

Australian Security Intelligence Organisation

Submission to the Parliamentary Joint Committee on ASIO

*“An inquiry into the nature, scope and appropriateness of
the way in which ASIO reports to the Australian public on
its activities”*

5 July 2000

Contents

Introduction	5
About ASIO	5
About this submission.....	6
ASIO's approach	6
ASIO Act	6
Attorney-General's guidelines	7
Annual Report.....	7
Inspector-General of Intelligence and Security	8
Parliamentary Joint Committee on ASIO	9
Senate Estimates	9
Questions on Notice.....	9
Portfolio Budget Statements	9
Other Parliamentary Business.....	10
Media Policy.....	10
ASIO's publications.....	11
Web site	12
Other aspects of ASIO's reporting.....	13
Public presentations about ASIO	13
Letters from members of the public.....	14
Administrative Appeals Tribunal.....	14
Security Assessments.....	14
Requests under the Archives Act.....	15
Recruitment.....	16

What ASIO does not report on.....	16
ASIO's targets	16
Warrant operations.....	17
Liaison with overseas agencies.....	18
Comparisons with other Australian agencies.....	18
Australian Intelligence Community.....	19
Law Enforcement Agencies.....	19
Oversight Bodies	19
International comparisons	20
United Kingdom Security Service	20
Federal Bureau of Investigation.....	20
Canadian Security Intelligence Service	21
New Zealand Security Intelligence Service.....	21
Bundesamt für Verfassungsschutz.....	21
Direction de la Surveillance du Territoire	22
Servizio per le Informazioni e la Sicurezza Democratica	22
ASIO's future reporting plans.....	22
Discussion papers	22
The web site.....	22
Conclusion	23
Appendices	24
Significant dates in ASIO's public reporting history.....	25
Australian agencies - comparison with ASIO.....	26
Overseas services - comparison with ASIO.....	29

Attachments - publications provided to the PJC.....31

*“An inquiry into the nature, scope and appropriateness
of the way in which ASIO reports to the
Australian public on its activities”*

Submission by ASIO

Introduction

About ASIO

ASIO is Australia’s security service. Its functions are to:

- obtain, assess and communicate intelligence relating to, and provide advice on, threats to security
- provide protective security advice
- within Australia, obtain under warrant intelligence relating to the intentions, capabilities and actions of foreign powers

The Australian Security Intelligence Organisation Act 1979 defines security as protection from:

- espionage
- sabotage
- politically motivated violence (PMV)
- promotion of communal violence
- attacks on Australia’s defence system
- acts of foreign interference

ASIO does not have executive powers to enforce measures of security; its role is the collection, analysis and dissemination of intelligence relevant to security. As such, ASIO provides security advice to other Commonwealth agencies, advice which is relevant to their functions.

About this submission

The purpose of this submission is to inform the committee of:

- the nature of ASIO's existing reporting to the Australian public on its activities
- a comparison with the public reporting of other agencies in Australia and overseas
- ASIO's future reporting plans

In preparing this submission the term 'public reporting' has been interpreted to include all activities which enable the public to receive information about ASIO's work.

Part of this submission will comprise publications put out by ASIO and other Australian and foreign services.

ASIO's approach

ASIO seeks to provide as much information to the public as possible, within the constraints of security and resources. As a security organisation, much of the detail of ASIO's activities cannot be made public.

ASIO Act

ASIO's work is governed by the *Australian Security Intelligence Organisation Act 1979*. The Act is, of course, publicly available. It spells out the Organisation's functions and powers and provides a legislative framework for its work. In particular, the Act spells out the detail of:

- the functions of the Organisation
- the ability of the Attorney-General to issue guidelines to the Director-General
- the requirement for the Director-General to obtain the authority of the Attorney-General to carry out special powers activities under warrant, and the necessity for the Director-General to report to the Attorney on completion of each warrant
- the conditions which apply to the making of security assessments
- the requirement for the Director-General to regularly brief the Leader of the Opposition
- the Parliamentary Joint Committee
- the requirement to produce an Annual Report to the Attorney-General and an unclassified Report to Parliament

However, like most legislation, the Act is not particularly useful to members of the public as a quick, easily readable guide.

Attorney-General's guidelines

More detailed guidance for some aspects of ASIO's work is found in the guidelines issued by the Attorney-General to the Director-General in relation to:

- **Collection of Intelligence** (issued 1992) which regulates ASIO's activities in carrying out its intelligence collection function. In particular, it specifies that the degree of intrusion of ASIO's investigative methods should be commensurate with the level of threat.
- **Politically Motivated Violence** (issued 1988) which regulates ASIO's activities in carrying out its function in relation to PMV.
- **Staffing** (issued 1989) which requires the Director-General to employ staff in terms which are consistent with the government's public sector employment principles.

These guidelines have been tabled in Parliament and are available to the public.

Annual Report

ASIO's annual report is structured to comply with the *Requirements for Annual Reports* issued by the Department of Prime Minister and Cabinet. It also addresses specific requirements applying to the annual reports of Australia's intelligence and security agencies.

