

10/12

THE FEDERAL COURT OF AUSTRALIA

REGISTRY: BRISBANE
NUMBER:

Applicant: MR SIMON CHARLES GOLDING

v

1st Respondent: THE COMMONWEALTH OF AUSTRALIA

2nd Respondent: PETER CRAIG DUTTON / HOME AFFAIRS MINISTER

3rd Respondent: BORDER FORCE

APPLICATION FOR A STATUTORY ORDER
of
JUDICIAL INQUIRY / REVIEW UNDER s.672A CRIMINAL CODE QUEENSLAND

Application of a judicial inquiry under s. 672A criminal code Qld in relation to the decision of the Queensland Court of Appeal, handed down on *11th July 2017* within the Queensland Court of Appeal regarding decisions within the matter of *CA 211 of 2015*.

1. The applicant seeks;

- a) Relief to the Federal Court of Australia for the departure from procedural rule of police and judicial officers of the court.
- b) Application to review the failures of the 1st, 2nd and 3rd respondents to legally disclose customs officers that were present at the Scarborough marina on the 12th October 2010.
- c) Application to review the decision of the respondents on suppressed evidence without merit to intentionally dissolve procedural fairness and natural justice.
- d) Application to review the decisions of the respondents whereby their conduct denied a fair trial according to law.

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- e) An order under s 32 of the *Judicial Review Act 1991 Qld* to the 1st, 2nd and 3rd respondents to provide the applicant a statement of reasons in writing as required by s.33 of the *Judicial Review Act 1991 Qld* and s. 27B of the *Acts Interpretation Act 1954 QLD*.

Full reference to evidence and every materials in full from communications, notes, diary entries, statements etc, but not limited to every detail of Operation Bergonia / Collage or any other name it may be known.

2. The applicant is aggrieved by the decisions of the Queensland Court of Appeal (QCA). These decisions are required to be reviewed under the *Judicial Review Act 1991 (Qld)*;

- a) A judicial inquiry is sought to determine the respondents, law enforcement officers have failed or chosen not to disclose information that was subpoenaed, requested under Freedom of Information and court ordered.

Information which the applicant and defence were seeking to be disclosed, as shown within the 2nd trial before *Atkinson J* court, did exist and failing to disclose, undermined the applicants defence as to cross examine witnesses as to the true ongoing on and around the crime scene Mayhem of Eden and the Scarborough marina on the 12th October 2010.

- b) The applicant contends and with strong grievance that the QCA “erred at law” failing to fully consider whether non-disclosure of exculpatory evidence by the prosecution denied the appellant a fair trial or acquittal from the outset “common law right” and “ICCPR” treaty principles as raised within *Mallard v R*¹, pertaining to disclosure, a requirement as public authorities under s. 40 of the Charter², as cited within *Jarrold Ragg v The Magistrates Court Victoria*³ at [43] – [44], furthermore cited again within *Mallard v R*⁴ at [17].
- c) The applicant contends and with strong grievance that “perjury” is a crime.
- d) The applicant contends that “gross negligence” is equivalent to “fraud”.
- e) A judicial inquiry is sought before the FCA to take in consideration to inquire and review the affixed affidavit of Simon Charles Golding, to fully understand the grievance brought before the Federal Court of Australia.

3. Outline of Issues.

I will introduce myself as Simon Charles Golding, the applicant, detained at WCC, Wacol Queensland. I am a self represented applicant within these proceedings. I am not a lawyer and I wish the court to grant consideration here.

On the 11th of July 2017, the QCA dismissed my application of appeal on conviction, C.A. No 215/15. I bring before court the following issues;

¹ *Mallard v R* (2005) 222 ALR 236 at [78]-[79] & [81] to [89]

² International Covenant on Civil and Political Rights “binding on Australia”

³ *Jarrold Ragg v The Magistrates Court Victoria* Unreported judgement BC 200800133 27th December 2007

⁴ *Mallard v R* (2005) 222 ALR 236

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- a) The Crown and Law Enforcement delegates of the respondents have brought these charges forth. The Crown and Law Enforcement delegates of the respondents, I say has constrained, impeded and denied me the right of “fair trial” according to law with unlawful actions for failing to comply with the orders of *Atkinson J* on the 27th November 2014 and 9th June 2015 to disclose to the defence to whom was within the crime scene “Mayhem of Eden” and the Scarborough marina on the 12th of October 2010.
- b) The QCA failing to take in consideration the “whole case”, as to the duty of court *Atkinson J* held and as to the “error of law” by refusing to direct the crown to provide disclosure of statements of Customs officers as to *s. 590 AJ(2)(b) Criminal Code 1899* and multiple subpoena's, not withstanding *Atkinson J* understanding within court on 27th November 2014 and raised by defence SC Saul Holt requesting the crown adhere to a; *s. 590 AJ(2)(b)* direction, a court order by *Atkinson J* on the 9th of June 2015 to the crown and the executive officials (Australian Customs & Border Protection Services) in attendance for full disclosure of all ACBPS officers at the crime scene Mayhem of Eden at Scarborough marina. When between 10 and 20 customs officers were discovered to be present at the crime scene Mayhem of Eden and Scarborough marina on the 12th of October 2010 that were never disclosed to the defence when court orders and *s. 590 AJ(2)(b) Criminal Code 1899* requirements were in place to produce.
- c) The QCA failing to take in consideration the “whole case”, as to the duty of the court *Atkinson J* held as to the “error of law” by refusing to allow further subpoena's to be issued when previous had not been satisfied, upon specific executive law enforcement agencies such as the Australian Customs & Border Protection Services, New South Wales Police Service and NSW Local Court when documents to be produced pursuant to such subpoena's were important to the defence case, and such refusal prejudicing the defence case.
- d) The applicants grievance, determining consideration was that the undisclosed material was highly relevant to the credibility of several of the witnesses called by the prosecution against the accused and to the evaluation of the accused's own case as to breach of warrant powers, continuum chain of evidence and failing to retain crucial evidence (such as CCTV footage) as required to determine as to whom was present and as to what had occurred within the vicinity of the crime scene at Scarborough Marina.

4. Notice to the Federal Court.

- a) The applicant seeks the Court to grant a directions hearing within 14 days of application. The following orders will be sought by the applicant for the proper elucidation of grievances and issues raised.
- b) The applicant seeks an order of court for production to the Crown and Law Enforcement delegates to provide a full list of all ACBPS agents, engaged or associated within Operation “Bergonia” or “Collage” or any other name it may be known, currently serving or discharged from the service to allow proper elucidation of issues and grievances brought to the courts attention by the applicant.
- c) The applicant seeks an order of court for production to the Crown and Law Enforcement delegates to provide statements from all ACBPS officers, their position, relevancy, task

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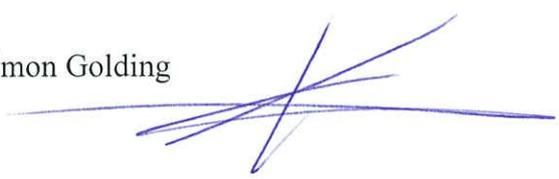
performed, location, time and date, from the 10th to 14th October 2010(with particular emphasis on the 12th October 2010) within Operation Bergonia or Collage or any other name it may be known to allow proper elucidation of issues and grievances brought to the courts attention by the applicant.

5. Orders Sought.

- a) The applicant seeks orders of the Federal Court of Australia.
- b) The applicant seeks an order of court for a directions hearing within 14 days of application filing to request a full and detailed inquiry for the proper elucidation of issues brought before the courts attention.
- c) The applicant seeks an order of the court for the executive to apply the governing principles within “*International Covenant on Civil and Political Rights*”, as Australia is a signatory.
- d) The applicant seeks full disclosure of all customs officers present and in the vicinity of the Scarborough marina on the 12th October 2010.
- e) The applicant seeks non redacted copies of all documents provided as exhibits attached to this application.
- f) The applicant seeks statements, notes, diaries of all customs officers present at or in the vicinity of Scarborough marina on the 12th October 2010.
- g) Costs and incidentals associated with this application.

Affirmed by Simon Golding of Brisbane, Queensland.

Simon Golding



On this day of 15th August 2017

Before me: JOEIE EDWARDS
JMEduwars



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THE FEDERAL COURT OF QUEENSLAND

Office of the Registry Brisbane

Registry: Brisbane

No of 2017

SIMON CHARLES GOLDING
against
THE QUEEN

I, Simon Golding, of Brisbane Queensland, a self represented
accused and applicant, affirm and say as follows;

1. I am a self represented appellant presently. Accompanying with this document are marked Exhibits to which reference will be made.
2. The Crown I say has denied myself and co-accused the right of a fair trial, as will be shown within this and attached supporting evidence.
3. I say; we are afforded the right of a "fair trial" according to our Constitution and the law we are bound.
4. I say; the executive has breached our constitutional rights, committed unlawful acts, by failing to adhere to an order of the court, thus denying the applicants a fair trial according to law.

THE AFFIDAVIT OF SIMON GOLDING

Filed on the behalf of the appellant

Phone: Nil

Brisbane Queensland

Fax: Nil

Email: Nil

5. There has been an intentional omission of and misleading evidence by the CDPP, AFP and Australian Customs and Border Protection Service, now Border Force, and a failure to disclose material relevant to which Australian customs officers were involved and their roles in the investigation of the appellants, including particularly at the Scarborough marina on the 12th October 2010.

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6. Non Disclosure of customs officers present at Scarborough marina and or attending the crime scene during the search of the yacht Mayhem of Eden, on the 12th October 2010. Thus has denied the applicant the fundamental right of discovery within the pre trial and trial process.
7. After a hearing before her Honour Atkinson J, held on the 9th of June 2015, Her Honour made an order before the court and in the presence of Australian Customs and Border Protection legal representatives and the CDPP counsel SC Glen Rice, that all officers that were present on the crimes scenes Mayhem of Eden and the Edelweiss were to provide statements. (Exhibit 11)
8. For the first time ever at the second trial(after a mistrial for non disclosure) it became clear that there were in excess of 10 and up to 20 customs officers present at the Scarborough marina on the 12th October around or on the crime scene, at least one of whom had been discussing with AFP officer FA McGilvray as to the best way to search the vessel/ crime scene Mayhem of Eden.(Exhibit 26)
9. The fact that customs officers were present, had never previously been disclosed. Furthermore in 93 statements provided at committal by the Crown, this issue had never been mentioned of customs officers. In this wide ranging 10 day committal hearing, the crown skilfully skirted the issue as to customs officers, that had never been mentioned, nor had it been mentioned in multiple pre-trial arguments.
10. This was not a case where the events at the Scarborough marina on the 12th October 2010 were a side issue. Who was present, and what occurred on the 12th October 2010 was from the start a central issue for the defence relevant to applications.
11. In the present case there is strong evidence in favour of a deliberate cover up of what really occurred during the initial investigation stages of the yacht Mayhem of Eden and clear attempts to cover who was present and what occurred during the boarding of the Mayhem of Eden. It was never disclosed or apparent that any customs officers attended during the search of the Mayhem of Eden until the 2nd trial.
12. With the strong focus on illegality and search of the yacht Mayhem of Eden it is insufficient to say they did not provide statements so there is nothing to disclose and that disclosure obligations should not be viewed as so limited, rather there is an obligation to obtain statements and provide them of witnesses material to the investigation. In not doing so the investigators ultimately did not allow proper discovery of what actually occurred in the nature of illegality.
13. It was skilfully avoided by simply not mentioning the fact of the customs officers presence. Had the fact of their presence been disclosed at any reasonable time before trial, their evidence, as well as that of the AFP officers who entered the vessel without warrant and who were extensively cross-examined about that fact at committal, would have formed part of any illegality argument. Given the obvious attempts at hiding what in fact occurred, their evidence was integral and buried.
14. The AFP, ACBPS, now Border Force and the CDPP have done their best to obscure what in fact had occurred on the 12th October 2010 at the Scarborough marina and the searches

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prior to warrant. It remains the fact that to this day not a single statement has been provided of a single customs officer who was present at the time of the initial search of the Mayhem of Eden on the 12th October 2010. It would have been a very simple matter to obtain and disclose statements of those customs officers involved at any stage in the last 7 years and prior to trials. This was not done.

15. It is obvious that the Scarborough marina CCTV footage had been edited by AFP member FA Karen Mazlin to obscure unlawful acts and movements of officers. The reality of the matter is that AFP have chosen to seize footage which did not cover the period of the initial search or the later search of the Mayhem of Eden. AFP Mazlin at Committal states that she secured the entire day of the 12th October 2010, then states 5 years later at the 2nd trial, that only relevant footage was maintained. Mr Mira, the marina manager stated that he was told by AFP to secure footage only between certain times.(Exhibits 33-34)

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.

16. Once it became obvious that customs officers were present at the time of the search during the course of the second trial, attempts at adjourning the trial to obtain that material and hold a proper inquiry into what occurred at the Scarborough marina and the Mayhem of Eden were denied.
17. The failure of disclosing the Customs officers present at the Scarborough marina have denied me of procedural fairness and creates a forensic disadvantage and miscarriage of justice.
18. On the 13th and 14th February 2017 at the Brisbane Court of Appeal, prosecutor SC Glen Rice of the CDPP stated that there were no customs officers present at the Scarborough marina on the 12th October 2010 even though there is evidence that proves otherwise. The prosecutors job is to present the evidence of a case, not be party to hiding it.
19. There has been an abuse of process with a corrupt prosecution at best, and a continuing conspiracy to pervert the course of justice initiated by the executive arms of the Government. This will not go unnoticed with the existence of public concern about the propriety of the convictions.
20. I ask your Honour to make order for full disclosure of all Customs officers present at and around the vicinity of the Scarborough Marina on the 12th October 2010.

