

11 May 2016

Commonwealth Director
of Public Prosecutions
GPO Box 21
Melbourne VIC 3001
Fax: 03 9670 4295

Dear Mr Scott Bruckard

I refer to your letter dated 2 may 2016.

Your Reference: QC10101374C

You have misunderstood my letter in some aspects according to your answers. You have also not answered some entirely.

a) CCTV footage from the Scarborough Marina on the 12th October was not disclosed.

You state that it was disclosed and it was subject to extensive cross examination in trial. Unfortunately it was also subject to extensive perjury. AFP stated the **entire day** was collected up until 2015. This was stated for 4 years.

The CCTV footage that was disclosed is split into two and only shows from 11.08.53sec am to 11.40.13sec am. A total of 31 minutes 6 seconds.

Then from 2.01.02 sec pm to 2.57.37sec pm. A total of 56 minutes 35 seconds.

This is a combined total of 1 hour 27 minutes 9 seconds with a missing gap in the middle of around 2 hours 20 minutes.

The missing and edited CCTV footage from the Scarborough marina has never been disclosed even though AFP case officer Aaron Burgess stated there was a further 4-5 hours in an extension of time application to the Office of Australian Information Commissioner (OAIC).

When pushed for this un-disclosed footage, the AFP released a copy of the original 1hr 27 minutes x 3. Simply duplicating the original edited footage 3 times to make it look like 4-5 hours. Perversion of justice and fraud, at its finest.

Does the CDPP intend on charging AFP members who have perjured themselves?

b) No Search warrants were obtained to authorise the search of the yacht “Mayhem of Eden” on the 12th October 2010.

This comment by you is a twisting of my words. My exact complaint to you in my original letter is “No search warrants were **followed** in this case on the 12th October 2010. Not one”. That is still a fact.

It also might pay to have a look at the ACBPS/Border Force website and look at the annual report 2010/11. Look at page 52 and it becomes clear that there was another Search Warrant in the late morning with ACBPS and AFP. The lies flow from there.

c) Statements made by officers of the Australian Customs and Border Patrol Service (ACBPS) present at the boarding of the yacht “Mayhem of Eden” on the 12th October 2010 were not disclosed.

Again I will correct you and guide you to my original complaint saying Customs that were **present at the Scarborough Marina** on the 12th October 2010.

Interestingly on the same day as I received my response from you, so did Terrance Elfar and on his letter dated the same day you state:

“on the 11 June 2015 the Commonwealth DPP wrote to your legal representative, Elamrousy Solicitors, and provided details of some 19 ACBPS witnesses who had made witness statements in this matter”.

This is evidence that was strongly sought by accused since 2010 and never disclosed. You make no mention of this in your correspondence to me. Please explain to me how my legal team did not receive this material and in Mr Elfar’s case, why was it divulged years after the fact.

Please explain to me why this material is still not disclosed to myself?

The really odd thing is that ACBPS have lied in subpoena, FOI response and media enquiry stating that no Customs were present at Scarborough marina on the 12th October 2010. The whole scenario is truly weird. It’s the Bermuda triangle of Australian law enforcement agencies and the CDPP.

Does the CDPP intend on charging those responsible for perjury, misleading statements, concealing an indictable offence, tampering with evidence, removing property under seizure, theft and perversion of justice?

ACLEI are also investigating this case for corruption of AFP and CUSTOMS as you’re probably aware. They investigate corruption. They also state that this is their largest investigation to date and they have also personally dealt with me since 2012 so I guess there is a little bit of warrant of concern over this case as it clearly stinks.

d) A Jet Ski sales statement was never disclosed.

You state that: Materials relating to the purchase of a Sea Doo jet ski were disclosed by the CDPP on June 2011.

I state again that no statement was ever disclosed to myself until the last trial at the very last minute. I am not talking about verbal information given at Committal.

Lastly you have not answered other questions in my complaint such as the 14 ORG(Operational Response Group) statements that were tendered to the CDPP and only 8 disclosed by the CDPP. One is being Shane Irving who is the lead ORG and is a key witness in unlawful boarding and breaches of the search warrant of the Mayhem of Eden and obviously a key witness in unlawful acts by ACBPS and AFP personnel.

