

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

Question No. 44

Senator Xenophon asked the following question at the hearing on 18 October 2011:

Senator XENOPHON: That does surprise me, because a letter from the Commonwealth Director of Public Prosecutions dated 17 May 2010 to the Attorney-General's Department set out reasons why Mr Kessing should not receive a pardon. One of those reasons set out in terms of so-called circumstantial evidence was that Mr Kessing was:

... a disgruntled employee of the Australian Customs Service and therefore had a motive to seek to embarrass the Australian Customs Service or to publicly expose what he perceived as the Australian Customs Service's inaction regarding the subject matter of the reports by leaking the reports to the media.

Presumably the conclusion that Mr Kessing was a disgruntled employee would have been something that would have come from his employer, namely, the Australian Customs Service.

Mr Carmody: I cannot comment on that. That is not something I am aware of.

Senator XENOPHON: Could you take it on notice.

Mr Carmody: Absolutely.

Senator XENOPHON: That is something that would be within your knowledge, presumably.

Mr Carmody: Sorry, yes, I was just saying that I do not have that information with me at the moment. I am more than happy to take it on notice and clarify.

...

Senator XENOPHON: To what extent was the assertion from the Commonwealth DPP that he was a disgruntled employee founded in any material provided by the Australian Customs Service?

Mr Carmody: I will provide that to you on notice, Senator.

The answer to the honourable senator's question is as follows:

Customs and Border Protection provided the Australian Federal Police (AFP) with emails from Mr Kessing to his managers and a former colleague which provided written correspondence that Mr Kessing was dissatisfied with his employment. This correspondence was then provided by the AFP to the Commonwealth Director of Public Prosecutions and tendered into evidence. This information did form part of the case against Mr Kessing.