

Independent National Security Legislation Monitor likely to investigate use of national security laws in Collaery, Witness K cases

Sally White – *Canberra Times* – 24 March 2021

<https://www.canberratimes.com.au/story/7180413/national-security-watchdog-could-review-collaery-witness-k-cases/>

The Independent National Security Legislation Monitor has signalled he is likely to investigate the use of national security laws to enforce secrecy in the case against Bernard Collaery and Witness K.

New to the role and in his first appearance at Senate estimates, Grant Donaldson told senators he would consider reviewing the issuing of a certificate under the National Security Information Act by Attorney-General Christian Porter.

"I will be considering that matter at the appropriate time," he said, explaining the appropriate time would be after the case had been dealt with by the court.

"There has been a great deal of disquiet concerning the invocation of the NSI Act in the circumstances of the Collaery matter," Mr Donaldson said.

Mr Donaldson has already launched an inquiry into the case of Witness J, a former intelligence official known by the pseudonym Allan Johns, as he can't be identified. Mr Donaldson has arranged to speak to Witness J and his lawyers, he said.

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- [Independent National Security Legislation Monitor launches independent review following secret Witness J prosecution](#)
- [Witness J case unprecedented says national security watchdog](#)
- [Attorney-General Christian Porter has appointed Grant Donaldson as the new INSLM](#)
- [Witness J says pandemic prevented him from giving classified evidence](#)

The oversight body will assess whether legislation aimed at protecting Australia's national security was used proportionately following the secret prosecution of the Commonwealth employee.

"He was charged, arraigned, convicted on his plea of guilty, sentenced and served his sentence, without public awareness of any of this," Mr Donaldson said on Tuesday evening.

"The court was for all appearances closed, and no reasons of any magistrate or judge who presided over any of the various steps in the process have ever been published."

The former intelligence officer's prosecution was publicly revealed following a raid by Australian Federal Police of his Alexander Maconochie Centre cell in order to intercept a memoir he was writing of his situation.

The case sparked outrage among politicians and the public, including then-ACT justice minister Shane Rattenbury - [who was unaware of the prisoner](#) despite being in charge of the territory's corrections system at the time.

In a completely separate case, Mr Collaery, a lawyer and former ACT attorney-general, is fighting five charges alleging he breached the Intelligence Services Act by sharing protected information and conspiring with former spy Witness K to do so.

READ MORE:

- [Bernard Collaery victim of 'unfair' delays in approval of barrister: judge](#)
- [Bernard Collaery trial to be held partially in secret after ACT Supreme Court ruling](#)
- [Bernard Collaery case: Safes for judges among special secrecy measures](#)

The allegations concern the pair's roles in the exposure of a 2004 operation in which spies bugged a government building in the impoverished nation of East Timor to give Australia an advantage in negotiations over lucrative oil and gas resources.

The decision for parts of Mr Collaery's trial [to be conducted partly in secret for national security reasons is under appeal](#).

While similar certificates limiting access to documents and what can be made public were issued in each case, in the case of Witness J the certificate was issued by consent.

In the case of Bernard Collaery and Witness K, it was issued without consent, giving rise to a possible second and separate inquiry.