

# Prosecution Matter

Media Release - Attorney-General  
28 June 2018

<https://www.attorneygeneral.gov.au/media/media-releases/prosecution-matter-28-june-2018>

I can confirm a former staff member of the Australian Secret Intelligence Service and a Mr Bernard Collaery have been summoned to appear in connection with offences under section 11.5 of the Criminal Code and section 39 of the *Intelligence Services Act 2001* (the IS Act).

The former staff member will be charged with an offence of conspiracy to communicate ASIS information, contrary to section 11.5 of the Criminal Code and section 39 of the IS Act.

Mr Collaery will be charged with an offence of conspiracy to communicate ASIS information, contrary to section 11.5 of the Criminal Code and section 39 of the IS Act, and with further offences of communicating ASIS information contrary to section 39 of the IS Act.

Procedurally, the IS Act provides that a prosecution under section 39 may be instituted only by, or with the consent of, the Attorney-General or a person acting under the Attorney-General's direction.

In this matter the Commonwealth Director of Public Prosecutions (CDPP) considered the brief of evidence and subsequently made an independent decision that a prosecution was the appropriate course of action having due regard to the matters requiring consideration under the Prosecution Policy of the Commonwealth.

Accordingly the Director sought my consent to that decision to prosecute, which consent I provided.

There are also two matters that are very important to note.

First, the former staff member's identity continues to be protected by section 41 of the *Intelligence Services Act 2001*; as such, it would be an offence to identify the former staff member.

Second, having formally confirmed the process regarding these matters - I can also confirm that I will not be providing detailed comment on their substance and that is because the matters are now before the Court.

I would also encourage any member with an interest in this case to be conscious of the fact that the priority must be to allow judicial processes to be conducted without commentary which could impact on the fairness and regularity of those proceedings.

**Ends**