

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

**INQUIRY INTO THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM  
FINANCING AMENDMENT BILL 2024**

**PUBLIC HEARING 30 OCTOBER 2024**

**Australian Federal Police**

**QON 1: Mutual Assistance Requests**

**Senator Shoebridge asked the following question on Wednesday 30 October 2024:**

SENATOR SHOEBRIDGE: All of that is clear, if you have evidence of fraud, drug importations, that... we're not talking about that. We're walking about circumstances where there is an assertion that perhaps fraud might be an example. There is an assertion of fraud based upon what may well be a political prosecution in a foreign country. If the answer is there aren't any checks, then that's fine.

COMMANDER FERRY: Yes, Senator. There are very few of those sort of matters. Predominately the money we see coming into Australia, we investigate under Australian law and not at the request of another country. If that makes sense. I can't think of any...

SENATOR SHOEBRIDGE: But only one would be enough for me. If we were to provide information or arrest or prosecute somebody because of the political determination by another jurisdiction. Only one would be enough for me. So when you say very few, that's cold comfort. How many are we talking?

COMMANDER FERRY: I can't think... I would have to take it on notice. I can't think of any in my time in the AFP that we have done, criminally, on behalf of another country.

**The response to the Senator Shoebridge's question is as follows:**

The AFP is not aware of any instances where it has acted to arrest, charge or prosecute someone for an alleged fraud offence on the basis of information provided by a foreign country in relation to an investigation or prosecution believed to be a political prosecution.

There are strong checks and balances in Australia's legal framework to prevent arrest, charge or prosecution of people in Australia on the basis of politicised information from a foreign country. The prosecution of a person for a Commonwealth offence is considered by the Commonwealth Director of Public Prosecutions in accordance with the Prosecution Policy of the Commonwealth. The common law remedies of false imprisonment and malicious prosecution are available to persons who consider they may have been inappropriately arrested or prosecuted.

The provision of information by the AFP to foreign law enforcement agencies on a police to police basis is discretionary. Prior to a decision being made about the provision of assistance, the AFP can inform itself about the political context in which a request has been made through the AFP international network and the Department of Foreign Affairs and Trade.

# OFFICIAL

As the host of Australia's national central bureau for Interpol, the AFP operates in accordance with the Interpol constitution which forbids for any intervention or activities of a political, military, religious or racial character.

The arrest of a person in Australia for a foreign offence is subject to the requirements of the *Extradition Act 1988* (Cth), which includes protections which prevent the extradition of a person for the purposes of prosecution for a political offence in the requesting country.

A request made by a foreign country seeking assistance under the *Mutual Assistance in Criminal Matters Act 1987* (Cth) must be refused if the request relates to a political offence, or the request has been made with a view to prosecuting or punishing a person for a political offence.