



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2023-287

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	Waived
6. Processing time (in working days)	30
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: no-reply@act.gov.au
To: [CMTEDD FOI](#)
Subject: Freedom of Information request
Date: Friday, 11 August 2023 3:54:55 PM

Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

Please find online enquiry details below. Please ensure this enquiry is responded to within fourteen working days.

Your details

All fields are optional, however an email address OR full postal address must be provided for us to process your request. An email address and telephone contact number will assist us to contact you quickly if we need to discuss your request.

Title:

First Name:

Last Name:

Business/Organisation:

Address:

Suburb:

Postcode:

State/Territory:

Phone/mobile:

Email address:

Request for information

(Please provide as much detail as possible, for example subject matter and relevant dates, and also provide details of documents that you are not interested in.)

Under the Freedom of Information Act 2016 I want to access the following document/s (*required field):

All correspondence between Criminal Justice System Board of Inquiry Chair Walter Sofronoff and the Chief Minister or his office since Mr Sofronoff's appointment to the board. All correspondence between the head of the ACT Public Service Kathy Leigh or her office and the Chief Minister or his office, about the Board of Inquiry, after July 31, 2023.

I do not want to access the following documents in relation to my request::

Thank you.
Freedom of Information Coordinator



ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI2023-287

[REDACTED]
Via email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on **11 August 2023**. Specifically, you have sought access to the following information:

"All correspondence between Criminal Justice System Board of Inquiry Chair Walter Sofronoff and the Chief Minister or his office since Mr Sofronoff's appointment to the board. All correspondence between the head of the ACT Public Service Kathy Leigh or her office and the Chief Minister or his office, about the Board of Inquiry, after July 31, 2023."

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision within 30 working days. Therefore, a decision and response are due on **22 September 2023**.

Decision on access

Searches were completed for relevant documents and 25 documents were identified that fall within the scope of your request.

I have included as **Attachment A** to this decision the schedule of relevant documents. This provides a description of each document that falls within the scope of your request and the access decision for each of those documents.

I have decided to grant access in full to nine documents relevant to your request. I have decided to grant partial access to five documents and refuse to access to eleven documents as I consider them to contain information that would, on balance, be contrary to the public interest to disclose under the test set out in section 17 of the Act.

My access decisions are detailed further in the following statement of reasons and the documents released to you are provided as **Attachment B** to this letter.

In accordance with section 54(2) of the Act a statement of reasons outlining my decisions is below.

Statement of Reasons

In reaching my access decisions, I have taken the following into account:

- the Act;
- the content of the documents that fall within the scope of your request;
- the ACT Ombudsman Guidelines dealing with access applications;
- the views of third parties;
- *Non-publication order 26 – Board of Inquiry – Criminal Justice System*;
- the *Human Rights Act 2004*; and,
- the *Information Privacy Act 2014*.

Exemption claimed

As a decision maker, I am required to determine whether the information within scope is in the public interest to release. To make this decision, I am required to:

- assess whether the information would be contrary to public interest to disclose as per Schedule 1 of the Act, and
- perform the public interest test as set out in section 17 of the Act by balancing the factors favouring disclosure and factors favouring nondisclosure in Schedule 2.

I have determined that some of the information within the scope of your application contains information that is taken to be contrary to the public interest to disclose under Schedule 1 of the Act.

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

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.

I note that [Non-publication order 26 – Board of Inquiry – Criminal Justice System](#) states that:

All information in the possession of, or created by, the Board of Inquiry and staff which has not been approved for publication, shall not be published by the Directorate with responsibility for the Inquiries Act 1991, unless it is of an administrative nature.

I note that Schedule 1, 1.1 of the FOI Act specifically uses board of inquiry under the *Inquiries Act 1991*, as a relevant example of this provision. Pages 15-16 of document 7, are not administrative in nature and as such, cannot be released.

1.2 Information subject to legal professional privilege

Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.

Documents 13 to 17 and 19 to 23 contain information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege. The information relates to legal advice received and sought by the ACT Government and other parties in relation to this matter and it is not considered to be

in the public interest to release. This information can only be released if the parties involved agree to waive that privilege. The parties have not waived privilege.

1.4 Sensitive information

The information that has been redacted contains information about a person that is personal, private and sensitive. I am of the view that the disclosure of this information would be unreasonable as the release of this information has the potential to cause harm to that individual.

Document 12 included information that has been redacted as it contains information about a person that is personal, private and sensitive. I am of the view that the disclosure of this information would be unreasonable as the release of this information has the potential to cause harm to that individual.

1.6 Cabinet information

Information that has been submitted, or that a Minister proposes to submit, to Cabinet its consideration and that was brought into existence for that purpose and information the disclosure of which would reveal any deliberation of Cabinet (other than through the official publication of a Cabinet decision).

The purpose of this exemption is to maintain the confidentiality of the Cabinet process and to uphold the principle of collective ministerial responsibility.

Document 18 in its entirety falls in this category as does a small redaction in document 25.

The public interest information under schedule 2 of the Act

The Act has a presumption in favour of disclosure. As a decision maker I am required to decide where, on balance, public interest lies. As part of this process, I must consider factors favouring disclosure and nondisclosure.

In *Hogan v Hinch* (2011) 243 CLR 506, [31] French CJ stated that when ‘used in a statute, the term [public interest] derives its content from “the subject matter and the scope and purpose” of the enactment in which it appears’. Section 17(1) of the Act sets out the test, to be applied to determine whether disclosure of information would be contrary to the public interest. These factors are found in subsection 17(2) and Schedule 2 of the Act.

Taking into consideration the information contained in the documents found to be within the scope of your request, I have identified that the following public interest factors are relevant to determine if release of the information contained within these documents is within the ‘public interest’.

Factors favouring disclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
 - (i) *promote open discussion of public affairs and enhance the government’s accountability.*
 - (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*
 - (xiii) *contribute to the administration of justice generally, including procedural fairness.*

Having considered the factors identified as relevant in this matter, I consider that release of the information within the scope of the request may promote open discussion of public affairs and enhance the government’s accountability. The release of the documents identified will provide contextual information to the public regarding Mr

Sofronoff's decision to release the report to selected journalists and the Government's response. I have weighted these factors highly.

Factors favouring nondisclosure in the public interest:

- (a) *disclosure of the information could reasonably be expected to do any of the following:*
- (ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

I consider that the protection of an individual's right to privacy, is a significant factor in the release of this information. Some contact details and identifying information of individuals named in the documentation have been removed, as I consider that the release of this information could impact their right to privacy. However, I note that there is a considerable amount of information already within the public domain, as such I have balanced this factor strongly in favour of disclosure.

Having considered relevant factors under Schedule 1 and applied the public interest test outlined in section 17 of the Act and deciding that release of some information contained in the documents is not in the public interest to release, I have chosen to redact this specific information in accordance with section 50(2).

Noting the pro-disclosure intent of the Act, I am satisfied that redacting only the information that is not in the public interest to release will ensure that the intent of the Act has been met.

Charges

Processing charges for this access application are waived under section 107(2)(b) as this information is deemed to be of benefit to the public.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and documents released to you in response to your access application will be published in the CMTEDD disclosure log. Your personal contact details will not be published. You may view CMTEDD disclosure log at <https://www.cmtedd.act.gov.au/functions/foi/disclosure-log-2023>.

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 disclosure log, or a longer period allowed by the Ombudsman.