You make absolutely no mention of unlawful possession of ACC examination transcripts that were in possession of the prosecution team Glen Rice and Melanie Ho.

The Australian Crimes Commission Act 2002 Section 25C **Disclosing examination material to prosecutors of the examinee** (1)(ii) post charge examination material; under an order made under subsection 25E(1) **Courts powers to order disclosure and to ensure a fair trial** *Courts may order that material may be disclosed.*

No court order exists

The Australian Crimes Commission Act 2002 Section 25D **Disclosing derivative material to prosecutors of the examinee** (1)(C) a post charge disclosure of derivative material obtained from post charge examination material, and the disclosure is under an order made under subsection 25E(1). *Meaning they needed a court order to do so.*

No court order exists

The prosecutors, Glen Rice and Melanie Ho in case 864/11 did unlawfully obtain my unlawful ACC examination transcripts. Mr Glen Rice explained to the Supreme Court that Melanie Ho did have the examination transcripts, as she was part of the "Confiscations Unit" within the CDPP. This is also unlawful without court order to which there was not. On the very same day as Mr Rice's statement to the Supreme Court of Queensland an affidavit was given to the Supreme Court by Melanie Ho stating that she was totally unaware that accused had been to the ACC. This is clear perjury.

This is a formal request for the arrest and charge of Glen Rice and Melaine Ho for blatantly disregarding the act, for not disclosing this to the courts as it is their duty to do so. For Perjury.

This is an official request of arrest of AFP Peter Baker who was present at my unlawful ACC examination and present at the Scarborough marina. He has aided in dissemination of my unlawful examination transcripts and information and has breached the ACC Act by being part of Operation Collage/Bergonia. This is unlawful.

This is an official request for the arrest of Tara Feeney of the ACBPS/Border Force. She was also present at my unlawful ACC examination and at the Scarborough Marina. She has aided in dissemination of my unlawful examination transcripts and information and has breached the ACC Act by being part of Operation Collage/Bergonia. There are clear communications between her and the AFP case officer and others. This is unlawful.

On top of that the prosecution had a duty to notify the court immediately for failure to disclose evidence to the courts when it was discovered that up to 20 Customs were at the Scarborough Marina on the 12th October 2010. This is serious non disclosure that accused aggressively sought since 2010 and are the CDPP honestly going to go along these lines of they were disclosed to Miss Elamrousy but not to me or Holger Sanders legal team?

I spent plenty of days in court after the *supposed* disclosure of the 19 CUSTOMS to Elamrousy asking for the disclosure of this. Disclosure of this is hogwash. A judge has even refused the return of a subpoena date over this so why would we want to subpoena something we already had? We also have court transcript with CUSTOMS stating they would need another 4 weeks to supply the names but yet **NOW** the CDPP state they supplied the very next day? Its lies, they were never supplied to accused and there is plenty of evidence of this lie.

Please supply ALL ACBPS personnel present at the Scarborough Marina on the 12th October 2010 statements to me. Please supply me the 19 statements or however many there is as myself and Mr Elfar have never heard of them or seen them.

You state that you can find no evidence to support my allegations of misconduct but I put to you Mr Bruckard that you simply do not want to address them.

I leave you with a statement that you copy pasted in both mine and Mr Elfar's letter of response. **"It was not put to federal agent Burgess by your counsel at trial that police were in possession of witness statements taken from ACBPS officers regarding the events at the marina on the 12th October 2010 which had not been disclosed to your legal team".**

I did not realise this was some game of discovery that I need to ask "the right questions" otherwise I didn't get the information. CDPP and police have an obligation of disclosure and you have failed miserably in doing so. This is information aggressively pursued by accused for many years and it simply has not been disclosed. It stinks of Malicious Prosecution, Abuse of Process and Miscarriage of Justice.

I would appreciate your prompt reply and supply of ACBPS/Border Force statements.

Regards

Simon Golding