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- **Exhibit 1** Operation Bergonia customs officers involved in Brisbane(redacted) No mention of officer in Port Macquarie.
- **Exhibit 2** Unknown customs diary 12 October 2010(redacted)
- **Exhibit 3** Unknown customs diary 12 October 2010. 1.10pm taking photo next to MOE(Mayhem of Eden) at Scarborough marina.
- **Exhibit 4** Unknown customs diary 12 October 2010. Customs officers directed to move to MOE at 1pm.
- **Exhibit 5** Unknown customs diary 12 October 2010. Customs move to Scarborough marina area at 1pm.
- **Exhibit 6** Unknown customs diary 12 October 2010. Customs reposition to Scarborough marina area.
- **Exhibit 7** Unknown customs diary 12 October 2010. Customs surveillance between Bribie Island and Scarborough.
- **Exhibit 8** Unknown customs diary 12 October 2010. Customs at Scarborough marina at 2.30pm.
- **Exhibit 9** Unknown customs diary 12 October 2010. Customs positioned at reserve(opposite marina).
- **Exhibit 10** Operational Response Group(ORG) AFP Shane Irving diary entry for 12th October 2010. "ORG elements activated to Scarborough marina area, movement indicated from AFP/Customs surveillance".
- **Exhibit 11** 11 June 2015 CDPP letter referring to court order to disclose all statements and witnesses of customs/ ACBPS/Border Force. (2 pages)
- **Exhibit 12** Trial transcript of Justice Atkinson stating she had already made an order to disclose all customs present on the 12th October 2010. "HER HONOUR: Well, I've already made an order."
- **Exhibit 13** ACBPS Integrity and Professional Standards email.

"I have been approached by the Op Bergonia/Collage case officer(Aaron Burgess)requesting assistance with a statement to be tendered that will hopefully satisfy any further efforts by the defence to discredit the prosecution case."

"On Tuesday 26 October 2010, media outlets(Channels 7 and 10) were reporting on the event, stating that [REDACTED] was involved in Operation Collage, and indicating the cocaine [REDACTED] was arrested with was stolen from the Collage seizure."

- **Exhibit 14** ACBPS Integrity and Professional Standards email.
“One of the two males in the company of ██████ fled. A ██████ in his company but not observed administering the drug was also spoken to and was identified as ██████ It is unknown if this person of interest is also a serving customs officer.”
- **Exhibit 15** ACBPS Integrity and Professional Standards email.
“Cause I'm a Custom officer. If I was a sparky or a plumber I would have admitted to snorting it.” “I was just celebrating. I'm about to be commended for my involvement in the large bust. I'm good at what I do”.
- **Exhibit 16** ACBPS Integrity and Professional Standards email.
“If possible can I get a few details regarding the individual who was in the company of ██████ and fled. A basic description would assist in identifying other Customs and Border Protection officers believed to socialise with ██████
- **Exhibit 17** ACBPS Integrity and Professional Standards email. Concern of information released.
- **Exhibit 18** ACBPS Integrity and Professional Standards email.
“The information from the media release I heard on Channel 7 was almost verbatim to the info contained in info I sent you”.
- **Exhibit 19** ACBPS Integrity and Professional Standards email.
“████████ was in the company of two(2) ██████ One(1) ██████ who identified to NSWP, is not a current or former Customs and Border Protection officer. The ██████ other whose identity remains unknown, decamped the scene.”(2pages)
- **Exhibit 20** ACBPS Integrity and Professional Standards email.
“ ██████ from LSB is handling the ██████ case and I understand may have already been contacted by defence counsel in this matter. You should make contact with him for advice on the form/content of statement.”
- **Exhibit 21** ACBPS email from AMSOC to Ocean Protector.
“AFP and Customs did shore side surveillance”.
- **Exhibit 22** Court attendance notice of customs officer.
- **Exhibit 23** ACLEI letter to Simon Golding dated 7 July 2016 RE: conducting an investigation into corruption allegations.

- **Exhibit 24** Customs Internal Minute. RE: Journalist Ross Coulthart Sunday Night Program Channel 7. Australian Customs and Border Protection Service officers involvement with drug offences. (7 pages)No mention of officer in Port Macquarie. *Includes copy of Simon Golding Freedom of Information request and response by Customs.

- **Exhibit 25** Page 52 ACBPS annual report Operation Bergonia.

“In the morning, the AFP with support from our officers, executed a search warrant and boarded the daughter ship in Scarborough Marina, north of Brisbane.

- **Exhibit 26** Trial transcript AFP Angus McGilvray.

“I was speaking to a Customs officer at the marina about it as well to work out the best way that that could be – that search could be undertaken.”

- **Exhibit 27** Trial transcript AFP Angus McGilvray.

“Right. So, now, were there any Customs agents there on the 12th of October, that is, when I say there, on the marina, in the vicinity of Mayhem of Eden?--- I believe there were some Customs officers there at some stage, but I can’t recall the names.”

- **Exhibit 28** Trial transcript AFP Angus McGilvray.

“on the 12th of October, then, are you able to recall the approximate number that you saw on the marina while you were there?---No, I am not.”

“Now, I’m not going to press you for a number, but perhaps if I asked you whether you recall less than 10 or more than 10 Customs officers being present?---Less than 10.”

- **Exhibit 29** Trial transcript AFP Angus McGilvray.

“So I was in the vicinity of – of the walkway beside the vessel and in that general area, and there were people coming and going at different stages, some people to their own vessels or other people, and so there was – and, as I said, there was Customs officers. I couldn’t tell you how many people were in that vicinity at any particular time. It was a five-hour period, so it’s a quite extensive period.”

- **Exhibit 30** Trial transcript AFP Aaron Burgess.

“What I’m asking you is approximately how many Customs officers do you recall, at the end of your analysis, were at the marina on the 12th?” “Would it be, perhaps, 10? Would it be, perhaps, 20?---I think it’d be around- under that 20 mark with Customs agents that were involved in them operation at the marina.”

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- **Exhibit 31** Trial transcript Marina Manager John Mira.

“And do you know an Officer Paul from Customs?---Yes. I do.”

“And so what can you tell us about Officer Paul? First of all, was he there on the 12th?---Yes, definitely.”

“how do you know this Officer Paul was, in fact, from Customs?---He certainly introduced himself, but it – he was there for quite a bit of the time.”

“Did you see him on the video?---I’m pretty certain I can testify that he was in the video at some stage, going in and out through the gate. There were several that went through that video.”

- **Exhibit 32** Trial transcript Marina Manager John Mira.

“Male or female?-- Think one of each. I think would have been Officer Paul from customs and Officer Karen from AFP.”

- **Exhibit 33** Trial transcript Marina Manager John Mira. Told by AFP to secure only certain times of marina CCTV.

“All right. Did they tell you to secure between certain times though?-- They did.

- **Exhibit 34** Trial transcript AFP Karen Mazlin

“we requested that all footage from the period we requested be maintained. Yes.”

“Would you recall what periods were requested?-- I guest that - that day. The whole day?-- Yeah.”

“Because obviously that would have been relatively important to have as much of that evidence as possible; correct?-- Correct.”

“That the entirety of the CCTV footage for that day is to be maintained; correct?-- Correct.”

- **Exhibit 35** Trial transcript Marina Secretary Tracy Holden.

“And did you observe anybody with “Customs” on their shoulders or in some other way indicating that they were Customs officers?---Yes.”

“And how was that indicated to you?---They introduced themselves to me as Customs officers.”

“And how many of those did that?---I think there was two, that I recall.”

“And what did they say? Do you remember?---I don’t recall, other than they

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introduced themselves as Customs officers.”

- **Exhibit 36** Trial transcript Marina Secretary Tracy Holden.

“There was a lot of agents. Some of them came up to the office, so I don’t know at that stage whether there were some still on the boat. When I left at 5 o’clock there were a lot of agents coming and going, removing the stuff from the boat.”

*AFP state that nothing was removed until after 7.30pm when the search warrant was executed.

- **Exhibit 37** Trial transcript Marina Secretary Tracy Holden.

“are you able to do the best you can and indicate when the first removal, so to speak, would probably have taken place?---At a guess, I’d say about 2 o’clock.”

- **Exhibit 38** Trial transcript AFP media Michael Punch.

“While you were filming, did you notice any Customs officers at the marina?---I believe there were some Customs officers there.”

*Not supplied in Appeals Record Book nor Supplementary Appeals Record Book so I am unable to exhibit, but relevant to disclosure issues is below 1st trial, or non disclosure mistrial transcript.

20141127/D4/BSD/SC/17Atkinson J at 25

“MR HOLT: Can I just indicate that on my instructions – and I hold the letter , but it will be turned into affidavit form plainly before being filed, but I hold the letter that was provided by my instructor to the CDPP on the 4th November 2010 which incorporates a request pursuant to section 590AJ, subsection (2) of the Criminal Code that is requiring amongst other things copies or notice of any other thing relevant to the proceeding but not to be relied upon by the prosecution. So the scope of the required disclosure under the Code incorporates that request under section 590AJ, and its my submission that the affidavit ought cover the steps that have been taken to comply with the obligation also.

HER HONOUR: Well, was there a reply to the letter?

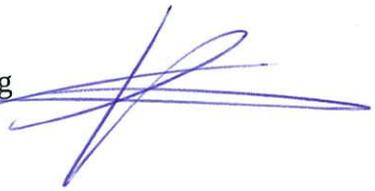
MR HOLT: No, your Honour. Not that I’m instructed existed, but the disclosure that followed, essentially, it would be assumed, would comply with the request. Section 590AJ, as your Honour will know, simply makes disclosure then mandatory of the category of material once the request is made.”

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- **Exhibit 39** Subpoena 12 September 2012
- **Exhibit 40** Subpoena 21 August 2014
- **Exhibit 41** Subpoena 21 August 2014
- **Exhibit 42** Subpoena 29 August 2014
- **Exhibit 43** Subpoena 29 August 2015
- **Exhibit 44** Subpoena 20 February 2015
- **Exhibit 45** Subpoena 9 June 2015

Affirmed by Simon Golding of Brisbane, Queensland.

Simon Golding



On this day of 15th August

2017

Before me: JODIE EDWARDS
J Edwards



No

Operation BERGONIA Officers Involved	
BRISBANE Targeted Operations Eastern Region	
[REDACTED]	1
[REDACTED]	2
[REDACTED]	3
[REDACTED]	4
[REDACTED]	5
[REDACTED]	6
[REDACTED]	7
[REDACTED]	8
BRISBANE Operations Eastern Region (Waterfront)	
[REDACTED]	9
[REDACTED]	10
[REDACTED]	11
[REDACTED]	12
[REDACTED]	13
BRISBANE Intel	
[REDACTED]	
COFFS HARBOUR	
[REDACTED]	
GLADSTONE	
[REDACTED]	
MACKAY	
[REDACTED]	
BRISBANE Operations Eastern Region (Waterfront)	
Supporting Roles	
[REDACTED]	14
[REDACTED]	15
[REDACTED]	16
[REDACTED]	17
[REDACTED]	18
[REDACTED]	19

19 CUSTOMS OFFICERS



Medwards

12th
REJECTED



~~1300~~^{PF} Duties OAU . 13/10/10
Street 0915 . South coast
Marina 1555 . board vessel
Eden Mayham . Scardrol

Hoage 1215 hrs. OP
Bergonia. 1510 Custody
OF 5x PDE Kits 15
Magazines Ammunition -
Flon

Deployed to Birnie Island
1530. 1820 Return to
Customs House Return PDE
to Army Finish 1900
12/10/10. Duties OKU
0600 OP Bergonia
0605 Deployed to Birnie,
In Field PDE Issued 0635

Kit 6

Kit 8

Kit 9

Kit 4 Parcel

Kit 4

Hand over Kit 4 to
at 1225

TRV Group 608 1300

Blockade Marina Scarborough

ID Tunny Inwards 1300

Photo taken 1301 vessel

QM 578Q Out Photo taken

1310 Tender In 5HP outboard

Mercury photo taken. Depart

1745 Scarborough. Return

TRV CEF. Take Officer

to Cannon Hill

Medical Centre. Arrive

accommodation 2130.

1300^{PF} Duties OKU. 13/10/10

Start Ops. Scarborough

Marina 1555. board vessel

Eden Mayham. Search of

Group At MARINA
1 PM

At 1:10pm customs
took photo of
tender tied to
Mayhem at
Scarborough Marina

TUESDAY 12 OCTOBER 2010

0500 -- D.R.V.E TO BRIBIE

ISLAND TO meet up WITH
NTH BRISBANE POLICE - DEPT
TR/08 @ BRIBIE ISLAND WITH

0730 IN POSITION WITH TVD1
& QWPS VESSEL - MAINTAIN
POSITION UNTIL 11.00.

DIRECTED TO SOUTH END OF
BRIBIE TO LOCATE & DETAIN
BOYS WITH MARKER FLARES
REFLECTED BY BRIBIE GROUND
FORCE. 1700 RETURN TO

BRIBIE ISLAND AND DISSEMBLE
& PASSENGERS. 1800 DIRECTED

TO MOVE BY VESSEL ASAP TO
A POSITION 500m FROM THE

4 CUSTOMS
DIRECTED TO
MOVE TO
MAYHEM

50

22111410

11/10/10	ORU
0400	Depart Cofts Evbank
	Gold Coast Seaway.
0835	Arrive Gold Coast
	Seaway, stack OP,
1100	Move to CH
1215	ARRIVE CH - Deployment
	New Karoon a: OP
	Bergonia
1530	Deploy Bribie Island
	Stack.
1820	Return to CH
1900	finish
12/10/10	ORU OP Bergonia.
0600	Arrive CH
0600	Deploy Bribie Island
0700	TRV group OP
1230	Return Bribie Island
1300	Move to Scarborough
	Marina area and
	Stack.
1730	Move CH
2030	Finish.
13/10/10	ORU OP Bergonia.
0945	Start CH move to
	Scarborough Marina
1555	board vessel Mayhem of
	Eden

12/10/10 CONT'D. REPOSITION TO
SEARSBOROUGH MARINA AREA

RETURN TO HQ. CEASE DUTY.

