

SUPPLEMENT TO THE BRIEF OF EVIDENCE SUFFICIENCY ANALYSIS

Item 10 — What the OIC's screen recording actually shows

Police v Anthony Smith — H81615839

Read with: the Brief of Evidence Sufficiency Analysis dated 4 May 2026 (Sections 4.2 and 5).

Materials examined: the brief of evidence (54 pages); BoE Item 10 (the 1 Dec 2023 screen recording held by the accused's solicitor); three contemporaneous still images supplied by the accused (Image 1: 19 Sep 2023 06:30 screenshot; Images 2–3: the 28 Sep 2023 @legalabuse post and its embedded notifications screenshot); Optus Tax Invoice #000385811632; COPS Event E81768181; CAD link records.

1. Why this supplement is needed

The original analysis recorded that BoE Item 10 (the screen recording referenced at p.16 §8 of Const. Dellenty's police statement) is missing from the brief. The accused has since confirmed that the recording was sent direct to his solicitor because of file size and so was disaggregated from the served bundle. The recording was not lost; it sits with the defence.

On the supplied still images, the recording's content can be reconstructed at the 6-second mark with date precision. That reconstruction reverses the prosecution's theory. The conduct documented by the OIC's own evidence is not the accused harassing the complainant via a carriage service; it is a third-party Instagram account associated with the complainant engaging with the accused's account from before the charge period, and the accused responding by publicly tagging police for assistance — also before the charge period.

2. How the chronology is fixed by date precision

Three pieces of date metadata anchor the timeline:

- *Image 1 carries the system clock '06:30 Tue 19 Sep'* — i.e. 19 September 2023 — and shows a beat_slaya comment with relative-time '24m'. The comment was therefore posted at 06:06 on Tuesday 19 September 2023.
- *Image 3 (the @legalabuse post visible at the 6-second mark of Item 10)* carries an absolute date stamp of 28 September 2023 inside Instagram's UI.
- *The screenshot embedded in that post* shows the same comment as '1w' old. That places the screenshot at approximately 26 September 2023, two days before publication.

Once those three points are fixed, the relative-time markers inside the embedded screenshot resolve to absolute dates: '9w' = ~27 July 2023; '3w' = ~5 September 2023; '1w' = ~19 September 2023. These are the dates of the events captured by the OIC herself when she made the 1 December 2023 recording.

3. Chronology established by Item 10 and the project file

Cross-referencing the OIC's recording, the BoE, the Optus disconnection invoice, the COPS event record and the CAD dispatch:

Date	Event	Source	Position
27 Jul 2023 (approx.)	beat_slaya starts following @legalabuse on Instagram.	OIC Item 10, 6s mark — '9w' start-following marker on a 28 Sep 2023 post.	BEFORE charge period

