

The third review of administration and expenditure

Information is central to effective control in accountability relationships. Each kind of control depends on the availability of information to those by whom it is exercised. An individual or body can be held to account only by those who have access to relevant information on performance.¹

- 1.1 Under Section 29 of the *Intelligence Services Act 2001*, the Parliamentary Joint Committee on ASIO, ASIS and DSD has an obligation to review the administration and expenditure of ASIO, ASIS and DSD, including the annual financial statements.
- 1.2 In August 2004, the Committee conducted its third review of administration and expenditure of ASIO, ASIS and DSD.
- 1.3 The review was conducted in private with evidence being taken at hearings and through submissions from the three agencies. The Director-General of Security, Mr Dennis Richardson, the Director-General of ASIS, Mr David Irvine, and the Director DSD, Mr Stephen Merchant, all gave evidence to the Committee. The Committee also received a submission from the Australian National Audit Office (ANAO) and senior ANAO officers gave evidence at a private hearing.
- 1.4 Much of the evidence taken by the Committee at hearings and through submissions was of a classified nature and cannot be tabled in Parliament. Wherever possible, however, as much information as can be publicly reported, including agency evidence, has been included in this report.

¹ Commission of Inquiry into the Australian Secret Intelligence Service, *Report on the Australian Secret Intelligence Service*, March 1995, p.11.

- 1.5 In addition to this report tabled before Parliament, the Committee has forwarded a confidential letter to the Prime Minister in relation to a matter of concern.

The 2001-2002 Review

- 1.6 The objective of the first review undertaken by the Committee in 2001-2002 was to cover a range of issues concerning administration and expenditure and, therefore, enhance the knowledge of the Committee. The first review made the following recommendations:

Recommendation 1

That the Prime Minister create a position of efficiency adviser in the Office of the Inspector-General of Intelligence and Security.

The efficiency adviser would :

- conduct performance audits of the Australian Intelligence Community; and,
- report the findings of performance audits to the Prime Minister, the responsible Ministers and the Committee.

Recommendation 2

That the Department of Defence ensure that annual financial statements are available for DSD so that they can be audited by the Australian National Audit Office and reviewed by the Committee as required by paragraph 29(1)(a) of the *Intelligence Services Act 2001*.

- 1.7 Neither recommendation was accepted by the Government. In relation to recommendation 1, the Government responded that the creation of an efficiency adviser in the Office of the IGIS would be inconsistent with the role of IGIS, and further to this, that existing auditing and oversight mechanisms were sufficient to provide an "efficient and effective use of resources by Australia's intelligence agencies."²
- 1.8 With regard to the provision of separate annual financial statements from DSD for audit by the ANAO and examination by the Committee, the Government expressed the view that the preparation of a report of DSD's financial performance would be sufficient. The Government considered that a separate annual financial statement for DSD would entail significant accounting system-modification, indeed an independent treasury function

2 Government Response to the Parliamentary Joint Committee on ASIO, ASIS and DSD: *Annual Report 2001-2002*.

in DSD. The Government considered that this would “at most’ entail the establishment of DSD as an independent statutory agency, ‘a move the Government does not favour.”

- 1.9 While noting the Government’s negative responses, the Committee reaffirms the reasoning that lead to the two recommendations of its first review and invites the Government to consider alternative mechanisms to address the Committee’s continuing concerns regarding the assessment of agency efficiency and the preparation of a separate financial statements for DSD.

Recommendation 1

- 1.10 **That the Government give consideration to alternative mechanisms to address the Committee’s concerns regarding separate financial statements by DSD which underpinned the Committee’s recommendations in the first review of administration and expenditure.**

Scope of the third review

- 1.11 It is not possible to find an exact figure for the increased expenditure on intelligence and security by the Government since 11 September 2001, as intelligence and security responsibilities and activities fall under many categories and agencies. There is, however, no doubt that the Australian intelligence community is experiencing its most significant period of expansion since the Second World War.
- 1.12 In a radio interview on 17 March 2004, the Prime Minister announced that intelligence and security agencies would receive an extra \$400 million in the 2004-2005 budget.³
- 1.13 The Prime Minister said that this commitment would, “bring to about \$3 billion over the period of the budget forward estimates, the additional money that has been made available for security related issues” since 11 September 2001. According to the Prime Minister “we do need to commit more resources ... nothing is more important than making further resources available for security and intelligence purposes”.⁴ Considering

3 *Transcript of the Prime Minister, the Hon John Howard MP, Interview with Mr Jeremy Cordeaux, Radio 5DN, Adelaide, 17 March 2004, p.1.*

4 *Transcript of the Prime Minister, the Hon John Howard MP, Interview with Mr Jeremy Cordeaux, Radio 5DN, Adelaide, 17 March 2004, p.1.*

the large growth in intelligence related expenditure the Committee sought to examine a number of budgetary and administrative issues for ASIO, ASIS and DSD arising from the rapid growth of the agencies. The following are some of the broad issues and areas of administration examined in the course of this review.