13/10/10 COMMENCE DUTIES HQ AT
0945 HRS. CEASE DUTIES 1200 HRS. —

14/10/10 COMMENCE DUTIES 0730 HRS.
ASSIST WITH ADMIN DUTIES. CEASE
DUTIES 1610 HRS. —

15/10/10 COMMENCE DUTIES 0735 HRS
ATTEND BRIEFING AT Q POL WATER
POLICE WHYTE ISLAND PS.

MOORING AND SEARCH OF VESSEL
EDELWEISS. 1500 HRS DEPART
WATER POLICE RETURN TO HQ
CEASE DUTY 1620 HRS. —

16/10/10 COMMENCE DUTIES
AT HQ 0700 HRS. 0940 HRS AT

11/10/10 COMMENCE DUTIES 0300HRS
DEPART COFFS HARBOR FOR GADGAST.
ARRIVE G.C 0830HRS. ARRIVE
SOUTHPORT SEAWAY MONITOR
ENTRANCE 1215HRS. DEPART G.C
FOR HQ. 1330HRS ARRIVE HQ.
CEASE DUTIES.

12/10/10 COMMENCE DUTIES 0600HRS
OP BELGONIA. 0605HRS PDS
ISSUED IN FIELD DEPLOY TO RUIRIE
ISLAND. CONDUCT SURVEILLANCE
OF AND MONITORING OF WATER
BETWEEN RUIRIE AND SCARBOROUGH.
WITH OFFICER [REDACTED] FROM
REMAIN IN SOUTH PART TID OF RUIRIE

EXHIBIT 8

FOI Document #28

28

2:30pm
at Marine

CONTINUED TO SCARBOROUGH

MARINA.

1430 MOORED AT SCARBOROUGH

MAINTAINING AWAITING TASKS.

1735 DIRECTED TO RETURN
TO BRIBID ISLAND & RECOVER
TVOB. PRIOR TO DEPARTURE
WHILE PROPPING VESSEL
I SLIPPED INTO VESSEL
& HIT MY RIGHT LEG ON
LARGE BULKY IN BOAT.
ADMITTED EARLY IN AM

EXHIBIT 9

[REDACTED]

0600 - 1600 OPERATIONAL
(OP BEGONIA) [REDACTED] - OPERATIONAL
[REDACTED] UNIT, HQ OFFICE

PISTOL	-	686
CUFFS	-	2914
OC SPRAY	-	45565
BATON	-	31430

— 121010 — CITE

0600 - 1200 (OP BEGONIA)
PDC SECURED IN RW
ARMOURY - PDC COLLECTED

15

OPPOSITE
MARINA.

16

AND POSITIONED AT REDLINE
(IN RESTAURANT) — 0600
1200 STOOD DOWN TO
COMMENCE SHIFT AT 2000
-1615 [REDACTED] CALLED
TO ADVISE NO NEED
FOR ATTENDANCE — 1630

EXHIBIT 10

LITCO request for camera

176

Date/Time	Particulars of Duties, Places Visited or Searched, Names of Persons Seen	Claims
Tues:	Op Collage Commence. Re-call to duty	
0315hrs	- ORB elements activated to Scarborough area movement	*
	indicated from APP/Customs surveillance. ORB elements	
	stood too at base of Scarborough	
	- First light ORB assets under control of Nathan Andrews	*
	organised maritime intercept option on Customs RHIS	
	- Organised QROC water police RHIS, created by Trent	
	LUCAS with 3 ORB members on board. O'GORMAN, PAUL,	
	JOHNSON	
0815hrs	- Re-postured ORB assets back in vehicles, maintained	
	maritime capability on QROC SEKT RHIS. Returned all	
	vehicle ORB assets back to Hanger, on stand by	
1220hrs	- Call from MRK, two targets meant 2 other persons in	
	Kipparing shopping centre. Surveillance given control	
	and intercepted 'like members POT' in vehicle	
1245hrs	- ORB in AD. TC IRVING, DT ANDREWS, TIV EVANS	
1300hrs	- Handled control from Owen LW MRK.	
1302hrs	- TC → Handled to DA.	
1307hrs	- Action executed on vessel at Scarborough Yacht	
	club	
	- DA → Fight through, maintain at re ORB stop.	
	- TC observed 1x male person running on adjacent board	
	from target vessel. TC called upon male person to stop	
	and identified as police. Directed Paul Evans / Mark B.	
	to take female into custody	
1330hrs	- TC walk through vessel under direction of DA,	
	* Maintained security, hand-over of vessel to investigators	
1521hrs	- Received briefing from MRK re possible parking in	
	Eden NSW	
	- Nil intel to support Eden task	
1700hrs	- Stood down DT Andrews team	
	- Arranged security party via Shululu Fittan TZ to	
	support investigator with transport of exhibits. Security	
	arrangements handled at 0130hrs Wed.	



CDPP

Australia's Federal Prosecution Service

Commonwealth Director
of Public Prosecutions

GPO Box 847
Brisbane QLD 4001
19th Floor, 15 Adelaide Street
Brisbane QLD 4000

Telephone 07 3224 9444
Facsimile 07 3229 4124
www.cdpp.gov.au

Our Reference: QC10101374C

11 June 2015

Elamrousy Solicitors
Level 5, 320 Adelaide Street
BRISBANE QLD 4000

Attention: Maggie Elamrousy

Dear Madam

**TERRANCE ELFAR (DOB: 10.09.61)
SS 307.1 & 11.2 IMPORTING COMMERCIAL QUANTITY OF A BORDER CONTROLLED DRUG –
CRIMINAL CODE (CTH)**

I refer to the Order by Justice Atkinson made on 9 June 2015 concerning the disclosure of all witness statements by Australian Customs and Border Patrol Service Control (ACBPS) witnesses during the boarding of the Edelweiss and Mayhem during Operation Bergonia.

In my letter of 1 June I provided to you the trial brief in electronic form which contained the following Custom witness statements:

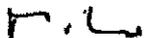
Name	Date
MACLENNAN, Rafe	14.10.10
MORRISON, Roland Graeme	05.07.11
RACKHAM, Ross Geoffrey	29.07.11
SAUNDERS, Matthew	27.08.11
SCOTT, Louise Sharyn	22.01.13 29.07.11 30.05.14 14.11.14
SYKES, Christopher	14.10.10

As you are aware the abovenamed witnesses also refer to other Custom witnesses, some of whom have provided statements in this matter, but are not intended to be called as Crown witnesses. As a matter of disclosure I provide print copies of those witnesses. It is my understanding that the following statements were provided to the previous lawyers acting for your client when the brief was served by the Australian Federal Police or on a date subsequently by my Office.

Name	Date
BURRIDGE, Darren John	19.11.10
CANN, Damien	15.10.10
CARPENTER, Peta Louise	16.10.10
DANIELS, Troy Adam	15.10.10
FLANIGAN, Paul Anthony	13.10.10 16.10.10
HICKY, Kevin	15.10.10
LEAROYD, Sean	14.10.10
LITTLE, James Errol	15.10.10
MARMONT, Brett Patrick	14.10.10
MOULDER, Andrew Lister	16.10.10
RULE, Leigh	15.10.10
TORRISI, Christopher Anthony	13.10.10 16.10.10
VAN VEGCHEL, Coxswain Michael	14.10.10 15.10.10 (handwritten)
VARDY, Quentin Francis	14.10.10 15.10.10 (handwritten)
WILLIS, Dorothy Margaret	26.11.10

Lastly, I advise that the Customs Officers Robert NANKIVELL; Bowman Michael GALLAGHER and Gavin ROOKE have not provided witness statements. Enquiries are being conducted to ascertain whether notes were recorded in their respective notebooks. AFP has advised me that GALLAGHER and ROOKE are no longer employed with the ACBPS.

Yours faithfully



Melanie Ho
Principal Federal Prosecutor
Illegal Imports & Exports

EXHIBIT 12

20150724/D3/BSD/SC/3/Atkinson J

MR RICE: Yes, your Honour. Perhaps if your Honour wants the details of that, perhaps the - - -

5 HER HONOUR: I suppose I need to be a little more precise, given that submission has been made on instructions.

MR RICE: Well, the nature of disclosure of statements was set out in correspondence to Elmarousi Solicitors on 11 June. It might be the easiest thing if I tender a copy of that letter from the CDPP.

10 HER HONOUR: Yes. Thank you. Have you seen that, Mr Foster? Do you have a copy of that, Mr Foster?

MR FOSTER: Yes, your Honour, I do have that, yes.

15 HER HONOUR: Thank you. I will mark that AM for identification.

20 **MFI #AM MARKED FOR IDENTIFICATION**

HER HONOUR: Well, I've already made an order.

MR RICE: That sets out the list of witnesses' statements disclosed.

25 HER HONOUR: Yes. Thank you. Yes, Mr Foster.

MR FOSTER: Yeah. Your Honour, the relevance of Customs on the 12th really goes to the issue of security of whatever alleged contraband was seized from the boat. It's a question of forensic chain of possession.

30 HER HONOUR: So is this something – are you now telling me something different or the same or - - -

35 MR FOSTER: No, I'm not, your Honour. No. I'm just - - -

HER HONOUR: So what is this? What are you saying now?

40 MR FOSTER: Well, your Honour, the relevance of knowing exactly what took place, what was taken and by whom is critical - - -

HER HONOUR: Yes. All right.

45 MR FOSTER: - - - to what it was that was actually taken. That's the whole point, your Honour. So it's not conceded that whatever the Crown asserts was taken was, in fact, taken.

██████████ – I have been approached by the Op Begonia/Collage case officer requesting assistance with a statement to be tendered that will hopefully satisfy any further efforts by the defence to discredit the prosecution case.

I have asked for a desired format for this statement and am awaiting a response.

I am happy to provide the appropriate detail in relation to the roles and responsibilities ██████████ had during the operation.

I am wondering whether we should get together to discuss if/what response we may provide?

Regards

██████████

Sir,

* As discussed the Defence lawyers in the matter of operation Collage have raised issues in a number of bail hearings in relation to members of the Australian Customs and Border Protection Service who were involved in the resolution activity for operation Collage being charged with drug offences. It is noted that a ACBPS officer ██████████ has been arrested and charged in relation to NSW drug offences namely;

Section 10 - Possession of prohibited drugs;
Section 12 - Self-administration of prohibited drugs;

Both are offences against the Drugs and Misuse Act 1985 (NSW).

This relates ██████████ been seen using cocaine by NSW Police.

* On Tuesday 26 October 2010, media outlets (Channels 7 and 10) were reporting on the event, stating that ██████████ was involved in Operation Collage, and indicating the cocaine ██████████ was arrested with was stolen from the Collage seizure.

It is noted that previous enquiries with Customs have indicated that ██████████ was holding an Observation Post in Port Macquarie pending the Mayhem's possible arrival, and ██████████ was not sent to Brisbane in any manner.

*? A review of the logs from the 'Mayhem' search indicated ██████████ was not involved in the any resolution activity in Brisbane.

Enquires have been made with AFP Sydney Office professional Standards as to whether they can assist and they have advised that we should contact Customs.

* Accordingly could you please make enquiries with Customs and endeavour to obtain an official Customs record/statement advising of the role this member played in Op Collage, the current status of the employee and any disciplinary action taken against the employee. Further if possible could Customs please provide formal advice as to whether any other of their members involved in the resolution for operation Collage have been disciplined and/or charged in relation to drug matters. This will assist in negating any issues being raised during committal proceedings and trial in relation to the credibility of Customs witnesses and the transparency of the investigation as a whole.

Regards

██████████

[REDACTED]

RE: Australian Customs and Border Protection Service, Integrity and Professional Service Reference Number 2010/287.

This matter has been referred for appropriate action.

Thanks very much for this information.

Checks have confirmed that [REDACTED] is a Customs and Border Protection officer and the attached photograph is of [REDACTED]

We have conducted a number of checks and can advise that [REDACTED] is not a Customs and Border Protection officer.

regards

[REDACTED]
[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

From: [REDACTED]
Sent: Tuesday, 19 October 2010 14:50
To: [REDACTED]
Subject: [REDACTED]

Att: [REDACTED]
Manager
Integrity & Professional Standards
Customs Department

Our ref: E44806581

At 11.40pm on Saturday 16/10/2010 a male person identified as [REDACTED] was observed administering a prohibited drug (Cocaine) from a bonnet of a vehicle outside the Licensed premises known as the Vinyl room situated at Gymea. These observations were made by plain clothes NSW Police who made the arrest. A small amount of a prohibited drug (cocaine) was seized and one of the two males in the company of [REDACTED] fled. A [REDACTED] in his company but not observed administering the drug was also spoken to and was identified as [REDACTED] It is unknown if this person of interest is also a serving customs officer.

Police sighted [REDACTED] bent over onto the boot of a vehicle with a \$5 note rolled up and in his nose. He was then allegedly observed to snort two lines of cocaine approximately 5 centimetres in length.

13/01/2011

Police were three metres away at the time.

Whilst under caution [REDACTED] did say to Police, "Cause I'm a Custom's Officer. If I was a sparky or a plumber I would have admitted to snorting it". [REDACTED] went on to say, "I was just celebrating. Im about to be commended for my involvement in the large bust. Im good at what I do".