Date	Event	Source	Position
25 Aug 2023	Optus mobile service [REDACTED] permanently disconnected and cancelled.	Optus Tax Invoice #000385811632.	BEFORE charge period
4 Sep 2023, 02:17	Rushton swears he received a missed call from [REDACTED]. Number had been disconnected for 10 days.	Rushton witness statement, BoE p.13 §9.	BEFORE charge period
5 Sep 2023 (approx.)	An unrecognised Apple iPad logs into @legalabuse from near Houston, Texas, US.	OIC Item 10, 6s mark — '3w' Houston login alert visible on the captured 28 Sep 2023 post.	BEFORE charge period
12 Sep 2023 (approx.)	beat_slaya begins commenting on @legalabuse posts. Comments contain knowledge of the police interaction with the accused that only the complainant would have.	OIC Item 10, 6s mark — '1w' comment markers on the captured 28 Sep 2023 post.	BEFORE charge period
19 Sep 2023, 06:06	beat_slaya posts the 'I saw their response to you' comment on @legalabuse.	Screenshot taken at 06:30 Tue 19 Sep 2023 showing comment '24m' old.	BEFORE charge period
26 Sep 2023 (approx.)	Accused screenshots the @legalabuse notifications page documenting the beat_slaya activity and the Houston login alert.	Inferred from '1w' relative timestamps inside the captured screenshot.	BEFORE charge period
28 Sep 2023	Accused posts the screenshot publicly to @legalabuse with caption naming the conduct as stalking and citing police restrictions on response.	OIC Item 10 — visible at the 6-second mark of the recording. Image 2/3 of the supplement materials shows the post date.	BEFORE charge period (by one day)
29 Sep 2023, 02:17	COPS Event E81768181 opened. Charge period commences.	COPS Event E81768181 incident date/time.	Charge period START
23 Nov 2023	Per Rushton's sworn statement, 'a friend' first informed him of the @legalabuse account.	Rushton witness statement, BoE p.13 §10.	Inside charge period
25 Nov 2023, 12:30	Charge period ends.	COPS Event E81768181 incident date/time.	Charge period END
26 Nov 2023, 00:12	CAD Priority 2 dispatch created. Broadcast units KX14, KX140, KX17, KX18 (with KX81 also referenced); attendance 00:20–00:36 by Const. DINCROY and Const. MCCLENNON. Recorded incident type: ACTUAL BREACH AVO. Per Victims Rights Charter Collapse Briefing the operation involved a minimum of seven vehicles and fourteen officers across multiple days.	COPS Event E81768181 CAD link; Victims Rights Charter Collapse Briefing.	Day after charge period END
1 Dec 2023	Const. Dellenty makes the screen recording (BoE Item 10) at the front counter of Kings Cross Police Station after the victim attends to make a statement. Recording duration approximately 1:05; the 6-second mark is the 28 September 2023 post.	Statement of Police, BoE pp.15–16.	Post-charge period

4. The post the OIC captured first

At the 6-second mark of the recording the OIC made on 1 December 2023, the visible item is the @legalabuse post dated 28 September 2023. The caption of that post is, in full:

“My follower, stalker and abuser. The police commander told me that if I reply to his calls or messages or even look up the profile that's following my accounts I will be arrested. That's why he's here, to bait me to reply and then have me arrested for breaching his AVO. The police will arrest me just for this... exposing their prejudices.”

Hashtags: #legalabuse #policeabuse #injustice #fightforjustice #legalrights #accountability #seekingjustice #stopabuse #rightsviolated #nswpoliceminister.

The image carousel of the post is the embedded screenshot of the accused's notifications page, showing beat_slaya commenting and following, and the unrecognised-iPad alert from Houston, Texas, US.

Two consequences follow.

First, this post is dated one day before the charge period commences. The first piece of @legalabuse Instagram activity the OIC chose to capture in her own recording therefore falls outside the charge period on its face — the recording does not begin within the charge window.

Second, the post is not, on its terms, an attack on the complainant. It is the accused's documented attempt to publicly identify a stalking and impersonation problem and to register, in writing, that he has been told by police not to respond. The caption is exculpatory, not inculpatory.

5. How this contradicts Rushton's witness statement

The victim statement at BoE p.13 §10 reads, sworn 26 November 2023, witnessed by Const. Dellenty 1 December 2023:

“On the 23rd of November 2023 a friend of mine informed me about disturbing videos and images on Instagram that involved me and discussed me. I briefly skimmed through the page though did not want to watch in detail as it was too distressing to me but I have provided it all to police.”

The OIC's own recording, made one week after that statement was signed, captures evidence inconsistent with paragraph 10 in three respects:

- **The follow date.** An account, beat_slaya, started following @legalabuse on or about 27 July 2023 — approximately four months before the date the complainant said he became aware of the page.
- **The commenting activity.** beat_slaya was actively commenting on @legalabuse posts from on or about 12 September 2023 — approximately ten weeks before the date the complainant said he became aware of the page.
- **The content of the comments.** The comments contain knowledge of the police interaction with the accused that, on the prosecution's own theory, was not in the public domain — references to the police asking the accused 'to come in and make an official statement' and to police having attempted 'to seize your devices'. That knowledge is consistent only with the commenter being either the complainant or a person sharing his information.

On either possibility (that beat_slaya is the complainant, or that the complainant is sharing information with the operator of beat_slaya) the witness statement at §10 is not capable of being the whole story. The OIC was in possession of the recording that exposed the inconsistency from 1 December 2023 — eight days before she witnessed Rushton's signature on a different page of the same statement on 1 December 2023.

