

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS  
2 CRIMINAL SIDE

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4  
5 INDICTMENT NO: 0085/11

6  
7 THE QUEEN

8  
9 V

10 PATRICIA MONIQUE WEBSTER



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14 Appearances:

Ms. Laura Manson for the Crown

15  
16 Mr. Ben Tonner of Samson &  
17 McGrath for the Defendant

18  
19 Before:

The Hon. Mr. Justice Charles Quin

20 Submissions heard:

7<sup>th</sup> May 2013

21  
22 SENTENCE RULING  
23

- 24 1. The Defendant has pleaded guilty to two Counts of Misconduct in Public  
25 Office contrary to common law.
- 26 2. On the first count, the particulars of the offence are that the Defendant,  
27 between the 19<sup>th</sup> April 2011 and the 11<sup>th</sup> August 2011, within the Cayman  
28 Islands, being a public officer, did willfully misconduct herself in abuse of  
29 the public trust, by making extensive searches of the confidential police  
30 database and soliciting information from the immigration database, otherwise  
31 than in accordance with her authorised duties, in order to ascertain whether (a  
32 person), X, was the subject of a criminal investigation.

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3. The particulars of the second count are that the Defendant, on or before the 16<sup>th</sup> August 2011, within the Cayman Islands, being a public officer, did misconduct herself in abuse of the public trust by using the confidential police database, otherwise than in accordance with her authorised duties, to obtain the personal telephone number of (a person) Y, and passing that number on to a third party.





*SUMMARY OF FACTS*

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4. The Court has been provided with an agreed Summary of Facts.
5. The Defendant had been employed by the Royal Cayman Islands Police Service (RCIPS) in various roles since 1998.
6. In 2011 the Defendant was a Communications Officer at the front desk of the George Town Police Station. She was not a police officer. However it is common ground that she was in public office.
7. In her capacity as the Receptionist at the police station the Defendant's duties, amongst others, included taking calls from the public, dealing with walk-in matters, inputting data into the police database, creating crime reports and liaising with fellow RCIPS employees.
8. The Defendant's duties brought her into contact with a great deal of police information data including personal contact details of victims and witnesses and details of investigations, including who is being investigated and details of people's criminal records.
9. The Defendant was given access to this type of information in order to fulfill her official duties. This information is confidential and the Defendant was not permitted to give any confidential information out to anyone unauthorised to receive it.
10. The Defendant should have been aware of the requirement not to disseminate unauthorised information, because it was stated in her job description. In addition, the Defendant would have been aware of this requirement from the

1 regular Crime Desk General Meetings. Also Clause 5 of the RCIPS Code of  
2 Conduct would have been known to the Defendant and this states:

3 *“All members of the Service shall maintain strict confidentiality. No one*  
4 *shall improperly disclose either information or documents to those*  
5 *unauthorised to receive them.”*

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7 11. Both offences took place in August 2011.

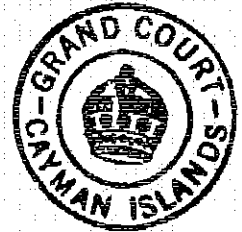
8 *Count 1*

9 12. X was a friend of the Defendant who was living overseas. In August 2011 X  
10 contacted the Defendant and asked her to find out whether a stop notice was  
11 in place in relation to X.

12 When a stop notice is placed against a person in the Immigration Database, it  
13 states that he or she should be stopped from either entering or exiting the  
14 Cayman Islands. These notices sometimes contain instructions that the  
15 person in question is to be arrested.

16 13. The Court notes that the investigations into this matter had revealed that,  
17 prior to contacting the Defendant, X had made contact with other people,  
18 largely in the Immigration Department, in attempts to find out whether the  
19 stop notice existed and what it was for. These attempts had either been  
20 unsuccessful or X needed further confirmation of what had been told.

21 14. From a review of the BBM messages on the Defendant’s Blackberry, it is  
22 clear that she agreed to try and find out this information for X. It was also  
23 clear from a review of the police database that the Defendant had made



1 several checks in attempts to find out whether the stop notice existed and, if  
2 so, what it was for.