The above information is contained within the FACTS relevant to NSW Police charge reference number H42447112. [REDACTED] has been bailed to appear at the Downing Centre Local Court on the 09 December 2010. The above FACTS have not been made public and will be read onto the public record on the 09/12/2010.

Attached is a photograph of the person identified as [REDACTED]

Could you please reply to this email and provide a Customs Department reference number on receipt of this information.

Regards

[REDACTED]

The information contained in this email is intended for the named recipient(s) only. It may contain private, confidential, copyright or legally privileged information. If you are not the intended recipient or you have received this email by mistake, please reply to the author and delete this email immediately. You must not copy, print, forward or distribute this email, nor place reliance on its contents. This email and any attachment have been virus scanned. However, you are requested to conduct a virus scan as well. No liability is accepted for any loss or damage resulting from a computer virus, or resulting from a delay or defect in transmission of this email or any attached file. This email does not constitute a representation by the NSW Police Force unless the author is legally entitled to do so.

IMPORTANT:

* This transmission is intended for the use of the addressee only and might contain sensitive or legally privileged information. If you are NOT the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited. If you receive this transmission in error, please notify the author immediately by telephone and delete all copies of this transmission together with any attachments.

* The Australian Customs and Border Protection Service DOES NOT AUTHORISE the recipient to further disclose this email or its contents without permission of the originator.

* Unsolicited commercial emails MUST NOT be forwarded to the originator of this transmission unless prior consent has been given.

13/01/2011

[REDACTED]

26/10/2010 16:04

To: [REDACTED]

cc: [REDACTED]

Subject RE: [REDACTED] [SEC=UNCLASSIFIED]

Hi [REDACTED]

If possible can I get a few details regarding the individual who was in the company of [REDACTED] and fled. A basic description would assist in identifying other Customs and Border Protection officers believed to socialise with [REDACTED]

[REDACTED] is conducting some inquiries here in Sydney and would like to discuss this matter.

I've cc'd [REDACTED] into this email, he is contactable on [REDACTED] or by email.

regards

[REDACTED]
[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

From: [REDACTED]
Sent: Monday, 25 October 2010 09:45
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED] [SEC=UNCLASSIFIED]

Thanks [REDACTED]

[REDACTED]
[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

13/01/2011

[REDACTED]

[REDACTED]

To: [REDACTED]

26/10/2010 16:38

cc
Subject RE: [REDACTED] [SEC=UNCLASSIFIED]

[REDACTED]

At this time, we are unsure how this matter was released to the press. I believe the [REDACTED] has been contacted by Customs I&PS to see if he was aware of how this information got into the press. It was not officially released from Customs or from the NSW Police.

regards

[REDACTED]

[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

From: [REDACTED]

Sent: Tuesday, 26 October 2010 16:33

To: [REDACTED]

Subject: RE: [REDACTED] [SEC=UNCLASSIFIED]

[REDACTED]

I noticed this matter got some press last night. Did customs do a holding release or did that generate from somewhere else?

Regards

[REDACTED]

13/01/2011

[REDACTED]

From: [REDACTED]
Sent: Thursday, 13 January 2011 14:04
To: [REDACTED]
Subject: FW: [REDACTED] [SEC=UNCLASSIFIED]
Security Classification: UNCLASSIFIED

[REDACTED]
[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

From: [REDACTED]
Sent: Thursday, 28 October 2010 12:55
To: [REDACTED]
Subject: RE: [REDACTED] [SEC=UNCLASSIFIED]

Thanks [REDACTED]
I've forwarded on your concerns on the I&PS team looking into this matter.
regards

[REDACTED]
[REDACTED] | Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House Sydney International Airport
t: [REDACTED] | f: (02) 8339 6702 | m: [REDACTED]

From: [REDACTED]
Sent: Wednesday, 27 October 2010 06:45
To: [REDACTED]
Subject: RE: [REDACTED] [SEC=UNCLASSIFIED]

[REDACTED]

(The information from the media release I heard on Channel 7 was almost verbatim to the info contained in info I sent to you except for the details of the customs officer [REDACTED] That was inconsistent?)

Regards

13/01/2011

329



Australian Government
**Australian Customs and
Border Protection Service**

PROTECTED

Integrity and Professional Standards
Australian Customs and Border Protection Service
Customs House, Level 1
5 Constitution Avenue
Canberra, ACT 2600

Phone: +61 2 6275 6985
Fax: +61 2 6275 6328

NMI&PS Out:
I&PS Reference: 2010/287

**Chief Operating Officer
A/g DCEO Border Enforcement**

Michael Pezzullo
[REDACTED]

For information of:

**National Director People and Place
National Manager People
Regional Director NSW**

Marie Bridger
[REDACTED]

ALLEGATION THAT A CUSTOMS AND BORDER PROTECTION OFFICER WAS APPREHENDED FOR POSSESSING AND USING NARCOTICS

Purpose

1. To provide you with the information received by Integrity and Professional Standards (I&PS) alleging Customs and Border Protection officer [REDACTED] was arrested by NSW Police (NSWP) for possessing and self administering the illicit drug cocaine.

Background

2. [REDACTED] on Saturday, 16 October 2010, [REDACTED] was arrested after being observed self administering a prohibited drug (cocaine) from the bonnet of a vehicle outside a licensed premise. A small amount of a prohibited drug (cocaine) was also seized.

3. Whilst under caution [REDACTED] identified [REDACTED] to NSWP as a Customs and Border Protection officer. [REDACTED] advised that at the time of his arrest, [REDACTED] was in the company of two (2) [REDACTED]. One (1) [REDACTED] who identified [REDACTED] to NSWP, is not a current or former Customs and Border Protection officer. The other [REDACTED] whose identity remains unknown, decamped the scene.

4. [REDACTED] also advised that [REDACTED] who was not formally interviewed due to [REDACTED] stated high level of intoxication, had been bailed to appear at Downing Centre Local Court on 9 December 2010.

Investigation

5. I&PS established that [REDACTED] was currently stationed in [REDACTED]

6. On 20 October 2010, I&PS briefed the Regional Director NSW [REDACTED] who advised that he was taking immediate steps to [REDACTED]

PROTECTED

PROTECTED

327

18. On 27 April 2011, [redacted] appeared in Downing Centre Local Court to answer the two (2) *Drug Misuse and Trafficking Act 1985* charges. Following a legal conference, [redacted] entered guilty pleas in relation to both charges.

19. The Magistrate found [redacted] guilty of both charges but used discretionary powers to record both charges as no conviction under *Section 10(1)(b) of the Crimes (Sentencing Procedures) Act 1999*. The Magistrate then ordered [redacted] to enter 2 year Good Behaviour Bonds.

20. On 29 April 2011, [redacted] tendered [redacted] resignation, via email, effectively immediately.

Discussion

[redacted]

C

*

24. [redacted] and the other [redacted] apprehended on 16 October 2010 have both refused to identify the [redacted] who decamped on 16 October 2010 to NSW. P

[redacted]

Conclusion

27. The initial allegation received that [redacted] was arrested and charged by NSW on drug related charges on 16 October 2010 are viewed as substantiated.

C

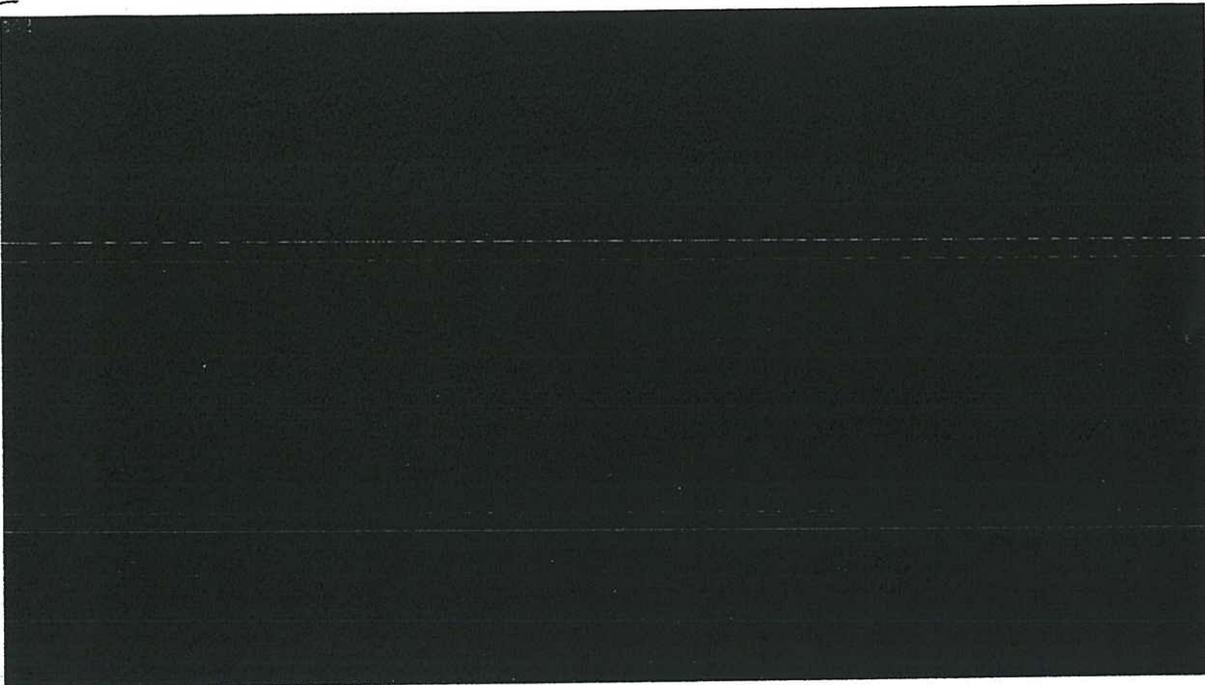
*

28. [redacted] refused to disclose to NSW, the identity of the [redacted] who decamped on 16 October 2010. It is unknown if the male is a serving Customs and Border Protection officer. P

29. If you have any questions regarding this investigation please contact [redacted]

[redacted]
National Manager
Integrity and Professional Standards
May 2011

PROTECTED



From: [REDACTED]
Sent: Thursday, 7 April 2011 9:09 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Operation Collage [SEC=PROTECTED]

[REDACTED]

[REDACTED] from LSB is handling the [REDACTED] case and I understand may have already been contacted by Defence counsel in this matter. You should make contact with him for advice on the form/content of statement.

Regards

[REDACTED] | Regional Director NSW | National Manager Business Partners
Australian Customs and Border Protection Service
Level 8 Customs House, 10 Cooks River Drive, Sydney International Airport NSW 2020
Phone: [REDACTED] Fax: +61 2 8339 6700

Please consider the environment before printing this e-mail

From: [REDACTED]
Sent: Thursday, 7 April 2011 7:52 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Operation Collage [SEC=PROTECTED]

2
UNCLASSIFIED
UNCLASSIFIED

From: AMSOC
Sent: Tuesday, 12 October 2010 10:11 AM
To: Ocean Protector - Enforcement Commander
Subject: OP BERGONIA Update, 112250Z OCT10

EC ACV OCEAN PROTECTOR

Matt,

Apologies, we've had Tim Clarke down this morning and there was a blockage in the e-mail system that stopped the messages getting through.

For info, the daughter vessel MAYHEM EDEN arrived at a marina at Redcliffe, a northern suburb of Brisbane, early this morning. STORM BAY was shadowing and their tender provided water-borne surveillance of the yacht with AFP and Customs did shore-side surveillance. No AFP action has been taken against the daughter vessel as yet, with one theory that the MAYHEM EDEN is recovering from the weather and may transit south to Port Macquarie when the current weather conditions abate. AFP are making the call on when action is taken.

CUSTOMS AT MARINA

Regarding the suspected mother vessel, you've seen Greg Clifford's message to you from at 0023 this morning, and the only vessel anywhere in the vicinity was the catamaran found adrift. The position as at 0700 AEDST yesterday was provided through intel sources and we assume means that a transmission was tracked from the suspected mother vessel. Last night's P-3 only found the drifting catamaran within 100nm of the 0700 AEDST position, so our current assumption is that the catamaran (sloop rigged, approx. 12 metres in length) is the suspected mother vessel.

We are sending the AMSA Dornier there today (wheels up Brisbane 0230Z) to relocate and potentially contact the vessel in our 'normal' patrol way. As you'll see, if the Cat is the suspected mother vessel, it has not moved very far over the last 4 days, and we don't know why. We'll provide an updated position when the Dornier has relocated this afternoon, and inshallah, some imagery, but it appears to be drifting 270 / 1.5 knots over the past 24 hours.

For your situational awareness, in the vicinity of the area of operations there is an AFV ESBJORN, its position as at 112222Z 2728S 15957E (Co 090 / Sp 6).

Interestingly, to date, we do not believe that it is operating its radar. We are considering have you pass near the vessel during the night using your guise as a merchant vessel to see what sort of activity you detect on your EOD. We'll confirm this requirement when you are closer to the area.

Your task remains to proceed at full speed to the vicinity of the updated position of the suspected mother vessel catamaran, remaining in a covert position and await further direction.

Request your ETA based on current situation when available.