ASIO produces two versions of its annual report. The first version is classified and contains an account of ASIO's performance during the previous 12 months, including sensitive reporting on security risks and investigative outcomes that cannot be released publicly. That report is provided to the Attorney-General, the Leader of the Opposition, and a small group of other government ministers and senior government officials. In particular, it provides performance information to the Secretaries Committee on National Security which reports to the National Security Committee of Cabinet.

An abridged version is then prepared for the Attorney-General to table in the Parliament, excluding all sensitive information in accordance with section 94 of the ASIO Act.

This declassified Report to Parliament provides similar information to the reports of other agencies although, because of security sensitivities, it is more limited in detail in relation to some operational aspects of ASIO's work. The report includes an overview of the security environment, discussion of trends (for example, changes in demand for Threat Assessments) and identifies, in broad terms, investigative and corporate priorities.

Capability enhancements, ASIO's role in the National Anti-Terrorist Plan and ASIO's protective security responsibilities are also discussed.

Other information contained in the Report to Parliament includes:

- the number of threat assessments issued each year
- the number of security assessments issued for the Department of Immigration and Multicultural Affairs and the Department of Foreign Affairs and Trade to assist their decisions on visa issue and the rights of residence
- the number of security assessments which resulted in recommendations against visa issue
- the number of adverse or qualified assessments not accepted by the Foreign Minister (for example, the 1996/97 Report to Parliament reported that an applicant who was the subject of an adverse assessment by ASIO was granted temporary entry on national interest grounds)
- the number of personnel security assessments for public servants requiring security clearances, including the number of appeals against adverse assessments to the Administrative Appeals Tribunal and the outcomes of those appeals
- the number of requests under the Archives Act for access to ASIO records more than 30 years old, together with the percentage that were finalised within the statutory requirement of 90 days
- information on ASIO's workplace diversity program, categories of employment, occupational health and safety, equal opportunity employment practices and SES profile
- 25 pages of financial statements for the reporting year, audited in accordance with the Australian National Audit Office Auditing Standards

Inspector-General of Intelligence and Security

ASIO's activities are also the subject of the report to Parliament by the Inspector-General of Intelligence and Security (the IGIS).

The Office of the Inspector-General was established in 1987. Its role with respect to ASIO is to ensure the Organisation acts legally and with propriety and complies with ministerial guidelines and directives.

The IGIS may enquire into matters concerning ASIO and investigate complaints about ASIO from the public. The office reports annually to Government, and provides an unclassified version of the report for parliamentary and public readers. The report contains a summary of selected complaints and the outcome of inquiries. The IGIS report usually attracts some media attention.

If it is in the public interest, other IGIS reports on specific issues or complaints may be tabled in the Parliament and sometimes published. One example related to the suggestion that ASIO was involved in the Hilton bombing in 1978.

Parliamentary Joint Committee on ASIO

From time to time, the Parliamentary Joint Committee on ASIO conducts inquiries into matters which have been referred to it by the Attorney-General:

- **“ASIO and the Archives Act”** (reported April 1992)
- **“ASIO and Security Assessments”** (reported March 1994)
- **“An Advisory Report on the ASIO Legislation Amendment Bill 1999”** (reported May 1999)

In addition to those inquiries, the Director-General has provided briefings to the committee on a range of subjects. During 1999 briefings were provided on 11 March and 6 December.

Senate Estimates

Since 1993 ASIO has appeared before the Senate Legal and Constitutional Legislation Committee (‘Senate Estimates’) which allows general questioning on aspects of ASIO’s work by Members of Parliament. However, because of security considerations, questioning of ASIO has been more restrained than questioning of other agencies. In a public reporting context, the following aspects of Senate Estimates are relevant:

- the hearings are open to the public and recorded in Hansard
- questions from the committee can be taken on notice, and the replies become part of the Hansard record

Additionally, the Director-General can provide members of the committee with a private briefing on sensitive security matters which does not form part of the Hansard record.

Questions on Notice

ASIO is required to respond to Questions on Notice in the same manner as any other agency. The responses become part of the Hansard record.

Portfolio Budget Statements

Details of ASIO’s proposed activities for the coming year, including financial expenditure, are provided in the Portfolio Budget Statements. These follow the standard

outcome/output reporting framework, but in comparison with other agencies ASIO's statements are less detailed, reflecting the classified nature of most of ASIO's work.

Other Parliamentary Business

Members of ASIO can also be called to give evidence before other Parliamentary committees. During 1999 and 2000, ASIO appeared before the following committees:

- **Senate Scrutiny of Bills Committee** – This committee invited the Attorney and officials to talk about the proposed amendments to the *Telecommunications (Interception) Act 1979*. The Director-General and Legal Adviser appeared before the committee with a senior official from the Attorney-General's Department. The Organisation also contributed to written submissions to the committee. These appearances and submissions were recorded in Hansard.
- **Legal and Constitutional Legislation Committee** – The same Bill was referred to this committee which took evidence from senior officials including the Director-General. Again, this appearance formed part of the public record.
- **Joint Standing Committee on Migration** – This committee conducted an inquiry into *Immigration Entry Requirements for the Olympics*. Two ASIO officers gave evidence to the committee. This evidence was given in camera as it provided detailed advice on security checking procedures for entry into Australia.