3 15. The Defendant's attempts to find out the information failed. Consequently,  
4 the Defendant then sent an email to Immigration Officer, A, and copied the  
5 email to a senior Immigration Officer, asking Immigration Officer A for the  
6 information.

7 16. It is clear that this information was never provided to the Defendant and  
8 therefore the Defendant never provided the information to X.

9 17. The Defendant was subsequently interviewed by the police on the 21<sup>st</sup>  
10 September 2011. The Defendant accepted that she performed these checks  
11 for X, but, in summary, said she did not know she was doing anything wrong  
12 and she was simply trying to help out a friend.

13 18. The Defendant told the police that X had told her that he had already been  
14 told that a stop notice was in force. X was concerned that his ex-wife was  
15 making false allegations about him and therefore X wanted know whether it  
16 was safe to return to the Cayman Islands.

17 *Count 2*

18 19. In August 2011 the Defendant was contacted by Y who asked the Defendant  
19 to get the telephone number of a third party for him. Y was a former  
20 employee of the RCIPS and had worked at the George Town Crime Desk  
21 with the Defendant, but had since moved overseas. Y was visiting Cayman in  
22 August 2011 for a vacation and wanted to get in contact with the third party.



1 20. On the 16<sup>th</sup> August 2011 the Defendant searched the police database and  
2 found the telephone number of the third party. The Defendant passed on this  
3 telephone number to Y.

4 21. The Defendant was interviewed about this offence on the 1<sup>st</sup> and the 21<sup>st</sup>  
5 September 2011. The Defendant explained that she intended to contact the  
6 third party to notify the third party of Y's request. However, due to pressure  
7 at work at the time, she did not manage to make the call.

8 22. The Defendant accepted giving Y the third party's telephone number without  
9 the third party's permission. The Defendant said she did this because she  
10 believed that Y and the third party were good friends. (The third party's  
11 statement confirmed that Y and the third party were, in fact, friends.)

12 23. The Defendant said that she had attempted to call the third party, but the third  
13 party was on vacation. Investigations supported this – that is, that the third  
14 party was in fact on vacation. This led to the Defendant entering the RCIPS  
15 database.

16 Ironically, the telephone number and home address of the third party are  
17 listed in the yellow pages, and are therefore freely available to the public.

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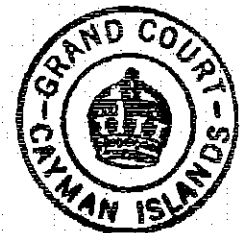
1 *THE LAW*

2 27. As far as both counsel are aware, and as far as this Court is aware, there are  
3 no previous cases in the Cayman Islands which give guidance as to the  
4 appropriate Sentence therefore, this Court looks at the case law for similar  
5 offences for misconduct in public office in the United Kingdom.

6 28. In *R v. David Andrew Keyte* [1998] 2 Cr. App. R. (S) 165, the Applicant was  
7 a serving police officer who was convicted of misconduct in public office.  
8 Over a period of 12 months he obtained information on 192 occasions from  
9 the police national computer and supplied it to private investigators. In most  
10 cases the information related to the identities of the registered keepers of  
11 motor vehicles. The High Court had sentenced the police officer to two  
12 years' imprisonment.

13 The Court of Appeal upheld the sentence of imprisonment of two years and  
14 said that as he was a serving police officer he was in a position of trust. He  
15 had abused his position for profit and, accordingly, the sentence was not  
16 found to be manifestly excessive. Swinton Thomas LJ of the English Court  
17 of Appeal stated that:

18 *"Police Officers are given considerable powers and privileges which are*  
19 *necessary for the proper performance of their duties. If they dishonestly*  
20 *abuse their position and do so for profit, then not only must a prison*  
21 *sentence follow, but it must of necessity in our view be a severe one."*



1       29.    In *R v. Khalid Nazir* [2003] 2 Cr. App. R. (S) 114, a police officer pleaded  
2            guilty to misconduct in a public office. The officer was intending to destroy a  
3            fixed penalty ticket issued to a friend. The Court of Appeal reduced the  
4            original three months' imprisonment for misconduct in a public office to one  
5            month.

