

18 May 2016

The Hon. Peter Dutton

Dear Minister

RE: Border Force and Australian Federal Police Corruption

Your Ref: MC16-009794

Thank you for your response, I would like to clarify some points in your reply and ask for your further response regarding some serious issues that relate directly to you and Border Force.

Claims I raise are not “allegations” as stated in your reply. It is a fact that your staff were present at the Scarborough Marina on the 12th October 2010. It is a fact that your staff stole evidence and were caught. It is a fact that your staff are responsible for perjury in subpoena, FOI return and media enquiry in regard to being at the Scarborough Marina on the 12th October 2010. It is a fact that this information has, and is hidden by Border Force and the Australian Federal Police.

These are the facts shown with proof and if you are unwilling to accept them then you are lying and/or you are being lied to.

Please find below, extracts of my FOI, subpoena and media enquiry from journalist Ross Coulthart, and responses by ACBPS/Border Force.

On 24 July 2014, Mr Golding sought access to the following documents held by ACBPS:

- 1) *a document that identifies the name of the Customs officer or officers, arrested, questioned, investigated or made subject of any allegations at the Vinyl Room nightclub in Sydney on or about 14/15 October 2010, and a document relating to the names of others that were/may have also been involved;*
- 2) *a document that identifies names of all/any Customs staff disciplined, questioned, investigated, charged, or made the subject of allegations in any way as regards claims of the quantities of confiscated cocaine stolen from the Yacht Mayhem of Eden and/or Operation Collage/Bergonia at Scarborough in October 2010; and*
- 3) *a document that identifies names of all/any Customs officers present at Scarborough Marina(28 Thurecht Parade, Scarborough QLD 4020) for Operation “BERGONIA” and/or Operation “COLLAGE” on the 12th October 2010.*

ACBPS undertook reasonable searches in relation to this request. No documents were in the possession of the service in relation to parts 2 and 3 of the request.

This is on a basis that no allegations related to ACBPS officers were received by Integrity and Professional Standards in relation to seizures at Scarborough Marina in October 2010 and **no ACBPS officers were present in the Scarborough Marina precinct at the relevant time.**

Key Points

On 2 September 2014 Customs Media received a Media Enquiry from journalist Ross Coulthart, Sunday Night program, Channel 7 (“the Media Enquiry”).

The Legal Services Branch has consulted the AFP about these issues in light of the Media Enquiry. **The AFP view is that no comments should be made publically about the issues given that there is an ongoing criminal proceeding.**

Additional Requests

The Legal Services Branch is processing Subpoenas in relation to the Golding proceedings from Mr GOLDING. The Golding subpoena requests all documents relating to any involvement of a representative of ACBPS in relation to the seizure of drugs at Scarborough Marina, Queensland on 12 October 2010 including documents relating to misappropriation of evidence relating to that seizure. ACBPS is likely to respond to the Subpoena on the basis that there are **no documents held within the scope of the Subpoena.**

Look at page 52 of ACBPS annual report 2010-11 which states 6 paragraphs down “**In the morning, the AFP with support from our officers, executed a search warrant and boarded the daughter ship in Scarborough Marina**”

This indicates that the Search Warrant supposedly followed later that night is a “cover” warrant to hide earlier corruption and unlawful acts by ACBPS/Border Force and AFP. This also explains lack of any video evidence and AFP perjuring themselves in regard to this, then being caught out creating a mistrial and also the missing and editing of Marina CCTV footage. This also explains why AFP agents Aaron Burgess and Luke Reid’s statements do not start until midday when they commenced work at around 4am on the 12th October 2010.

Other details are in the Sydney Morning Herald story, March 23rd 2015 by Neil Mercer “**CUSTOMS HID DETAILS OF OFFICER SNORTING COCAINE AFTER DRUG BUST**”

Minister Dutton, the above information given by Border Force personnel are very clear lies. If you wish to dispute this there is a very simple way to clarify it. Provide all names of ACBPS/ Border Force personnel to an open Parliament that were present at Scarborough Marina on the 12th October 2010 and compare them to present day status.