Media Policy

Since the late 1970s, ASIO has had a modified 'neither confirm nor deny' policy in relation to requests for information by the media. This followed a recommendation by Justice Hope in the report of the Royal Commission on Intelligence and Security 1977, that consideration should be given to the Director-General speaking in public about ASIO and its role.

In 1985 ASIO established the position of Media Liaison Officer (MLO). The MLO has a direct telephone line which is listed in the telephone directories of some of the state capital cities. This complements the 1800 toll free number for the ASIO Central Office switchboard which appears in every Australian telephone directory.

The MLO is responsible for:

- being the central point of contact for telephone inquiries from journalists and members of the public
- coordinating interview requests from members of the media
- supplying inquirers with publicly available information on ASIO, for example *ASIO Now* and *What's ASIO about?* (mentioned in more detail on page 11) or information from the Report to Parliament.

But ASIO does not make any public comment on sensitive national security matters such as:

- targeting of individuals and organisations
- operational methods
- liaison arrangements with other Australian and foreign intelligence and security agencies

The only exception to this is when it would be more detrimental to security to say nothing. This first occurred in 1985 when Director-General Alan Wrigley denied allegations of ASIO's involvement in the Hilton Hotel bombing. Other examples include:

- David Sadleir's 'doorstop' interview at Central Office in 1992 in which he denied allegations that a document circulating in the Macedonian community in Melbourne had originated within ASIO
- allegations by a South Australian Member of Parliament (Peter Lewis) that he had worked overseas for ASIO (1993)

Very few media releases are issued by ASIO. In 1993 a media release was issued in relation to Mr Lewis's allegations, but since then ASIO has only issued media releases in connection with the tabling of its Report to Parliament.

In recent years there have been a number of media interviews given by Directors-General. The most recent have been with *The Australian* (March 1999), *The Australian Financial Review* (July 1997 and April 1999), 'Lateline' (July 1999), the *Age* (1999), and Radio National's 'National Interest' (April 1999).

ASIO's publications

ASIO has a number of publications which are available to members of the public:

- **ASIO Now** (first published 1996, revised 2000) is a 16 page booklet which seeks to provide a plain English account of ASIO's role and functions. It is commonly used to respond to certain types of inquiries by members of the public, for example school students doing assignments, and as part of an information package for applicants for ASIO employment.
- **What is ASIO about?** (first published 1995, revised 1998) is a leaflet which provides a brief account of ASIO.
- The **Corporate Plan** has been publicly available since 1993. The current plan covers the period 1998–2002. In addition to information on ASIO's planned

outcomes and outputs, the Corporate Plan provides information on ASIO's mission, vision, values and the precepts of security.

ASIO's Protective Security section also makes a number of publications available:

- **Testing Security Products** (1994)
- **What's the SCEC?** (Security, Construction and Equipment Committee) (1995)
- **What's ASIO's Role in Protective Security?** (1998)

Web site

ASIO's web site was launched by the Attorney-General on 22 June 2000. It provides the most extensive consolidation of background information on ASIO ever made available. Importantly, it provides members of the public with 24 hour access to information about ASIO.

The web site has several main sections, which contain information about various aspects of the Organisation. Subjects of interest include:

- **About ASIO**
 - What is ASIO?
 - Mission, vision and values
 - Management and structure
 - ASIO and the Australian Intelligence Community
 - Accountability
 - Attorney-General, including the guidelines
 - Parliamentary Joint Committee
 - Inspector-General of Intelligence and Security
 - Significant events in ASIO's history
 - Directors-General of Security
 - ASIO's 50th Anniversary (1949-99)
 - ASIO Staff Association
 - Frequently asked questions
- **ASIO's work**
 - The security environment
 - Threat assessments

- ❑ Security Assessments
- ❑ Protective Security and T4
- ❑ Sydney 2000 Games

- **Publications**

- ❑ Corporate Plan
- ❑ Annual Report
- ❑ Testing Security Products
- ❑ Security Equipment Catalogue

- **Employment**

- ❑ Eligibility
- ❑ Current vacancies
- ❑ Categories of employment
- ❑ How to apply
- ❑ Conditions of service
- ❑ Application forms

- **ASIO contact information**

The web site incorporates links to other sites including the Attorney-General, Parliamentary Joint Committee, the Inspector-General of Intelligence of Security and other members of the Australian Intelligence Community.

Other aspects of ASIO's reporting

Public presentations about ASIO

From time to time ASIO officers make speeches at public functions or conferences. Since Justice Woodward first addressed the National Press Club in 1977, several other Directors-General have followed suit. The current Director-General has addressed a diverse range of groups, including:

- Burgman College at the ANU (1997)
- the Australian Institute of Professional Intelligence Officers conference - opening address (1997)
- the Australian Security Industry Association's annual security conference (1998)

- the Committee for Economic Development of Australia in Melbourne in 1997 and in Sydney in 1998
- the United Services Institution of the ACT (1999)
- the Public Law and Public Administration discussion group, ANU (1999)

ASIO also makes a presentation to the annual Security in Government Conference. This conference, organised by the Protective Security Coordination Centre, was originally intended for government Agency Security Advisers. It has since been opened up to security advisers from private industry. ASIO's Protective Security section also has a stand at the conference, a fact which is usually reported in the media.

