

## FREEDOM OF INFORMATION CASE NOTES

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### **The *Information Act* prevails in the event of inconsistency – S. 9**

The Complainant sought documents from an organisation which he claimed would identify issues of impropriety concerning a juror in a criminal trial. The Complainant identified the juror by name in his application.

The organisation refused access on the ground that s 49B(2) of the *Juries Act* made it an offence to disclose information. The *prima facie* decision maker found that information could not be exempt from disclosure under s 49B(2) of the *Juries Act*, as it was not a category of exemption under the *Information Act*. Section 9 of the *Information Act* provides that the *Information Act* prevails to the extent of any inconsistency over other laws of the Territory.

The organisation had also refused access on the basis that the information was part of the deliberative processes of the organisation, and the information would 'inhibit frankness and candour in future pre-decisional considerations' by the organisation. The *prima facie* decision maker accepted that disclosure of the information would impact on the organisation in this way, and that the impact would be substantial, both on the organisation's operations and its ability to act in the public interest. The complainant argued that the information disclosed a particular sort of impropriety concerning the juror and the trial in question, and it was in the public interest for that impropriety to be disclosed. The *prima facie* decision maker found that there was no evidence to support the complainant's contention that such an impropriety occurred, and therefore this allegation did not raise any relevant public interest considerations.

The decision maker found there was insufficient *prima facie* evidence to substantiate the complaint and dismissed the complaint.