We recommend using this form [Applying for an Ombudsman Review](#) to ensure you provide all of the required information. Alternatively, you may write to the Ombudsman:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

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:

ACT Civil and Administrative Tribunal
GPO Box 370
CANBERRA ACT 2601
Telephone: (02) 6207 1740
<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact the CMTEDD FOI team by telephone on 6207 7754 or email CMTEDDFOI@act.gov.au.



Emma Hotham
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate
22 September 2023



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

WHAT ARE THE PARAMETERS OF THE REQUEST

Reference NO.

All correspondence between Criminal Justice System Board of Inquiry Chair Walter Sofronoff and the Chief Minister or his office since Mr Sofronoff's appointment to the board.
All correspondence between the head of the ACT Public Service Kathy Leigh or her office and the Chief Minister or his office, about the Board of Inquiry, after July 31, 2023.

CMTEDFOI 2023-287

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-3	Email correspondence Re: Board of Inquiry	17 February 2023	Full Release		Yes
2	4	Email correspondence Re: RE: Board of Inquiry	20 February 2023	Full Release		Yes
3	5-6	Email correspondence Re: Board of Inquiry	22 February 2023	Full Release		Yes
4	7-9	Email correspondence Re: Correspondence from the Chief Minister	23 February 2023	Full Release		Yes
5	10-11	Email correspondence Re: Board of Inquiry - Additional Legal Counsel	10 March 2023	Full Release		Yes
6	12-13	Email correspondence Re: Correspondence from the Chief Minister	24 March 2023	Full Release		Yes
7	14-16	Email correspondence Re: Board of Inquiry - Criminal Justice System	16 April 2024	Partial Release	Sch 1, 1.1 Sch 2 s2.2 (a)(ii)	Yes
8	17	Email correspondence Re: RE: Board of Inquiry - Criminal Justice System	17 April 2024	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
9	18-19	Email correspondence Re: Letter from the Attorney-General	28 April 2024	Full Release		Yes
10	20-24	Email correspondence Re: RE: Meeting with Chief Minister Barr - Board of Inquiry Report	7 June 2023-5 July 2023	Partial Release	Sch 2 s2.2 (a)(ii)	Yes
11	25-26	Email correspondence Re: Correspondence from the Chief Minister and Minister Rattenbury	3 August 2023	Full Release		Yes
12	27-31	Email correspondence Re: Reply to correspondence from the Chief Minister and Minister Rattenbury	3 August 2023	Partial Release	Sch 1 s1.4 Sch 2 s2.2 (a)(ii)	Yes

13	32-35	Email correspondence Re: Re: Short statement in response to media queries - for SG review	3 August 2023	Exempt	Sch 1 s1.2	No
14	36-40	Email correspondence Re: FW: ACT Board of Inquiry - publication of final report to AFP	4 August 2023	Exempt	Sch 1 s1.2	No
15	41-42	Email correspondence Re: RE: Report on the Board of inquiry	4 August 2023	Exempt	Sch 1 s1.2	No
16	43-44	Email correspondence Re: RE: Report on the Board of inquiry	4 August 2023	Exempt	Sch 1 s1.2	No
17	45-46	Email correspondence Re: RE: ACT Board of Inquiry - publication of final report to AFP	4 August 2023	Exempt	Sch 1 s1.2	No
18	47-61	Email correspondence Re: BO1 Response brief	6 August 2023	Exempt	Sch 1 s1.6	No
19	62-64	Email correspondence Re: For SG/HoS review: Draft media statement B01 report	6 August 2023	Exempt	Sch 1 s1.2	No
20	65-66	Email correspondence Re: Fwd: Access to Board of Inquiry	6 August 2023	Exempt	Sch 1 s1.2	No
21	67-71	Email correspondence Re: For SG/HoS review: Draft media statement B01 report	6 August 2023	Exempt	Sch 1 s1.2	No
22	72- 74	Email correspondence Re: RE: Access to Board of Inquiry	7 August 2023	Exempt	Sch 1 s1.2	No
23	75-85	Email correspondence Re: FW: Private and confidential / legally privileged	10 August 2023	Exempt	Sch 1 s1.2	No
24	86	Head of service text to Chief minister	2 August 2023	Full Release		Yes
25	87-102	Head of service text to Michael Cook	2 August 2023-6 August 2023	Partial Release	Sch 1 s1.6; Sch 2 s2.2 (a)(ii) and out of scope	Yes
Total						
No of Docs						
25						

From: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Sent: 17/02/2023 6:22 PM
To: "BARR Reception" <BARR@act.gov.au>
Subject: Board of Inquiry
Attachments: 2023.02.17 - Letter to the Chief Minister re Delegation.pdf
Importance: High

OFFICIAL: Sensitive

Dear Chief Minister

Please see **attached** correspondence.

Kind regards

Board of Inquiry - Criminal Justice System

e: BOI.Information@inquiry.gov.au

w: www.cjsinquiry.act.gov.au

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

BOARD OF INQUIRY CRIMINAL JUSTICE SYSTEM

17 February 2023

Mr Andrew Barr MLA
Chief Minister
GPO Box 1020
CANBERRA ACT 2601

By email: Barr@act.gov.au

Dear Chief Minister,

Board of Inquiry

It is necessary for this inquiry to interview numerous people. For the reasons explained below, I seek your written consent pursuant to s 37 of the *Inquiries Act 1991* to delegate my function to preside at hearings those lawyers assisting me.

Section 21 of the *Inquiries Act 1991* provides for "hearings" to be held. Section 23 provides that the procedure at a hearing "may be decided by the board" and s 18(c) provides that the board "may do whatever it considers necessary or convenient for the fair and prompt conduct of the inquiry". Section 22 provides that the chairperson "must preside at a hearing".

In the first instance, I wish to proceed by issuing a subpoena to prospective witnesses to attend a "hearing". That initial hearing will take the form of an informal interview conducted to determine the nature and scope of the evidence that the person might give. The second step will be to take a formal proof of evidence from that person. While I am free to ask my staff to conduct informal interviews with people, without a subpoena such people will not have the advantage of the protections afforded by the Act - to limit the use that can be made of the information in proceedings against them and to protect them against breaches of duties of confidence. Such an interview conducted as a "hearing" confers such protections but I would have to "preside".

There will be numerous witnesses who must be interviewed and, for practical reasons, it is desirable that the counsel and solicitors assisting me have delegated to them the power to preside at hearings of this kind. It would be very inefficient for me to be present at the interview of every single witness.

For that reason I seek your written consent under s 37 to delegate my function under s 22 from time to time to any of counsel or solicitors assisting me. The consent would take the following form:

Pursuant to s 37 of the Inquiries Act 1991, I consent to Walter Sofronoff's delegation, from time to time, of his function of presiding at hearings of the board of inquiry to which he has been appointed to such of the counsel or solicitors assisting him as he sees fit and upon such conditions as he determines.

Yours sincerely,

Walter Sofronoff KC
Chair
Board of Inquiry Criminal Justice System

Per

Genevieve Cuddihy

Genevieve Cuddihy
Senior Solicitor Assisting
Board of Inquiry Criminal Justice System

From: "BARR Reception"
Sent: 20/02/2023 12:01 PM
To: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Subject: RE: Board of Inquiry

Good morning,

I would like to acknowledge receipt of your correspondence and note that it is currently receiving attention in our office.

