

'Harm statement' to be released to former spy Witness K

By *Alexandra Back*, Canberra Times 7 October 2019

A magistrate hearing the case of a former spy charged over the exposure of an Australian bugging operation on East Timor made interim orders on Tuesday about the handling of sensitive information.

But Acting Chief Magistrate Glenn Theakston said before he finalised the orders, which relate to the disclosure, protection and handling of national security information, the Commonwealth attorney-general would have to provide evidence to demonstrate why they were necessary.

The interim orders, agreed between the parties, allow the "harm statement", which outlines harm alleged to have been done by an offence, to be released to the former spy, who is known only as Witness K.

Witness K will face a sentence hearing in the ACT Magistrates Court after indicating an intention to plead guilty to a charge of conspiracy to breach s39 of the Intelligence Services Act.

The law makes punishable the revealing of information of any kind about the Australian Secret Intelligence Service.

But the plea is on what his barrister Haydn Carmichael described as a limited conspiracy, that relates to Witness K's swearing of an affidavit for the Hague.

Witness K and federal prosecutors are still negotiating a set of agreed facts.

The court also heard that a member of the public had made an application for leave to appear in the case as *amicus curiae*, or friend of the court.

Ernst Willheim said he would provide information to the court on the principle of open justice and considerations the court should have regard to in relation to claims of harm to national security.

Counsel for the attorney-general, Tim Begbie, said they neither supported nor opposed Mr Willheim's application.

Mr Willheim's application was adjourned to November.

The prosecution relates to the exposure of an Australian bugging operation on the East Timorese in the midst of negotiations between the two countries about the sharing of lucrative oil and gas reserves.

Witness K's former lawyer and co-accused Bernard Collaery will fight the charge against him at trial.

The case will return to court on November 11.