



Customs secretly copy data from cellphone

BY TONY WALL Last updated 13:14 12/09/2010

The wife of Switched on Gardener chain owner Michael Quinlan was detained by Customs at Auckland airport while officers downloaded the data from her phone for police trying to link her to an alleged cannabis operation.

The incident has sparked concerns police are circumventing warrants by using Customs' sweeping powers to detain, search and take information from international travellers.

As Paula Quinlan and her elderly mother were returning from Queensland, they were taken into a search area where their bags were examined while an officer secretly arranged for the data on her phone to be copied.

There was no suggestion she was bringing contraband into the country. Police believed she was involved in running the Switched on Gardener chain. She says she is not and the phone contained nothing incriminating. She was not charged.

The incident occurred as police were running Operation Lime, a nationwide undercover investigation into hydroponic gardening stores that resulted in raids in April and more than 200 arrests, including Michael Quinlan's. He was charged as a party to the cannabis cultivation of his customers, and with participating in a criminal group.

Police have refused to discuss the airport incident, saying the search was conducted by Customs officers and is a matter for them. Customs failed to respond to questions.

The Sunday Star-Times has learnt Customs also detained the Quinlans, including Michael, three times as they were returning from the Gold Coast where family members were buying a house. All their phones were copied and photocopies were made of documents relating to the property.

The family assumed they were being targeted because of the number of short trips they were taking. They were detained for up to 90 minutes each time but Customs would not tell them what the searches were for.

The Quinlans would not comment, but a source said they were upset at what they saw as harassment and the role of Customs in an "information-gathering exercise for police" about which they knew nothing until after Michael Quinlan's arrest.

The purchase Gold Coast house has since been frozen, along with the Quinlans' \$1m home north of Auckland and \$189,000 in a bank account. An appeal will be heard next month.

The Star-Times has learnt that police, using a warrant, also bugged Quinlan's phone, mobile and internet connection in an attempt to show he was in charge of the day-to-day running of the business. He says he is not.

The airport revelations come amid concerns around the Search and Surveillance Bill now before parliament, which would enable police to secretly film people for three days without a warrant.

Auckland University law lecturer Bill Hodge said Customs had the power to copy documents and electronic material without probable cause, meaning passengers did not have the normal protections they would as soon as the "walked through the sliding doors" into the public area.

He said it was a legitimate power if used correctly, such as to intercept child pornography, but he was

concerned it was being abused by police.

"What concerns me is materials can be copied even when there's no intent to produce them in a courtroom, and therefore there's no check on whether or not this section [of the law] is being abused. If the materials are being gathered to build a dossier then we have the potential for abuse."

Council of Civil Liberties spokesman Kevin McCormack said Customs should have told Paula Quinlan her information was being downloaded and provided her with a notice in writing or a receipt. "Failure to ensure that sort of process . . . is to disregard the civil liberties of citizens of this country."

Defence lawyer Graeme Newell said a client being investigated as part of a methamphetamine operation had his phone taken and copied on his return from China. It contained a video showing a group of Chinese women "shelling" ephedrine capsules and became a key plank of the case against his client, who was later jailed.

- Sunday Star Times