



CDPP

Australia's Federal Prosecution Service

Commonwealth Director
of Public Prosecutions

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Your Reference: VOFF 200

Our Reference: HA14100018/1

28 July 2014



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

Dear 

FOI Request

I refer to your email received by this Office on 27 June 2014 in which you requested access under the FOI Act to:

1. *'The set of documents that supports Justice Garling's claims in Regina v Shawn Darrell Richards [2001] NSWSC 866 (12 August 2011).'*

Authorisation

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

Mark de Crespigny
Senior Assistant Director
Canberra Office

Decision and Reasons for Decision

The wording of your FOI request did not provide sufficient information as was reasonably necessary to enable responsible officers within this agency to identify relevant documents. In order to process this request, I have, therefore, interpreted your request widely to mean documents in the possession of the CDPP that were tendered by the CDPP in evidence in the matter of Shawn Richard that Justice Garling considered when he imposed the sentence.

In order to locate the relevant documents, searches of our electronic and paper files were undertaken. Several documents were located and have been set out in 'Schedule A' below. If access to a document has been refused, the reason why and the relevant section of the FOI Act has also been set out. Where access to a document has been granted, an electronic copy has been attached to this decision letter.

SCHEDULE A

No.	Document	Initial Decision	Reason
1	Statement of Shawn RICHARD dated 3 December 2010 including an agreed Statement of Facts and explanatory diagrams.	Access granted	
2	Enforceable undertaking dated 2 December 2010	Access granted	
3	Crown submissions on sentence dated 4 May 2011 with attachment	Access granted	
4	Additional Crown submissions dated 25 July 2011	Access granted	
5	Outline of Crown submissions dated 7 July 2011	Access granted	
6	Sealed envelope of exhibits	Access refused	The material is subject to an ongoing suppression order and therefore the CDPP is entitled to rely upon section 46 of the FOI Act to refuse access.

Relevant Exemptions of the FOI Act

Contempt of Court – section 46

A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the Crown:

- (a) be in contempt of court;
- (b) be contrary to an order made or direction given by a Royal Commission or by a tribunal or other person or body having power to take evidence on oath; or

- (c) infringe the privileges of the Parliament of the Commonwealth or of a State or of a House of such a Parliament or of the Legislative Assembly of the Northern Territory or of Norfolk Island.

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 an internal review of the decision refusing to grant access to documents. There is no application fee however the application for internal review of the decision must be made in writing within 30 days of receipt of this letter. No particular form is required but 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 inquiries@cdpp.gov.au or sent to the following postal address:

FOI Coordinator
Commonwealth DPP
PO Box 3104
CANBERRA ACT 2617

If the decision on internal review goes against you, you are entitled to seek a review of that decision by the Information Commissioner.

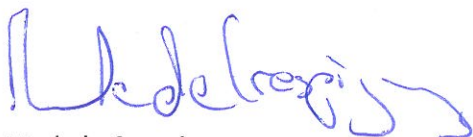
Alternatively, you are entitled to bypass the internal review process and make an application directly with the Office of the Information Commissioner pursuant to section 54L of the FOI Act.

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

Information Commissioner (Reviews)
GPO Box 2999
CANBERRA ACT 2601

The Information Commissioner also accepts online requests via their website. The relevant form can be located at www.oaic.gov.au

Yours faithfully



Mark de Crespigny
Senior Assistant Director