



ACT Office of the Director of Public Prosecutions

Our Reference: 200929085
Your Reference:

2 March 2023

[REDACTED]
Via email: [REDACTED]

Dear [REDACTED],

REQUEST FOR DOCUMENTS UNDER THE ACT FREEDOM OF INFORMATION ACT 2016

I write in response to your request, dated 7 February 2023, in which you sought access to information under the ACT *Freedom of Information Act 2016* (the Act), via the Justice and Community Safety Directorate.

This Office took carriage of your request on 8 February 2023.

Within your applications, you detailed the documents being sought as follows:

- All emails between the DPP Shane Drumgold and Steve Whybrow regarding the matter *R v Lehrmann*, for the timeframe 15 February 2021 and 2 February 2022
- All emails between the DPP Shane Drumgold and Linda Reynolds regarding the matter *R v Lehrmann*, for the timeframe 15 February 2021 and 2 February 2022
- All emails between the DPP Shane Drumgold and Fiona Brown regarding the matter *R v Lehrmann* for the timeframe 15 February 2021 and 2 February 2022.

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

Decision on access

I note that the Board of Inquiry – Criminal Justice System, issued a Direction to Prohibit Publication of Evidence on 16 February 2023. The order states that:

Subject to further order of the Chairperson, the matters contained in the documents lodged with the Board of Inquiry in response to the subpoena directed to the Proper

Officer, Office of the Director of Public Prosecutions (2023/09) dated 6 February 2023 shall not be published.

I can confirm that the information within the scope of your requests is covered by the subpoena directed to the Proper Officer and is therefore contrary to the public interest to release under freedom of information in accordance with Schedule 1 provision 1.1. As such, I have decided to refuse to deal with these applications under section 55 of the Act.

1.1 Information disclosure of which would be contempt of court or Legislative Assembly etc

Information the disclosure of which would, apart from this Act and any immunity of the Crown—

- (b) be contrary to an order made or direction given by a tribunal or other entity having power to take evidence on oath.

55 Content of notice — refusal to deal with application

For a decision to refuse to deal with an application, the decision notice must include a statement of the following:

- (a) the ground under section 43(1) for the refusal;
- (b) the findings on any material questions of fact referring to the evidence or other material on which the findings were based.

43 Refusing to deal with application—general

- (1) A respondent may refuse to deal with an access application wholly or in part only if—
 - (e) the access application is expressed to relate to government information of a stated kind and government information of that kind is taken to be contrary to the public interest to disclose under schedule 1.

Online publishing – disclosure log

Under section 28 of the Act, ACT DPP maintains an online record of access applications called a disclosure log. Your access application and my decision in response to your access application will be published on the JACS disclosure log no later than 10 days after the decision. Your personal contact details will not be published.

You may view the DPP's disclosure log at:

<https://www.dpp.act.gov.au/publications/freedom-of-information>

Ombudsman review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the JACS disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

The review of decision application form is available at:

https://www.ombudsman.act.gov.au/data/assets/pdf_file/0026/79190/Apply-for-Ombudsman-review.pdf

ACT Civil and Administrative Tribunal (ACAT) review

Under section 84 of the Act, if a decision is made under section 82(1) on an Ombudsman review, you may apply to the ACAT for review of the Ombudsman decision.

Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
15 Constitution Ave, Canberra ACT 2601
GPO Box 370
Canberra City ACT 2601

Ph: (02) 6207 1740

<http://www.acat.act.gov.au/>

Please don't hesitate to contact me via return email should you require further clarification.

Yours faithfully,



Katie Cantwell
Information Officer
ACT Director of Public Prosecutions