6       30.    In *R v. Ghazi Ahmed Kassim* [2006] 1 Cr. App. R. (S) 4, the Defendant was  
7            a police officer who had pleaded guilty to three counts of misconduct in  
8            public office. The Defendant had made the acquaintance of a diplomat, and  
9            he used his status as a police officer to make enquiries into private  
10          individuals on behalf of the Diplomat and was paid for doing so. The  
11          Defendant gained access to data stored on police computers in order to obtain  
12          information about persons who were of interest to the Diplomat. Over the  
13          period in question the Defendant received an estimated payment of  
14          £14,000.00.

15       31.    The Court of Appeal held that the 2 ½ years' imprisonment for the  
16          misconduct in public office was not manifestly excessive and therefore  
17          upheld the sentence. The Court of Appeal judgment was delivered by Mr.  
18          Justice Bodey who stated:

19                            *"It seems to us that, especially nowadays, the preservation of the*  
20                            *integrity of information regarding members of the public held on*  
21                            *databases, like those maintained by the police, is of fundamental*  
22                            *importance to the wellbeing of society. Any abuse of that integrity by*  
23                            *officials, including the police is a gross breach of trust, which unless the*  
24                            *wrongdoing was really really minimal, will necessarily be met by a*  
25                            *severe punishment even in the face of substantial personal mitigation."*

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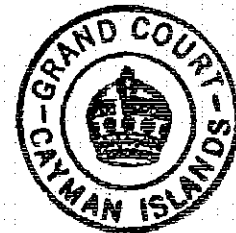


1 32. In the *Attorney General's Reference No. 1 of 2007 (James Andrew Hardy)*  
2 [2007] 2 Cr. App. R. (S.) 86, the AG asked the Court of Appeal to review on  
3 the ground that the sentence was unduly lenient. The offender, a serving  
4 police officer, pleaded guilty to misfeasance in public office. The AG  
5 submitted that the offence involved a gross breach of trust, in that,  
6 confidential information was passed by the police officer to a known criminal  
7 who had recent convictions for offences of violence and harassment. The  
8 officer was sentenced to 28 weeks' imprisonment, suspended for two years.  
9 The Court of Appeal held that was unduly lenient and substituted a sentence  
10 of nine months of immediate imprisonment.

11 Lord Phillips, the then Lord Chief Justice, stated at page 6 in relation to the  
12 aggravating features that:

13 *"...most significant of these is that the offender gave the information to a*  
14 *known criminal whose record included offences of violence in order to*  
15 *enable him to take the law into his own hands by dealing with no less*  
16 *than three men who had, so he believed, committed offences against him,*  
17 *or a close friend. It must have been obvious to the offender that this was*  
18 *a serious risk that the defendant's co-defendant would subject these men*  
19 *to physical violence."*

20  
21 Clearly an immediate prison sentence was the appropriate sentence in that  
22 case.



1 33. The aforesaid cases were all reviewed by the Northern Ireland High Court in  
2 the *R v. Griffiths* [2009] NICC 23 by Mr. Justice McCloskey. The Defendant  
3 had initially been charged with 56 Counts. The Defendant pleaded guilty to  
4 the first count which was aiding, abetting, counselling or procuring  
5 misconduct in public office contrary to common law. The mechanism of the  
6 single count was also employed by the English Court of Appeal in *R v.*  
7 *O'Leary* [2007] 2 Cr. App. R. (S) 317, so that the Defendant would be  
8 sentenced to the totality of his offending during the period under  
9 consideration, and his plea of guilty to the first count covered all the  
10 offences.