ASIO officers routinely address service clubs such as Rotary, Lions and Probus on request. Presentations have been made in regional centres as well as in the capital cities.

Each occasion an ASIO officer presents him or herself in such a circumstance, those attending usually have the opportunity to ask questions directly of the officer.

Letters from members of the public

ASIO receives approximately one letter a day from members of the public who are requesting or volunteering information. Many of the requests are from those seeking ASIO assistance and who have a mistaken belief about ASIO's role. In such cases, they are usually provided with an information leaflet about ASIO.

Others seeking information include school and university students who seek ASIO assistance with a project or assignment. In the case of the former, it is usually possible to help by providing information leaflets. For university students, the ASIO library provides assistance on the basis that our library is part of the inter-library loan system.

Administrative Appeals Tribunal

Two aspects of ASIO's activities are subject to appeal to the AAT.

Security Assessments

Part IV of the ASIO Act allows ASIO to provide security assessments to other Commonwealth agencies for people who require security clearances for access to classified information. Although the security clearance is granted by the employing agency, ASIO's assessment is used by agencies to assist them make that decision.

If ASIO provides an adverse or qualified assessment in respect of an individual, a copy of the assessment must be supplied to that person, unless the Attorney-General issues a

certificate stating that it would be prejudicial to the interests of security to provide the assessment, or part of the assessment, to the person concerned. The person may then appeal to the AAT against the assessment. The AAT may confirm or supersede the assessment.

There was one appeal during each of the last two reporting years. In both cases the ASIO assessment was upheld by the AAT.

In 1994 the PJC conducted an enquiry into the way in which ASIO performs its functions in relation to security assessments.

Requests under the Archives Act

ASIO has been subject to the Archives Act since its inception in 1983 in the same manner as other Commonwealth agencies. The public may request access to any documents which are more than 30 years old. Exemption of a whole document, or part of the text, can be claimed by ASIO on the basis of grounds stipulated in s33 of the Archives Act. ASIO limits exemptions to only that information which, if released, could reasonably be expected to damage Australia's national security. For practical purposes, most exemptions claimed by ASIO relate to protecting the identity of a confidential source of information.

The public can appeal against ASIO's decision to exempt information, initially by means of an Internal Reconsideration by the National Archives of Australia (NAA) and, if the applicant remains unsatisfied, they can appeal to the Security Division of the Administrative Appeals Tribunal. There has been a total of 29 appeals since 1986. The AAT made minor variations to ASIO's decision in six of these cases. In the remainder the appeal was either withdrawn, the ASIO decision affirmed or an agreement reached between ASIO and the appellant.

While ASIO's actions in relation to the Archives Act do not strictly fit within the definition of public reporting, these activities remain one of the most significant ways in which members of the public receive information about ASIO's past activities.

There is provision under the Archives Act for special access to material which is less than 30 years old. This access is only granted to those with an established record of scholarship who can demonstrate that the early release of the information will be of significant benefit to the Commonwealth. Special access has been granted four times by Directors-General, twice to professional historians and once each to a documentary film maker and a distinguished Australian writing his memoirs.

Recruitment

ASIO first advertised for Intelligence Officers in 1977 and was the first of the Australian intelligence agencies to do so. While public advertising is now common practice for many intelligence agencies, the British only placed their first advertisement in 1999 and the Canadian service still does not advertise publicly.

The overwhelming majority of ASIO vacancies are now advertised publicly, whether in the areas of intelligence collection, information technology, engineering, personnel, staff development or finance.

For a limited time in April/May 2000, ASIO appeared on the web site of an employment agency which was handling the advertising and initial selection for certain ASIO vacancies. The information related specifically to the positions being advertised. The recently launched ASIO web site includes job vacancies.

What ASIO does not report on

There are several aspects of ASIO's activities which are not reported publicly, including:

- ASIO's targets
- warrant operations (including operational methods)
- details of liaison with overseas agencies

ASIO's targets

ASIO does not publicly identify which groups, individuals, or foreign powers are ASIO 'targets' or subjects of investigation. This is because it would be extremely difficult, if not impossible, for ASIO to operate effectively if the subjects of investigation became aware of ASIO's interest in them. All target groups which ASIO investigates operate with varying degrees of secrecy. Many of the individuals concerned in activities which are prejudicial to national security go to extreme lengths to evade detection. If targets became aware of ASIO's interest in them, they would immediately take steps to alter their operations so as to diminish the likelihood of ASIO being able to mount a successful investigation.

ASIO is a relatively small organisation, in terms of its budget and the number of people it employs. This information is publicly known. Given its relatively small size, creating uncertainty among its targets is an important part of ASIO's modus operandi. If individuals, groups, or countries of security interest do not know whether ASIO is actively investigating them, they are forced to work harder than they otherwise might to avoid ASIO observation.

Public identification of ASIO targeting would highlight which groups, individuals or foreign powers were not the subject of ASIO investigation, which would indicate to them that ASIO was not aware of their activities.

