

Attorney-General Christian Porter signed off on spy charges over bugging case

By David Wroe

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Attorney-General Christian Porter approved the laying of criminal charges that could put a former spy and his lawyer behind bars for two years for exposing Australia's bugging of East Timor during contentious oil and gas negotiations.

The Commonwealth Director of Public Prosecutions confirmed on Thursday that it had laid charges against the two men - a former officer of spy agency ASIS known only as Witness K and a lawyer previously contracted to the agency, Bernard Collaery.

Both men have been charged with telling the East Timor government about the bugging operation in 2004, in which surveillance devices were placed in the tiny country's ministerial offices. This was allegedly done to gather intelligence on its internal deliberations over a dispute with Australia about how revenues would be split from the lucrative oil and gas fields lies under the sea between the two countries.

Mr Collaery, a former ACT attorney-general, is also charged with revealing details of the operation in a series of media interviews.

Mr Porter said prosecutions for the offences with which the two men have been charged require the consent of the Attorney-General.

He said the Commonwealth Director of Public Prosecutions made "an independent decision that a prosecution was the appropriate course of action".

"Accordingly, the director sought my consent to that decision to prosecute, which consent I provided," he said.

Mr Collaery will have to appear in the Canberra Magistrates Court on July 25. He has been served with a notice under a 2004 counter-terrorism law that limits what he can say publicly about the case - a fact he branded "laughable".

"What is the terrorist aspect of this issue?" he said.

Witness K was the head of ASIS's technical operations in 2004 when the bugging took place. He complained about the operation to the Inspector-General of Intelligence and Security, the watchdog for the nation's intelligence community.

Mr Collaery, who was then a lawyer contracted to ASIS, began representing the

officer.

East Timor had signed an oil and gas treaty with Australia but, after the bugging case was revealed, it tried to have the treaty scrapped on the grounds the bugging was illegal.

A former ASIS spy has been charged after exposing East Timor bugging, Independent MP Andrew Wilkie reveals in Parliament.

It took its case to the Permanent Court of Arbitration in The Hague. Witness K was central to their case.

On Thursday, Mr Collaery said Witness K was “a patriot Australian”.

He said he believed the charges were meant to send a message to other ASIS officers “in an organisation that may from time to time have morale problems” not to follow suit by complaining about operations.

He said there was “no charge of breaching national security” against either man.

Independent MP Andrew Wilkie used Parliament to blast the decision to lay charges.

“The bottom line is that the spying on East Timor was indeed illegal and unscrupulous,” Mr Wilkie said. “Although it was the Howard government’s initiative, the crime has subsequently been covered up by all governments ever since.

Mr Wilkie said that “one of the richest countries in the world, forced East Timor, the poorest country in Asia, to sign a treaty which stopped them obtaining their fair share of the oil and gas revenue”.

Centre Alliance senator Rex Patrick said the case showed the need for parliamentary oversight of intelligence operations.