11 34. The Northern Ireland High Court relied on the Judgment of Judge LJ in  
12 *Attorney General's Reference No. 140 of 2004* EWCA Crim. 3525 and Lord  
13 Judge's dicta:



14 *"The offender was in a position of trust. His activity has damaged*  
15 *confidence in the way in which DVLA records are kept and maintained.*  
16 *The information at the DVLA is confidential. The unauthorised*  
17 *disclosure of information held in any records kept and maintained only*  
18 *for public purposes should also always be regarded as a serious offence.*  
19 *The amount of private information about each and every single citizen in*  
20 *this country, available to public servants, has increased and with modern*  
21 *technology continuing increase is virtually inevitable. Citizens are*  
22 *entitled to assume that the information so kept will only be made*  
23 *available to those who are entitled to see it, and only for the express*  
24 *purpose permitted by law. Wrongful disclosure sometimes works to the*  
25 *benefit of someone who is not entitled to the advantage so provided.*  
26 *Sometimes wrongful disclosure causes damage. Even if an offender is not*  
27 *fully anticipating the consequences of disclosure, it would be very*  
28 *unusual for him to be entirely ignorant of the possible consequences, and*  
29 *even if those consequences are unforeseen, the impact of disclosure on*  
30 *any individual whose privacy has been betrayed is a critical ingredient*  
31 *of the sentencing decision. It seems to us these are essential principles*  
32 *which should be noted by any judge facing a sentencing decision in this*  
33 *class of case."*

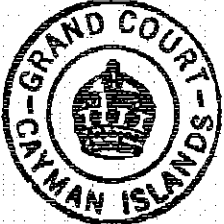
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Lord Judge went to add that:

*“Where there is evidence of detrimental impact on some individual or individuals, this will undoubtedly be a material factor and is likely to rank as an aggravating feature in a great majority of cases.”*

This Court respectfully adopts Lord Judge’s clear statement of the principles to be applied in cases of misconduct in public office.



*ANALYSIS AND CONCLUSION*

35. In relation to Count 1, the Defendant made no secret of her attempt to obtain this information. Not only did she forward her request for the information to an Immigration Officer, but she copied it to the Senior Immigration Officer. This constituted extreme naivety on the part of the Defendant, but goes towards illustrating that she had a lack of criminal intent.

It was a very stupid act on the Defendant’s part, as it compromised the integrity of the data system and it resulted in these charges being brought against her.

36. The Crown accepts that the second count is even less serious than the first count..

The Defendant clearly thought she was carrying out a simple act of trying to assist a former co-worker – whom she had no reason to distrust – with a telephone number.

1 The Defendant knew that her former co-worker was trying to find the  
2 telephone number of someone who was a good friend of his.

3 Moreover, the information sought by the Defendant from the database, is  
4 information which could have been obtained from a telephone book.

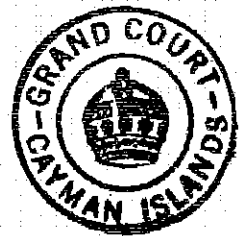
5 The Defendant, because she thought of this as a simple and very normal  
6 request, clearly forgot that supplying information from the database must be  
7 authorised, and that she had strict duties of confidentiality in relation to the  
8 database.

9 37. Again, this was a very naïve and foolish offence. However, I accept that, as  
10 in the first count, the Defendant did not seek to obtain any benefit, financial  
11 or otherwise.

12 38. The Defendant should have clearly understood the seriousness of accessing  
13 the RCIPS confidential database without formal or official authorisation.  
14 Where someone abuses their position of trust the Court must of necessity  
15 consider an immediate prison sentence. Whilst not, in any way, minimizing  
16 the seriousness of these two offences, I find that they are at the very lower  
17 end of the scale. The sole motive for both offences was to help a friend and  
18 not to help herself. The Defendant has been extremely foolish and obviously  
19 did not consider or anticipate the serious consequences of her actions.

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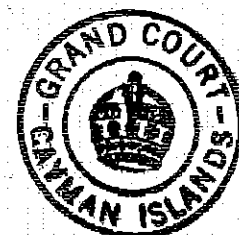
1 39. I fully accept that the Defendant's commission of these offences did not  
2 involve the conferral of any pecuniary benefit to her. When I review the  
3 relevant UK case law for offences of misconduct in public office, I find that  
4 in light of the facts of this case, the sentence can be placed at the lower end  
5 of the scale.