Regards

Bruce Christensen
Director BPC Operations

—Original Message—
From: Group Commander

EXHIBIT 22

2010-12-30 13:26 Level 4 Downing Ctr

61 2 92877542 >>

61 2 8339 6702 P 8/8

FOI Document #5

COURT ATTENDANCE NOTICE (RECORD OF SERVICE COPY)

[REDACTED]

List No. _____

Listed before: DOWNING CENTRE LOCAL Court on Thursday 9th December, 2010 at 9:30 am

DEFENDANT DETAILS

[REDACTED]

PROSECUTOR (NSW POLICE) DETAILS

OIC (Prosecutor) : [REDACTED] Sutherland
 CAN Created by : [REDACTED] 2:07 am 17/10/2010
 CAN Accepted by : [REDACTED]
 Apprehended : 11:50 pm on 16/10/2010
 Apprehended by : [REDACTED] Sutherland

Charging station : Sutherland

DETAILS OF OFFENCE/S

001	Drug Misuse and Trafficking Act 1985, Section 12(1) Self administer/attempt to self administer prohibited drug between 11:35 pm and 11:36 pm on 16/10/2010 at Gympie. [REDACTED] did administer to himself a prohibited drug, to wit, cocaine.	Law Part Code 3151
002	Drug Misuse and Trafficking Act 1985, Section 10(1) Possess prohibited drug between 11:35 pm and 11:36 pm on 16/10/2010 at Gympie. [REDACTED] did have in his possession a prohibited drug, to wit, cocaine.	Law Part Code 3145

RECEIVED
 18 OCT 2010
 COURT HOUSE
 SUTHERLAND

SERVICE DETAILS

I have served on ACCUSED/DEFENDANT a copy of this Court Attendance Notice IN PERSON at 3:35 am on 17/10/2010 at Sutherland POLICE STATION

[REDACTED] Sutherland

? WHY THE DOWNING CENTRE
 & NOT SUTHERLAND COURT !

Printed at 3:36 am on 17/10/2010



23
23

Australian Government
**Australian Commission for
Law Enforcement Integrity**

7 July 2016

Mr Simon Golding
WCC, LMB 2000
ARCHERFILED QLD 4108
E-mail: [REDACTED]

Dear Mr Golding

Thank you for your recent letters to the Australian Commission for Law Enforcement Integrity (ACLEI).

In your letter dated 7 June 2016, you wrote that you had been advised that the Minister for Immigration and Border Protection had forwarded information regarding Operation Collage/Bergonia to ACLEI. I wish to inform you that ACLEI is not aware of any information having been received from the Minister in relation to Operation Collage/Bergonia.

You also sought advice from ACLEI as to the current status of the ACLEI investigation into 'this case'.

As you are aware, ACLEI is conducting an investigation into a number of allegations you have made concerning the conduct of members of the Australian Federal Police and the (now) Department of Immigration and Border Protection relating to the investigation known as Operation Collage/Bergonia. In accordance with subsection 52(3) of the *Law Enforcement Integrity Commissioner Act 2006*, for reasons of operational security, ACLEI will not inform you of the progress of the investigation.

If in the future ACLEI believes that it is appropriate to inform you of the progress of the investigation, ACLEI will communicate with you. In the meantime, you are welcome to provide to ACLEI any new information of which you may become aware.

Yours sincerely

A handwritten signature in black ink, appearing to be the initials 'S' followed by a horizontal line.

Executive Director Operations

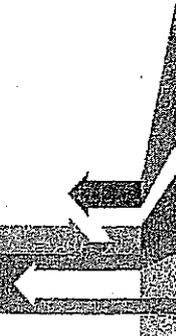


EXHIBIT 24

INTERNAL MINUTE

Deputy Chief Executive Officer Border Enforcement
 Acting Deputy Chief Executive Officer Border Management
 cc National Manager, Parliamentary and Executive Coordination

SUBJECT: MEDIA ENQUIRY: AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE OFFICER'S INVOLVEMENT WITH DRUGS OFFENCES

Recommendation

<p>It is recommended that you note:</p> <ul style="list-style-type: none"> • Talking Points prepared by the Integrity and Professional Standards Branch in response to a Media Enquiry about a former Australian Customs and Border Protection Service (ACBPS) officer's involvement in drugs offences and a joint operation resulting in a narcotics seizure; and • The Ministerial Submission advising the Minister of Immigration and Border Protection of the media interest. 	Noted
	Please discuss

Key Points

- 1 On 2 September 2014 Customs Media received a Media Enquiry from journalist Ross Coulthart, Sunday Night program, Channel 7 ("the Media Enquiry").
- 2 The Media Enquiry was made following the release of a decision by the Australian Customs and Border Protection Service's (ACBPS) under the *Freedom of Information Act 1982* (FOI Act) to a private individual, Mr Simon GOLDING.
- 3 The Media Enquiry seeks information regarding reports that an ACBPS officer was arrested on 16 October 2010 for drugs offences at the Vinyl Room Nightclub in Cronulla, New South Wales. That officer was involved in the joint agency operations involving ACBPS and the AFP that resulted in a narcotics seizure in Queensland on 12 October 2010.
- 4 Mr GOLDING is himself a Defendant in criminal proceedings which are currently on foot in the Queensland Supreme Court ("the Golding proceedings"). Those proceedings are the result of a joint Australian Crime Commission and Australian Federal Police (AFP) operation and relate to the seizure of drugs in October 2010. The Legal Services Branch has consulted the AFP about these issues in light of the Media Enquiry. The AFP has advised that the Golding proceedings are set down for trial in November 2014. The AFP view is that no comments should be made publicly about these issues given that it is an ongoing criminal proceeding.

Additional Requests

- 5 The Legal Services Branch is processing Subpoenas in relation to the Golding proceedings from Mr GOLDING and ^{s 47F}. 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.

- 6 On 2 September 2014 ACBPS received a further FOI request from Mr GOLDING in relation to these issues. That request is being processed.
- 7 ACBPS is also processing a related FOI request from ^{s 47F}, which the Legal Services Branch understand to be a further individual involved in the criminal proceedings.

Background to FOI Decision

- 8 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 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".

- 9 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 the basis that no allegations related to ACBPS officers were received by Integrity and Professional Standards in relation to the seizures at Scarborough Marina in October 2010 and no ACBPS officers were present in the Scarborough Marina precinct at the relevant time.
- 10 ACBPS identified one document as falling within the scope of part 1 of the request relating to the arrest of an ACBPS officer at the Vinyl Room nightclub in October 2010. The decision-maker decided to release that document in part under the FOI Act. Exemptions were applied to part of the document mostly on the basis that the information was either irrelevant to the request or it would unreasonably disclose the personal information of an individual. In the notice of decision the decision-maker also decided to provide further background material in response to the request. A copy of the decision on access, together with the documents being released, is at Attachments A and B for your reference.

Media Enquiry

- 11 The Media Enquiry now seeks further details of the relevant incidents, including the identity of the ACBPS officer. What further material, if any, is to be provided in response to the Media Enquiry is now a question involving the Privacy Act 1988 ("the Privacy Act") and not the FOI Act. It also involves a consideration of the current criminal proceedings on foot.
- 12 The Legal Services Branch has advised that the relevant considerations under the Privacy Act are:
 - (a) Personal information means information or opinion about an identified individual or an individual who is reasonably identifiable.
 - (b) Under Australian Privacy Principle 6 in the Privacy Act, personal information about the ACBPS officer cannot be disclosed unless an exception applies.
 - (c) One relevant exception is where ACBPS reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by ACBPS as an enforcement body.

- (d) Given that the both the criminal and Code of Conduct actions in relation to this ACBPS officer have been completed, a disclosure of personal information about the ACBPS officer to the media would not be reasonably necessary for an enforcement related activity as defined in the Privacy Act. This is because the disclosure would not be for the prevention, detection, investigation, prosecution or punishment of a criminal offence nor the prevention, detection, investigation or remedying of misconduct of a serious nature.
- 13 Bearing in mind these considerations, together with the policy issues regarding the integrity measures of ACBPS officers and the criminal proceedings on foot, the decision-maker has decided to respond to the Media Enquiry as follows (in part):
- (a) Not to release the name of the ACBPS officer involved;
 - (b) To note that the ACBPS officer is not currently employed by ACBPS;
 - (c) To not comment further given the ongoing criminal proceedings
- 14 Whilst not relevant to the application of the Privacy Act it is expected that there will be media attention around ACBPS's failure to be fully forthcoming with the details around this matter. However, this is not unreasonable given the ongoing criminal proceedings on foot.
- 15 A copy of the Talking Points that have been prepared by Integrity and Professional Standards in relation to the Media Enquiry are at Attachment C for your reference.
- 16 A Ministerial Submission for the Minister for Immigration and Border Protection has also been prepared (Attachment D).

Consultation

Legal Services Branch and the Australian Federal Police.

Steve Hayward
A/g National Director, Integrity Security & Assurance Division

September 2014

Attachments

- A. Notice of FOI Decision
- B. Document released to FOI applicant
- C. Talking Points
- D. Ministerial Submission

AUTHOR:	Elizabeth Hampton
POSITION:	National Manager, Integrity and Professional Standards
DOC DATE:	Wednesday, 3 September 2014

MEDIA ENQUIRY

LEAD AGENCY: ACBPS

Subject: Customs Officer charged with drug related offences		
Deadline:		
Journalist: Ross Coulthart		Outlet: Sunday Night (Ch 7)
Phone: s 47F s 47F	Mobile: s 47F s 47F	Email: s 47F
Enquiry Received (Time & Date): 2:17 2/09/14		
Media Officer: s 47F	Media Ph: s 47F	

ISSUE

Following enquiry received from Ch 7:

Hello there,

Further to a conversation with s 47F in your office earlier today, I would be very grateful if you could help us with the following inquiry. I'm following up on a news story which appeared on Channel Seven in December 2010, reporting that a Customs officer had been arrested and charged with selling cocaine at the Vinyl Room Nightclub in Sydney's Cronulla. The story, at the time, alleged (on information received from NSW Police) that the Customs officer was involved in the interception of a huge haul of cocaine in Brisbane, at the Scarborough Marina on or about the 12th October that year. We are also aware of the response by Customs to an FOI request made by a Mr Simon Golding dated 29 August 2014, file reference: 2014/025342.

We are aware (from that FOI response) that the Customs officer was arrested on 16 October 2010, several days after the Scarborough Marina bust, after he offered cocaine to patrons of the nightclub. He was charged by NSW Police under the Drug Misuse and Trafficking Act 1985 with Possession of Prohibited Drugs and with Self-Administration of a prohibited drug. We understand also that the officer was bailed to appear at Downing Centre Local Court on 9 December 2010. Significantly, we are now also aware from that FOI response that the Officer was involved in the joint agency operations involving ACBPS and the AFP that resulted in the narcotics seizure in Brisbane on 12 October 2010. We understand also that ACBPS maintains that the arrested officer did not have access to the seized Scarborough narcotics. For obvious reasons, this admission raises very grave and major issues in the public interest on which we now seek answers.

Customs has declined to provide Mr Golding with the name of the Customs officer. Yet we are mindful that Customs has always previously been very forthcoming and mindful of the public interest in acknowledging the public's right to report the outcome of criminal charges against any Commonwealth employee; and past practice has always been that when the officer has appeared in court that officer's name is released and can be reported. The public will no doubt also seek some strong reassurance that in an operation of the magnitude and significance of the Qld interdiction at Scarborough, that corruption by an individual Customs officer has not jeopardised what was hailed at the time as one of the most significant drug arrests in Qld history.

With that strong public interest in mind, what we would like to know is:

1. What is the name of the Customs officer who was arrested and charged in December 2010?
2. Anticipating that Customs might elect not to name the officer, as has already happened in an FOI application response to a Mr Simon Golding dated 29 August 2014, on what legal basis does Customs decline to identify him?
3. If, as Customs has already acknowledged, the officer has made an appearance in the NSW Local Court, does Customs recognise the public interest in allowing the media to report the outcome of such criminal charges against a Commonwealth officer by providing his/her name to the media?
4. If not, why not?
5. If Customs takes the view that disclosure of the name of an officer arrested and charged with possession of cocaine would be unreasonable, can it please explain its reasoning? (IE: Isn't there an extreme public interest in seeing the name of this officer disclosed, and in the public being reassured that the Department's response according to proper procedure has been heeded? If not, why not?)
6. Is that Customs officer still working for the Customs service?
7. When did the arrested officer first acknowledge his arrest and charging to Customs' Regional Security Advisor? (a document [I&PS Reference 2010/287] disclosed by Customs to Mr Golding, dated June 2011, suggests that the accused officer had not advised the RSA of the charges laid by NSWSP)
8. How soon after Customs became aware of his arrest and charging of its officer did it take any action against him?
9. When was that?
10. What action was taken by Customs, and at what date, in response to the revelation that one of its officers was in possession of and offering for sale a substantial amount of cocaine just a few days after a major cocaine bust?
11. Can Customs categorically assure Sunday Night that the cocaine seized from its officer did not come from the Scarborough Marina operation bust?
12. If so, how? (IE: has DNA testing been done to ensure that the cocaine was not from the same haul?)
13. Is the Customs service aware of allegations that the Customs officer was offering cocaine for sale to patrons of the Vinyl Room the night he was arrested?

Best wishes and thanks for your prompt attention to this matter. Our programme is scheduled for imminent broadcast and we would be very grateful to know the Department's position as early as possible for incorporation into our broadcast.

QUESTIONS & RESPONSES

GENERAL RESPONSE

The Australian Customs and Border Protection Service (ACBPS) is aware of a matter involving an ACBPS Officer being arrested and charged by New South Wales (NSW) Police in 2010 with charges relating to the possession and self-administration of a prohibited drug. The charges did not relate to the selling of prohibited drugs. The matter was finalised in 2011. The Officer subsequently resigned and is not currently employed by ACBPS.

Further questions regarding charges or court proceedings should be directed to the NSW Police.

ACBPS will not be providing additional information on the circumstances relating to the former Officer as it may prejudice unrelated proceedings which are currently underway.