Kind regards

Rhys Thompson
Office Manager | Office of Andrew Barr MLA
Chief Minister
Treasurer
Minister for Climate Action
Minister for Economic Development
Minister for Tourism
Member for Kurrajong



From: BOI Information <BOI.Information@inquiry.act.gov.au>
Sent: Friday, 17 February 2023 6:22 PM
To: BARR Reception <BARR@act.gov.au>
Subject: Board of Inquiry
Importance: High

OFFICIAL: Sensitive

Dear Chief Minister

Please see **attached** correspondence.

Kind regards

Board of Inquiry - Criminal Justice System

e: BOI.Information@inquiry.gov.au
w: www.cjsinquiry.act.gov.au

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From: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Sent: 22/02/2023 5:06 PM
To: "BARR Reception" <BARR@act.gov.au>
Subject: Board of Inquiry
Attachments: 2023.02.22 - Letter to Chief Minister re Delegation.pdf
Importance: High

OFFICIAL: Sensitive

Dear Chief Minister

Please find **attached** correspondence for your attention.

Kind regards

Board of Inquiry – Criminal Justice System
Po Box 1429 Canberra ACT 2601

T (02) 6205 5700

W www.cjsinquiry.act.gov.au

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6

AUSTRALIAN CAPITAL TERRITORY
BOARD OF INQUIRY
CRIMINAL JUSTICE SYSTEM

22 February 2023

Mr Andrew Barr MLA
Chief Minister
GPO Box 1020
CANBERRA ACT 2601

By email: Barr@act.gov.au

Dear Chief Minister,

Board of Inquiry

I refer to my correspondence dated 17 February 2023 and write to provide clarification of the delegation of authority I have sought.

For the reasons stated in my previous correspondence, I seek your written consent under s 37 to delegate my function under s 22 from time to time to any counsel I have appointed to assist only. The consent would take the following form:

Pursuant to s 37 of the Inquiries Act 1991, I consent to Mr Walter Sofronoff's delegation of his function under s 22 of that Act as chairperson to preside at a hearing of the Board of Inquiry into the Criminal Justice System to the following persons:

- *Erin Longbottom KC; and*
- *Joshua Jones*

who will be authorised by Mr Sofronoff, from time to time, to preside over hearings.

Yours sincerely,



Walter Sofronoff KC
Chair
Board of Inquiry Criminal Justice System

From: "BARR Reception"
Sent: 23/02/2023 3:05 PM
To: "BOI Information" <BOI.Information@inquiry.act.gov.au>; "RATTENBURY" <RATTENBURY@act.gov.au>
Subject: Correspondence from the Chief Minister
Attachments: Chief Minister Barr to Walter Sofronoff KC - Delegate functions for Board of Inquiry.pdf

Good afternoon

Please find the attached correspondence from the Chief Minister.

Kind regards

Rhys Thompson
Office Manager | Office of Andrew Barr MLA
Chief Minister
Treasurer
Minister for Climate Action
Minister for Economic Development
Minister for Tourism
Member for Kurrajong



Andrew Barr MLA

Chief Minister

Treasurer

Minister for Climate Action

Minister for Economic Development

Minister for Tourism

Member for Kurrajong

Walter Sofronoff KC

Chair

Board of Inquiry – Criminal Justice System

PO Box 1429

CANBERRA ACT 2601

Dear Mr Sofronoff

Thank you for your letter regarding the delegation of certain functions under the *Inquiries Act 1991* (the Act) in relation to the Board of Inquiry – Criminal Justice System.

Per your request and pursuant to s37 of the Act, I consent to the delegation of your function under s22 of the Act, as chairperson to preside at a hearing of the Board of Inquiry into the Criminal Justice System, to the following persons:

1. Erin Longbotton KC; and
2. Joshua Jones

who will be authorised by you, from time to time, to preside over hearings.

I trust these delegations will support the fair and prompt conduct of the inquiry. Thank you for bringing this matter to my attention. A copy of this delegation will also be provided to the Attorney General for his information.

Yours sincerely



Andrew Barr MLA

Chief Minister

23 February 2023

Cc:
Shane Rattenbury MLA
Attorney-General

From: "Perkins, FelicityC" <FelicityC.Perkins@inquiry.act.gov.au>
Sent: 10/03/2023 4:27 PM
To: "BARR Reception" <BARR@act.gov.au>
Cc: "CMCD DLO" <CMCDDLO@act.gov.au>
Subject: Board of Inquiry - Additional Legal Counsel
Attachments: 2023.03.10 - Letter to Chief Minister re delegation.pdf

OFFICIAL

Good afternoon

Please find attached a letter to the Chief Minister regarding the Board of Inquiry – Criminal Justice System – Delegation of function for additional Legal Counsel.

Kind regards

Felicity

Felicity Perkins | Executive Officer/Business Manager

Board of Inquiry Criminal Justice System

Level 5 Nara Centre

3 Constitution Avenue CANBERRA CITY ACT 2601 | PO Box 1429, CANBERRA ACT 2601

11

AUSTRALIAN CAPITAL TERRITORY

BOARD OF INQUIRY

CRIMINAL JUSTICE SYSTEM

10 March 2023

Mr Andrew Barr MLA
Chief Minister
GPO Box 1020
CANBERRA ACT 2601

By email: barr@act.gov.au

Dear Chief Minister

Board of Inquiry – Criminal Justice System – Delegation of Function

I refer to your letter dated 23 February 2023 in which you consented to the delegation of my function under section 22 of the *Inquiries Act 1991* as chairperson of the Board of Inquiry to preside at a hearing of the Board to Ms Erin Longbottom KC and Mr Joshua Jones.

For reasons explained in my letter dated 17 February 2023, it is necessary to appoint a further counsel, Ms Eleanor Lynch, to assist the Board to undertake further interviews under my delegation. Accordingly, I seek your consent to delegate my function under section 22 of the Act in the following form:

Pursuant to s 37 of the Inquiries Act 1991, I consent to Walter Sofronoff's delegation of his function under s 22 of the Act as chairperson to preside at a hearing of the Board of Inquiry into the Criminal Justice System to the following person:

- *Eleanor Lynch*

who will be authorised by Mr Sofronoff, from time to time, to preside over hearings.

Please contact Ms Helen Banks, Executive Director, Board of Inquiry by email at helenp.banks@inquiry.act.gov.au or by telephoning 6207 5700 if you require further information.

Yours sincerely



Walter Sofronoff KC

Chair

Board of Inquiry Criminal Justice System

From: "BARR Reception"
Sent: 24/03/2023 3:02 PM
To: "BOI Information" <BOI.Information@inquiry.act.gov.au>; "RATTENBURY" <RATTENBURY@act.gov.au>
Cc: "CMCD DLO" <CMCDDLO@act.gov.au>; "Banks, HelenP" <HelenP.Banks@inquiry.act.gov.au>
Subject: Correspondence from the Chief Minister
Attachments: Chief Minister to Mr Sofronoff - Additional Counsel.pdf

Good afternoon

Please find attached a letter from the ACT Chief Minister.

Thank you.

Kind regards

Robyn Burger
Office Manager | Office of Andrew Barr MLA

Chief Minister

Treasurer

Minister for Climate Action

Minister for Economic Development

Minister for Tourism

Member for Kurrajong



**Andrew Barr MLA**

Chief Minister

Treasurer

Minister for Climate Action

Minister for Economic Development

Minister for Tourism

Member for Kurrajong

Walter Sofronoff KC

Chair

Board of Inquiry – Criminal Justice System

PO Box 1429

CANBERRA ACT 2601

Dear Mr Sofronoff

Thank you for your letter of 10 March 2023 regarding the delegation of certain functions under the *Inquiries Act 1991* (the Act) in relation to the Board of Inquiry – Criminal Justice System.

