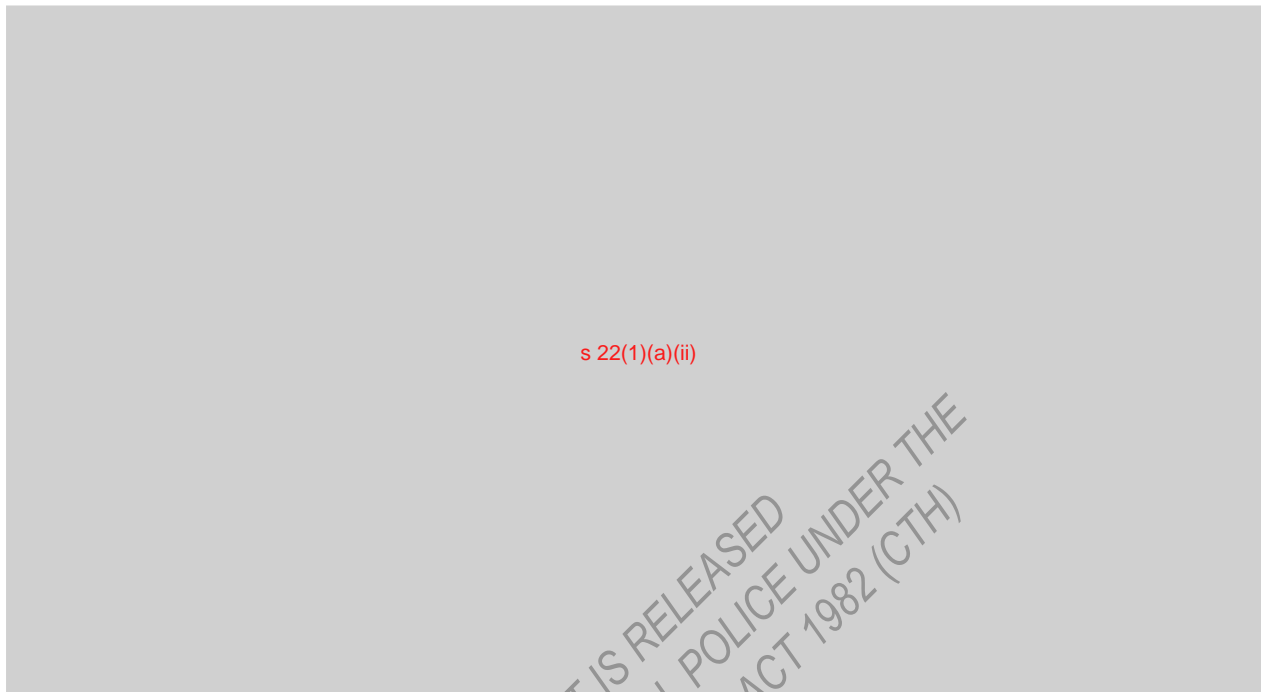
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# SENATE ESTIMATES BRIEF

SB23-000013 – Commissioner

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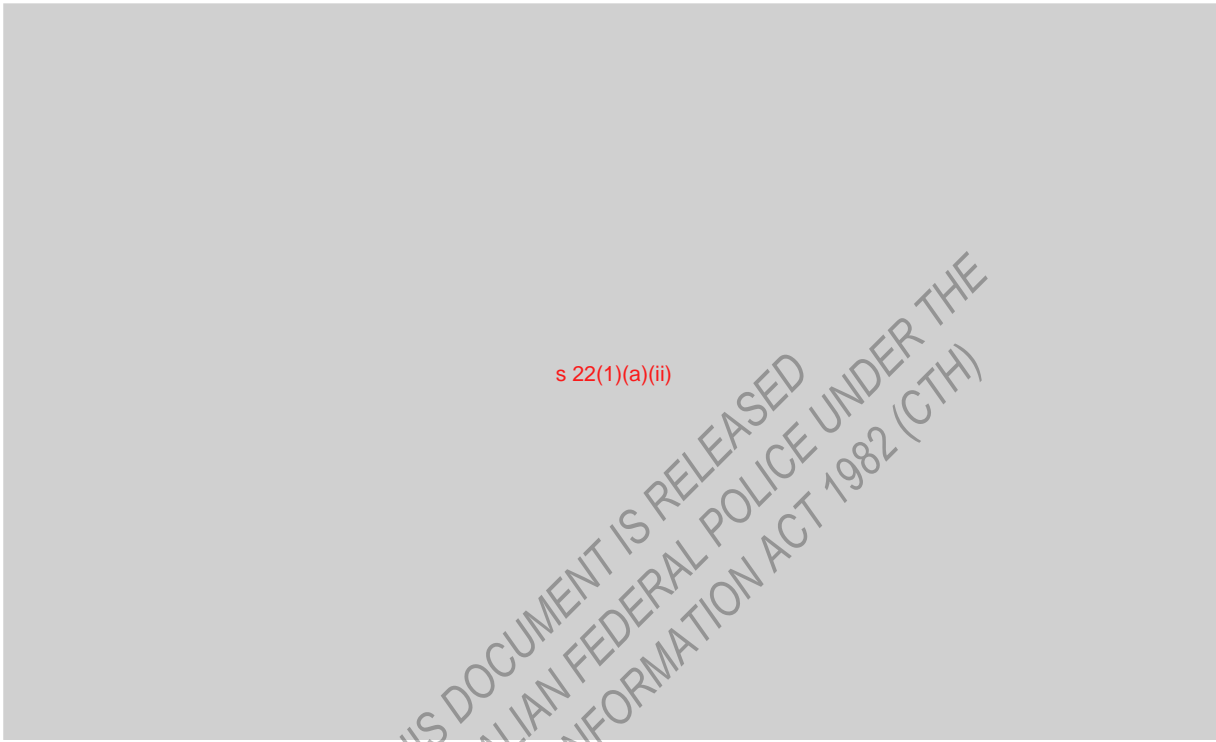


