



CDPP

Australia's Federal Prosecution Service

Commonwealth Director
of Public Prosecutions

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19 December 2019

Mr Steve Smith

By Email: foi+request-5919-95c8c730@righttoknow.org.au

Dear Mr Smith

FREEDOM OF INFORMATION REQUEST - NOTICE OF DECISION UNDER SECTION 26 OF THE *FREEDOM OF INFORMATION ACT 1982* ("FOI ACT")

I refer to your email dated 19 November 2019 in which you requested access under the FOI Act to the following documents:

I am requesting all documents comprising correspondence between ACLEI and CDPP relating to the investigation and prosecution of Ramzi Jabbour re "ACT Courts list AM/2409/19 Ramzi Jabbour 7 Nov 2019 9:00 AM"

AUTHORISATION

I am a person authorised by the Director of Public Prosecutions to make decisions on requests for access to documents under section 23 the FOI Act. My name and position are:

Deanna Cooke
Principal Federal Prosecutor

REASONS FOR DECISION AND FINDINGS OF MATERIAL FACT

In considering your application, I have taken the following into account:

- the terms and scope of your request
- the FOI Act
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (available on www.oaic.gov.au).

I have made the following findings of material fact:

- Your application was made in writing on 19 November 2019.
- Your application is in relation to an Australian Commission for Law Enforcement Integrity ("ACLEI") prosecution that is currently on foot in the ACT.

DECISION

Fifty documents were found to fall within the scope of your request.

All documents requested, including emails between CDPP officers and ACLEI officers are exempt from production in their entirety under section 42 of the FOI Act. The documents requested are confidential communications relating to litigation that was anticipated to commence or has been commenced or arises out of the conduct of current proceedings, and are therefore subject to legal professional privilege. There has not been any waiver of that privilege. As the prosecution subject to the request is currently on foot, I have determined that there is an unacceptable risk of real harm in releasing the documents. I have considered whether the exempt parts could be redacted and released, but determined that any remaining information would be of little value.

In addition to the exemption under section 42 of the FOI Act, I also consider that two of those documents are also exempt under section 37 of the FOI Act in that their release would prejudice the proper administration of justice and a fair trial.

RIGHTS OF REVIEW

Under section 26 of the FOI Act I am required to inform you of your rights of review.

Section 54 of the FOI Act gives you the right to apply for internal review of a decision refusing to grant access to documents. An application for internal review of a decision must be made in writing within 30 days of receipt of this letter. No particular form is required by it is desirable to set out in the application the grounds on which you consider that the decision should be reviewed. An application may be sent to foi@cdpp.gov.au or to the following postal address:

FOI Coordinator
Commonwealth Director of Public Prosecutions
PO Box 3104
CANBERRA ACT 2617

If a decision on internal review goes against you, you are entitled to seek a review of that decision by the Information Commissioner. Alternatively, you are entitled to bypass the internal review process and make an application directly with the Office of the Australian Information Commissioner pursuant to section 54L of the FOI Act.

An application to the Information Commissioner may be made in writing and should be directed to the following address:

Information Commissioner (Reviews)
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner also accepts online requests via their website. You can locate the relevant form at www.oaic.gov.au.

Yours faithfully



Deanna Cooke
Principal Federal Prosecutor