



**Australian Government**  
**Australian Signals Directorate**

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Committee Secretary  
Parliamentary Joint Committee on Intelligence and Security  
PO Box 6021  
Parliament House  
Canberra ACT 2600

## **SUBMISSION TO THE INQUIRY INTO THE IMPACT OF THE EXERCISE OF LAW ENFORCEMENT AND INTELLIGENCE POWERS ON THE FREEDOM OF THE PRESS**

ASD thanks the Committee for the opportunity to comment as they consider the appropriate balance between preserving press freedoms and enabling Australia's law enforcement and intelligence agencies to investigate serious offences and obtain intelligence on national security threats.

ASD recognises the important role a free and open press plays in our democratic society. However, beyond this ASD expresses no view on Australia's legislative or policy frameworks related to freedom of the press. This is a matter for the community to debate through Parliament.

ASD's purpose is to defend Australia from global threats and help advance our national interests through the provision of foreign signals intelligence, cyber security and offensive cyber operations offshore as directed by the Australian Government.

ASD's functions are clearly defined in the *Intelligence Services Act 2001*, together with the limitations to those functions and oversight arrangements.

ASD is committed to being publicly transparent about the broad nature of its work. It is important that Australians understand ASD's role and that its activities are conducted within the law and for the protection of Australian interests. This includes the principles on which ASD makes decisions and the particular way we respect the privacy of Australians. Ensuring transparency has been, and will continue to be, a key focus for ASD.

Yet some information must necessarily be protected to ensure ASD operations and capabilities remain effective in the performance of our legislated functions.

We protect confidentiality to protect our capabilities, partnerships and personnel:

- Unauthorised disclosures risk exposing the capabilities the Government relies on to protect Australians and Australian interests from global threats. Intelligence capabilities are inherently difficult and costly to acquire. ASD relies on sources of intelligence and methods of access, which our adversaries often assume to be improbable or even impossible. This is the edge that needs to be protected – to ensure intelligence agencies can continue to guard and advance the national interest.

- Disclosures can also undermine Australia's relationships with international partners that we rely on for national security capability. Our intelligence and cyber security capabilities would be greatly diminished without the support of these partners, and the trust they put in us when they share intelligence and capability. If our partners cannot trust us to keep information confidential they will be less willing to share future intelligence that could protect Australians and Australian interests.
- Finally, the disclosure of sensitive information on operational activities could put the lives of Australians located overseas at risk, including Australian military personnel.

Accordingly, there must be robust mechanisms in place to protect information of this nature.

ASD emphasises the importance of a strong security culture within our organisation. People who work at ASD undergo intensive security vetting and security training before they are authorised to handle highly classified material. The clear penalties for disclosing sensitive material without authorisation are an essential element of our security framework. This framework would be seriously undermined if the Australian Federal Police did not have the appropriate authorities to investigate unauthorised disclosures.

ASD recognises that it is equally important to have appropriate public interest disclosure mechanisms in place. These mechanisms support accountability and integrity in the Australian public sector.

ASD notes that there are a number of avenues whereby sensitive information can be protected in the course of a public interest disclosure. These include:

- Agency-specific processes under the *Public Interest Disclosure Act 2013*, an Act which facilitates disclosure and investigation of wrongdoing and maladministration; and
- The Office of the Inspector-General of Intelligence and Security (IGIS) which, under the *IGIS Act 1986*, assists Ministers in overseeing and reviewing the activities of Australia's intelligence agencies for legality, propriety and consistency with human rights. This role includes overseeing the operation of the *Public Interest Disclosure Act 2013* in the Australian Intelligence Community and investigating specific complaints.

Over the course of this inquiry, I would be happy to address the Committee to provide further detail at a public hearing and, where necessary, at a closed hearing to ensure relevant national security information is appropriately protected.

Yours sincerely,



Mike Burgess  
Director-General  
Australian Signals Directorate

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