

Misconduct by OIC and Prosecutor in the Charging, Conduct and Suppression of Evidence in Matter H81615839

Field	Detail
Complainant	Anthony Lawrence Smith
Contact	als1969@me.com
Charge reference	H81615839 — Use carriage service to menace/harass/offend (s474.17(1) Criminal Code)
Charging date	12 May 2024
OIC / Informant	Constable Claudine Dellenty, Kings Cross Police Area Command
Prosecutor	Prosecutor Nicholas Nicolas, Downing Centre Local Court (same prosecutor as 2022 charges H85611724)
Outcome	Dismissed 10 June 2025 — complainant (Rushton) refused to testify
Submitted to	LECC CASE20237645/RT

1. Purpose of This Exhibit

This exhibit documents nine discrete acts of misconduct by Constable Claudine Dellenty (OIC) and Prosecutor Nicholas Nicolas in the conduct of charge H81615839. Each finding is drawn from the Brief of Evidence, GIPA releases, timestamped correspondence, and Instagram records already held in this matter.

The charge was ultimately dismissed on 10 June 2025 when Rushton refused to testify — an outcome consistent with a prosecution built on fabricated evidence that could not survive cross-examination. The misconduct documented here was not incidental to the prosecution. It was structural to it.

None of the matters in this exhibit has been addressed in any complaint response received from NSW Police, the LECC, or any other body to date.

2. The OIC Refused to Identify the Account Despite Receiving the Conversation Thread

The Facts Sheet (H81615839, created 12 May 2024) alleges that on 17 and 18 July 2023, the complainant Rushton received Instagram messages from an unknown profile outlining a narrative of ancient Greece.

The complainant wrote to Dellenty on multiple occasions identifying that he had held a months-long conversation with Instagram account bjoy_ett, which he believed to be an old friend named Brenton Jowett. He provided the full conversation thread, identified the July 17

date and the ancient Greece content as matching the facts sheet narrative exactly, and asked Dellenty to confirm whether bjow_ett was the account Rushton claimed to have received messages from.

Dellenty did not respond to this request. She did not confirm, deny, or seek further information. The charge proceeded without any resolution of the account identity question.

The significance of this suppression is this: the bjow_ett account was not the complainant's account. It was created in February 2023 and used Brenton Jowett's name to impersonate a real person known to the complainant. The real Brenton Jowett has confirmed in writing (email dated 25 December 2024) that he has never heard of Issac Rushton and did not operate the bjow_ett account. The complainant was not sending messages to Rushton. He was sending messages to an account Rushton had created in his friend's name.

Dellenty held the conversation thread. She accurately reproduced its content in the Facts Sheet. She refused to confirm the account identity that would have ended the prosecution.

3. The OIC Refused to Accept Any Written Exculpatory Material

The complainant is based in Queensland, holds a documented PTSD diagnosis, and is unable to attend Kings Cross Police Station for interview. A psychologist's report was provided to the OIC confirming this. The report noted: "It is unlikely that Mr Smith would be able to verbally express any coherent directive to potential lawyers."

Despite this, Dellenty repeatedly insisted that she would not consider any information unless the complainant attended Kings Cross Police Station in person and submitted to a formal recorded interview. She stated she would no longer reply to emails in relation to the matter, and directed him to contact his local police station about any new matters.

The documented statements from Dellenty include:

- "I will no longer be replying to your emails in relation to this matter."
- "I really do encourage you to come speak with me in person."
- "The information you give me if inadmissible" [sic] — signals that written evidence would not be considered.
- "You must consent to the interview on your own" — framing a voluntary interview as a precondition.

The result was that the complainant's exculpatory evidence — including the bjow_ett conversation thread, the follow date records, the unchanged profile photo, and Brenton Jowett's confirmation — was excluded from any consideration, not because it was assessed and rejected, but because the OIC structurally refused to receive it.

This is not a procedural preference. Refusing to consider written exculpatory evidence from a defendant with a documented disability that prevents attendance is a breach of the obligation to conduct a fair investigation prior to charging.

4. Item 7 of the Brief — Documents Provided by Victim — Is Absent

The Contents of Brief lists Item 7 as "Documents provided by Victim", verified by the Brief Manager on 27 May 2025. These documents would necessarily be the materials Rushton brought to Kings Cross Police Station to support his account — most likely screenshots of the Instagram conversation he claimed to have received.

