

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN FEDERAL POLICE

Question No. 22

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

Senator XENOPHON: But that begs a very big question as to whether it was actually disclosed that Lipson told Ayliffe told that he had a couple of sources.

Mr Negus: I cannot answer anything more than that. I am happy to take on notice again the questions about what specifically was disclosed and I can give you some more information...

...

Senator XENOPHON:... Reference was made to Mr Kessing being a disgruntled employee of Customs and that was part of the circumstantial case against him. Was that information that was provided by the AFP as a result of your investigations or was that coming directly from Customs?

Mr Negus: I could not answer that without taking it on notice. Again, this goes back to 2005. The officers sitting at the table here were not intimately involved with the investigation. For those sorts of details we would have to seek the people who were involved in putting the brief together.

Senator XENOPHON: Take that on notice because that is a pertinent issue. The investigation made reference to the reports in the *Australian* which triggered the investigation in terms of the leak of the report. The 31 May 2005 and 1 June articles by Jonathan Porter and Martin Chulov referred to a source describing events in relation to Schapelle Corby and cocaine importation from South America. I think he describes the source the journalist has as an eyewitness referring to CCTV footage. Was that part of the circumstantial case against Mr Kessing?

Mr Negus: Without actually having reference to the brief of evidence—

Senator XENOPHON: You can take that on notice. I do not expect you to answer it now.

Mr Negus: Yes.

Senator XENOPHON: There was also correspondence from the regional director on 13 May 2005 to Mr Kessing's supervisor, Ms Magni, raising issues about the reports in question. This was prior to the publication of the *Australian* article. There was a response by Ms Magni saying that 'not only are we aware of these reports'—that is, within that office—but the issues are still quite pertinent in terms of issues of security breaches that were raised in the reports written by Mr Kessing'. Could you take on notice whether that formed part of the circumstantial case or whether that material was disclosed to the defence?

Mr Negus: I am happy to take those questions on notice....

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

- 1) What was actually disclosed to the defence in terms of Lipson and Ayliffe? Was it actually disclosed that Lipson told Ayliffe that he had a couple of sources?

The referral material in relation to this matter consisted of a chain of emails including Mr Norm Lipson's request for information from the Australian Customs and Border Protection Service (Customs) and a later email from a Customs officer that noted in relation to Mr Lipson "Apparently this bloke got the heads up from Customs officers".

The chain of emails were disclosed to the defence as an attachment to a statement of a Customs officer provided to Mr Allan Kessing's representatives prior to the committal hearing. The article titled '*Fear of Flying*' published in '*Women's Day*' magazine along with a statement of the author of the article, Ms Rachel Ann Morris, was also provided to the defence. It was not specifically disclosed that Mr Lipson told Ms Zoe Ayliffe that he had "a couple of sources".

- 2) Reference was made to Mr Kessing being a disgruntled employee of Customs and that was part of the circumstantial case against him. Was that information that was provided by the AFP as a result of your investigations or was that coming directly from Customs?

The information that Mr Kessing was a disgruntled employee came directly to the Australian Federal Police from Customs. This information did form part of the circumstantial case against Mr Kessing.

- 3) The investigation made reference to the reports in the *Australian* which triggered the investigation in terms of the leak of the report. The 31 May 2005 and 1 June articles by Jonathan Porter and Martin Chulov referred to a source describing events in relation to Schapelle Corby and cocaine importation from South America. I think he describes the source the journalist has as an eyewitness referring to CCTV footage. Was that part of the circumstantial case against Mr Kessing?

No, this was not part of the circumstantial case against Mr Kessing.

- 4) There was also correspondence from the regional director on 13 May 2005 to Mr Kessing's supervisor, Ms Magni, raising issues about the reports in question. This was prior to the publication of the *Australian* article. There was a response by Ms Magni saying that 'not only are we aware of these reports'—that is, within that office—'but the issues are still quite pertinent in terms of issues of security breaches that were raised in the reports written by Mr Kessing'. Could you take on notice whether that formed part of the circumstantial case or whether that material was disclosed to the defence?

Yes, this information was disclosed to the defence and was used by the defence as part of the circumstantial case.