6. The Houston, Texas iPad login

The notifications screenshot inside the 28 September 2023 post records: 'An unrecognized Apple iPad just logged in near Houston, Texas, US — 3w'. On the dating fix above, that login occurred on or about 5 September 2023, the day after the alleged 'missed call' from the disconnected number on 4 September 2023.

Two implications:

- Item 10 contains independent documentary evidence that @legalabuse was being accessed without authorisation from the United States in the lead-up to and during the charge period. The agency's later finding (in REV-2025-0947041) that no Meta data is held for the accounts the accused identified as engaged in impersonation must be read in light of this on-the-record acknowledgement, by Instagram itself, of unrecognised offshore access during the relevant window.
- The combination of the disconnected-number 'missed call' (4 Sep), the offshore login (5 Sep) and the appearance of a follower-account commenting with insider knowledge from 19 Sep is the pattern of impersonation/account-compromise the accused has consistently raised. The brief contains no investigation of any of this.

7. The direction of the carriage-service use captured on the record

Section 474.17(1) of the Criminal Code (Cth) requires the prosecution to establish that the accused used a carriage service in a way that reasonable persons would regard as menacing/harassing/offensive. The relevant question is who was using a carriage service against whom. On the materials in Item 10:

Actor	Conduct established by record	Direction of carriage-service use
beat_slaya (the account on the OIC's recording, identified by the accused as Rushton)	Started following @legalabuse on ~27 July 2023; commented on @legalabuse posts from ~12 September 2023 with knowledge of the police investigation; continued commenting through to at least the week before the screenshot.	INTO @legalabuse
@legalabuse (the accused's account)	Posted on 28 September 2023 a screenshot of the beat_slaya activity with a caption identifying it as stalking and explaining that the police had told the accused not to respond.	OUTWARD — public exposure / complaint
Unrecognised iPad near Houston, Texas, US	Logged into @legalabuse on ~5 September 2023.	INTO @legalabuse (unauthorised)
Accused (other accounts / tagging)	Tagging NSW Police accounts in posts seeking police attention to the conduct above.	OUTWARD — toward police
NSW Police	Priority 2 CAD dispatch on 26 Nov 2023 with multiple units; minimum seven vehicles, fourteen officers across multiple days, looking for the accused.	TOWARD the accused

The direction of carriage-service use captured by the OIC on 1 December 2023 runs into @legalabuse, not out from it; out from @legalabuse toward police, not toward the complainant; and from police toward the accused, not toward the complainant. None of those vectors supports the offence as charged.

8. The seven-vehicle dispatch and the role inversion

On the agency's own CAD record (E81768181), at 00:12 on 26 November 2023 — the day after the charge period closed — Kings Cross PAC dispatched a Priority 2 with broadcast units KX14, KX140, KX17 and KX18 (KX81 also engaged). The Victims Rights Charter Collapse Briefing in the project file records the operation as a minimum of seven vehicles and fourteen officers across multiple days. The actioning unit attended at 00:20 to 00:36.

The triggering allegation in the brief that connects to that dispatch is the 4 September 2023 missed-call assertion by the complainant. The Optus tax invoice #000385811632 records that the accused's mobile service [REDACTED] had been permanently disconnected and cancelled on 25 August 2023 — ten days earlier. The phone search at BoE p.39 (3 February 2024, CSP Reference 2617668) returned Total Result Count: 0 for the same number for 1–7 September 2023.

The position the brief leaves intact is therefore: a Priority 2 dispatch was authorised, in part on the basis of an alleged call from a number that had been permanently disconnected and that the police's own forensic search confirmed had produced no record. While that operation was being mounted against the accused, the @legalabuse account he operated was being used to publicly tag police accounts seeking attention to the conduct of beat_slaya — conduct the OIC herself later filmed when she captured the 28 September 2023 post.

9. Effect on the elements of the offence (revising Section 6 of the principal report)

Adding the Item 10 evidence to the analysis already done, the position on each element is as follows.

