

Secret document is key: Witness K lawyer

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<https://au.news.yahoo.com/witness-k-inches-closer-day-173008071.html>

Attorney-General Michaelia Cash can expect to be served a subpoena to produce a secret document that Witness K's lawyer says is vital to his defence.

Witness K is an ex-Australian intelligence officer who blew the whistle on the bugging of East Timor that he says occurred in 2004 during talks to carve up lucrative oil and gas reserves. He has faced years of political and procedural tactics to stop the exposure of tradecraft reportedly used against Australia's friend and neighbour.

Lawyer Haydn Carmichael, appearing for Witness K at the ACT Magistrates Court on Wednesday, maintained his application for a temporary stay of proceedings. Mr Carmichael argues there is a crucial document in Commonwealth possession that is subject to the confidentiality regime.

He insists disclosure of the document would enable fairness for Witness K and would mean the prosecution could meet its disclosure obligations.

"Their conception of conspiracy is possibly different from ours," Mr Carmichael said.

Acting chief magistrate Glenn Theakston agreed to make a decision on an interim stay on May 13, ahead of a sentencing hearing still scheduled for June 3-4. Mr Theakston said the mere potential of the document was no basis to delay proceedings and was more concerned about the prospect of a contested facts face-off in June instead of a simple plea hearing.

"I'm yet to receive any facts," the former terrorism prosecutor and defence reservist told the court.

He advised Mr Carmichael there was a proper procedure available to Witness K and advised him to serve a subpoena on the attorney-general for production of the document. The attorney-general's office told AAP: "No change is proposed to the government's position on the prosecution of Witness K."

Mr Theakston also warned prosecution barrister Christopher Tran to prepare for a contested facts hearing that would force the disclosure of required documents.

Mr Carmichael welcomed the attorney-general's decision to grant financial assistance to Witness K, apparently on Tuesday and 20 months after the question of legal aid was first put.

The retired Australian Secret Intelligence Service officer is being prosecuted for breaches of the Intelligence Services Act. Allegedly acting on instructions from then ASIS head David Irvine, Witness K reportedly installed listening devices in the East Timor cabinet room as Australia and the nascent democracy prepared to make a deal on offshore boundaries.

His identity remains classified.