

# Rape charges dropped after 'deleted' messages recovered from iPhone

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**Deleted but decoded text messages undermined a schoolgirl's claims against a northern beaches businessman, writes Joel Gibson.**

A MAN'S business and reputation are tainted, a young woman's HSC and mental health are in tatters and prosecutors have been ordered to pay more than \$30,000 in legal costs for a bungled rape investigation on Sydney's northern beaches.

But it could have been worse still, if not for the trove of secrets stored in one of the world's most popular mobile phones. In what may be the first time an iPhone's elephantine memory has saved someone accused of a serious crime, deleted data retrieved by a leading surveillance expert appears to have led to the dropping of five rape charges against a Sydney man.

Robert\*, in his 60s, was a property manager to the rich and famous and a dog breeder. Jessica\* was the 18-year-old daughter of a friend, who never knew her father and dreamed of working with animals. Their friendship blossomed as they spent mornings training his prize German shepherds. He gave her a \$20,000 dog. For three months, they had sex repeatedly en route to dog shows and at a Whale Beach mansion where Elle Macpherson has stayed.

In August last year she accused him of rape. It was - and remains - a case of his word against hers. Robert lost a job with the Catholic Church, from which he had earned more than \$100,000 over the past three years, and was told he could no longer worship there.

The investigating officer, Detective Senior Constable Karen Hennessy, seized the \$20,000 dog, saying it was relevant to the investigation. The only thing standing between Robert and five sentences of up to 14 years were the messages from her on his iPhone, which he had deleted to conceal the relationship.

Robert's lawyer, John Gooley from Collins & Thompson solicitors, commissioned Gary Coulthart, a former covert operations policeman and ICAC surveillance expert, to plumb the depths of Robert's iPhone. Mr Coulthart retrieved more than 300 deleted texts and phone calls from the alleged victim, some of which appeared to undermine the allegations. Prosecutors later withdrew the charges and have been ordered to pay \$30,056 of Robert's legal costs.

*"Without the ability of Coulthart to drag the content out, a man's life may have been ruined," Mr Gooley said. "[iPhone evidence is] a bit like DNA. It can work both ways."*

From a cohort of about 20 people in Australia with the equipment and know-how to do this sort of forensic work, Mr Coulthart said it was the first case he had seen in which an iPhone investigation commissioned by a defence lawyer has led to charges being dropped.

Apple has sold more than 50 million iPhones since 2007 but few users know how much information they collect. The keyboard logging cache means an expert can retrieve anything typed on it for up to 12 months. Its internal mapping and "geotags" attached to photos indicate where a user has been.

An iPhone has up to 32 gigabytes of data that can be "imaged" or decoded with the right equipment, Mr Coulthart said, even if it has been deleted.

A spokeswoman for the Office of the Director of Public Prosecutions said it withdrew the charges because the victim did not want to proceed and that "the brief of evidence had not been given to the ODPP at the time this matter was withdrawn". A police spokeswoman said that, for operational reasons, it was inappropriate to comment except to say that the alleged victim had told police she did not wish to pursue the matter.

\*Not their real names

**Read more:** <http://www.smh.com.au/digital-life/mobiles/rape-charges-dropped-after-deleted-messages-recovered-from-iphone-20100727-10ueq.html#ixzz1l8ObNZrg>

**She said:**  
Raped at Whale Beach mansion on July 24, 2009

**His iPhone record of her message:**

"Thanks again for a lovely day! ... I probably would have committed suicide by now if it wasn't for u!  
Thanks again u mean a lot!  
Sweet dreams have a good one tomorrow! I'll miss u".

**She texted and called him 326 times in three months**