Your response dated 2nd May 2016 attempts to distance ACBPS from Border Force but this does not excuse any lack of answers. Border Force still maintains the same staff that are responsible for this case. It is the equivalent of me changing my name and expecting charge and sentence to be dropped and forgotten about.

Border Force has a serious obligation to explain to the public why there has been corruption, cover ups and perjury involved in the judicial process that was imperative for a fair legal trial. Furthermore, an explanation as to why multiple requests of investigation by Border Force have been totally ignored until enquiries by Ministers and Senator Lambie.

You state in your response to me that ACLEI are assessing matters. They are not assessing, they are investigating corruption in Border Force and the AFP in this case. By you simply attempting to pass obligation to ACLEI is not good enough as ACLEI has investigated this case since 2012 and they too have ignored some ten requests for any acknowledgement or official response, so who is going to take responsibility? You did not ask ACLEI to investigate this corruption and they are only investigating because your lack of any action and lack of any trust in you doing so. It is on your shoulders that Border Force investigates and deal's with this corruption but you refuse to.

Prime Minister Turnbull is emphasising Border Protection in this election but why not deal with something that can be actually dealt with on un-borrowed money like the corruption in your ranks. Your mantra seems to be stopping the boats but the public should be more concerned with stopping the corruption in our agencies that is being hidden.

For six years this corruption has been hidden and your staff involved are simply put back in the job, even promoted and information still undisclosed. Corruption in this case is widely known through multiple agencies and the persons responsible for perverting the course of justice are still members of Border Force and the AFP. The notion of this is simply astounding.

Please supply all names and statements of ACBPS/ Border Force personnel who were present at the Scarborough Marina on the 12th October 2010. This should have been provided in the Brief of Evidence in 2010. These Border Force personnel form no part of any ongoing investigation and continue to be hidden. I have urged Senator Lambie to please raise this in Parliament if this goes unanswered.

I encourage you as the Minister for Immigration and Border Protection to cleanse the culture of corruption in Border Force and not simply ignore and hide it to further culminate corruption and injustices.

Senior counsel George Thomas adequately summed this case up as “A Dogs breakfast”.

Full transcript of George Thomas speech can be found in original letter to Senator/ Ministers letter at twitter account **simonxgolding** in attachment 18. The full Committal transcripts can be found in attachment 19.

“The continuity is a very significant issue in this case. Its- its- I mean the Crown’s got to, sort of, the Crown’s here to do a job as part of the adversarial system as a representative of the people but the Crown’s also got to deal with the cards as they’re dealt. They’ve laid the cards on the table and I’m being critical of the Crown, the Crown’s always been forthcoming with disclosure issues and sometimes a little bit taken aback by the non-tendering by the Crown of the governance document because it goes directly to the continuance issue.

It is the document that makes good the concerns of the defence again and again and again in this case about the conduct of the police in dealing with these items that go to the heart of the charge and- but it’s in, and it’s in for a reason and it’s for the Court to have before it evidence that regulates the behaviour of the police, that makes good the suggestions, whether they’re direct or inferential in this case that the police completely misconducted themselves. They misconducted themselves before the warrant in relation to the Mayhem of Eden.

They, at the very least, failed to disclose to the justice whom they were asking to exercise the power to grant a warrant, that they’d been onboard. They went onboard. Their actions are not accounted for or known to the authorities and then when they’re onboard they don’t take any steps of the governance of their own commissioner’s instructions to them require them to do.

There’s no video, there’s no accounting for what they’re doing. They don’t bag or seal anything up onboard at a place approximate to, there’s no footage, there’s no still photographs or anything in situ, it’s a dog’s breakfast to put it in street language. That’s what it is. It’s a dog’s breakfast.

