

Prosecution Duty of Disclosure

CPD 8 February 2022

Presented by Peter Matthews and Cheryl Richardson

Email pjmatthews@vicbar.com.au

Phone (03) 9225 7130

Profile [Link](#)

Email cheryl.richardson@vicbar.com.au

Phone (03) 9225 6079

Profile [Link](#)

Reference List

Scope of the duty of disclosure

Roberts v R [2020] VSCA 58, (2020) 60 VR 431

Roberts v R [2020] VSCA 277

R v Farquharson [2009] VSCA 307, (2009) 26 VR 410

R v Spiteri (2004) 61 NSWLR 369)

R v Keane [1994] 1 WLR 746

R v Brown [1998] AC 367

Mallard v R (2005) 224 CLR 125

AJ v R [2001] VSCA 215

R v Garofalo [1998] VSCA 145

Ward [1993] 1 WLR 619

Consequences of a breach of the duty

Roberts v R [2020] VSCA 58, (2020) 60 VR 431

Roberts v R [2020] VSCA 277

Baini v R (2012) 246 CLR 469

Orman v R [2019] VSCA 163

Cvetanovski v R [2020] VSCA 272

Legal Professional Privilege

Glencore International AG v Commissioner of Taxation [2019] HCA 26.

Mann v Carnell (1999) 201 CLR 1 re waiver.

ASIC v Southcorp (2003) 46 ACSR 438 re expert reports.

Expense Reduction Analysts Group Pty Ltd v Armstrong Strategic Management and Marketing Pty Ltd [2013] HCA 46 re inadvertent disclosure.

Public Interest Immunity

Sankey v Whitlam (1978) 142 CLR 1

AB & EF v CD [2017] VSC 350

AB v CD & EF [2017] VSCA 338

Holloway v Commonwealth [2016] VSC 317

R v Mokbel [2005] VSC 410

Mokbel v The Queen [2021] VSCA 366

AB v CD; EF v CD [2018] HCA 58

DPP Prosecution Policy: <https://www.opp.vic.gov.au/Resources/Policies>

Complex Disclosure Protocol: <https://www.opp.vic.gov.au/Resources/Publications>

Justice Legislation Amendment (Criminal Procedure Disclosure and Other Matters) Bill 2021

<https://www.legislation.vic.gov.au/bills/justice-legislation-amendment-criminal-procedure-disclosure-and-other-matters-bill-2021>

Note also:

Law Institute of Victoria Ethics Guidelines Inadvertent Disclosure 2015

<https://www.liv.asn.au/Web/Content/Resource Knowledge Centre/Ethics Support Resources/LIV-Ethics/Ethics-Guidelines.aspx>