BACKGROUND (*not for public release*)

On Saturday 16 October 2010, an off-duty ACBPS Officer was observed self-administering white powder through a rolled up five dollar note from the bonnet of a vehicle outside a night club in Gymea, NSW. These observations were made by plain clothes NSW Police Officers. The Officer was arrested and charged with offences relating to the possession and use of a prohibited drug.

At the time of the arrest, the person identified himself as an ACBPS Officer and the fact that he was celebrating after being involved in a significant operation and major bust.

s 37(2)(b), s 47E(d)

s 47F

CLEARANCE:

Drafted by	Title	Time/Date
s 47F	s 47F	04/09/2014

Cleared by s 47F	Title	Time/Date
	s 47F Integrity and Professional Standards	04/09/2014
	s 47F	04/09/2014
	s 47F Integrity, Security and Assurance	04/09/2014
	s 47F Border Management	04/09/2014
	AFP	5/09/2014
	NSW Police	5/09/2014

For info copies s 47F	Title	Time/Date
	s 47F	

Date and time provided to journalist: 12:03, 5 September 2014

Case study

OPERATION BERGONIA: Australia's third biggest cocaine seizure

In Australia's third largest cocaine seizure, our officers joined forces with the AFP, and Queensland and New South Wales Police to seize 401kg of pure cocaine on Queensland's southern coast.

Operation BERGONIA (AFP's Operation COLLAGE) began following information from the United States Drug Enforcement Administration. In a complex operation, made difficult by the atrocious sea conditions, agencies worked together to locate and intercept two vessels—a mother ship and a daughter ship—in an area of water four times the size of New South Wales.

In early October 2010, we established a joint command post with the AFP in New South Wales, where the operation commanders planned a covert response and prepared for any attempt to land onshore. The Customs National Operations Centre and BPC's Australian Maritime Security Operations Centre provided support.

Surveillance aircraft from BPC deployed and within a day, they pinpointed the location of both vessels and, in conjunction with the New South Wales Police vessel *Nemesis*, maintained near-constant surveillance as the daughter ship tracked towards Moreton Bay while the mother ship sailed in an area approximately 320 nautical miles east of Australia.

Throughout the night of 11 October 2010, the ACV *Storm Bay* and the *Nemesis* battled driving rain and stormy seas, including 13-metre waves, as they tracked the daughter ship while Customs and Border Protection and AFP officers waited onshore or in small tenders in Moreton Bay to complete the interception.

In the morning, the AFP with support from our officers, executed a search warrant and boarded the daughter ship in Scarborough Marina, north of Brisbane. They also searched a vehicle. AFP alleged that cocaine was located during these searches.

The newest addition of our fleet, ACV *Ocean Protector* deployed and successfully intercepted the mother vessel, 320 nautical miles off the Queensland coast.

The successful outcome of this operation demonstrates the close relationships that exist between federal and state law enforcement and security agencies with responsibilities at the border, the importance of the cooperative arrangements with overseas law enforcement agencies and the technical expertise of Customs and Border Protection and the ADF to operate within the remote maritime environment.

EXHIBIT 26

20150803/D8/BSD/SC/3/Atkinson J

skill to be able to what they – do what they call a deep search. So we – there was discussions around how that would practically be done.

With you?---Yes.

5

So there was one Customs officer discussing it with you? Or was there a couple, and you - -?---As I said last week, there was a police forward command post, so I was speaking to the forward command post and they were having discussions at a higher level with various agencies, Customs and others. So I was speaking to them about it and then, if I recall correctly, I was speaking to a Customs officer at the marina about it as well to work out the best way that that could be – that search could be undertaken.

10

Can I suggest to you that there were at least two plainclothes – plain clothed – that’s a better way – Customs officers there in the early afternoon. What do you say? That is, at the marina?---I – I don’t recall. Sorry.

15

And so the officers that you were talking to: were they in plainclothes?

HER HONOUR: Well, he didn’t agree “officers”, so just be careful in the way you ask the question.

20

MR FOSTER: Thank you. Yes. Thank you, your Honour.

The Customs people you were speaking with: were they in plainclothes?---I’m not sure. Sorry.

25

Now, are you aware of any Customs officer or person in Sydney who was arrested some days later after this operation?---Yes.

30

What do you know about that?

MR RICE: I object to the relevance, your Honour.

HER HONOUR: Yes. What could the – do you want to argue that it’s admissible, that you can ask the questions?

35

MR FOSTER: Yes, your Honour. Well, your Honour, I’ll leave it. I’ll leave it until perhaps 1 o’clock.

40

HER HONOUR: All right. So you don’t get your - - -

MR FOSTER: I’ll save the jury going out, your Honour.

HER HONOUR: - - - exercise, members of the jury. Yes. Well, keep going then, please, Mr Foster, on something else.

45

EXHIBIT 27

20150730/D7/BSD/SC/3/Atkinson J

So – and there would have been a number of bosses in – in that forward command post at the time, but there was also, obviously, the command post in Brisbane and in Sydney. So depending on the task, it – it may come from different areas as to who had overall responsibility for that particular task.

5

Right. So, now, were there any Customs agents there on the 12th of October, that is, when I say “there”, on the marina, in the vicinity of Mayhem of Eden?---I believe there were some Customs officers there at some stage, but I can't recall the names.

10

Right. And were they – I'll withdraw that. This was, effectively – Operation Collage was, effectively, a joint operation between AFP and Customs; is that not so?---That's correct, yes.

15

And to the extent that the AFP called this overall operation Collage and the Customs were calling it the Bergonia?---That's correct, yes.

And so it's not the position, is it, that the Customs were just a minor party? They were a joint party to the AFP. Is that how you saw it?---That's correct, yes.

20

And do you recall approximately how many Customs officers were present on the marina while you were there on the 12th of October?---I do not, no.

Now, you were there from around, what time, early afternoon on the 12th?---From 1.43 I arrived at the marina.

25

Now, 1.43 was shortly after, of course, the arrests of a number of co-accused standing trial here - - -?---That's correct.

- - - over at Kippa-Ring?---Yes.

30

And you were present there for a time at Kippa-Ring?---Yes.

Right. Who are – so what part of the arrest areas – the arrests were you particularly interested in?---So I arrived after the vehicle intercept, and at the time I arrived, there was a Mercedes parked on Anzac Road, and there was a Toyota Corolla in front. And I saw one of the accused on the side of the road, and one of the other accused was being removed from the Toyota Corolla. And myself and Federal Agent Scott Cameron dealt with Mr Mandas, who was in the – the Mercedes vehicle at the rear.

35

40

Right. So is that where you were primarily interested in?---Yes.

And at some point, then, you left the Kippa-Ring area and went to the marina; is that so?---That's correct, yes.

45

And, now, how long were you at Kippa-Ring, do you say, approximately?---Approximately one hour.

EXHIBIT 28

20150730/D7/BSD/SC/3/Atkinson J

MR FOSTER: One question, your Honour, but I'm happy to split them up. I'll split them up.

5 When do you recall – when do you first recall Customs officers being present on the marina itself?---I don't recall a particular time when they were first present.

10 All right. You said before that you recall Customs officers being there, so can you tell us at what part of the day you were able to say that Customs officers were present?---I recall that Customs officers were present during the day, so when it was light, but apart from that, I can't be any more exact as to exactly what time or what particular Customs officers were present.

Right.

15 HER HONOUR: Are you talking about the 12th of October?---Yes, your Honour.

Right.

20 MR FOSTER: And on the 12th of October, then, are you able to recall the approximate number that you saw on the marina while you were there?---No, I am not.

25 Now, I'm not going to press you for a number, but perhaps if I asked you whether you recall less than 10 or more than 10 Customs officers being present?---Less than 10.

Are you aware of a person called Ms Radford? Ms Radford?---No.

30 All right. Do you know – while you were present, then, from about quarter to 2, say, for example, on the 12th of October, did you remain within the marina itself up until the search warrant was issued, to your understanding, or did you leave the marina?---No. I remained in the marina at that time.

35 So you would have seen everything that happened by way of – I'll withdraw that. Did you remain in the immediate vicinity of the Mayhem of Eden?---I believe so, yes.

40 Would you have seen whether or not any officers, after you had left the vessel but before you re-entered it after the warrant was issued – whether any other officers actually entered the vessel at all?---Sorry. Was the question would I have seen or ---

Yes?--- --- do I know if any entered?

45 Would you have seen it?---I believe I would have, yes.

EXHIBIT 29

20150730/D7/BSD/SC/3/Atkinson J

Right. And did you see any other officers enter the vessel after you left it at about quarter to 2 in the afternoon up until you entered it later on, after the search warrant had been issued?---Not that I recall, no.

5 In particular, did you see any other officers, in the daylight, around about 2, 2.30 or even 3 o'clock, 3.30, moving things up the gangway toward the security gate?---Not that I recall, no.

10 HER HONOUR: When you say "in particular", do you mean from the boat? You asked him about seeing people enter the boat, then you said "in particular". Do you mean something different, or do you mean in relation to the boat?

MR FOSTER: I've forgotten the context of the question, your Honour.

15 HER HONOUR: Have you? All right.

MR FOSTER: All right. So do you know if anybody was searching the boat at all from the period, say, of 2 o'clock right through till, say, 5 o'clock?---No.

20 Searching the boat?---No one should have searched the vessel in that time.

So in the afternoon of the 12th of October, while you were there, down at the marina, how many other either federal agents or Customs officers were present altogether? Total number. Do you have any idea of the total number of agents or officers?---No.
25 This was a five-hour period, so essentially myself, Federal Agent Karen Mazlin and Federal Agent Begbie were in the vicinity of the – the walkway next to the vessel, ensuring that people were not entering the vessel. And Federal Agent Karen Mazlin was keeping a log to ensure that people entering or leaving the vessel – but as you – there's a – also, away from the boat, there's quite a long walkway. So I was in the
30 vicinity of – of the walkway beside the vessel and in that general area, and there were people coming and going at different stages, some people to their own vessels or other people, and so there was – and, as I said, there was Customs officers. I couldn't tell you how many people were in that vicinity at any particular time. It was a five-hour period, so it's a quite extensive period.

35 Right. So nobody was searching the vessel. I'm assuming – and correct me if I'm wrong – that when officers or agents are undertaking a forensic procedure like that, they normally wear some sort of glove?---By forensics procedure, you mean searching the vessel?

40 Searching, yes?---Yes. When you're searching, you would generally use gloves. That's correct.

45 And the purpose of that is?---To prevent contaminating the evidence with your own fingerprints or DNA or - - -

EXHIBIT 30

20150729/D6/BSD/SC/3/Atkinson J

attended Canberra to – to have a meeting with that person, and during that meeting I've expressed of what we expect from Customs in relation to the brief of evidence. So any persons that had any relevant information, for that person to provide a statement. We also required the notes of the persons that were there as well. So then
5 they've put out their own request to their members, because I don't know their email addresses and so on or – or their particular details, unless it was on the property seizure records, on a warrant – whether people have introduced themselves during a warrant. That's how we go about trying to determine who was there. I – I wasn't on
10 the boat – on the Mayhem of Eden, so I – I can't tell you exactly how many of those Customs officers were there or the ratio as to which Customs officers provided statements to the ones that didn't provide statements. Obviously, we don't get statements off people that don't bring anything to the brief of evidence; it's pointless.

15 Right. So you say you can't remember how many. What I'm asking you is approximately how many Customs officers do you recall, at the end of your analysis, were at the marina on the 12th?---I – I can't recall.

20 Would it be, perhaps, 10? Would it be, perhaps, 20?---I think it'd be around – under that 20 mark with Customs agents that were involved in the operation at the marina, but in saying that, I'm not 100 per cent sure.

And – so in relation to statements, then, from Customs officers, how many statements did you ultimately obtain?---I don't recall. I – I didn't take any of the
25 statements. They – they provided me with their statements.

Well, I understand that, but how many, ultimately, were you provided with?---I don't recall. It should be in the brief of evidence that you have.

30 Right. So putting that to one side, best you can recall, would it have been around about – between 10 and 20?---Yes.

And do you know where those statements would be now? You think they'd be in the brief of evidence?---That's right. You've got a copy of – you should have a copy of
35 them.

Right. And is that because it was all provided by you to the DPP, or - - -?---No. Every statement that we've taken in relation to this matter was served on – on you – on your defence. Every statement – it wasn't just the DPP that was serving these
40 statements on defence. I was as well.

Right?---So every time – I think there was three or four volumes of this brief, so – when I say that, it normally takes four to six weeks to compile the brief, and if statements haven't come in, for whatever reason, then we do a second service of
45 brief. It's all documented as to which statements we've provided. You've been given a copy of that. So every statement that we've provided to the CDPP is documented. That same document is given to you, so you know exactly what

EXHIBIT 31

20150804/D9/BSD/SC/3/Atkinson J

past 5 o'clock by then. I made the downstairs room available, and then later on, closer to 6 pm, it was already getting dark, darkish. So it had to be around about 6, 6.30, possibly even 7 o'clock. I'm not sure of the exact times now; it's long ago. Everything was read, all 28 – 28 – 30 documents were read into the video record.

5 And who read the – sorry. I think you were saying you read the documents into the video?---That's exactly what I said. I read the documentation by number. I witnessed it. I read it in the number provided into the video record. This was an AFP record of that particular event.

10 And did any of the officers involved in that task give you their name?---Possibly, but I don't recall. One of them, I'm certain, was Officer Karen, but there were others too. There were several people in the room at the time.

15 And were they all involved in the task of you having to read the documents into the video, or were they doing other things?---Counsel, I think they were involved in setting up the video on the tripod, passing on the documentation. I identified it as being the same one that had come out of the boat to the best of my knowledge. They seemed the same documents. They were plasticised, as I said, and they had a tag
20 number which I read on to the video for the record.

And do you know an Officer Paul from Customs?---Yes. I do.