# SENATE ESTIMATES BRIEF

SB23-000013 – Commissioner

*If asked when was the AFP Commissioner first made aware of the allegation?*

- The AFP will not provide comment on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
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### Operation COVINA

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*If asked about former PM&C Secretary (Gaetjens) inquiry*

- The AFP will not provide comment on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.

**Deputy Commissioner International and Specialist Capability**

- The AFP has provided this Committee with all information it is in a position to publicly disclose about this issue.

*If asked when was the AFP Commissioner first made aware of the allegation?*

- The AFP will not provide comment on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
- The AFP has provided this Committee with all information it is in a position to publicly disclose about this issue.

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Attachments

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## SENATE ESTIMATES BRIEF - SPILLOVER

SB23-000068 – Commissioner

*If asked about former PM&C Secretary (Gaetjens) inquiry*

- The AFP will not provide comment on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
- The AFP has provided this Committee with all information it is in a position to publicly disclose about this issue.

*If asked when was the AFP Commissioner first made aware of the allegation?*

- The AFP will not provide comment on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
- The AFP has provided this Committee with all information it is in a position to publicly disclose about this issue.

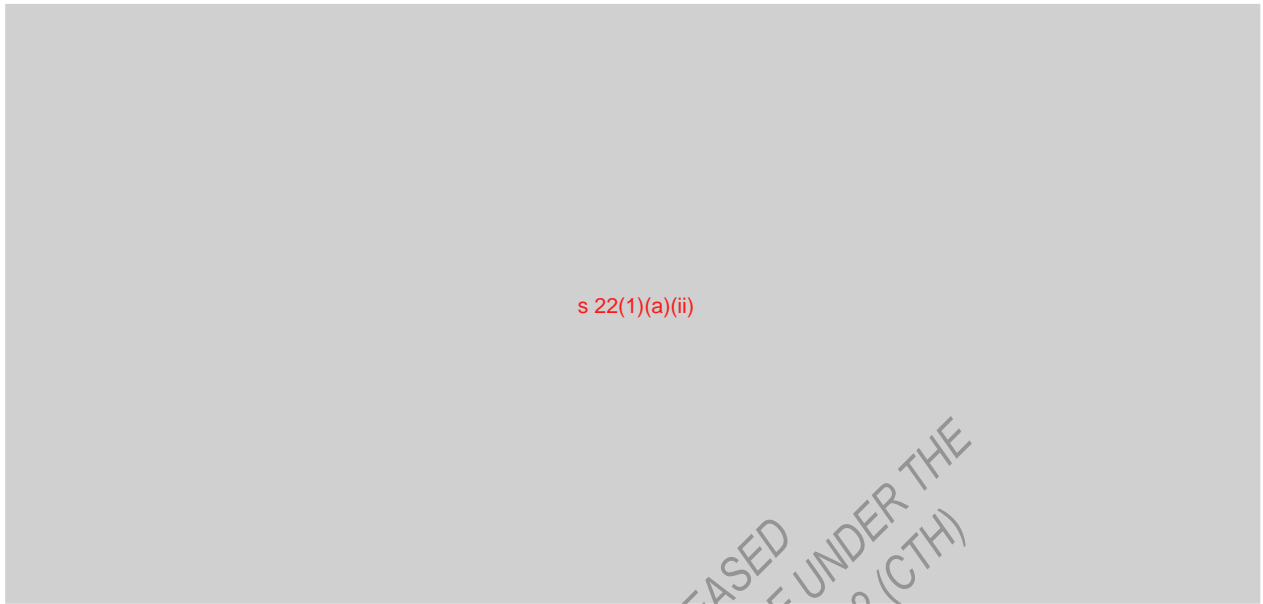
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HOT ISSUES BRIEF - CHIEF POLICE OFFICER



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*If asked about former PM&C Secretary (Gaetjens) inquiry*

- ACT Policing will not comment further on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
- ACT Policing has provided this Committee with all information it is in a position to publicly disclose about this issue.

*If asked, when was the AFP Commissioner first made aware of the allegation?*

- The AFP and ACT Policing will not comment further on this matter at this time, to ensure the ACT Board of Inquiry is not compromised.
- The AFP has provided this Committee with all information it is in a position to publicly disclose about this issue.

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