

## Timor spy scandal: Former ASIS officer facing prosecution

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A former Australian Secret Intelligence Service officer and star witness for East Timor in a bitter dispute with the Abbott government over \$40 billion in oil and gas revenue is facing criminal prosecution.

Fairfax Media has learned the Australian Federal Police sent a brief of evidence to prosecutors in February following an investigation that lasted 14 months.

A spokeswoman for the Commonwealth director of public prosecutions, meanwhile, described the case as "ongoing", indicating it is actively considering laying charges.

The AFP investigation came at the request of the Australian Security Intelligence Organisation, the domestic spy service that [raided](#) the home of the former spy and East Timor's Australian lawyer Bernard Collaery in December 2013.

Attorney-General George Brandis authorised the raid on "national security" grounds, saying it was a criminal offence to communicate "any information or matter" regarding ASIS, Australia's foreign spy service.

The former ASIS spy, known as Witness K, also had his passport seized in the raids.

Without a passport, the ex-spy can't travel to The Hague to appear for East Timor before an international arbitration tribunal which will rule on whether a treaty governing the share of oil and gas reserves in the Timor Sea should be annulled.

East Timor claims the treaty was not negotiated in good faith citing an ASIS operation to insert listening devices in the government offices of the fledgling nation in 2004. At the time, the two countries were negotiating the treaty.

Witness K led the operation where agents infiltrated East Timor under cover of an aid program to place the devices inside the wall cavities of its government palace in Dili.

He is among a group of former and current spies angered by the espionage and broader cultural and workplace issues at Australia's highly secretive foreign spy service.

"Any prosecution of Witness K will be a showdown between good and evil and justice will triumph so long as our courts are able to operate," Mr Collaery said.

"We are facing an unprecedented attack on the Rule of Law and all that we have fought for over the years is now at stake."

Mr Collaery acts for Witness K. It is understood the former independent national security legislation monitor, Bret Walker SC, has also taken up the ex-spy's case.

In a speech earlier this month, Mr Collaery said the ASIS operation itself was illegal, as it did not amount to the "proper performance" of an ASIS function.

Instead, Mr Collaery argues the operation largely benefited private commercial interests, most notably

Woodside Petroleum, which leads the consortium hoping to develop the lucrative Greater Sunrise oil and gas fields, he said.

The minister for foreign affairs, Alexander Downer, who ordered the ASIS eavesdropping in 2004, later worked for Woodside as a consultant. The then head of the department of foreign affairs Ashton Calvert joined the energy giant's board after he retired. ASIS is part of the foreign affairs department.

*The Herald* is not suggesting they made their decisions to assist Woodside.

Meanwhile, the director general at ASIS in 2004 was David Irvine. Mr Irvine was head of ASIO when he directed it to raid the homes of Witness K and Mr Collaery in 2013.

Amid outrage from East Timor, the [International Court of Justice](#) ordered Australia to cease spying on East Timor and seal the documents and data it seized.

Last month, Senator Brandis agreed to [return](#) the material to Mr Collaery and East Timor's government.

At the time of the eavesdropping, ASIS was grappling with a spate of terrorist attacks directed at Australians in Indonesia.

"ASIS employees are in our front line. They serve our national interest," said Mr Collaery, a former ACT attorney-general who has acted for Australian security personnel for 30 years.

"ASIS staff are not there to serve private or party political interests. Witness K is an Australian hero, a veteran who drew the line at corrupt misuse of ASIS."

Mr Collaery added that Witness K should have his passport reissued and be allowed to travel to The Hague.

*This story was found at: <http://www.theage.com.au/national/timor-spy-scandal-former-asis-officer-facing-prosecution-20150621-ghp17.html>*