Warrant operations

While ASIO's use of warrant operations (telecommunications and mail intercept, listening devices, entry and search, computer access and tracking devices) is publicly known, ASIO does not provide any public detail about the number of warrants executed each year, either by category, or in total.

Information about the number of different types of warrants ASIO has in place could allow an individual, group or foreign power to take counter-measures to avoid or reduce ASIO's ability to monitor their activities. For example, a breakdown of warrant numbers by type could reveal that ASIO relies most heavily on some types of special powers, while making more limited use of others. Target personalities or groups could use this information to avoid using the means of communication that they know ASIO is actively monitoring, which would deprive ASIO of information relevant to security.

Aggregated reporting of the total number of warrants, even if not broken down by type, would allow targets, including counter-terrorist targets and hostile intelligence services, to assess the level of risk to their activities, particularly when put together with other information in the public domain, such as ASIO's size, staff numbers, budget and legal regime.

For example, a smaller than expected number of warrants might lead targets to assess the level of ASIO coverage as low, and so their own activities against Australia could be increased. A higher than expected number of warrants might lead targets to assess the level of ASIO coverage as high, and cause them to find new ways of conducting activities against Australian interests.

If information on warrant types and numbers was considered along with information on ASIO's investigative and targeting priorities, a target's ability to make accurate assessments of the risk which ASIO posed to their operations would be even greater.

There are also difficulties associated with reporting both security intelligence and foreign intelligence warrant numbers. In addition to collecting security intelligence relevant to national security, ASIO collects foreign intelligence, under warrant, at the request of either the Minister for Foreign Affairs or the Minister for Defence. If ASIO specified publicly the total number of warrants issued this could lead to a misunderstanding in the community about the extent of ASIO's activities as they affect Australian citizens. Conversely, splitting the figure to show security and foreign intelligence warrants separately would be unacceptable to those Australian agencies which receive the foreign

intelligence product as it could indicate to their target groups how active they are in a particular intelligence collection area.

There is a considerable number of safeguards in place regarding how ASIO may collect intelligence. All operational activity by ASIO must be consistent with the Attorney-General's guidelines for the Collection of Intelligence which require ASIO to use methods of investigation which are consistent with the level of threat. Warrants are only submitted to the Attorney for approval after they have been through an exhaustive system of checks within ASIO. Before consideration by the Attorney, the warrants and accompanying requests are examined by a senior official of the Attorney-General's Department, who provides independent advice to the Attorney on whether the relevant statutory requirements have been met. The Inspector-General also regularly reviews the warrant documentation.

Liaison with overseas agencies

ASIO is permitted under its legislation to liaise with "...the authorities of other countries...". Liaison with individual agencies requires the approval of the Attorney-General under section 19 of the ASIO Act.

ASIO's liaison relationships provide valuable and at times unique insights into matters of direct security relevance to Australia. All ASIO's relationships with foreign agencies are established on the basis of confidentiality. While the general principal of international liaison, and the number of countries and agencies with which ASIO has relationships is acknowledged publicly, the specific countries and services are generally not, unless both ASIO and the specific foreign agency agree to acknowledge the relationship publicly.

Foreign liaison, by its very nature, is bilateral and can only be undertaken in terms and conditions which are acceptable to both parties. If ASIO acknowledged a liaison relationship against the wishes of a cooperating agency, not only would that agency be reluctant to continue to exchange information with ASIO, but the breach would also be noted by others.

Comparisons with other Australian agencies

A brief review of the public reporting of sensitive matters by Australian agencies is provided at Appendix B.

Australian Intelligence Community

ASIO is the only member of the Australian Intelligence Community (ASIS, DSD, ONA, DIO¹) to provide a public report to Parliament, although these organisations all provide classified reports to Ministers. This is consistent with ASIO's role as the intelligence agency which has the highest profile in the community and whose activities affect Australian citizens more so than other members of the intelligence community.

Law Enforcement Agencies

In comparison to ASIO, the state police services report similar information on corporate governance, management and accountability arrangements. The police services also report quite extensively on activities that rely on community support for their success, and they report the results of major operations in general terms, for example, the numbers of people arrested, or assets seized. This would seem to reflect the fairly public nature of police work, where successful operations result in publicly reported criminal prosecutions. A successful investigation will lead to a court appearance at which many of the methods used in the investigation will be described by witnesses when giving evidence. In contrast, ASIO's operational successes rarely result in prosecutions, but instead result in action which does not have a high profile, eg denial of a visa to enter Australia.

While the annual report of the Australian Federal Police (AFP), like ASIO's report, identifies a range of useful investigative methods including physical and electronic surveillance and telecommunications interception, the state police services do not make reference to covert operational capabilities or methods. Neither ASIO, the AFP or the state police services report the number or type of warrants sought or executed. The National Crime Authority does provide an overall figure for the number of telecommunications interception warrants issued during the year, together with comparative information from previous years.

Oversight Bodies

The annual reports of the NSW Independent Commission Against Corruption, the NSW Police Integrity Commission and the QLD Criminal Justice Commission do report details such as the number of telecommunications interception and listening device warrants obtained, and report in some detail on operational objectives and investigative outcomes. This may reflect the fact that the oversight bodies have a clear and publicly acknowledged target of investigation.

