



Mr Andrew Hastie MP
Chair
Parliamentary Joint Committee on Intelligence and Security
Parliament House, Canberra

Dear Mr Hastie

Thank you for the opportunity to provide evidence to the Parliamentary Joint Committee on Intelligence and Security on 13 September 2019 at a private hearing for the Review of Administration and Expenditure No. 17 (2017–18).

At the hearing, the Committee asked for further information on three weapons-related incidents that occurred during the reporting period in relation to the Australian Secret Intelligence Service (ASIS). These incidents were referred to on page 10 of our submission. In addition to the response we provided at the private hearing, I refer the Committee to the following information that was included in my office's 2017–2018 Annual Report:

AUTHORISATIONS RELATING TO THE USE OF WEAPONS

Schedule 2 of the ISA requires:

- the Minister for Foreign Affairs to provide the Inspector-General with copies of all approvals issued by the Minister for Foreign Affairs in respect of the provision of weapons and the training in and use of weapons and self-defence techniques in ASIS, and also
- the Director-General of ASIS to give the Inspector-General a written report if a staff member or agent of ASIS discharges a weapon other than in training.

These requirements were met during the reporting period and the Inspector-General was satisfied that there was a need for limited numbers of ASIS staff to have access to weapons for self-defence in order to perform their duties. IGIS staff also examined ASIS weapon and self-defence policies, guidelines and training records in 2017–18. The reviews found that ASIS's approach to governance and record keeping on this matter continued to be satisfactory.

ASIS advised this office of three weapons-related incidents during the reporting period, two of which involved non-compliance with ASIS procedures and the third related to a firearms discharge. The first compliance issue arose when ASIS officers undertook firearms training (target practice) at a range that was not approved by ASIS. Australian security contractors who provide assurance to other Australian Government agencies had assessed this range and found it suitable for use; however, ASIS had not provided separate approval for its officers to use that training facility as required by ASIS policy. This was an administrative oversight rather than an operational incident or breach of legislation.

The second incident arose when ADF and ASIS personnel conducted joint weapons-related training prior to formal exchange of letters approving the training, as required by a memorandum of understanding between Defence and ASIS. As soon as the ASIS team responsible for the training became aware that the formal letters were not signed they immediately stopped the training exercise. The training recommenced once the letters of agreement were signed. The office considers that ASIS staff acted appropriately in suspending the training until formal arrangements were in place.

The third incident reported to this office concerned an accidental discharge of an ASIS-issued weapon by an ASIS officer during an approved training session. The weapon was fired in a safe direction and there were no injuries or damage to property resulting from the incident. ASIS took immediate steps to identify the cause of the accidental discharge and put in place measures to reduce the likelihood of another incident occurring. ASIS also notified Comcare of the incident.

Source: IGIS Annual Report 2017–18

Specifically, the Committee asked whether these matters would have been reported as incidents if they had occurred following the introduction of the *Intelligence Services Amendment Act 2018* in December 2018. The *Intelligence Services Amendment Act 2018* amended the *Intelligence Services Act 2001* to:

- a. enable the Minister to specify additional persons outside Australia who may be protected by an ASIS staff member or agent; and
- b. provide that an ASIS staff member or agent performing specified activities outside Australia will be able to use reasonable and necessary force in the performance of an ASIS function.

None of these three matters was considered to have amounted to non-compliance with the *Intelligence Services Act 2001*. However, the changes to the legislation do not affect the fact that these matters would have been considered incidents, had they occurred after the passage of the amending Act.

If I can be of any further assistance to the Committee, please contact my office.

Yours sincerely

Margaret Stone AO FAAL
Inspector-General

19 September 2019