**Man Charged with Sexual Assault of Brittany Higgins**

Almost six months after Police commenced an investigation into Brittany Higgins allegations, a 26-year-old man has been charged with sexual assault.

Ms Higgins - a former government adviser – alleged that the incident took place in Parliament House two years ago.

Her revelations shocked the nation and created a political firestorm, resulting in a still-ongoing review of parliament by the current Sex Discrimination Commissioner.

The man will appear at Court on 16 September 2021. His lawyers say he intends to defend the charge.

**Brittany Higgins Allegations**

In February 2021, Brittany Higgins claimed that a colleague had sexually assaulted her at parliament house. The incident was said to have occurred in the office of Senator Linda Reynolds in March 2019.

Higgins publicly claimed that both her and the accused attended a social event on the night of the incident. The two left together, returning to Parliament House late at night, and entered the building in the early hours of the morning, signed in by security.

The alleged perpetrator and Ms Higgins were both interviewed by Linda Reynolds’ chief of staff on Tuesday 26 March 2019 – three days after the incident.

His employment was terminated shortly afterwards due to a ‘security breach’.

A complaint was first received by police in April 2019. The investigation remained open but did not proceed until February 2021 when a formal complaint was made by Higgins.

Police spent the next 6 months interviewing witnesses and obtaining evidence before sexual intercourse without consent charges were laid.

Police released a statement which set out, “Detectives from ACT Policing’s Criminal Investigations Sexual Assault and Child Abuse Team, the specialist team dedicated to investigating sexual assaults in the ACT, first received a report in April 2019. The investigation remained open and in February 2021 a formal complaint was made. Detectives have since spoken to a number of witnesses and collected evidence as part of the investigation.”

In charging the man, police particularised the date of the sexual assault allegation as Saturday, March 23, 2019. This was the same date Ms Higgins named when she spoke to the media.

Police served a summons on the accused’s lawyers on Friday, 7 August 2021 requiring him to appear at ACT Magistrates Court on 16 September 2021.

“The man will face one charge of sexual intercourse without consent. The maximum penalty for this offence is 12 years’ imprisonment,” the ACT Policing division of the Australian Federal Police said.

**Brittany Higgins Leads Public Debate About Culture of Parliament**

The allegations resulted in a heated public debate about how Ms Higgins was treated by politicians and the culture at Parliament House.

Senator Reynolds apologised to Ms Higgins for not offering enough support when she was first told of the allegations. Prime Minister Scott Morrison was also forced to answer questions about how many staff in his office knew of the allegations before they were made public.

The debate over the allegations led Prime Minister Morrison to launch inquiries into the culture of Parliament House and the process for advisers to lodge complaints.

On 26 July 2021, the Prime Minister revealed that he intended to create an independent complaints mechanism for serious incidents within six weeks. Parliament is also currently subject to a separate review by Sex Discrimination Commissioner Kate Jenkins.

**Sexual Assault Lawyers Deny Brittany Higgins Allegation**

Following the criminal charge being laid, the accused’s lawyers said they rejected Brittany Higgins’ sexual assault allegation.

“My client absolutely and unequivocally denies that any form of sexual activity took place whatsoever…He will defend the charge. The only thing that matters is what the charge alleges and he absolutely, unequivocally denies that any form of sexual activity took place at all.”

He accused was said to be in a “very fragile state at the moment.”

The denial of any form of sexual activity taking place is quite different to an argument that sexual activity took place but was consented to. This means that there should be no argument as to the accused holding an honest and reasonable belief that consent existed. This defence has recently come under scrutiny following the NSW government’s proposed affirmative consent laws.

**Sexual Intercourse Without Consent Charges**

The definition of sexual assault is engaging in sexual intercourse with another person without their consent. It is contained in [*Section 61I* of the *Crimes Act* 1900 (NSW)](https://www.legislation.nsw.gov.au/#/view/act/1900/40/part3/div10/subDiv2/sec61i).

Sexual assault allegations are far more common today than at any time in the past. Community attitudes have changed shifted, in large part due to the #metoo movement. Unsurprisingly, this has made fighting such allegations more difficult than ever before.

The stigma that comes with these charges is likely to follow a person for the rest of their life. That is why it is important to obtain advice from a specialist sexual assault lawyer who has successfully defended hundreds of these charges. Call Astor Legal on (02) 7804 2823. Or, you can email info@astorlegal.com.au.

One of the most common defences to sexual assault charges is to argue that the alleged victim consented to the sexual intercourse.

However, it is not always possible to run this defence. Certain situations - such as when the alleged victim was too intoxicated to provide consent - would preclude this defence. If an Accused held an honest and reasonable belief that the alleged victim was consenting, then they can be found ‘not guilty’ of the offence.

Another common defence is identification. If the Crown cannot establish that the Accused was the offender, then the offence cannot be proved. Often experts can be used such as DNA, fingerprint, CCTV and intoxication experts to cast doubt on identification.

A less common defence is automatism. This is where the offending was involuntary and often involves sleep disorders. This defence often relies on expert evidence from a sleep doctor.

The maximum penalty for sexual assault in NSW is 14 years Imprisonment. There is also a Standard Non-Parole Period which is 7 years imprisonment. The non-parole period is the minimum amount of time a person must send in gaol before they can be released on parole.