Item 7 does not appear in the Brief of Evidence as served. The pages that should contain Item 7 are absent from the brief provided to the complainant.

This matters for two reasons. First, the July 17 messages are the evidentiary foundation of the charge. The source document — the screenshot Rushton showed police — is the one item in the brief that would definitively identify which Instagram account he claimed received those messages. Its absence prevents verification.

Second, if the screenshot shows messages arriving at the bjow_ett account — an account Rushton himself operated — then Item 7 is a fabricated evidence document. The withholding of Item 7 from the served brief is consistent with suppression of the foundational document in the fabricated evidence chain.

5. The Gmail Subscriber Request Was Obtained and Never Disclosed

GIPA Internal Review REV-2025-0858525 (page 135) contains the following entry in Case Report C 78394809:

20/04/2024: Subscriber request on email address Reference No: iASK_12796713 |
01/05/2024: Subscriber results received. Uploaded to View. name: [T3(a) T3(b)]

The email address subject to this request is TONY.S1969@GMAIL.COM, identified on page 130 of the same release as the complainant's listed home email in the COPS Person of Interest record.

A subscriber information request to Google through iASK returns the account holder's name, account creation date, recovery contact information, and recent login IP addresses. This result was received on 1 May 2024, eleven days before the charging decision on 12 May 2024. It was uploaded to the case management system.

It was not disclosed in the Brief of Evidence. It was not provided to the defendant. Its content remains withheld under T3(a) T3(b) exemptions.

The complainant was not informed that his Gmail account had been the subject of a subscriber information request. This constitutes undisclosed interception of account data used in the charging decision process without disclosure to the defendant.

6. Blue Portal Request Predates the Account It Purportedly Targeted

GIPA Internal Review REV-2025-0858525 (page 135) contains the following entry:

BLUE PORTALS: 18/01/2023: Created: Instagram: Subscriber information
ITM0169943

The @legalabuse Instagram account did not exist in January 2023. The Meta Platforms Business Record in the brief confirms the account was created on 24 August 2022, but the Blue Portals request predates the police events that generated this case by ten months:

Date	Event
18 Jan 2023	Blue Portals request ITM0169943 purportedly created
17–18 Jul 2023	First alleged Instagram messages (the bjow_ett conversation)
25 Nov 2023	Event E81768181 created in COPS
1 Dec 2023	Rushton's statement taken by Dellenty

There are two possible explanations. Either police were conducting unauthorised Instagram surveillance on the complainant in January 2023, before any complaint had been made and before any relevant event had occurred. Or the date was entered incorrectly or backdated in COPS.

NSW Police have argued in Privacy Internal Review MF/2025/2287 that COPS entries must be preserved as "historical snapshots" and cannot be corrected. That argument is directly undermined by a falsely dated entry in the same case record. The Blue Portals request result (two documents logged 20 April 2024 as Case File items 4 and 5) was not included in the Brief of Evidence.

7. The Charge Proceeded 99 Days After a Nil Carrier Result

On 3 February 2024, NSW Police State Intelligence Command submitted a Communication Records Request (iASK_12647763) through the Telstra CSP portal for telephone number +61 433 813 180 — the number Rushton identified in his sworn statement as the complainant's main phone number, from which he claimed a call was made at 2:17am on 4 September 2023.

The result, produced the same day, was:

| *Total Result Count: 0*

No calls, no records. The number returned zero results for the entire search window. The complainant had cancelled that phone number before the alleged call date. There was no call.

The charging decision was made on 12 May 2024 — 99 days after the nil result was received and uploaded to the case management system. The nil result was not disclosed in the Brief of Evidence. The charge particularises the offence period as beginning 2:17am on 29 September 2023, one of the three alleged conduct categories in the facts sheet. The carrier record proves the telephone element of the charge was impossible.

Proceeding to charge 99 days after receiving forensic proof that a central element of the complainant's account was impossible, without disclosing that proof to the defendant, is not an oversight. It is a suppression decision.

8. The OIC Read Every Post but Ignored Rushton's Surveillance of the Account

Item 8 of the Brief is described as a screen recording of the Instagram account. Constable Dellenty's statement confirms she viewed the account in its entirety. The file produced in the brief is a video recording measured in hundreds of megabytes — consistent with an extended, comprehensive viewing session.