9.1 Element (1) — that the accused used a carriage service

The brief contains no chain of custody linking the accused to the @legalabuse account. The Meta record's registration IP traces to a different person at a different address in a different state. Item 10 introduces the additional fact, on Instagram's own records, that an unrecognised offshore device was logging into @legalabuse during the relevant window. The brief therefore not only fails to prove the accused used the carriage service in question; it positively documents that someone else did.

9.2 Element (2) — that the use was menacing/harassing/offensive directed at the complainant

The OIC's own recording shows the carriage-service vector running the wrong way for the prosecution. The account documented as engaging with @legalabuse was beat_slaya, an account exhibiting only the complainant's inside knowledge. The accused's posts were directed outward, at the police — including by way of identifying the engagement of beat_slaya as stalking and impersonation. The element cannot close on documents that document the inverse conduct.

9.3 Element (3) — within the charge period 29/09/2023 – 25/11/2023

The single piece of @legalabuse content captured by the OIC at the 6-second mark of her recording is dated 28 September 2023 — one day before the charge period commences. Of the three direct-contact events alleged in the brief (July 2023 messages from 'uernam_here'; Sep 2023 missed call from a disconnected number; Nov 2023 publication of the @legalabuse posts), the first two are outside the period and the third is described in prose only because the screen recording (Item 10) was not served with the brief.

10. Procedural problem: Item 10 was disaggregated from the served brief

Item 10 is the recording on which the prosecution case substantially depends and on which (as this supplement shows) the prosecution case substantially fails. It was sent direct to the accused's solicitor because of file size, rather than being included in the bundle served on the accused. The consequence is that the magistrate, the prosecutor and the accused at first mention all worked from a brief that did not contain the recording, and the brief's contents page lists Item 10 without disclosing that the actual file is held separately.

That is procedurally significant for two reasons. First, anything that turns on the content of Item 10 cannot be argued from the served brief — it requires the recording to be placed before the court. Second, where (as here) the content of Item 10 is exculpatory, the disaggregation has the practical effect of ensuring that the most damaging-to-the-prosecution document on the file is the document hardest for the court to actually view at first instance.

11. Connection to the parallel GIPA decisions

This supplement reinforces, on different evidence, the conclusion reached in the principal report that the agency's GIPA decisions on the brief documents are not reconcilable with the brief itself.

- **GIPAA-2025-0909690 / REV-2025-0947041:** the Meta records and Subscriber/CCR were redacted to template-only. Item 10 — the OIC's own screen recording — is the document that, when held against those redactions, demonstrates the agency holds, and on the brief has used, the very content it has redacted away under the GIPA Act.
- **GIPAA-2025-0943236:** the agency's NOT HELD finding for SC De Angeli's s.192I/J/K assessment of impersonation and identity-information offences must be read against Item 10, which independently documents an unrecognised offshore login (Houston, TX) on @legalabuse on or about 5 September 2023 — i.e. an event squarely within s.192I/J/K territory that the brief did not investigate.
- **REV-2025-0858528:** the agency's NOT HELD findings for the welfare-check / interstate-referral records sit alongside the documented Priority 2 dispatch (CAD on COPS Event E81768181) of seven vehicles and fourteen officers — itself a record the agency holds and has produced.

12. Notes for the defence file

- Hold the original 1 December 2023 recording (Item 10) intact. The 6-second mark and surrounding seconds carry the date-fix evidence used in this supplement. Tendering the recording in court is what places that evidence before the magistrate.
- Produce, alongside Item 10, the 19 September 2023 06:30 screenshot (Image 1) so that the relative-time '24m' marker is anchored to absolute time and the rest of the relative-time markers in Item 10 are calibrated.
- Subpoena Meta for the @beat_slaya account records (registration IP, email, registration date, login IP history) and the Instagram security-event log for the '5 Sep 2023 Houston, TX' alert against @legalabuse — including the recipient-side device details.
- Subpoena Telstra for the call-charge record extract for [REDACTED] covering 25 Aug 2023 to 30 Sep 2023, and the Optus account-cancellation record (ref. invoice #000385811632) — to confirm on the carrier side that the line was disconnected and could not have placed the 4 Sep 2023 missed call alleged in the witness statement.

End of supplement.