6 40. The Defendant admitted her involvement when confronted by the police. The  
7 probation officer, Trisha Smith, has stated that after the Level of  
8 Service/Case Management Inventory Risk Assessment, the Defendant scored  
9 "very low" as a repeat offender. I quote from the Social Inquiry Report  
10 prepared by Probation Officer Trisha Smith, dated 3<sup>rd</sup> May 2013. Ms. Smith  
11 states:

12 *"The Court now also has to consider that Ms. Webster is a first time*  
13 *offender and is truly contrite about what she did. Whilst this will not*  
14 *remit her from facing the consequences of her actions, the Court could*  
15 *take into consideration that a custodial sentence might have implication*  
16 *for her fairly young children."*

17 41. In my view, because of the seriousness of the offences, they warrant a prison  
18 sentence of 9 months on each count, to run concurrently. However, I am  
19 going to adopt the approach taken by Hutton LCJ in *Attorney General's*  
20 *Reference No. 2 of 1993* 5 NIJB 71 at page 75-76 and reiterated by  
21 McDermott LJ in *Attorney General's Reference (Nos. 1 and 2 of 1996)*  
22 [1996] NI 456 at page 463:

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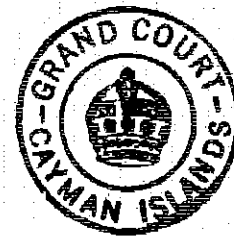


1                    "*At this stage, we would venture to repeat the elementary, but sometimes*  
2                    *forgotten, proposition that before suspending a sentence a Judge has to*  
3                    *apply his mind to two separate questions: (1) Does the offence require a*  
4                    *custodial sentence and (2) if it does, do circumstances exist which would*  
5                    *justify a suspension of the sentence.*"

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7            42.     In my view, the offences of this nature require a custodial sentence but, in  
8                    light of the following circumstances I believe that the sentence of 9 months'  
9                    imprisonment should be suspended for twelve months:

- 10                    i.    *No criminal intent:* The Defendant did not have any motives for her  
11                    actions which she knew were in breach of the RCIPS Code of Conduct:
- 12                    ii.   *No pecuniary reward:* The Defendant did not ask for, or receive, any  
13                    benefit, financial or otherwise, for her actions;
- 14                    iii.   *The Naivety of the Acts:* The Defendant was naïve in the extreme in both  
15                    cases – that is, in her view, aiming simply to assist friends in both cases  
16                    without considering the strict conditions attached to her access to  
17                    information in the database.

18                    Because the Defendant had no criminal or illegal intent in carrying out  
19                    her actions, she did not stop to think that there could still be  
20                    consequences for what she was doing. The Defendant did not consider  
21                    these consequences of her actions, and, in this way, her naivety was  
22                    extreme.



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iv. No third party detriment: Save and except for the obvious compromise to the security of the RCIPS database, there is no evidence of any specific detrimental impact on any individual as a result of the Defendant's actions.

v. The Defendant's Good Character: The Defendant has no history of wrongdoing or any previous convictions.

vi. The Defendant's early admission to the police: The Defendant was honest and forthcoming to the authorities and her account of both incidents has been consistent.

vii. The Defendant's guilty plea: The Defendant admitted her guilt when faced with the fact of her wrongdoing.

viii. The sole provider for two young children: I take into account that the Defendant is a young mother of previous good character and that she is the sole provider for her two young children. To send her to an immediate term of imprisonment would have a devastating effect on her two children.

43. Accordingly, for the aforesaid reasons, I suspend the Defendant's sentence of imprisonment for 12 months.



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44. I make it very clear that this is still a sentence of imprisonment of 9 months.

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It will remain on the Defendant's record with all the associated adverse

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consequences. Furthermore, should the Defendant commit any further

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offences within 12 months, she will be liable to immediate imprisonment for

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these two offences on this Indictment.

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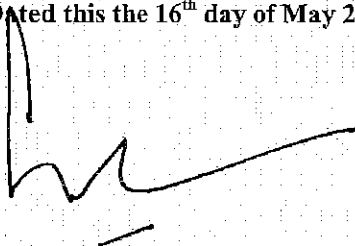
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Dated this the 16<sup>th</sup> day of May 2013

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Honourable Mr. Justice Charles Quin

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Judge of the Grand Court