The account's follower export shows beat_slaya (Rushton's confirmed secondary account) followed the @legalabuse account on 26 July 2023 — nearly four months before Rushton swore in his statement that he first learned of the account on 23 November 2023 via a mutual friend. He was not only an early follower; he was the account's only follower from July to September 2023, and the only person who commented on posts during that period.

Dellenty's screen recording captured:

- The notification panel showing beat_slaya as follower
- beat_slaya's comments on the complainant's posts

- Posts explicitly tagging NSW Police, Kings Cross Police Area Command, the NSW Police Minister, human rights organisations, and legal aid bodies
- A post from the complainant identifying beat_slaya as his first follower, stalker, and abuser, and stating that the police commander had told him he would be arrested if he replied — weeks before Rushton claimed to have discovered the account

The Facts Sheet characterises the account as "pure harassment" with no public interest dimension. This characterisation is false on the face of the OIC's own recording. The account was directed at accountability bodies, not at a private individual. Rushton was not a passive victim discovering content about himself in November 2023. He was the account's first and only follower for months, monitoring and commenting on posts in real time.

Dellenty saw all of this. Her Facts Sheet omits all of it.

9. The Account Captured Rushton Threatening the Complainant from a Drug-Selling Account

Among the beat_slaya comments captured in the OIC's screen recording were comments posted from an account simultaneously operating as a drug supply service. The @kandyKingX account, operating from Potts Point, Sydney, was used to direct drug buyers and was linked to Rushton's infrastructure through the same phone number (+61 451 915 368) and Telegram username @Au_BigFella.

Comments from beat_slaya on the legalabuse account during this period included statements to the effect that the complainant could not hide forever, that he would enjoy jail, and that police would be attending his residence. These were not comments on an historical dispute. They were active intimidation, posted while the complainant was tagging police in those same posts, asking for help.

The complainant notified LECC by email on 8 November 2023 — 15 days before Rushton claims to have first learned of the account — under existing case reference CASE20237645, explicitly stating: "No reply so I've taken to publishing what's happening to me on Instagram." The LECC case reference is visible in the subject line of that email.

LECC held documentation that the account existed, its purpose, and who was operating against it — before the charge was laid in May 2024. The complainant was charged with using Instagram to harass Rushton. Rushton was simultaneously using Instagram to threaten the complainant from a drug supply account. Only one of them was charged.

10. Destruction of Evidence and the Retaliatory Mental Health Referral

Following the dismissal of H81615839 on 10 June 2025, Dellenty acknowledged in GIPA Internal Review REV-2025-0858525 that:

"Constable Dellenty advised that upon finalisation of the local court matter some information she had received that was not saved on ViewIMS had been deleted."

The deleted material included bjaw_ett account data, the complainant's correspondence demonstrating the forensic impossibility of the charge, and materials from the private investigator's report. The COPS Event File for E81768181 was emptied. A search of that event after 10 June 2025 returns: "No records found for specified search criteria."

NSW Police have simultaneously refused to correct a false entry in the same case record — a fabricated phone call entry recording that the complainant "picked up then hung up" on his

cancelled number — on the grounds that COPS entries must be preserved as historical snapshots. Fabricated records are preserved. Exculpatory records are deleted.

Sixteen days after the dismissal — on 26 June 2025 — a NSW Police officer identifying himself as "Brendan" from the Proactive Crime Team contacted Queensland Police to initiate a welfare check on the complainant in Queensland. This was not prompted by any welfare concern. It followed directly from a complaint the complainant had made to the NSW Police Minister about the conduct of this prosecution.

The complainant had already experienced a retaliatory welfare check on 1 December 2023 — the same day Dellenty took Rushton's sworn statement — documented in COPS event 537558-26112023. The June 2025 contact repeats the pattern: formal complaint to oversight, followed by police contact with the complainant's home jurisdiction presented as welfare concern.

11. False COPS Entry: Complainant Picked Up and Hung Up on a Cancelled Number

Case Report C 78394809 contains the following entry recording an alleged phone contact between Dellenty and the complainant:

POI was contacted via phone. POI picked up and upon identifying myself as police hung up the phone.