25 And so what can you tell us about Officer Paul? First of all, was he there on the 12th?---Yes, definitely.

And what – how do you know this Officer Paul was, in fact, from Customs?---He certainly introduced himself, but it – he was there for quite a bit of the time.

30 Did you see him on the video?---I'm pretty certain I can testify that he was in the video at some stage, going in and out through the gate. There were several that went through that video.

35 And did you see any of the people leaving through the gate carrying the sort of material that you observed being removed from the boat?---No. That was taken out later.

After the video, after this one, you - - -?---Yeah.

40 All right. And so how many people do you say were on the boat while you were observing it from the jetty between, say, 3 o'clock until after 5 o'clock when you left?---Not certain of the exact number, counsel, but I would – if I was to put a number to it, in the boat, four to six, probably more.

45 Four to six, probably more. And what did you see those people doing while they were on the boat, from where you stood?---They were searching the vessel, and documents were coming out.

EXHIBIT 32

15082011 D.1 T(0)22-24/DJB(TOWN) BRIS17 (McGrath, Magistrate)

recording, not my recording. 1

That's fine. So you did a few things. One, you helped them with storage?-- I provided the room for the police to store the goods.

Because I thought - I thought before you made reference to providing a room, you said something to the effect that you would help them with storage. Did you physically touch any items that were stored?-- No, no. Help, for me - what I meant to say, help----- 10

Yes?-- -----was to provide a facility downstairs.

Yes?-- To - for the police to store some confiscated goods in there for couple hours.

Who - who approached you with a view to providing a facility?-- Not certain, sir. 20

Male or female?-- Think one of each. I think would have been Officer Paul from customs and Officer Karen from AFP.

Right. And was there a process that was undertaken in order to determine what the most appropriate area would be to store items?-- I don't understand the question. A process?

Well was there a request made for a lockable facility, or something that had only one access point, or something that had no windows, or-----?-- No. 30

-----something that was barred up in some way for security?-- No, no, no. Just a place where we could store those items for an hour or so, under guard.

Yes?-- And so I opened the facility downstairs, which only has one door.

That is a-----?-- And they were very happy with that. They looked at it. 40

And that's a common room of some kind?-- Well it wasn't common that day.

Well, I appreciate that, but it's normally used as a common room?-- It's normally as a common room, yes.

Thank you?-- It's normally marina lounge, yes.

All right. A marina lounge. And were you present, in or around that room, when items were being brought there?-- Yes. 50

For the whole time that items were being brought to that room?-- No.

How long were you present in that room while items were being brought there?-- After opening it, probably for a few minutes and then I had some duties and I was told to return later and

XXN: MR THOMAS

1-94

WIT: MIRA J P

60

EXHIBIT 33

15082011 D.1 T(0)22-24/DJB(TOWN) BRIS17 (McGrath, Magistrate)

in the marina. 1

Well, when you say relevant action, who told you what was relevant?-- I know when the police came into my precinct.

When was that?-- It would have been - I was talking to people about noon. I remember the two individuals that went by with the bags.

What time was that?-- It was just before noon, sir. 10

Just before noon? Yeah?-- And then, a little bit later, there was quite a lot of police in the marina.

Just after 12?-- It certainly was after 12, yes.

Were these the police in the flat jackets and with weapons?-- Yes, as well as other varieties.

What, plain-clothes agents?-- Yes, but they were carrying weapons and----- 20

Had they already gone through the entry gate at this stage?-- What stage? At the noon time?

When you first saw them?-- Yes.

How - did you see how they got through the entry gate?-- They stormed in. 30

Stormed in? Because what I wanted to suggest to you is that, on the video we have, this portion's not part of the video evidence that we have. Is that fair to say?-- It's fair to say, yeah.

Two hours we do not have?-- Most probably not, no.

And that includes all of the movements of the police when they first got there, until about 2 p.m.?-- It was meant to be a surprise thing. I was certainly surprised. 40

Well did the police tell you not to secure that portion?-- No, I didn't receive some instructions.

All right. Did they tell you to secure between certain times though?-- They did.

All right, and you did that?-- Yes.

And I take it it's too late now for us to get the footage between 12 midday and 2 p.m.?-- Yes, it is. 50

Because it's only kept for a month?-- Yes.

All right. You did all that you did to comply with the police requests. Is that fair to say?-- I surrendered control of the area to the police. It's my duty to do so.

XXN: MR THOMAS

1-90

WIT: MIRA J P

60

EXHIBIT 34

22082011 D.5 T(0)19-20/HS(MKY) BRIS17 (McGrath, Magistrate)

footage?-- Yes.

1

Okay. And did anybody from the Federal Police give themselves - were given a particular task to ensure that CCTV footage be maintained or remained in the - in the office or that a custom recording was made of it? Was anyone assigned to the task to secure the CCTV footage?-- Well, at a later date. Yes.

At a later date?-- But yeah, we requested that the CCTV footage be maintained until we could get an actual copy of it.

10

Okay. And obviously the interest of the CCTV footage would have been two fold, to identify the people coming off the boat; correct?-- Correct.

And then also to ensure that the integrity of the crime scene remains as it's an independent footage of that location; is that correct?-- I don't think there was CCTV footage of the boat, if that's what you're referring to.

20

No, that's - okay, there was no CCTV footage of the boat. Can you recall-----?-- I don't think so, no.

Can you recall what the CCTV footage - well, how close the boat, the nearest camera was to actually get a location?-- I think it was the gate coming off the jetty. You needed a swipe card access to come through the gate. Yeah.

Okay. Was there - was Mr Mira informed to - or to your knowledge, was there any discussion between you or another Federal Police officer in relation to maintaining the entirety of that footage?-- Well yeah, we requested that all footage from the period we requested be maintained. Yes.

30

Would you recall what periods were requested?-- I guesst that - that day.

The whole day?-- Yeah.

Because obviously that would have been relatively important to have as much of that evidence as possible; correct?-- Correct.

40

So your understanding in relation to CCTV footage is there had been directions made to somebody, more likely Mr Mira; correct?-- Yes. Yes.

That the entirety of the CCTV footage for that day is to be maintained; correct?-- Correct.

Are you - are you aware of anybody who followed that request that they actually obtained the CCTV footage?-- Yes, I believe I obtained that CCTV footage from Mr Mira.

50

From Mr Mira?-- Yes.

Do you recall when that was? How long after?-- I believe that might have been on the - the following day.

XXN: MR DORE

5-82

WIT: MAZLIN K L

60

EXHIBIT 35

20150723/D2/BSD/SC/3/Atkinson J

And what about others? Apart from the people that showed their badges, were there other people who attended with other sorts of insignia displayed as to identify who they were?---I believe the ones had overalls and boots with written on the – on the back.

5

What was written on the back?---I can't recall exactly. I think it was police. I'm not sure. I just – when I saw them run in, I knew they were police, so it must've been written there.

10 And did you observe anybody with "Customs" on their shoulders or in some other way indicating that they were Customs officers?---Yes.

And how was that indicated to you?---They introduced themselves to me as Customs officers.

15

And how many of those did that?---I think there was two, that I recall.

And what did they say? Do you remember?---I don't recall, other than they introduced themselves as Customs officers.

20

Man or woman, or two women or two men?---Two men.

And do you recall their names?---No. I don't.

25 And you spoke earlier about two agents who appeared to be plainclothes; did I get that right?---Yes.

Were they the two people you're speaking about, or were they two different people in turn?---They were the first two that I saw at the gate, but there were others that arrived afterwards that took statements and that sort of thing.

30

But were those two people the plainclothes people you initially referred to? Were they the two people who identified themselves as being from Customs?---Yes.

35 They were?---Yes.

And so I think you were saying they were the first people who arrived?---Yes.

40 And were they the first people, effectively, to speak with you, or perhaps to Mr Mira?---They spoke to Mr Mira, and he came and pointed them out to me. There was then another gentleman, who I recall was carrying a – a gun, and he was in plainclothes, and he showed me his badge as I came around the corner and asked me for a key, but I didn't have a key on me at that time.

45 And – so this is a third gentleman?---Yes.

EXHIBIT 36

20150723/D2/BSD/SC/3/Atkinson J

And you say there were a lot of them?---Yes.

5 And you say they went to the – the police, some of them or all of them, do you say, went to the boat?---I think most of them. They had some police in combat gear with guns that went down and surrounded the boat, and then there were two agents that were in plainclothes. I don't believe they went to the boat.

10 And so how long did some or all police remain on the jetty or the wharf? Was it 10 minutes, an hour, five hours? How long do you say, until they all left?---Well, I saw some of them come running back out because they had seen somebody on the land trying to run which had nothing to do with this, but they didn't realise, so they ran out. I'm not sure if any stayed. If they had gone on the boat, I wouldn't have been able to see them.

15 Right. But other police?---Yep. They just surrounded the boat, called out – I heard them call is there anyone on board? And there wasn't. Some of them went on board. I'm not sure who stayed or who left because it was a bit chaotic after that.

20 Right. Well, what I'm after is whether you can assist with this. How long were some or all the police there? Was it for the rest of the day that you - - -

25 MR RICE: I object, your Honour. It needs to be more specific than that. We don't know what "there" is, and we don't have a sufficient definition of who's being spoken about.

HER HONOUR: Yes. Could you be more precise, please, Mr Foster.

MR FOSTER: Yes, I'll try, your Honour.

30 Well, you've spoken about police arriving at about 12.30, 1 o'clock. You've given a description of some police in combat gear. You described two agents in plainclothes, I think you said?---Yes.

35 So focusing on those people, when did the last of them leave, to your knowledge?---I don't know. There was a lot of agents. Some of them came up to the office, so I don't know at that stage whether there were some still on the boat. When I left at 5 o'clock there were a lot of agents coming and going, removing the stuff from the boat.

40 So at least until 5 pm?---I believe they spent most of the night offloading stuff off the boat, evidence off the boat.

Well, just focus on the question, then. We're looking at how long they were there.

45 HER HONOUR: There. Where?

MR FOSTER: Around the boat and the jetty precinct, your Honour.

EXHIBIT 37

20150723/D2/BSD/SC/3/Atkinson J

Right. And did he introduce himself as anybody in particular, that is, from any particular branch?---Federal Police.

5 And – all right. Now, apart from the two gentlemen who introduced themselves as being from Customs, did you observe anybody else with indicia or badges indicating that other people – apart from these two – were also from Customs?---No.

10 Now, you also spoke about – now, I think you were giving evidence about people removing things – that is, police, presumably – removing things from the boat?---Yes.

And that was clearly before 5 o'clock, because you left at 5?---Yes.

15 And so thinking back, when did you observe items being removed from the boat?---I can't tell you the exact time. It was that afternoon, several times. We have trolleys that are kept for our clients to take things back and forth to their boats, and they were bringing off stuff wrapped in plastic in those trolleys.

20 Right. And so – you initially spoke about approximately 12.30, 1 o'clock, when the first of the police – I'll withdraw that. I'll withdraw that question. When you initially gave evidence in response to my questions, you were speaking about people arriving – police arriving 12.30, 1 o'clock, approximately?---Yes.

25 So I'm assuming now, from what you later said in your evidence, that you were, in fact, referring to the people who identified themselves as Customs as being 12.30, 1 o'clock?---No. The first people were federal agents.

30 Right. All right. So between 12.30, 1 o'clock and when you left at 5 o'clock, you saw items being removed from the boat on several occasions; is that what you're saying?---Yes. They were taking the stuff from the boat and taking it down to our lunch room, which is on the bottom floor, so that it could be itemised and made a count of.

35 And – so thinking back, are you able to do the best you can and indicate when the first removal, so to speak, would probably have taken place?---At a guess, I'd say about 2 o'clock. I can't – I can't recall exactly.

40 No. And doing the best you can, perhaps the next one?---I wasn't – I wasn't watching them, because my desk faces towards the road, not towards the marina, and I still had to continue with my work for the rest of the afternoon. So I saw – casually, when I got up, I saw them doing stuff. I – I know that the manager went downstairs to help them record, because it all had to be written down – all the evidence – and he was involved in that, but I didn't go down there.

45 Now, did you ever do a check on the key log for any keys which were provided to either the Customs or the police at any time?---No.

EXHIBIT 38

20150723/D2/BSD/SC/3/Atkinson J

CROSS-EXAMINATION BY MS BURROWS

[11.32 am]

5 MS BURROWS: While you were filming, did you notice any Customs officers at the marina?---I believe there were some Customs officers there.

Do you know how many?---I don't. I'm not sure.

10 Do you recall any civilians?---I'm not aware of any civilians other than myself and another person that was helping me.

And what time were you there? Can you just - - -?---I was there between about 8 pm and midnight.

15 To film at night time you must have had very bright lights on the camera?---No. I had no bright lights. All I had was a torch.

A torch on the camera?---It was a handheld torch.

20 When you were filming people, would they have noticed you filming?

HER HONOUR: Well, I don't know if he can say what other people notice.

25 MS BURROWS: Okay. Would you say it would be obvious, people would notice?---I would say it would be pretty clear, yes.

Do you remember Simon Wynd being present?---Sorry. I didn't hear the name.

30 Simon Wynd?---No. No, I don't remember that name.

No further questions.

HER HONOUR: Thank you.

35 MR CHOWDHURY: Yes. I have no questions, your Honour.

HER HONOUR: Yes. Thank you. Mr Rice, any re-examination?

MR RICE: No re-examination. No, thank you.

40

HER HONOUR: Yes. Thank you very much for your attendance today, Mr Punch, and you're excused from further attendance?---Thank you.