Per your request and pursuant to section 37 of the Act, I consent to the delegation of your function under section 22 of the Act, as chairperson to preside at a hearing of the Board of Inquiry into the Criminal Justice System, to the following person:

- Eleanor Lynch

who will be authorised by you, from time to time, to preside over hearings.

I trust this additional delegation will support the fair and prompt conduct of the inquiry. A copy of this delegation will also be provided to the Attorney-General for his information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Andrew Barr'.

Andrew Barr MLA

Chief Minister

24 March 2023

Cc: Shane Rattenbury MLA
Attorney-General

From: "Cuddihy, GenevieveA" <GenevieveA.Cuddihy@inquiry.act.gov.au>
Sent: 16/04/2023 8:15 PM
To: "BARR Reception" <BARR@act.gov.au>; "RATTENBURY" <RATTENBURY@act.gov.au>
Cc: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Subject: Board of Inquiry - Criminal Justice System
Attachments: Letter to Chief Minister and Attorney General 16 April 2023.pdf

OFFICIAL: Sensitive

Dear Chief Minister and Attorney-General,

Please see **attached** correspondence from the Board of Inquiry for your consideration.

Kind regards,

Genevieve

Genevieve Cuddihy | Senior Solicitor Assisting
Board of Inquiry – Criminal Justice System

mSch 2.2(a)(ii) : GenevieveA.Cuddihy@inquiry.act.gov.au

w: www.cis.inquiry.act.gov.au

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Sch 1 1.1

Sch 1 1.1

From: "BARR Reception"
Sent: 17/04/2023 2:12 PM
To: "Cuddihy, GenevieveA" <GenevieveA.Cuddihy@inquiry.act.gov.au>
Cc: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Subject: RE: Board of Inquiry - Criminal Justice System

Good afternoon,

I would like to acknowledge receipt of the attached correspondence and note that it is receiving attention.

Kind regards,
Rhys

Rhys Thompson
Office Manager | Office of Andrew Barr MLA
Chief Minister
Treasurer
Minister for Climate Action
Minister for Economic Development
Minister for Tourism
Member for Kurrajong



From: Cuddihy, GenevieveA <GenevieveA.Cuddihy@inquiry.act.gov.au>
Sent: Sunday, 16 April 2023 8:15 PM
To: BARR Reception <BARR@act.gov.au>; RATTENBURY <RATTENBURY@act.gov.au>
Cc: BOI Information <BOI.Information@inquiry.act.gov.au>
Subject: Board of Inquiry - Criminal Justice System

OFFICIAL: Sensitive

Dear Chief Minister and Attorney-General,

Please see **attached** correspondence from the Board of Inquiry for your consideration.

Kind regards,

Genevieve

Genevieve Cuddihy | Senior Solicitor Assisting
Board of Inquiry Criminal Justice System

m: [Sch 2.2\(a\)\(ii\) : GenevieveA.Cuddihy@inquiry.act.gov.au](mailto:GenevieveA.Cuddihy@inquiry.act.gov.au)
w: www.cjsinquiry.act.gov.au

This email, and any attachments, may be confidential and also privileged. If you are not the intended recipient please notify the sender and delete all copies of this transmission along with any attachments immediately. You should not copy or use it for any purpose, nor disclose its contents to any other person.

From: "RATTENBURY" <RATTENBURY@act.gov.au>
Sent: 28/04/2023 2:34 PM
To: "BOI Information" <BOI.Information@inquiry.act.gov.au>
Cc: "BARR Reception" <BARR@act.gov.au>
Subject: Letter from the Attorney-General
Attachments: AG letter to Mr Sofronoff.PDF

Good afternoon,

Please find attached correspondence from Attorney-General, Shane Rattenbury.

Kind regards,
Chido

Office of Shane Rattenbury MLA

ACT Greens Member for Kurrajong

Attorney-General; Minister for Consumer Affairs; Minister for Gaming;

Minister for Water, Energy and Emissions Reduction

t: (02) 620 50005 | e: Rattenbury@act.gov.au

Follow Shane on [Facebook](#) and [Twitter](#)

We acknowledge the Traditional Custodians of the Australian Capital Territory and across Australia, and pay respects to their Elders, past, present and future.



Shane Rattenbury MLA
Attorney-General
Minister for Consumer Affairs
Minister for Water, Energy and Emissions Reduction
Minister for Gaming

Member for Kurrajong

Mr Walter Sofronoff KC
Chair
Board of Inquiry – Criminal Justice System
BOI.Information@inquiry.act.gov.au

Our ref: PRO23/1243

Dear Mr ~~Sofronoff~~ *Walter*

Thank you for your letter to the Chief Minister and I seeking an amendment to the terms of Reference for the Board of Inquiry.

We have considered the matters you have raised and I have asked the Directorate to take steps to amend the Statutory Instrument to reflect the requested changes to the Terms of Reference.

As requested at your meeting with JACS on 18 April 2023, the Terms of Reference will also be amended to extend the time allowed for presenting your report to 31 July 2023.

Thank you for your ongoing work.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Shane Rattenbury'.

Shane Rattenbury MLA
Attorney General

25 April 2023

cc Mr Andrew Barr MLA
Chief Minister

From: "Seesink, Mark"
Sent: 05/07/2023 3:19 PM
To: "Banks, HelenP" <HelenP.Banks@inquiry.act.gov.au>; "CMCD DLO" <CMCDDLO@act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

Hi Helen,

Thanks for you email - if you could work with CMTEDD that would be great thanks.

Thanks,
Mark

Mark Seesink
Executive Officer | Office of Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
Phone: 02 6205 0287 | Email: mark.seesink@act.gov.au



From: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Sent: Tuesday, July 4, 2023 5:53 PM
To: Seesink, Mark <Mark.Seesink@act.gov.au>; CMCD DLO <CMCDDLO@act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

OFFICIAL

Dear Mark and Gez

Section 14(3) of the *Inquiries Act 1991* provides that when submitting a report to the Chief Minister, a board must commit any documents and things then in its possession to the custody of the Chief Minister for safekeeping. I am assuming that the Chief Minister is not expecting for all documents, computers etc to be physically delivered to him on 31 July 2023.

Is the Chief Minister content for Walter to inform him that all electronic documents will be stored in accordance with the Territory Records Act and that all assets and other equipment will be returned to JACS at the conclusion of the filing and storage process?

Please let me know if you would like me to discuss this issue with someone in CMTEDD if that is easier.

Thanks

Helen Banks
Executive Director
Board of Inquiry – Criminal Justice System
Level 5 Nara Centre
3 Constitution Avenue CANBERRA CITY ACT 2601| PO Box 1429, CANBERRA ACT 2601

From: Seesink, Mark <Mark.Seesink@act.gov.au>
Sent: Friday, 30 June 2023 2:35 PM
To: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

Hi Helen,

Apologies for the delay in getting back to you.

It is not the intention of the Chief Minister's Office to have this as a Media opportunity

Thanks,
Mark

Mark Seesink
Executive Officer | Office of Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
Phone: 02 6205 0287 | Email: mark.seesink@act.gov.au



From: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Sent: Monday, June 26, 2023 12:13 PM
To: Seesink, Mark <Mark.Seesink@act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

OFFICIAL

Thanks Mark. I have received questions from the media on whether there will be a photo opportunity for the presentation of the report. Do you have a view?