This entry is false on its face. The Telstra CCR for number +61 433 813 180 — the complainant's phone number identified in the COPS record — returned a total result count of zero for the relevant period. The number had been cancelled before the date of this alleged call. A cancelled number cannot be answered.

The complainant has sought correction of this entry through Privacy Internal Review MF/2025/2287. NSW Police refused, characterising the entry as a "historical snapshot" that must be preserved regardless of accuracy.

The entry serves a specific purpose in the prosecution record. It transforms the complainant from someone who could not be reached because his phone was cancelled — consistent with his account that he had left NSW and terminated his number — into someone who received police contact, recognised who was calling, and deliberately hung up. This reframes his non-participation as evasion rather than unavailability, and it was used to support the characterisation of him as uncooperative throughout the case file.

The entry is directly contradicted by carrier records police obtained themselves eleven days before the charging decision. Those records were not disclosed. The false entry was preserved. The accurate record was suppressed.

12. False COPS Entry: Complainant Refused to Provide His Address

Case Report C 78394809, page 134, contains the following entry:

POI was contacted and refused to attend KXPS. POI refused to provide police with his current address but accepted to receive FSCAN via email.

The word "refused" in relation to the address is false. All communication between the complainant and Dellenty was conducted exclusively by email. The complainant's Queensland address does not appear in any email Dellenty sent requesting it. There is no

record in any GIPA-released correspondence of Dellenty asking for a current address that the complainant then refused to provide.

The Court Attendance Notice was served by email — a process Dellenty herself confirmed: "On 08/06/2024 POI served FSCAN to above email which was confirmed by the POI to be his email. POI has acknowledged receipt." The complainant was reachable by email and cooperated with service. He was not asked for his address and did not refuse anything.

The word "refused" in a police case narrative carries a specific connotation — it suggests deliberate obstruction of a lawful request. It was inserted into a record that would be reviewed by the prosecutor, the brief manager, and ultimately the court. It is not a neutral description of the communication. It is a characterisation designed to frame the complainant as uncooperative.

Read alongside the fabricated phone hang-up entry, the pattern is consistent: the COPS record was constructed to portray a Queensland-based PTSD-affected defendant as evasive and obstructive, when the documented reality is that he cooperated by email throughout, provided a psychologist's report, and offered extensive exculpatory material that was structurally refused.

13. Summary of Misconduct — All Grounds

Ground	Misconduct — Source Document
1	Refused to identify bjow_ett account despite receiving full conversation thread — Dellenty email record
2	Refused to accept written exculpatory evidence; required in-person interview from PTSD-affected interstate defendant — Dellenty emails; psychologist's report
3	Item 7 (documents provided by victim) absent from served brief — Brief contents page vs served pages
4	Gmail subscriber request (iASK_12796713) obtained and not disclosed — REV-2025-0858525 p.135
5	Blue Portal request dated 10 months before account existed — REV-2025-0858525 p.135
6	Charged 99 days after nil Telstra CCR result; result not disclosed — iASK_12647763; charging date 12/05/2024
7	Screen recording showed Rushton as first follower from July 2023; Facts Sheet omitted this — Brief Item 8; follower export
8	Account was public interest disclosure tagged at police bodies; Rushton posting threats from drug account — legalabuse posts; LECC email 8 Nov 2023
9	Destruction of case file after dismissal; retaliatory QLD mental health referral 16 days after dismissal — REV-2025-0858525; COPS event record
10	False COPS entry: complainant picked up and hung up on cancelled number — contradicted by nil Telstra CCR (iASK_12647763); refused correction MF/2025/2287

14. Relief Sought

The complainant requests that the LECC:

1. Compel production of Item 7 from the Brief of Evidence and identify the Instagram account Rushton produced to police on 1 December 2023.
2. Compel disclosure of the iASK_12796713 Gmail subscriber result in unredacted form.
3. Compel Meta to confirm the actual date of Blue Portals request ITM0169943 and the account it targeted.
4. Investigate the deletion of the E81768181 case file as potential breach of State Records Act 1998 s21.
5. Investigate the 26 June 2025 Queensland welfare referral as a retaliatory act connected to the complainant's ministerial complaint.
6. Require substantive response to each ground in this exhibit — none of these matters has been addressed in any complaint response to date.

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