

## Media Statement Shane Drumgold SC 6 Aug 23

In November 2022 I wrote a letter to the ACT's Chief Police Officer. In it I set out serious concerns I then held about the way an investigation and trial of DPP v Lehrmann were handled. In my mind, the handling of the case was reflective of the chronic problem in Australia with the way our legal institutions deal with allegations of sexual violence.

According to ABS national data – for every 100 women who suffer sexual violence, 87 do not trust them to our legal institutions<sup>1,2</sup>.

The ABS data shows that the largest age group of victims in 2020 were between 15 and 19 years of age.<sup>3</sup>

The ripples are large and intergenerational – as not only does this mean that 87 out of 100 victims suffer in silence, it also means in 87 out of 100 cases, the perpetrators are not rehabilitated.

In the ACT – the chances are even lower that if sexual assault is reported, it will result in charges.

The Listen. Take action report revealed that in 2020 as a sample, less than 3% of sexual offences reported resulted in charges being laid within a reasonable period<sup>4</sup>.

Even in a small jurisdiction such as the ACT these are large numbers. A review of police files of a period covering just 18 months revealed that it involved almost 750 complaints to ACT Police not proceeding to charge, 315 of which were by young people.

No organisation or individual within a criminal justice system is responsible for systemic failings.

Any organisation or individual falling short in their role is no more responsible for a system's failure, than any other organisation or individual that fails to uncover it and call it out.

Systems do not miraculously self-repair. If people in key roles such as a DPP do not call out failings, the system becomes a self-protecting cycle of systemic failure.

My letter led to the Board of Inquiry, which had extremely broad powers, and could have delivered a seminal moment in time, one to potentially rival the work of the Royal Commission into Institutional Responses to Sexual Assault.

My hope was that through a post-mortem of one matter, we could obtain a better understanding of:

- Why 87 out of 100 women don't report their experience?
- What are the experiences of those that do report?
- Why do so few reports ultimately result in charges?

It could have examined issues unique to this case, such as:

- How does a complainant's most private and intimate information, produced under compulsion for an investigation, become so widely and systematically weaponised in our media?
- What impact will this have on others thinking of reporting their matter?
- How do you balance confidentiality protections under the court process, with protections against the disclosure of journalistic sources?
- How does confidential information manage to get leaked and reported?

Instead, the findings largely focused on myself.

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<sup>1</sup> <https://www.abs.gov.au/articles/sexual-violence-victimisation#police-reporting> – 2016 statistics

<sup>2</sup> Final Report Listen: Take Action to Prevent, Believe and Heal (Listen, take action report)– ACT Gov Nov 2021- pg 24 - [https://www.communityservices.act.gov.au/\\_\\_data/assets/pdf\\_file/0006/1915332/](https://www.communityservices.act.gov.au/__data/assets/pdf_file/0006/1915332/)

<sup>3</sup> Ibid pg 25.

<sup>4</sup> Ibid pg 36 - Reasonable period being 30 days after investigation commences – see Table 1 pages 34 of report

I was provided with a copy of the Board's final report late on Friday 4 August 2023 – well after the Board itself released it to members of the media. Having now read the report, I dispute many of its adverse findings about me.

While I acknowledge I made mistakes, I strongly dispute that I engaged in deliberate or underhanded conduct in the trial or that I was dishonest.

The findings relating to my forensic trial decisions are difficult to reconcile with those decisions having been made in the context of a robust adversarial process, with a strong and experienced defence team and an eminently qualified judge who presided over the trial. It is difficult to reconcile the findings with trial judge's expression of gratitude at the end of the case, for the exemplary way all counsel conducted the trial.

Although I accept my conduct was less than perfect, my decisions were all made in good faith, under intense and sometimes crippling pressure, conducted within increasingly unmanageable workloads.

The pre-emptive release of the Report to the media has denied me procedural fairness. It has deprived the ACT Government of the opportunity of considering my conduct objectively.

My career has been driven by a fire burning within, lit by an early life spent surrounded by the pain of chronic inter-generational social injustice. This fire has fuelled a life that took me from a disadvantaged Housing Commission estate to an esteemed leadership role within the legal profession.

Unfortunately, I find the fire has been extinguished, and try as I might, I cannot reignite it.

Although I dispute many of the findings of the Inquiry, I accept that the premature publicity surrounding me means that my office, the Courts and most importantly the ACT public, could not presently have faith in the discharge of the functions of the Director of Public Prosecutions.

Accordingly, I have decided to retire from my role, effective 1 September 2023.

I hope everyone involved in this matter finds peace – and I wish you all well.