Classified Annual Reports

- 1.14 In carrying out its review, the Committee is reliant on the ANAO's audit of the financial statements of Australia's intelligence agencies. The following report draws upon the ANAO audit of ASIO and ASIS. As a component of the Department of Defence, DSD does not prepare a separate annual financial statement for audit by the ANAO. This makes it significantly more difficult for the Committee to fulfil its obligation under the *Intelligence Services Act* to review the administration and expenditure of DSD. In addition to these audits, the Committee reviews the Portfolio Budget Statements (PBS) and other (albeit very limited) publicly available material.
- 1.15 The Committee was pleased with the cooperation it received from the agencies. The agencies and the Committee enjoy frank and open discussions during private hearings.
- 1.16 It is, however, a matter of some concern to the Committee that it has not had access to the classified reports of the agencies during this review. This concern is reinforced by Mr Flood's recent finding that:
- ..(t)he annual reports of the intelligence agencies have not been considered by the National Security Committee for the past two years, a situation that is regrettable.⁵
- 1.17 The Committee asked each of the three agencies what their concerns were in relation to the Committee having access to their classified annual reports.
- 1.18 ASIO provided the following statement:
- Copies of ASIO's classified Annual Report are made available to the Prime Minister, the Attorney-General, other members of the National Security Committee of Cabinet and to the Leader of the Opposition. On one occasion in the past ASIO has provided access to a classified Annual Report to the Chair of the PJC and to its

5 Philip Flood, *Report of the Inquiry into Australian Intelligence Agencies*, July 2004, p.53.

ranking Opposition member in the context of the PJC's report on the public reporting of ASIO's activities.⁶

ASIO notes that the PJC's responsibilities specifically go to finance and administration. It further notes that much of the classified parts of ASIO's Annual Report are operational details which are excluded from the Committee's responsibility.⁷

Further to this, ASIO commented:

Ultimately, access to the Report is a matter for the Government. ASIO would consider requests for access on a case-by-case basis but would be opposed to access by the Committee as a right, and believes that this could only be addressed through a change to legislation.⁸

1.19 ASIS stated that:

To ensure ASIS meets its obligations in reporting its activities, the ASIS annual report contains sensitive operational information is classified top secret and is copy numbered. It deals directly with the operational outputs of the Service. Provision of access to the Annual Report would not be consistent with section 29(3) of the Intelligence Services Act 2001.⁹

1.20 DSD gave evidence that they would have no objections in releasing to the Committee elements of its annual report, "relating to the administration and expenditure" of DSD, including information on:

- corporate governance;
- staffing levels; and
- total resource allocation on efforts against National Foreign Intelligence Assessment priorities.¹⁰

Further to this DSD added:

However, much of the annual report contains operationally sensitive information, the review of which is the function of the Inspector General of Intelligence and Security. The Inspector General has been furnished with a copy of DSD's annual report for 2002/2003.¹¹

6 ASIO, *Questions on Notice*, p.1.

7 ASIO, *Questions on Notice*, p.1.

8 ASIO, *Questions on Notice*, p.1.

9 ASIS, *Questions on Notice*, p.2.

10 DSD, *Questions on Notice*, p.3.

11 DSD, *Questions on Notice*, p.3..

- 1.21 The Committee accepts that the classified Annual Reports contain operational matters which are outside the responsibilities of the Committee. Nevertheless, the Committee has successfully pursued other inquiries which to varying degrees have extended to operational matters while still maintaining its main objective of providing the Parliament with effective oversight.
- 1.22 The Committee considers that the issue of its access to relevant information contained in the classified annual reports of the agencies must be addressed before the next review of administration and expenditure.

Recommendation 2

- 1.23 **That the Government give further consideration to providing the Committee with the classified annual reports of ASIO, ASIS and DSD.**