¹ ASIS – Australian Secret Intelligence Service, DSD – Defence Signals Directorate, ONA – Office of National Assessments, DIO – Defence Intelligence Organisation

In contrast, ASIO relies on creating uncertainty among its targets as an important part of its modus operandi (see page 16). And ASIO targets can be considerably better resourced than the targets of oversight bodies eg hostile intelligence services.

International comparisons

A comparison of the public reporting of the security services in those countries which have comparable standards of parliamentary democracy and human rights as Australia reveals a wide range in reporting practices. Appendix C provides this comparative information in chart format.

United Kingdom Security Service

The United Kingdom Security Service (UKSS, also referred to as MI5) does not produce a publicly available annual report, although it does produce a booklet describing its role and functions. Certain aspects of the UKSS's activities, including details of their resource allocation, are reported in the publicly available Intelligence and Security Committee's annual report.

The UKSS has, like ASIO, both a parliamentary committee and a Security Service Commissioner, the latter having a role similar to that of the IGIS. Like ASIO, the UKSS provides a general assessment of the security environment, and like ASIO, does not publicly identify its targets, its operational capabilities, or the number of warrant-type operations.

Federal Bureau of Investigation

The FBI does not produce an annual report; however, it has a web site which includes contact and employment information, and details of major initiatives and programs. Testimonies to Congress also have a high profile and usually provide focused information on specific topics. The FBI also has a large range of hardcover information booklets available to the public. Two examples of their publications are provided to the committee and listed at Appendix D.

In contrast to the other Australian and foreign services, the US government does provide some information regarding its intelligence targeting. This is not done directly by the FBI but via two other channels. The first is a compilation by the US State Department of the "National Register of the Designation of Foreign Terrorist Organisations" which lists those foreign terrorist organisations whose activities pose a threat to US interests. Although there is no requirement for the FBI to investigate those organisations, commonsense would suggest that is the case. At the very least, the publication of this list indicates to terrorist organisations that the full weight of US resources may be directed against them.

The second channel by which targets are identified is via evidence tendered in court for investigations which result in a trial. This clearly identifies not just the individuals but also organisations in which the FBI has an interest. However, the FBI takes steps to limit the amount of intelligence material, particularly regarding operational methods, which is provided in court. One way the FBI achieves this is by having two separate but parallel investigations, one criminal and one intelligence, with no sharing of personnel or paperwork. This separation results from the FBI's position as both an intelligence and police agency.

Canadian Security Intelligence Service

The Canadian Security Intelligence Service (CSIS) does produce an annual report but it is exceedingly summary in nature, being only 15-20 pages in length. It does not include any details of operational capabilities, warrant-type operations, or CSIS targets. CSIS also has a range of publicly available information, both on their web site and in hard cover. Examples of their publications are provided to the committee and are listed at Appendix D.

New Zealand Security Intelligence Service

The New Zealand Security Intelligence Service (NZSIS) currently produces a classified report for the Prime Minister and the parliamentary Intelligence and Security Committee. Starting in 2000-01, the NZSIS will also produce an unclassified version of this report for the Parliament, which is expected to include warrant-type statistics. The NZSIS also produces a booklet which provides a broad outline of the role and functions of the NZSIS.

Bundesamt für Verfassungsschutz

The Bundesamt für Verfassungsschutz (BfV) is Germany's domestic security service whose functions and responsibilities most closely mirror those of ASIO. The BfV uses its 160 page annual report as a major public reporting mechanism on the security environment. The report lists all of the groups which are of security interest, and provides detail on membership, leadership, publications and addresses of premises for each group. The report also specifies which countries are involved in the proliferation of weapons of mass destruction, and identifies those countries whose intelligence services pose a threat to Germany, together with details of their presence in Germany. It does not provide any information on intelligence collection capabilities, warrant-type operations, operational activities or liaison with other agencies. For the reporting of administrative type matters, there is a statement specifying the overall budget and number of employees. No other administrative detail such as structure is provided.

The German BfV is the only service surveyed which publishes such a detailed account of the security environment.

Direction de la Surveillance du Territoire

The Direction de la Surveillance du Territoire (DST) is the French security service. There is no public reporting or oversight of the activities of the DST. This includes an absence of a web site, annual report, publicity material and information concerning targeting, operational capabilities or the security environment. A review of France's intelligence services is presently underway.

Servizio per le Informazioni e la Sicurezza Democratica

The Servizio per le Informazioni e la Sicurezza Democratica (SISDE) is Italy's security service. It produces an unclassified annual report which is limited in its scope. Like most of the other security and intelligence agencies it does not include any details of operational capabilities, warrant-type operations or targets, but neither does it report on its structure, staffing or budgeting arrangements.

ASIO's future reporting plans

Discussion papers

ASIO has considered the benefits of publishing unclassified discussion papers on subjects of security interest, along the lines of discussion papers produced by the British and Canadian services. These papers would not contain any information about ASIO targeting or operational methods; rather they would provide overviews of issues of security significance, drawing on open source information.