From: Seesink, Mark <Mark.Seesink@act.gov.au>
Sent: Friday, 16 June 2023 4:56 PM
To: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>; CMCD DLO <CMCDDLO@act.gov.au>
Cc: Perkins, FelicityC <FelicityC.Perkins@inquiry.act.gov.au>; Sch 2.2(a)(ii) <sofronoff.com.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

Great, thanks Helen!

I've added Walter to the diary entry.

Thanks,
Mark

Mark Seesink
Executive Officer | Office of Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
Phone: 02 6205 0287 | Email: mark.seesink@act.gov.au

From: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Sent: Friday, June 16, 2023 9:35 AM
To: Seesink, Mark <Mark.Seesink@act.gov.au>; CMCD DLO <CMCDDLO@act.gov.au>
Cc: Perkins, FelicityC <FelicityC.Perkins@inquiry.act.gov.au>; Sch 2.2(a)(ii) <sofronoff.com.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

OFFICIAL

Dear Mark

Walter has locked in 1:30pm on Monday 31 July 2023 to meet with the Chief Minister.

Thanks

Helen Banks
Executive Director
Board of Inquiry – Criminal Justice System
Level 5 Nara Centre
3 Constitution Avenue CANBERRA CITY ACT 2601 | PO Box 1429, CANBERRA ACT 2601

From: Seesink, Mark <Mark.Seesink@act.gov.au>
Sent: Friday, 9 June 2023 2:53 PM
To: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>; CMCD DLO <CMCDDLO@act.gov.au>
Cc: Perkins, FelicityC <FelicityC.Perkins@inquiry.act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

Good afternoon Helen,

Thanks so much for getting back to me.

1:30pm on Monday 31 July works for the Chief Minister - could we lock that in please?

Upon Mr Sofronoff's arrival to the Legislative Assembly (196 London Cct), could he please attend the Security Desk where they will page Rhys Thompson to escort him to the Chief Minister's Office.

Many thanks,
Mark

Mark Seesink
Executive Officer | Office of Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
Phone: 02 6205 0287 | Email: mark.seesink@act.gov.au



From: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Sent: Friday, June 9, 2023 11:27 AM
To: Seesink, Mark <Mark.Seesink@act.gov.au>; CMCD DLO <CMCDDLO@act.gov.au>
Cc: Perkins, FelicityC <FelicityC.Perkins@inquiry.act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

OFFICIAL

Dear Mark

Mr Sofronoff is available all day on 31 July 2023 and is happy to fit in with the Chief Minister in relation to time in the afternoon.

Thanks

Helen Banks
Executive Director
Board of Inquiry – Criminal Justice System
Level 5 Nara Centre
3 Constitution Avenue CANBERRA CITY ACT 2601 | PO Box 1429, CANBERRA ACT 2601

From: Seesink, Mark <Mark.Seesink@act.gov.au>
Sent: Wednesday, 7 June 2023 2:59 PM
To: CMCD DLO <CMCDDLO@act.gov.au>; Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Subject: RE: Meeting with Chief Minister Barr - Board of Inquiry Report

Hi Helen,

The Chief Minister is happy to receive it in person, and is pretty flexible on the afternoon of the 31 July, or the morning of 28 July if that works better for Mr Sofronoff.

Looking forward to hearing from you.

Kind regards,

Mark Seesink
Executive Officer | Office of Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
Phone: 02 6205 0287 | Email: mark.seesink@act.gov.au



From: Hodshon, Gerard <Gerard.Hodshon@act.gov.au> **On Behalf Of** CMCD DLO
Sent: Wednesday, June 7, 2023 2:34 PM
To: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>; Seesink, Mark <Mark.Seesink@act.gov.au>
Cc: CMCD DLO <CMCDDLO@act.gov.au>
Subject: Meeting with Chief Minister Barr - Board of Inquiry Report

OFFICIAL

Dear Helen,

The Chief Minister would be pleased to meet with Mr Sofronoff.

Would you mind suggesting dates and times to Mark Seesink, the Chief Ministers Executive officer (cc'd). Mark will coordinate arrangements.

I would be grateful if you could cc myself for awareness.

Kind regards,
Gez

Gerard Hodshon (Gez) | CMTEDD Directorate Liaison Officer
Office of the Chief Minister | ACT Government
Ph: 0417 693 240 | CMCDDLO@act.gov.au | MS Teams
ACT Legislative Assembly | GPO Box 158 CANBERRA ACT 2601 | www.act.gov.au

From: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>
Sent: Monday, 5 June 2023 4:34 PM
To: CMCD DLO <CMCDDLO@act.gov.au>; Perkins, FelicityC <FelicityC.Perkins@inquiry.act.gov.au>
Subject: Board of Inquiry Report

OFFICIAL

Dear Gerard

Section 14 of the *Inquiries Act 1991* provides that the Board must prepare a report of the inquiry and submit the report to the Chief Minister. The Board is due to provide the report to the Chief Minister by 31 July 2023. Are you able to please enquire with the Chief Minister how he wishes to receive the report. I can discuss with Mr Sofronoff the option of coming to Canberra to personally hand over the report if this is suitable to the Chief Minister.

Happy to discuss further how to progress the provision of the report.

Thanks

Helen Banks
Executive Director
Board of Inquiry – Criminal Justice System
Level 5 Nara Centre
3 Constitution Avenue CANBERRA CITY ACT 2601 | PO Box 1429, CANBERRA ACT 2601

From: "BARR Reception"
Sent: 03/08/2023 11:44 AM
To: "Walter Sofronoff" <walter@sofronoff.com.au>
Cc: "RATTENBURY" <RATTENBURY@act.gov.au>
Subject: Correspondence from the Chief Minister and Minister Rattenbury
Attachments: Letter - Walter Sofronoff KC - Board of Inquiry - 3 August 2023.pdf
Importance: High

Good morning

Please find the attached correspondence from the Chief Minister and Minister Rattenbury.

Kind regards
Rhys

Rhys Thompson
Office Manager | Office of Andrew Barr MLA
Chief Minister
Treasurer
Minister for Climate Action
Minister for Economic Development
Minister for Tourism
Member for Kurrajong





Andrew Barr MLA
 Chief Minister
 Treasurer
 Minister for Climate Action
 Minister for Economic Development
 Minister for Tourism

Member for Kurrajong

Shane Rattenbury MLA
 Attorney-General
 Minister for Consumer Affairs
 Minister for Water, Energy and Emissions Reduction
 Minister for Gaming

Member for Kurrajong

Mr Walter Sofronoff KC
 Chair, Board of Inquiry – Criminal Justice System
 PO Box 1429, Canberra, ACT, 2601
 3 August 2023

Dear Mr Sofronoff

Disclosure of Report of the Board of Inquiry into the Criminal Justice System

We are writing regarding the disclosure of the Report of the Board of Inquiry into the Criminal Justice System. Findings of the report are published in today's media.

Following advice from the ACT public service, we would appreciate your earliest possible response to the following questions:

1. Did you provide copies of the report to anybody other than the ACT Chief Minister?
2. If so, to whom were those copies provided, when, and on what basis?
3. If copies were provided to anybody other than the Chief Minister, under what authority where those copies provided?

You will appreciate that your response will inform the Government's public comment and responses to media inquiries.

