

Australia's shame: Witness K punished for his service, while the guilty go free

Bernard Keane, *Crikey.com* 7 August 2019

After years of relentless pressure, Witness K has pleaded guilty to revealing information about ASIS' criminal conduct in Timor Leste. It is a shameful reward for a man who diligently served his country.



Supporters of lawyer Bernard Collaery and Witness K (Image: AAP /Lukas Coch)

The government's strategy of deliberately prolonging the prosecution of Witness K and Bernard Coallery for exposing ASIS' crimes in Timor Leste bore fruit yesterday with K agreeing to plead guilty to a charge of revealing secret information under the *Intelligence Services Act*.

K is the former senior ASIS officer whose career was stymied by his opposition to the misdirection of counter-terrorism resources from Indonesia, where Australians were being targeted by Islamist terrorists, to bugging the cabinet rooms of Timor Leste in order to benefit Woodside in treaty negotiations between Australia and the fledgling state in 2004. The minister who ordered the bugging, Alexander Downer, later took a job with Woodside, while then-DFAT secretary Ashton Calvert later became a director of the company. The bugging remains Australia's greatest intelligence scandal and successive governments, including the Gillard-Labor government, have colluded to cover it up.

As *Crikey* [detailed in March](#), Attorney-General Christian Porter, who authorised the prosecution of K and Collaery, has pursued a deliberate strategy of delaying proceedings. Porter is represented separately from the Director of Public Prosecutions in proceedings due to the government's insistence that the case relates to national security, and has used his involvement to prevent the trial from moving at anything faster than glacial pace. Porter's tactics have included last-minute changes and prohibitions, the late introduction of documents that not even Collaery and K, let alone their lawyers, would be allowed to see, and using national security legislation to ban Collaery from instructing his lawyers. Porter's tactics around refusing to allow Collaery to instruct his lawyers were so egregious they drew a rebuke from the presiding magistrate that "a finger needs to be pulled out to make it happen as quickly as possible."

Porter has used the delay strategy because of the pressure it exerts on Collaery's own legal practice — he has refrained from taking anything other than minor cases while he is being prosecuted — and on K's health. K has been under extraordinary pressure for more than six years, having been placed under surveillance along with Collaery by Labor's Mark Dreyfus in 2013 (so much for legal privilege between a lawyer and his client), raided by ASIO and the AFP and then having his passport taken and, despite ASIO saying it had no concerns about K, not returned to him (K's appeal against that vindictive decision by DFAT was halted — conveniently — by his prosecution). Then came last year's prosecution, five years after the alleged leaking of information about ASIS' illegal activities.

No information identifying K can be published, but he is a distinguished, long-serving intelligence officer who served Australia diligently over decades, and who served it at great personal cost when he revealed that his own agency had engaged in criminal conduct to benefit a corporation, at the cost of Australia's counter-terrorism effort at a time when lives were being lost. His reward is years of harassment, the humiliation of prosecution and the full weight of a government hell-bent on covering up its crimes and making sure anyone tempted to expose it gets the message about what will be done to them.

It's a deeply shameful moment for Australia, and a continuation of the cover-up of a shocking scandal in which those responsible for a reckless and deeply immoral act face no consequences while the patriots who exposed them endure misery.

What do you make of the government's strategy in the Witness K and Collaery case? Write to boss@crikey.com.au and let us know.