Publication of such papers on the ASIO Web site could assist in the demystification of ASIO. However, at present ASIO does not have the resources to undertake this activity.

The web site

ASIO's web site provides new opportunities for ASIO to communicate with the public. As we gain experience with, and receive feedback on this means of communication, ASIO will consider other types of information that could usefully be made available on the web site, consistent with the constraints of security and resources.

Conclusion

ASIO endeavours to provide the public with as much information as possible, within the constraints of security and resources. The most visible aspect of ASIO's public reporting is the unclassified Report to Parliament. The public is also informed about ASIO's activities through the Annual Report of the Inspector-General, reports of the Parliamentary Joint Committee, and appearances before other parliamentary committees and the Administrative Appeals Tribunal. These activities are complemented by a range of other initiatives including occasional media interviews of the Director-General of Security, presentations to service clubs, conferences and other groups, the availability of a number of information publications, the release of information under the Archives Act, and public interaction with ASIO's Media Liaison Officer.

The launching of ASIO's web site will provide many more Australian citizens with easy access to information about ASIO. In terms of what information can be made publicly available, ASIO will always be more constrained than agencies that do not have a security intelligence function. As a security service, it is a reality that information that would be of most interest to the public (for example, details of targeting and operational capabilities, particularly those conducted under warrant) is exactly that information which would cause great harm to Australia's national security if it was publicly released.

This dilemma is faced by other security and intelligence services in Australia and overseas. In an international context, ASIO provides more information about its activities than most comparable agencies. Within Australia, ASIO is the only intelligence agency to provide a publicly available Report to Parliament,.

ASIO's current reporting activities achieve an appropriate balance between the need to protect its capability to advise government of threats to national security, with the need to properly inform the public of its activities.

Appendices

- A. Significant dates in ASIO's public reporting history**
- B. Australian agencies – comparison with ASIO**
- C. Overseas services - comparison with ASIO**
- D. Attachments – publications provided to the PJC**

Significant dates in ASIO's public reporting history

1949	ASIO established
1956	ASIO Act
1960	Telephonic Interception Act Amendments To Crimes Act re espionage and breaches of official secrecy
1977	Royal Commission into Intelligence and Security First public advertisements by ASIO for staff First public address by ASIO's Director-General (National Press Club)
1979	Amendments to ASIO Act Establishment of Security Appeals Tribunal
1983	First ASIO Report to Parliament Archives Act
1984	Royal Commission into Australia's Security and Intelligence Agencies
1985	Position of Media Liaison Officer established First media interview of ASIO's Director-General
1986	Amendments to ASIO Act Establishment of Parliamentary Joint Committee Establishment of Inspector-General of Intelligence and Security
1988	Attorney-General's Guidelines for Politically Motivated Violence tabled
1989	Attorney-General's Guidelines for Staffing tabled
1992	Attorney-General's Guidelines for the Collection of Intelligence tabled
1993	First ASIO unclassified Corporate Plan publicly available First ASIO appearance before Senate Estimates
1994	'Testing Security Products' - an information leaflet on protective security
1995	'What's ASIO about?' - an information leaflet 'What's the SCEC' - an information leaflet on protective security
1996	'ASIO now' - a booklet on ASIO
1998	'What's ASIO's role in protective security?' - an information leaflet
2000	ASIO web site launched on 22 June 2000

Australian agencies - comparison with ASIO

NSW Police Service

Like ASIO's report, the Annual Report of the NSW Police Service contains considerable detail about corporate governance and corporate reform. The report also includes information about crime rate trends, public satisfaction surveys and community liaison initiatives. The results of major operations are reported in general terms, for example, the numbers of people arrested and assets seized for each major operation. Unlike ASIO, the report makes no mention of the operational methods or capabilities (for example, telephone intercept or listening devices) available to the NSW Police.

Victoria Police

The Annual Report of the Victoria Police is similar in content to that of the NSW Police Service. High profile activities that rely on community support are reported on, as are corporate management issues. Reference is made to the increased demand for specialist technical investigative skills as a result of criminal use of the Internet, and to forensic procedures used to support investigations, but the report makes no mention of the operational methods or capabilities available to the Victoria Police.

Australian Federal Police

As the AFP has both community policing and national criminal intelligence responsibilities, its Annual Report has elements in common with those of the state police forces, as well as with ASIO's Report to Parliament. The AFP report provides an overview of the Commonwealth law enforcement environment, and like the NSW and Victoria Police reports, highlights operations that resulted in arrests or seizures of assets, and reports on community liaison initiatives. Like ASIO, the AFP identifies a range of useful investigative methods, including physical and electronic surveillance, telecommunications interception and extensive access to financial intelligence provided by the Australian Transaction Reports and Analysis Centre (AUSTRAC); however, like ASIO, the AFP makes no reference to details such as the number of warrants sought or executed.

Western Australia Police Service

The Annual Report of the WA Police Service provides similar information to that of the NSW and Victoria Police. Although it makes reference to the use of AUSTRAC

information (although statistical information is not provided), there is no reference to other investigative capabilities such as telephone interception.

South Australia Police

Similarly, the Annual Report of the South Australia Police does not refer to covert operational methods or capabilities.