Yours sincerely

Andrew Barr MLA
 Chief Minister

Shane Rattenbury MLA
 Attorney-General

From: "BARR Reception"
Sent: 03/08/2023 4:34 PM
To: "Leigh, Kathy" <Kathy.Leigh@act.gov.au>; "Glenn, Richard" <Richard.Glenn@act.gov.au>; "Garrison, Peter" <Peter.Garrison@act.gov.au>
Cc: "Cook, Michael" <Michael.Cook@act.gov.au>; "Paviour, Mark" <Mark.Paviour@act.gov.au>; "Jaques, Alison" <Alison.Jaques@act.gov.au>; "Georgeson, Matthew" <Matthew.Georgeson@act.gov.au>
Subject: FW: Reply to correspondence from the Chief Minister and Minister Rattenbury
Attachments: Reply to Chief Minister & Attorney-General.pdf

Good afternoon all,

Please find the attached letter of response from Mr Sofronoff.

Kind regards,
 Rhys

Rhys Thompson
Office Manager | Office of Andrew Barr MLA
 Chief Minister
 Treasurer
 Minister for Climate Action
 Minister for Economic Development
 Minister for Tourism
 Member for Kurrajong



From: Sch 2.2(a)(ii) @sofronoff.com.au>
Sent: Thursday, 3 August 2023 4:27 PM
To: BARR Reception <BARR@act.gov.au>
Cc: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>; Cuddihy, GenevieveA <GenevieveA.Cuddihy@inquiry.act.gov.au>; Erin Longbottom Sch 2.2(a)(ii) Joshua Jones
 Sch 2.2(a)(ii)
Subject: Re: Reply to correspondence from the Chief Minister and Minister Rattenbury

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Caution: This email originated from outside of the ACT Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. [Learn why this is important](#)

My apologies, the letter is attached.

Kind regards

Sch 2.2(a)(ii)

stant to Walter Sofronoff KC

Murray Gleeson Chambers, Level 31, 239 George Street, Brisbane. Qld. 4000

E: Sch 2.2(a)(ii) @sofronoff.com.au

M: Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

From: Sch 2.2(a)(ii) <[redacted]@sofronoff.com.au>

Sent: Thursday, August 3, 2023 4:25 PM

To: BARR Reception <BARR@act.gov.au>

Cc: Banks, HelenP <HelenP.Banks@inquiry.act.gov.au>; Cuddihy, GenevieveA

<GenevieveA.Cuddihy@inquiry.act.gov.au>; Erin Longbottom <[redacted]>; Joshua Jones

<[redacted]>

Subject: Reply to correspondence from the Chief Minister and Minister Rattenbury

Dear Mr Thompson

Please find attached Mr Sofronoff's reply to the correspondence regarding the Report.

Kind regards

Sch 2.2(a)(ii)

Assistant to Walter Sofronoff KC

Murray Gleeson Chambers, Level 31, 239 George Street, Brisbane. Qld. 4000

E: <[redacted]@sofronoff.com.au>

Sch 2.2(a)(ii)

Sch 2.2(a)(ii)

WALTER SOFRONOFF QC

Murray Gleeson Chambers
Level 31, 239 George Street, Brisbane Qld 4000
T: +61 7 3175 4600 | M: +61 407 925 837
Email: walter@sofronoff.com.au
ABN: 99 082 841 853

Mr Andrew Barr MLA
Chief Minister
ACT Legislative Assembly
London Circuit
GPO Box 1020
CANBERRA ACT 2601

Mr Shane Rattenbury MLA
Attorney-General
ACT Legislative Assembly
London Circuit
GPO Box 1020
CANBERRA ACT 2601

Dear Chief Minister and Attorney-General

I refer to your letter of today's date.

You have asked me whether I have provided copies of the report to anyone other than the Chief Minister. I provided a copy of the report to Ms Janet Albrechtsen and to Ms Elizabeth Byrne. Both those names are undoubtedly known to you. Each of them was given a copy upon an express agreement by them that the copy was embargoed until the government had published it. I furnished a copy of the report to Mr Leon Zwier, the solicitor for Ms Brittany Higgins. I gave it to him on his undertaking not to publish its contents to anybody, including his client. The copies were given to Ms Albrechtsen and to Mr Zwier on Sunday 31 July 2022. The copy was given to Ms Byrne yesterday.

You have asked me "under what authority where (*sic*) those copies provided". The direct and succinct answer to that question is that I furnished those copies under my authority as chair of the inquiry under the following provisions:

Section 13: Except as otherwise provided by this Act, an inquiry must be conducted in such manner as the board determines.

Section 18: In conducting an inquiry, a board -

- (a) ...
- (b) ...
- (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of the inquiry.

In relation to Mr Zwier, s 26A(1) is also material. It provides: The board must not include a comment in a report of an inquiry that is adverse to an entity who is identifiable from the report unless the board has, before making the report, given the entity a copy of the proposed comment and a written notice under subsection (2).

You have not asked me what were my reasons for giving copies to these three people but I think that it would assist you for me to state them.

The *Inquiries Act 1991* establishes a system for the holding of an inquiry established by the executive and, consistently with traditional approaches elsewhere, the statute requires - as a fundamental premise - that any such inquiry be conducted in public unless there is good reason

not to do so. The assumption of publicity also attaches to documents that are tendered. Sections 21(2), 21(4), 14B and 38 make that clear.

This traditional approach that is reflected in the ACT statute is grounded in experience that has taught that one of the great virtues of a public inquiry under statute, compared to the other forms of machinery of government policy making, is that those forms necessarily involve confidentiality but public inquiries take the community into their confidence.

Some inquiries, like the present one, may be dominated by sectional interests, such as the interest of the AFP in the present inquiry to maintain its good name. It is only the openness of the inquiry process, demonstrating its striving for open-mindedness and evidence based conclusions and criticisms, that ensures that any ensuing report is taken more seriously than policy decisions based upon other mechanisms. Even the use of techniques such as advertising to inform or educate the public can be problematical because these can be seen as politically tendentious. Also the interactions between ministers and journalists can sometimes be criticised as the product of a too-close mutually advantageous transactional relationship.

Consequently, governments such as your own in this case, rightly regard public inquiries as a sound means to educate the public about, or in anticipation of, political action.

These beneficial purposes are served when an inquiry is able to promote interest and discussion and when it can serve a mediating role between the community and the government.

The relationship of an inquiry such as mine with the community is, therefore, a vital aspect of an inquiry. There are only two ways in which an inquiry can engage with the community. One of these is to hold hearings in public, as the Act requires. However, the bulk of the community cannot be expected to attend or watch daily hearings and cannot be expected to be able to crystallise an opinion about what are issues thus presented. That essential part of the work of an inquiry can only be achieved by means of forming relationships of trust with journalists.

During the whole course of this inquiry several journalists sought access to me and counsel assisting, wishing to obtain information. It would have been wrong to deny them. Like anybody else, the chair of an inquiry cannot affect what journalists write. However, it is within the power of an inquiry head to ensure that what is written is written upon a true factual and conceptual basis. Indeed, I hold the firm view that it would be a failure of performance of my function if I did not, myself and by my counsel assisting, form appropriate relationships with journalists in order to serve the statutory purpose of public education and involvement.

My conversations with journalists for this purpose have all be conducted upon the basis that I was never speaking for publication. I made it perfectly clear that the only things that I would say for publication would be the words I spoke at public hearings and the words contained in my report. By way of background information, I sometimes told journalists what appeared to me to be the issues that would arise on the following day's hearing. Sometimes, the discussions were more general, such as concerning the conceptual interplay between the function of prosecutor and the function of investigative police.

