

Coalition spends \$2m on prosecution of Bernard Collaery and Witness K, even before trial

Exclusive: Pair are being pursued because they exposed 'unAustralian conduct', crossbench senator Rex Patrick says

By *Christopher Knaus* in The Guardian, 25 June 2020

The Coalition has so far spent \$2m prosecuting lawyer Bernard Collaery and former intelligence officer Witness K, an amount described as “extraordinary and outrageous” for a case that is yet to even reach trial.

The government has [faced sustained criticism](#) for its pursuit of Collaery and Witness K over their role in exposing Australia’s bugging of Timor-Leste, a friendly and impoverished ally, during negotiations to split lucrative oil and gas reserves.

Collaery, a former attorney general of the ACT, is currently facing trial for communicating intelligence information and conspiring with his client Witness K, a former Australian Secret Intelligence Service officer who was disturbed by the bugging operation.

Late on Thursday, the federal government confirmed it had spent \$2.063m on the prosecution of Collaery and Witness K since it began about two years ago.

In response to a question on notice from crossbench senator Rex Patrick, the government said the figure included external legal costs incurred by the commonwealth, payment for the services of the Australian government solicitor, and other solicitors’ and counsel fees.

The \$2m expense to taxpayers has been amassed despite the proceedings still [being locked in pre-trial stages](#), and will rise significantly when and if the matter reaches trial.

To put the figure in perspective, the federal government has already spent roughly one-third of the total costs incurred during the ACT’s most complex and lengthy trial in recent memory: [the five-month re-trial](#) of David Eastman.

In the Eastman case, the ACT government not only covered the cost of prosecutors and their counsel, but also paid for Eastman’s Legal Aid defence, and made special funding available to the courts and local police.

It still spent \$6.5m, including pre-trial hearings and related proceedings.

Patrick told the Guardian the \$2m had been spent “persecuting two Australian heroes that called out the Australian government’s immoral and unlawful conduct”.

He said Australia’s actions in bugging the [Timor-Leste](#) government “violated customary international law”, likening it to fraud or corruption, and alleging it breached the Vienna convention.

“Collaery and K are being prosecuted because they exposed this un-Australian conduct,” Patrick said.

“Perhaps the government doesn’t mind the cost of these proceedings, being rather small in comparison to value of the natural resources Australia ultimately took from the then newest and most impoverished country in the world. It’s just the cost of doing dirty business.”

Lawyer Michael Kukulies-Smith, who [has chaired](#) the ACT Law Society’s criminal law committee for more than a decade, said the cost was extraordinary, given the current stage of proceedings.

“Two million dollars spent on trial preliminaries is both extraordinary and outrageous,” he told the Guardian. “It suggests the ultimate cost of this prosecution will be unreasonably high.”

“The government would do much better to spend such money on fixing Australia’s legal aid funding crisis.”

The case against Collaery and Witness K has [faced repeated delays](#) and the sensitive material involved has necessitated a complex pre-trial hearing, which may help to explain the added cost.

The pre-trial hearing was caused by the commonwealth’s intervention in the matter using the national security information act, which it is using to ensure parts of the trial will be kept secret from public.

A pre-trial hearing last month was held in closed court.