Queensland Police Service

The Queensland Police Service refers to the use of telephone interception as an investigative tool, but like the other police and intelligence services, Queensland Police do not provide details of covert operational methods or capabilities.

National Crime Authority

The NCA Annual Report includes examples of positive operational outcomes, with some limited discussion of operational methods (for example, the benefits of public hearings, examination of financial transactions, etc). The report also provides an overall figure for the number of telecommunications interception warrants issued during the year together with comparative figures for the previous three years. Its 1998/99 report attributes a 50% increase in warrants since the previous year to increased funding for the National Illicit Drugs Strategy and the changing telecommunications environment.

Police Integrity Commission (NSW)

The Police Integrity Commission of NSW provides relatively specific reports of operational objectives in its Annual Report, and reports the number of warrants issued for telecommunications interceptions. The Commission also reports the number of search warrants and listening device warrants sought and executed during the reporting year, and comparative information from the previous two years. The Commission also holds public hearings, as a principle means of deterring police officers from engaging in various forms of serious misconduct, by demonstrating the extent of its reach and its capacity to obtain information and evidence by means of a variety of investigative methodologies.

Independent Commission against Corruption (NSW)

ICAC provides figures on the number of investigations conducted using listening devices, telephone interception, controlled operations and assumed identities during the reporting year, and comparative information from the previous year. Details of investigations for

Appendix B

which there have been public hearings are also provided in the annual report, although the report does mention that members of the public will generally not be aware of investigations for which there has been no public hearing or report. Although it is ICAC policy not to disclose operational details about matters which are not in the public domain, it does provide brief examples of a few subjects of investigation or preliminary inquiry.

Criminal Justice Commission (Qld)

Queensland's Criminal Justice Commission's (CJC) Annual Report includes case studies and examples of investigations undertaken, including the objectives of the investigation and the outcomes achieved. Some case studies include limited discussion of operational and investigation techniques employed. The CJC also reports the numbers of search warrants obtained and listening devices approved.

Overseas services - comparison with ASIO

The following table provides:

- a comparison of the principal methods by which overseas agencies report to the public
- the types of information made available

	ASIO	NZ (NZSIS)	UK (UKSS)	US (FBI)	Canada (CSIS)	Germany (BvF)	France (DST)	Italy (SISDE)
Reporting methods								
public annual report	Y	N ²	N	N	Y	Y	N	Y
web site	Y	N	Y	Y	Y	Y	N	Y
leaflets/booklets	Y	Y	Y	Y	Y	N	N	N
Parliamentary ³	Y	Y	Y	Y	Y	Y	N	Y
oversight bodies ⁴	Y	Y	Y	Y	Y	Y	N	N

² First annual report expected for the year 2000-01

³ This includes the equivalent of Australia's Parliamentary committees, Question Time, Questions on Notice

⁴ Accountability mechanisms which are available to the public eg Inspector-General of Intelligence & Security

Appendix C

	ASIO	NZ (NZSIS)	UK (UKSS)	US (FBI)	Canada (CSIS)	Germany (BvF)	France (DST)	Italy (SISDE)
Types of information								
targeting	N	N	N	some	N	N	N	N
security environment	general description	general description	general description	general description	general description	detailed description	N	general description
foreign liaison partners	N	N	N	N	N	N	N	N
warrant-type statistics ⁵	N	N ⁶	N	N	N	N	N	N
operational capabilities	N	N	N	N	N	N	N	N
structure	Y	Y	Y	Y	Y	N	N	N
budget	Y	Y	Y	Y	Y	Y	N	N

⁵ These comprise the operations for which ASIO would require a warrant from the Attorney-General – telecommunications and mail intercept, entry and search, listening devices and computer access.

⁶ We understand the NZSIS will report warrant statistics for the year 2000-01.

Attachments - publications provided to the PJC

ASIO Reports to Parliament

Report to Parliament 1998-99

Report to Parliament 1982-83

ASIO publications

Corporate Plan 1998-2002

ASIO Now

What's ASIO about?

What's ASIO's role in protective security?

What's the SCEC?

Testing Security Products – the work of ASIO's security equipment testing site

Other Australian Agency reports

IGIS Annual Report 1998-99

Overseas Agency reports

MI5 – The Security Service (booklet)

NZSIS – Security in New Zealand Today (booklet)

FBI

- Fiscal Year 1998 Report – Office of Professional Responsibility
- Ensuring Public Safety and National Security under the Rule of Law

Canadian Security Intelligence Service (CSIS) – an information pack containing

- The 16 page Public Report.
- 'CSIS - in a Changing World'
- Awareness Brief – 'Economic Espionage', 'Computer Security'

Appendix D

- Backgrounder Series - 'A Historical Perspective on CSIS', 'Accountability and Review', 'Economic Security', 'Counter-Terrorism'
- Perspectives - 'Trends in Terrorism'
- Commentary - 'LTTE International Organization and Operations – A Preliminary Analysis' (written by an academic and expressing personal opinions)
- recruiting leaflet - 'Intelligence Officer'
- information leaflet - 'Welcome to Communications Branch'