My previous experience, as well as my experience in this inquiry, has led me to conclude that it is possible to identify journalists who are ethical and who understand the importance of their role in the conduct of a public inquiry. I have not had my trust betrayed nor have I had any reason to be disappointed. The outcome of this process of professional engagement with journalists has been that, on the whole, stories about the inquiry have been on point and informative. They have been supportive of my work - that is to say, the work that the government has instigated for its purposes. There was an exception when particular journalists abused the privilege of access to documents on our website to write a scurrilous story. I conducted a public hearing to deal with this matter and such conduct was not repeated.

In relation to the report specifically, as I have said, I gave a copy of the report to Ms Albrechtsen and Ms Byrne upon their undertaking not to use the information until after the government published the report, whenever that might be. The giving of the report on that basis served the same purpose as every one of my interactions with journalists. It served to ensure that, when the government published the report, those two journalists would be in a position swiftly and promptly to write and broadcast stories that would have as their foundation a true appreciation of the result of the work of the commission. You will observe that the furnishing of copies on this basis was limited to two journalists. Each of these were professionals who, I judged, would not take the serious step of betraying my trust by behaving unprofessionally.

Ms Albrechtsen informed me by telephone that she had obtained a copy of my report from another source and that she regarded herself as being at liberty to write about its contents. I have no reason to believe that she was lying to me.

The content of Ms Maiden's story implies to me that she has been given the benefit of a disclosure of part of the report. I presume that if she had the whole of it, her story would have been of wider scope.

Sch 1 1.4

Mr Zwier read the report and called me to say that he had no objection. I have no doubt at all that he did not breach his undertaking.

I trust that this assists you in your consideration of the problems that have been caused by today's publication. Please do not hesitate to write to me or to call if I can serve you further.


Yours sincerely



WALTER SOFRONOFF KC

cc: Ms Helen Banks
Ms Genevieve Cuddihy
Ms Erin Longbottom
Mr Joshua Jones

Documents 13 – 23 are exempt (pages 32-85) as per the schedule of documents.

13:38 

Andrew >

Wed, 2 Aug at 08:28

Chief

Although Mr Sofronoff said on Monday that he would not be doing any media he apparently gave embargoed copies of a draft of the report to some journalists. Janet Albrechtson's article in today's Australian would appear to reflect this.

Kathy

Hmmm. That seems improper.

13:26



87

New iMessage

Cancel

To: Michael Cook

Wed, 2 Aug at 08:30



I just sent this to the Chief.

Chief

Although Mr Sofronoff said on Monday that he would not be doing any media he apparently gave embargoed copies of a draft of the report to some journalists. Janet Albrechtson's article in today's Australian would appear to reflect this.

Kathy

08:30

That's... astounding

08:32

What was he thinking

08:33

And he never mentioned it to CM

08:34

Wed, 2 Aug at 18:30



iMessage



New iMessage

Cancel

To: Michael Cook

Wed, 2 Aug at 18:30



18:30

Police right to charge Lehrmann: report

news.com.au



Helen tells me that Mr Sofronoff was reading the article when she spoke with him. He said he definitely did not give Samantha Maiden information about the draft but it was obvious that someone had. He will contact Janet Albrechtsen and Elizabeth Byrne about the redaction.

19:04

From Helen:



iMessage



New iMessage

Cancel

To: Michael Cook

From Helen:

Solicitors and I have reread article and we are of the view that, despite what she claims about sources, all information quoted was already in public domain from the hearings.

19:26

Interesting, and seems right. Noting she clearly mentions "final report" but that could be some creative license / anticipation.

19:28

Wed, 2 Aug at 22:27

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theaustralian.com.au



22:27

Yes discussing with Richard now

22:28

She's clearly broken Sofronoff's "embargo", for whatever that was worth.

22:32



iMessage



New iMessage

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To: Michael Cook

Thu, 3 Aug at 07:38

Hi Kathy - I've spoken with CM and he's spoken with Attorney. They've asked for a set of actions this morning:

A few agreed actions:

1. A letter drafted for CM to Mr Sofronoff (possibly co-signed with Attorney) seeking confirmation of our understanding that he provided "embargoed" copies of the report to the media.
2. Expedition of the "show cause" letter to Drumgold.
3. A legally checked holding media line that confirms the above two actions.
4. Confirmation that the Government will release a



iMessage



New iMessage

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To: Michael Cook

4. Confirmation that the Government will release a (interim) response to the recommendations when we release the report.

07:38

Sch 1 1.6

6. Active provision of personal support services to Drumgold given the pressure he will be under in coming days.

CMO will draft the lines for point 3 and provide to you and Mr Garrison this morning for review.

Does this sound OK to you? Anything we've missed? Happy to chat at a convenient time



iMessage



New iMessage

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To: Michael Cook

Does this sound OK to you?
Anything we've missed? Happy
to chat at a convenient time,
noting your diary this morning.

Thanks Michael. 4 and 5 are just
for internal clarity? And I assume
will be reflected whenever media
questions come on.
Yes I can't think of anything else.

07:45

1 Reply

PS The CT article does not seem
to be Elizabeth Byrne but off the
back of the Janet Albrechtsen
article? I can't see a name on it.

07:47

1 Reply

Thanks Michael. 4 and 5 are just for internal
clarity? And I assume will be reflected whenever
media questions come on.

Yes, 4 and 5 internal confirmation



iMessage



New iMessage

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To: Michael Cook

Yes, 4 and 5 internal confirmation of still proceeding with approach that was agreed yesterday

07:48

PS The CT article does not seem to be Elizabeth Byrne but off the back of the Janet Albrechtsen article? I can't see a name on it.

That's my read of it

07:48

Thu, 3 Aug at 10:09

I'm out of ED presentation if you want to chat.

10:09

Thu, 3 Aug at 11:14

Are you free now?

11:14

Or into next thing

11:14

Oh did you just try to call again?

11:38



No

11:39



iMessage



13:30



New iMessage

Cancel

To: Michael Cook

Are you in office. 11:40

I'll get copy of changes walked over to you if you are. And one for Min Rattenbury 11:41

I'm in old cabinet room but can walk back into office when they come over. Yersheena in office as well. 11:42

