

FOI Request – ACT DPP – Thomas ZAJA Matter

To: foiactdpp@act.gov.au

FOI Contact Officer, ACT Office of the Director of Public Prosecutions

Dear FOI Officer,

I make this request under the Freedom of Information Act 2016 (ACT). I seek access to documents concerning the Thomas ZAJA matter and related policy, accountability and decision-making. Where documents contain exempt material, I request partial release of the non-exempt portions where reasonably practicable. If any part of this request is considered too broad, please contact me so I can narrow it.

I seek:

- Communications between ACT Policing and the ACT DPP after evidence allegedly emerged that the complainant had fabricated evidence.
- Internal advice on whether to continue or discontinue the prosecution.
- Briefing notes to senior prosecutors.
- Documents explaining why the prosecution continued after the alleged fabrication became known.
- Any post-case review or lessons-learned documents.

Please provide documents electronically.

Yours sincerely,





ACT Office of the Director of Public Prosecutions

31 August 2026

Email: [REDACTED]

Dear [REDACTED],

FREEDOM OF INFORMATION APPLICATION – NOTICE OF DECISION

I refer to your request for information under the *Freedom of Information Act 2016* ('the FOI Act'), received 18 August 2026.

You have sought access to the following information:

1. Communications between ACT Policing and the ACT DPP after evidence allegedly emerged that the complainant had fabricated evidence.
2. Internal advice on whether to continue or discontinue the prosecution.
3. Briefing notes to senior prosecutors.
4. Documents explaining why the prosecution continued after the alleged fabrication became known.
5. Any post-case review or lessons-learned documents.

Authority

I am an information officer appointed by the Director of Public Prosecutions under s 18 to deal with access applications made under Part 5 of the FOI Act.

Decision

I have decided to refuse access to this information because it is contrary to the public interest, per s 35(c) of the FOI Act.

With regard to Item 4: Some material within this category has already been published. I have decided to refuse to deal with this part of the access application because the government information is already available, per s 43(1)(d) of the FOI Act.

Statement of reasons

In accordance with s 54(2) of the FOI Act, please find below a statement of reasons for my decision.

I am required to determine whether the information within scope of your request is in the public interest to release. To make this decision, I am required to:

- assess whether the information is taken to be contrary to the public interest information as identified in Schedule 1 of the FOI Act; and

- assess the test set out in s 17 to determine whether disclosure of the information would be contrary to the public interest by balancing factors identified in Schedule 2 of the FOI Act and any other relevant factors as favouring disclosure or nondisclosure.

Schedule 1 factors

- 1.2 Information subject to legal professional privilege

For a document to be considered subject to legal professional privilege, I must establish:

- the existence of a lawyer-client relationship;
- that the communication or record was a confidential communication (i.e. that either party was under an express or implied obligation not to disclose its contents) per s 119 of the *Evidence Act 2011*; and
- that the communication or record was made for the dominant purpose of giving legal advice, or for use in existing or contemplated litigation, also per s 119.

I note it was confirmed in *Director of Public Prosecutions (NSW) v Stanizzo* (2019) 367 ALR 256 that the Director of Public Prosecutions ('the Director') is a client in relation to solicitors employed in their office. Both internal communications between DPP staff and external communications with the AFP are communications made for the purpose of litigation, between a lawyer acting for the client and someone else, per s 119(a). I further note communications between prosecution and police are subject to privilege (*Hamilton v State of NSW* [2016] NSWSC 1213).

Without confirming what material is held by DPP, all information of the type described in your request is privileged information and cannot be provided. Item 1 of your request refers to communications between prosecution and police. Items 2 through 5 of your request refer to communications made for the purpose of litigation between a lawyer acting for the client and someone else.

Item 4

One document that falls into this category is not privileged, but has already been published. Per s 43(1)(a) of the FOI Act, we may refuse to deal with an application in part where the information is already available to the applicant. Per s 45, information is considered to already be available if it is publicly available.

Per s 55(c), this decision notice must include a statement of how you may access the information. A media release regarding the matter in question is available to view on ACT DPP's website [here](#).

Charges

Processing charges are not applicable for this request as no information has been released.

Disclosure

Per s 52, I am required to inform you that your access application will be published on the ACT DPP disclosure log.

Review

This decision is a reviewable decision as identified in Schedule 3 of the FOI Act. You have the right to seek Ombudsman review under s 73. If you wish to seek review, you must do so within 20 working days of this decision or a longer period provided by the Ombudsman. For further information about how to apply to the Ombudsman for review, you may wish to consult the ACT Ombudsman's [website](#).

If a decision is made by the Ombudsman under s 82(2), you may apply to the ACT Civil and Administrative Tribunal (ACAT) for review of the Ombudsman's decision under s 84 of the FOI Act. Further information can be found on the ACAT's [website](#).

If you have any queries in relation to your request, please contact the ACT DPP via email at DPPFOI@act.gov.au.

Yours faithfully,



Policy Lawyer

ACT Office of the Director of Public Prosecutions