45 **WITNESS EXCUSED**

[11.33 am]



EXHIBIT 39

COURT OF QUEENSLAND

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: ~~841/11~~
864

17 SEP 2012

FILED
BRISBANE

THE QUEEN

V

SIMON CHARLES GOLDING (ACCUSED)

To Officer in Charge of the Australian Federal Police of Wharf Street Brisbane in the State of Queensland

You are required to attend the Supreme Court at 415 George Street Brisbane in the State of Queensland

(a) on 17th September 2012 at 10am

to -

(b) produce to the court the following -

- (i) All documents relating to complaints about AFP conduct on 12 October 2010 at Scarborough in particular but limited to complaints from Michael Kenny and Ross White.
- (ii) All investigation logs/running sheets relating to this investigation from 12- 15 October 2010.

Important notice to person subpoenaed

Failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest

D.E. Palmer

(Signed and sealed) Registrar (or for the Registrar)

Date: 12 SEP 2012

Place: BRISBANE

Notes

SUBPOENA TO ATTEND COURT

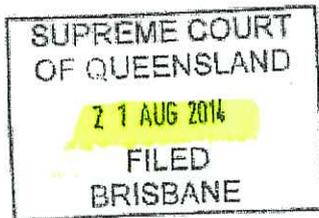
Filed on behalf of Accused
Form 21, R.29

FISHER DORE LAWYERS

3/370 George Street
BRISBANE QLD 4000
Tel: (07) 3236 1800
Fax: (07) 3236 1900

35.01

EXHIBIT 40



SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

NUMBER: SUP 864/11

THE QUEEN

v

SIMON CHARLES GOLDING

To Australian Customs and Border Protection Service of 5 Constitution Avenue
Canberra ACT 2601 in the State of Queensland

You are required to attend the Supreme Court at 415 George Street Brisbane in
the State of Queensland

- (a) on 1 September 2014 at 10am
- to -
- (b) produce to the court the following -
- (i) Documents, material and information relating to any involvement of a representative of the Australian Customs and Border Protections Service in relation to the alleged seizure of drugs at Scarborough Marina Qld on 12 October 2010; and
 - (ii) Documents, material, logs, disciplinary records and information relating to any representatives of the Australia Customs and Border Protections in relation to misappropriation of evidence relating to the seizure of drugs at Scarborough Marina, QLD on 12 October 2010

Important notice to person subpoenaed

Failure to comply with this subpoena without lawful excuse is contempt of court
and may result in your arrest

J. Cole

(Signed and sealed) Registrar (or for the Registrar)

SUBPOENA TO ATTEND COURT

Filed on behalf of Accused
Form 21, R.29

FISHER DORE LAWYERS
3/370 George Street
BRISBANE QLD 4000
Tel: (07) 3236 1800
Fax: (07) 3236 1900

35.01

EXHIBIT 41

SUPREME COURT OF QUEENSLAND



REGISTRY: BRISBANE
NUMBER: SUP 864/11

THE QUEEN

v

SIMON CHARLES GOLDING

To Australian Commission for Law Enforcement Integrity of Level 3, 10 Moore Street, Canberra in the State of Queensland

You are required to attend the Supreme Court at 415 George Street Brisbane in the State of Queensland

- (a) on 1 September 2014 at 10am
- to -
- (b) produce to the court the following -
 - (i) Documents, material and information relating to an investigation of any law enforcement agencies or customs agencies in relation to misappropriation of evidence relating to the seizure of drugs at Scarborough Marina on 12 October 2010

Important notice to person subpoenaed

Failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest

J. Cole

(Signed and sealed) Registrar (or for the Registrar)

Date:

Place:

Notes

SUBPOENA TO ATTEND COURT

Filed on behalf of Accused
Form 21, R.29

FISHER DORE LAWYERS
3/370 George Street
BRISBANE QLD 4000
Tel: (07) 3236 1800
Fax: (07) 3236 1900

35.01

EXHIBIT 42



Form 21
Subpoena to attend Court

(Rule 29)

IN THE SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
Indictment No. 90714
86411

THE QUEEN

against

Terrance Elfar

TO: The Proper Officer, Australian Customs and Border Protection Service, 5 Constitution Avenue, Canberra, in the Australian Capital Territory.

You are hereby ordered to produce to the Supreme Court of Queensland, Brisbane:-

(1) on Friday the 5th Day of September 2014, the following –

- a. The name of the Customs Officer arrested at the Vinyl Room nightclub in Sydney on or about 14/15 October 2010.
- b. Names of any Customs staff disciplined, questioned, investigated, charged, or made the subject of allegations in any way as regards claims of the quantities of confiscated or removed evidence from the Mayhem of Eden and or Operation Collage / Bergonia at Scarborough in October 2010.
- c. We request, that any evidence, regarding Operation Collage / Bergonia, Scarborough Cocaine Bust 2010, has been misplaced, unaccounted for or has been destroyed and if so by who or by whose authority.
- d. Names of Customs officers present at Scarborough Marina on the 12th October 2010.

Form 21 R.29
Notice to Admit Documents
Filed on behalf of the Defendant

PETER SHIELDS LAWYERS
50 Morgan St
PO Box 1557
FORTITUDE VALLEY QLD 4006
Ph: 07 3850 0888
Fax: 07 3850 0876
Email: jim@petershieldslawyers.com.au

Important Notice to Person Subpoenaed

Failure to comply with this subpoena without lawful excuse is in contempt of court and may result in your arrest.

J. Cole

.....
(Signed and sealed)
Registrar (or for the Registrar)

29 AUG 2014

Date:

Place: Brisbane

Notes:

1. A copy of form 23 (Notice to be served with Form 21 subpoena) must be served with this subpoena.
2. If this subpoena is issued to cover a time period, then that time period cannot exceed the period in which the proceeding is listed for hearing.

Subpoena to Produce Documents

Party serving the subpoena:	Peter Shields Lawyers
Contact Officer:	Jim Coburn
Address:	50 Morgan Street FORTITUDE VALLEY QLD 4006
Telephone:	(07) 3850 0888
Fax:	(07) 3850 0876
Email:	jim@petershieldslawyers.com.au

Form 21
(rule 29)

EXHIBIT 43



Form 21
Subpoena to attend Court

(Rule 29)

IN THE SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
Indictment No. ~~907/14~~
804/11

THE QUEEN

against

Terrance Elfar

TO: The Director, Office of the Commonwealth Director of Public Prosecutions, Level 19, MLC Court, 15 Adelaide Street, Brisbane, in the State of Queensland, 4000.

You are hereby ordered to produce to the Supreme Court of Queensland, Brisbane:-

(a) on Friday the 5th Day of September 2014, the following –

- (i) Unedited and un-blacked out AFP diaries in possession of the CDPP, regarding Operation Collage / Bergonia, Scarborough Cocaine Bust 2010.
- (ii) Un Redacted copy of the letter from the ACC Dan Bartlett Principal Legal Officer 22nd November 2010 to the CCDP attention Ms Sylvia Grono (ACC Ref 10/133029) Examination Dissemination team.
- (iii) Any evidence, regarding Operation Collage / Bergonia, Scarborough Cocaine Bust 2010, has been, misplaced,

Form 21 R.29
Notice to Admit Documents
Filed on behalf of the Defendant

PETER SHIELDS LAWYERS
50 Morgan St
PO Box 1557
FORTITUDE VALLEY QLD 4006
Ph: 07 3850 0888
Fax: 07 3850 0876
Email: jim@petershieldslawyers.com.au

unaccounted for or has been destroyed and if so by who or by whose authority.

Important Notice to Person Subpoenaed

Failure to comply with this subpoena without lawful excuse is in contempt of court and may result in your arrest.

J. Cole

.....
(Signed and sealed) Registrar (or for the Registrar)

Date: 29 AUG 2014

Place: Brisbane

Notes:

1. A copy of form 23 (Notice to be served with Form 21 subpoena) must be served with this subpoena.
2. If this subpoena is issued to cover a time period, then that time period cannot exceed the period in which the proceeding is listed for hearing.

Subpoena to Produce Documents

Party serving the subpoena:	Peter Shields Lawyers
Contact Officer:	Jim Coburn
Address:	50 Morgan Street FORTITUDE VALLEY QLD 4006
Telephone:	(07) 3850 0888
Fax:	(07) 3850 0876
Email:	jim@petershieldslawyers.com.au

Form 21
(rule 29)

EXHIBIT 44

SUPREME COURT
OF QUEENSLAND

ELFAR v CROWN
LEGAL DOCUMENT INDICTEMENT No 864/2011
Form 21

20 FEB 2015

SUBPEONA to attend COURT

(Form 29)

FILED
BRISBANE

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE

INDICTMENT 864/2011
NUMBER:

THE QUEEN

Against

TERRANCE ELFAR

CEO: MICHAEL PEZZOLLO

TO: Australian Customs & Border Protection

Canberra - National and Regional Head Office

Customs House

5 Constitution Avenue

CANBERRA CITY ACT 2601

Telephone: 1300 558 287

Facsimile: 02 6275 5930

Subject: Operation Collage / Bergonia 2010 the following are the requested documents

You are hereby ordered to produce to the Supreme Court of Queensland, Brisbane:

Date Returnable, 20th of March 2015 to either the Supreme Court of Brisbane 415 George Street Brisbane in the state of Queensland.

Or alternatively to: Terry Elfar

1. All notes, Diary entries, email communications, documents, documents not mentioned, letters, meeting agendas notes, agenda, s of meetings, minutes of meetings taken from staff, personnel & investigators in regard to Operation Collage / Bergonia.

Form 21 R.29
Notice to Admit Documents.
Filed for The Defendant
Uniform Civil Procedure Rule 1999
Rule 431

Name: Terrence ELFAR
Address: 59 McAllisters Rd
Bilambil Heights NSW
Phone No: +61 403 417 939
Email: terrylfar@gmail.com

ELFAR v CROWN
LEGAL DOCUMENT INDICTEMENT No 864/2011
Form 21
SUBPEONA to attend COURT

(Form 29)

2. All parliamentary communications notes, Diary entries ,email communications, documents not mentioned ,letters, meeting agendas notes presented ,minute of meetings taken in regard to Operation Collage / Bergonia
3. Names of any Australian Customs & Border Protection staff disciplined, questioned, investigated, charged, or made the subject of allegations in any way in regard to Operation Collage / Bergonia by Australian Commission for Law Enforcement Integrity Commission, NSW Police or the Australian Federal Police.
4. The defence in the matter of Elfar v Crown request, that any evidence, documents , documents not mentioned, regarding Operation Collage / Bergonia, that has been, misplaced, unaccounted for or have been destroyed and if so by who or by who's authority within ACBP.

Important Notice to Persons Subpoenaed Failure to comply with this subpoena without lawful excuse is in contempt of court and may result in your arrest.

(Signed & Sealed) Registrar (or for the Registrar): N. Coker

Dated: 20 FEB 2015

Place: Brisbane Supreme Court QLD

1. A copy of form 23 (notice to be served with form 21 Subpoena) must be served with Subpoena.
2. If This Subpoena is issued to cover a time period ,then that time period cannot exceed the period in which the proceedings is listed for hearing.

Party serving subpoena;
Contact Officer;
Address;

Phone Contact;
Email Contact;
Form 21 R.29

Terrence ELFAR
59 McAllisters Rd
Bilambil Heights NSW
+61 403 417 939
terryelfar@gmail.com

EXHIBIT 45

SUPREME COURT
OF QUEENSLAND

09 JUN 2015

FILED **Criminal Practice Rules 1999 (rule 29)**
BRISBANE **Form 21, Version 1 — Subpoena to attend court**

In the Supreme Court at Brisbane

The Queen against Terrance Elfar

To Australian Customs & Border Protection Services of 5 Constitution Ave
Canberra City ACT 2601:

You are required to attend the Supreme Court at Brisbane
on 22 June 2015 at 9.00am;

to—

produce to the court the following—

1. All notes, (whether electronically or manually recorded) taken by staff members of Australian Customs & Boarder Protection Services ("ACBPS") directly or indirectly involved in the investigations concerning Operation Collage/Bergonia;
2. All diary entries (whether electronically or manually recorded) taken by staff members of Australian Customs & Boarder Protection Services ("ACBPS") directly or indirectly involved in the investigations concerning Operation Collage/Bergonia;
3. All email communications concerning Operation Collage/Bergonia between:
 - a. ACBPS staff members (internal)
 - b. ACBPS staff members and other Commonwealth agencies (external)
 - c. ACBPS staff members and other State agencies (external);
4. Documentation concerning Operation Collage/Bergonia, which is held by ACBPS that has not yet been disclosed;

Subpoena to attend court

Filed on behalf of: Terrance Elfar

Address for service: C/- Elamrousy Solicitors

Level 5, 320 Adelaide Street

Brisbane QLD 4000

Telephone: (07) 37330911

Fax: (07) 37330912

Form 21, Version 1

(Criminal Practice Rules, r29)

5. Letters, sent by post or facsimile (excluding email communications) concerning Operation Collage/Bergonia between:
 - a. ACBPS staff members and other Commonwealth agencies
 - b. ACBPS staff members and other State agencies;
6. Minutes of meetings held concerning Operation Collage/Bergonia, between ACBPS staff members and other parties;
7. The disciplinary files of all and any ACBPS staff members involved either directly or indirectly in the investigations of Operation Collage/Bergonia;

Important notice to person subpoenaed

Failure to comply with this subpoena without lawful excuse is contempt of court and may result in your arrest.

J. Uren

[Signed and sealed] Registrar (or for the Registrar)

Date: 09 JUN 2015

Place: Brisbane

[Notes

1. A copy of form 23 (Notice to be served with form 21 subpoena) must be served with this subpoena.
2. If this subpoena is issued to cover a time period, then that time period cannot exceed the period in which the proceeding is listed for hearing.]