Ok thanks. Sarah will walk over with sealed envelopes shortly. 11:43

Hi are you ok to meet? 12:40

Oh sorry just walking out of meeting with Shane will log in shortly 12:41

No problem 12:42

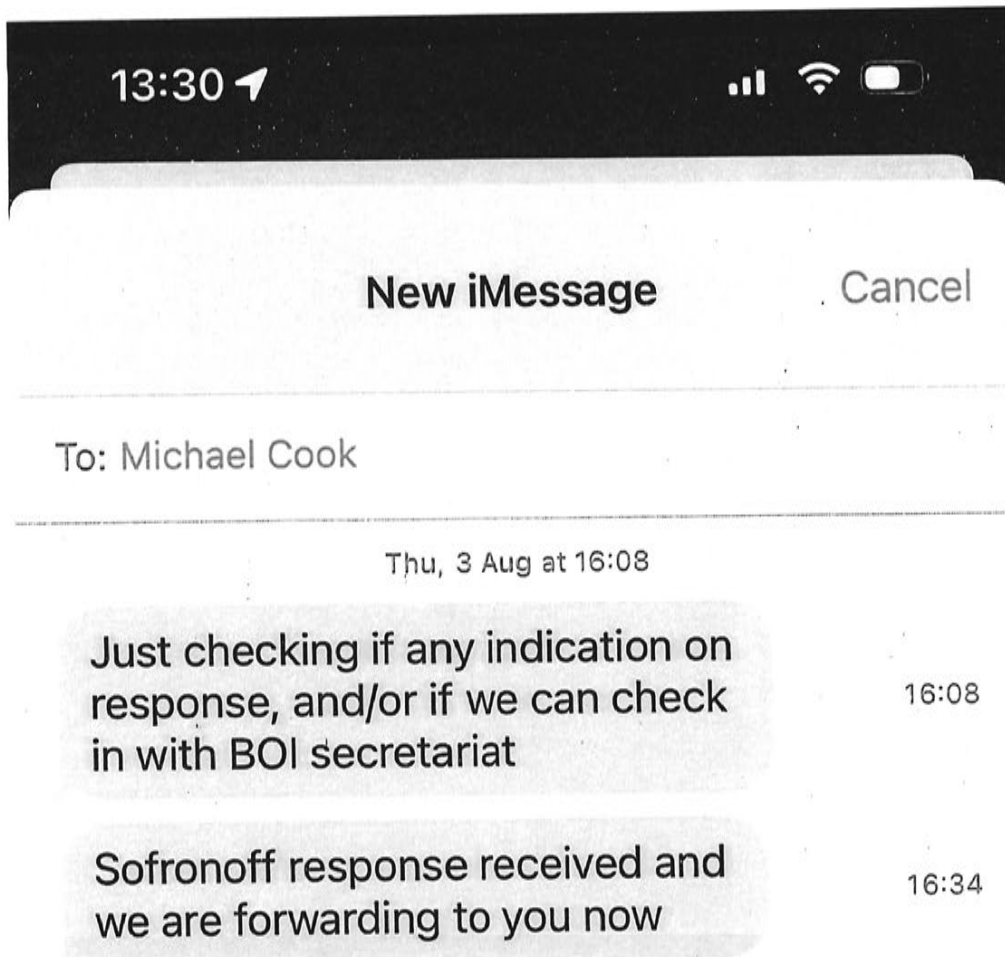
Thu, 3 Aug at 16:08

Just checking if any indication on reference and/or if we can check 16:08



iMessage





13:31



New iMessage

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To: Michael Cook

Fri, 4 Aug at 14:49

Outside Scope

Fri, 4 Aug at 19:19



19:19

Walter Sofronoff KC reveals why he provided own report to journalists

news.com.au



iMessage



New iMessage

Cancel

To: Michael Cook

Looks like Mr Sofronoff or someone else has already released his letter

19:20

Or part thereof

19:37

Sat, 5 Aug at 15:03

Pls call.

15:03

Hi kathy will call 2 mins

15:31

Sat, 5 Aug at 16:59

Hi Kathy - Attorney told CM earlier that Govt response finished - is Richard able to send through to CMTEDD/CMO so Chief can review and then agree with Attorney tomorrow?

16:59

Chief also fine with AFP concerns letter handling process. But can't see any argument that would cause him to not publish.

16:59



iMessage



New iMessage

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To: Michael Cook

Sat, 5 Aug at 18:12

BOI Response has just been sent from JACS to CMTEDD - not sure exact contact point - if it hasn't come to you I can forward, SRO has sent to me

18:12

Sun, 6 Aug at 13:13

Michael could you please provide any submissions that are received about release of the report directly to Sam Tyler and myself. We have done all the prep to brief the Chief that we can do prior to see the submissions. Thanks
Kathy

13:13

Will do. Nothing at this point that I'm aware. Will get Rhys to check the BARR account

13:13

Expect won't come until tomorrow morning.

13:14



iMessage



New iMessage

Cancel

To: Michael Cook

Sun, 6 Aug at 17:46

Hi Kathy - the draft media statement is on your and Peter's emails. Should have been clear, we don't need back tonight - just tomorrow am.

17:46

Ok thanks.

17:56



I've also asked Richard Glenn to have a look at it.

17:57

Yes thanks

17:57

Sun, 6 Aug at 20:04

Sorry to call again. See email.

20:04

No worries. Just in bedtime routine :) have seen email and will draw to CM attention.

20:11

Thanks

20:11

Sun, 6 Aug at 22:13



iMessage



New iMessage

Cancel

To: Michael Cook

Sun, 6 Aug at 22:13

Hi Kathy - a strange one - we've been alerted that there is a tweet purporting to show a screenshot of a call to a self-declared "independent journalist" from Mr Sofronoff, including his mobile number.

Is there a way we can check if this is really Mr Sofronoff's number?

22:13

If not, we can treat it as a hoax. If it is, he may wish to take steps to have it removed. But then it raises further questions about the purpose of the call. Pix follow:

Sch 2.2(a)(ii)



iMessage



13:33



101

New iMessage

Cancel

To: Michael Cook

Sch 2.2(a)(ii)

22:13

22:13

I don't know what his number is. I could contact staff of BOI in the morning and suggest they draw his attention to it.

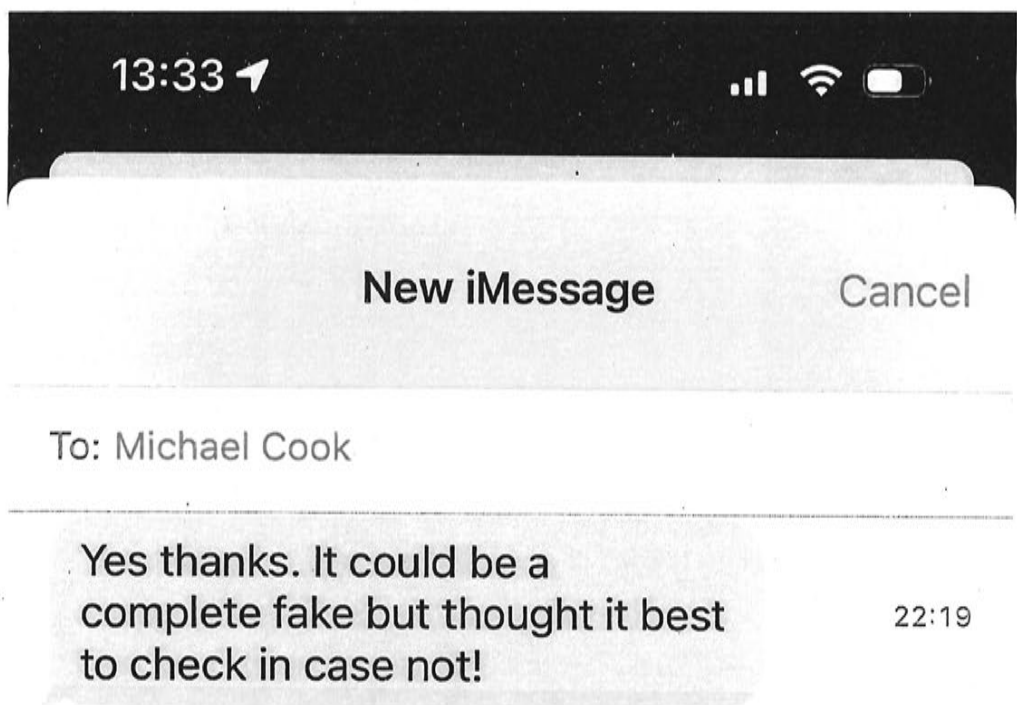
22:18

Yes thanks. It could be a



iMessage





13:33 ↗



New iMessage

Cancel

To: Michael Cook

Yes thanks. It could be a complete fake but thought it best to check in case not!

22:19