

## **Australian spy at centre of East Timor bugging scandal still under investigation**

Philip Dorling

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A former Australian spy remains under police investigation more than 14 months after ASIO controversially raided his home and triggered international legal action by East Timor that humiliated the Australian government.

The Australian Federal Police has confirmed that a criminal investigation directed against the man, identified only as "Witness K", is ongoing, but last week told a Senate estimates committee no further comment would be provided on the progress of the probe.

The AFP probe arises from an ASIO allegation that Witness K had breached intelligence services law that prohibits Australian Secret Intelligence Service (ASIS) staff from disclosing information without authorisation – a crime with a potential penalty of 10 years jail.

The origins of the investigation can be traced back to reports in May 2013 that ASIS illegally bugged Timorese cabinet ministers. East Timor began legal action in the Permanent Court of Arbitration at The Hague, arguing that Australia spied to gain an unfair advantage before both countries signed a 2006 treaty giving Australia a 50 per cent share of the \$40 billion Greater Sunrise gas field being developed in the Timor Sea by Woodside Petroleum.

Fairfax Media has learned previously undisclosed details of the bugging operation in which Witness K, as ASIS' director of technical operations, was ordered by ASIS chief David Irvine to install listening devices in Timorese ministerial offices. It happened during an Australian-funded refurbishment of the Palacio do Governo (Palace of Government) in Dili in 2004.

The listening devices were activated by a microwave beam directed from an external location – in this case an upper level suite at the Central Maritime Motel, a floating hotel moored off the Dili foreshore with a direct line-of-sight to the government offices about 500 metres away. Digital recordings were hand delivered to the Australian embassy and transmitted to Canberra for analysis.

Former intelligence officers say the operation was "unquestionably a success – from a technical viewpoint and in terms of intelligence product". However, ASIS officers involved questioned the operation's priority relative to the intelligence service's support for counter-terrorism efforts in Indonesia after the Bali bombings of October 2002, and the September 2004 bombing outside the Australian Embassy in Jakarta.

ASIS subsequently terminated the employment of Witness K. In early 2008, Witness K approached the then inspector-general of Intelligence and Security, Ian Carnell, alleging that he had been constructively dismissed "as a result of a new culture within ASIS" but the intelligence watchdog undertook no investigation.

The current Inspector-General, Vivian Thom, has said "no current or former ASIS officer has raised concerns with this office about any alleged Australian government activity with respect to East Timor". However Witness K's ASIS-approved lawyer Bernard Collaery has told Parliament that the former spy's concerns "included an operation he had been ordered to execute in Dili".

On December 3, 2013, ASIO executed search warrants on Witness K's home and Mr Collaery's office who, subsequent to his earlier work with Witness K, had been providing legal advice to East Timor.

ASIO seized correspondence between the East Timor government and its legal advisers, reportedly including a draft affidavit in which Witness K allegedly referred to the 2004 bugging operation as "immoral" and "wrong"

because it served not the national interest, but the commercial interest of large corporations. Witness K's passport was seized and cancelled on national security grounds.

East Timor Prime Minister Xanana Gusmão condemned the raids as "unconscionable and unacceptable conduct" and in March 2014 the International Court of Justice ordered Australia to immediately stop any spying operations against East Timor and to seal the documents and data seized in the ASIO raid. In September, Australia and East Timor agreed to suspend arbitration proceedings for six months while both sides undertook to seek to resolve their differences "amicably".

In a Senate estimates hearing last week, Dr Thom refused to answer questions about the Dili bugging operation, prompting independent Senator Nick Xenophon to complain "we have no idea whether this has been investigated, whether it was unlawful or not. We are none the wiser about whether the law was broken by one of our own intelligence agencies."

*This story was found at: <http://www.canberratimes.com.au/federal-politics/political-news/australian-spy-at-centre-of-east-timor-bugging-scandal-still-under-investigation-20150228-13r5rq.html>*