

Government wants East Timor spy charged

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The Australian government has asked the federal police to investigate if lawyer Bernard Collaery and a former spy can be charged with disclosing classified information after revelations Australia spied on East Timor during sensitive oil and gas treaty talks.

Confirmation of the investigation came as the AFP asked the ABC to hand over material relating to its reports on the clandestine operation.

According to sources, the AFP was particularly keen on getting unedited footage of Mr Collaery's interviews with *7.30*, *Lateline* and *Four Corners*.

It might also want an extract of an affidavit from the former Australian Secret Intelligence Service agent that reporter Conor Duffy claimed to have obtained.

In the interviews with the ABC and other media organisations, Mr Collaery – who had acted for East Timor and the former ASIS agent – detailed how the former spy led the operation to insert listening devices into the wall cavity of East Timor's government offices under the cover of an aid project.

Attorney-General George Brandis and solicitor-general Justin Gleeson both said the former spy and Mr Collaery appeared to have breached laws preventing the public disclosure of classified information.

The offence carried a prison term of up to two years.

When asked if it was investigating Mr Collaery and the former spy for breaching commonwealth laws, a spokesman for the AFP said: "The AFP can confirm it has received a referral in relation to this matter. As this investigation is ongoing, it is inappropriate to comment further."

The referral was understood to have come from Senator Brandis or his department, which includes ASIO.

In emailed comments, Mr Collaery said he understood ASIO referred the matter to the AFP because of a suspected breach of section 39 of the Intelligence Services Act.

He noted that current ASIO boss David Irvine was head of ASIS at the time of the spying, which Mr Collaery said was illegal.

"This is the police knowingly or unknowingly trying to base a search warrant on an illegality.

"The AFP should be investigating [former foreign minister Alexander] Downer and Irvine."

The ABC was considering its response but was understood to be prepared to reject the request, despite intimations from the AFP that it would seek a warrant for the material if it failed to comply.

While it was happy to provide footage that went to air (it was available online anyway), it regarded the unedited footage as including off-the-record information that might reveal the identity of protected sources.

The AFP investigation was the latest twist in the extraordinary spying saga that ruptured relations between East Timor and Australia and drew the condemnation of the International Court of Justice.

ASIO agents raided the home of the former ASIS officer and the office of Mr Collaery in December, seizing documents and electronic data then cancelling the former spy's passport.

Mr Collaery was acting for East Timor in international arbitration to nullify a treaty between Australia and the tiny nation governing oil and gas reserves worth more than \$40 billion in the Timor Sea. The former ASIS agent was East

Timor's star witness in the arbitration.

East Timor argued the spying meant the treaty was not negotiated in good faith, as required under the Vienna Convention.

East Timor slammed the raids as "unconscionable conduct" and the International Court of Justice condemned the behaviour and gave an unprecedented interim order for Australia to cease any intelligence monitoring of East Timor and seal the material it seized in the raids.

East Timor was especially outraged that ASIO seized much of the legal material it was using in the arbitration against Australia. Moreover, the raids occurred just before the planned trip of the former spy to the Hague to appear before the arbitration tribunal.

But the government maintained the raids were justified, arguing they were launched to protect national security, not to hamper East Timor's legal case.

Ever since the raids, Mr Collaery had remained in Europe working on the arbitration case.

Counsel for the whistleblower also could not be reached.

This story was found at: <http://www.smh.com.au/federal-politics/political-news/government-wants-east-timor-spy-charged-20140831-10aoad.html>