And if it were a case about four grams being found in these circumstances, the prosecution wouldn’t even be prosecuting it with respect. But because its 400 kilos, we don’t even know what it is, for reasons expressed in the written submission for Golding, it’s got to be treated in some way different. Well, I come back to what I said earlier, the more kilos it is, the more the responsibility of the part of the authorities to actually make sure they do their job properly, according to law. And that’s the problem with it.

This idea of people going onboard, then we didn’t go onboard, then we’re going to wait and then they wait and then people handing blocks out, out to hands outside the hatch, block after block after block, with no accounting at all and then wheelbarrows and trolleys being – being rolled up jetties for 50 or 70 metres without accounting, without

being accompanied by another officer, without – it's amazing and yet that's the nature of the case that we [indistinct].

We didn't bring it upon the Court. The people responsible for what they were doing brought it upon the Court. The prosecution brings it to Court but it's got to bring it's case as it – as it stands and that's the problem that my learned friend must deal with in his own way.

And then when all this stuffs taken into another room, after one count, two counts, three counts, reconciliation, what they get it all wrong again? Well, it's not good enough and it all comes back to continuity and the relevance of the evidence because the stuff tested and found to be cocaine needs to be sheeted back home to the vessel and if your continuity's shot to bits, you can't shoot it home to the vessel because suspicion and innuendo is never a substitute for evidence and that's the continuity problem with this case.

And the same problems apply with the Toyota. I mean, even more so in some respects. This suggestion about emergent power use. I mean what a bunch of baloney. Emergent power, we need to exercise an emergency power to secure the – to secure the motor vehicle which is already secure. To – the people had already been arrested. It's nonsense and then they tried to hide it again by putting things back into- back into the boot and making it look like no-one had touched it and taking photographs and making it look like no-one had ripped the bag open and then we're going to make it look real nice and we're going to wait for the warrant to turn up and just stand around like a bunch of unemployed people and then the warrant turns up and then the search doesn't happen.

I mean, it is – it's so amazing, you wouldn't even see it on television let alone in Court. I mean it's seriously ridiculous and yet it is the reality of the factual scenario my client faces.

And then the Court was expected to believe that the vehicle was moved because they we're dealing with darkness and someone suggested that there was some rain and by the way don't forget for one moment, your Honour that the video footage that was played to us through Watt, I think it was, video footage, one second, one second here, one second there as if we were able to discern anything from this video- that's if any – any Federal agent of any experience, even a cadet wouldn't shoot a video like that, let alone put it before a Court as being video that had any forensic value attached to it.

It gave, I must say, a very strong inference that there'd been some editing taking place in order to – your Honour might have thought, in order to avoid the suggestion that there had, in fact, had been a search of the back seat of the Toyota when all the police were saying they'd never searched it because the searching of the back seat of the Toyota where its content was manifest in the video, it had to be edited.

Now, I don't know whether your Honour's going to come to the conclusion or at least have somewhere in your mind but certainly I must say that it's a conclusion that's open when one compares and reconciles the evidence of all of the people that had anything to do with the Toyota and you look at the evidence in the video as shot, I mean it really doesn't add up.

And then we're told that the Toyota had to be moved to the AFP so the search could continue, which search never continued. I mean talk about governance which is why I put the document in. Talking about continuity. Oh, and then we were told that the car had been locked, almost like an afterthought. "How do you know it was locked? Well, because I heard a sound" but we don't have anyone here from Toyota here to tell us about the sounds that Toyotas make when they're locked or not locked.

I mean, it is absurd and if it wasn't my client facing something that carried life in gaol, it would be a joke. And then this car sits when we're told that it's there to be searched, it just sits there not searched. To make it even more aggravating a forensic expert goes down there and says that he doesn't see anything and yet he's all over the car doing his forensic stuff. I mean, if there wasn't 20 or 25 kilos of stuff in there, it would be – it would be like a cartoon.

And I don't want the Court to think that I'm treating this as a joke, but its – this is the reality of the evidence that's been put before this Court. This is the evidence that the prosecution wants to drive home to my client and make him responsible for."

I look forward to your prompt, proper full response.



Simon Golding