

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group: 3

Program: Other Agency

Question: BE14/009

Senator Ludwig asked the following question at the hearing on 26-29 May 2014:

Senator LUDWIG: I just wanted to follow up on Senator Xenophon's issue. Senator Brandis, the last time I looked at this issue, you said more broadly about to the raids on Seven West Media—and you may recall this or I might be refreshing your memory—to the committee on 24 February 2014:

I have no criticism to offer of the AFP, having heard the account that has been given tonight to this estimates committee and having heard from Commissioner Negus on Tuesday afternoon of last week and received a written briefing the following day. Also, I should also add for completeness, having had discussed the matter with my junior minister, Mr Keenan, who I know has had several conversations with Commissioner Negus in the last several days, I do not offer any criticism at all.

I am not asking you to offer any criticism, but, reflecting upon that comment that you gave then and the circumstances that we now know occurred, have you or Mr Keenan asked the AFP to provide a brief or an overview of the remedial action that they have taken to address the issue?

Senator Brandis: As you know, at the time this was explored in the last estimates the events were very recent. As you also know, subsequently the AFP examined the processes in a thorough and exhaustive way. That examination had not been completed or, indeed, commenced at the time we had the last estimates hearing. I did not offer any criticism then; I do not offer any criticism now. But I note, as I just said to Senator Xenophon, that the AFP have themselves been appropriately frank and self-critical, having reviewed the way in which these events unfolded and examined their internal processes in particular, which is something I think we would all welcome.

Turning specifically to your question, I have not been specifically briefed on the matter, but I imagine my junior minister, Mr Keenan, who has responsibility here, would have been. Perhaps Commissioner Negus can tell us whether that is so.

Mr Negus: I can certainly confirmed that have had a range of discussions with Minister Keenan. I am just confirming whether we have put a written brief through. In saying that, the review that are undertaking is not yet completed. It is almost completed. We have learnt some lessons along the way which we have addressed as we have gone along. But there certainly will be a formal response back to the minister as to the actions we are going to be taken.

I would like to add just for the record, too—and we said this last time as well but I would like to put this on today's record—that these were errors of judgement. They were human errors brought about by, I think, the pressure of trying to do things quickly. We have learned some lessons from that. I might just add that there was no corrupt behaviour. There was no malice in the way this was done. There were errors of judgement. It is as simple as that. In dealing with the around 1,600 active investigations that we have running on any one particular day, these things unfortunately occur. But we are doing our best in managing the process since then to make sure that they do not occur again.

Senator Brandis: Senator, Ludwig, that is the way it is meant to work. If there is a level of concern about the way in which any agency, including the AFP, is carrying out a particular functional task and it comes to public light then it is entirely appropriate for it to be raised in Senate estimates, as it was by you, and for the agency, having regard to the criticisms directed at it of its conduct, to have a very thorough look at the way in which perhaps something could have been done better. Your criticisms, Senator Ludwig, and Senator Xenophon's criticisms were taken appropriately seriously and treated with great respect, and the AFP have conducted themselves as Commissioner Negus has explained. This is the way, as I say, it is meant to work. You and Senator Xenophon have been constructive contributors to that process, and I think the AFP have responded very appropriately.

Senator LUDWIG: The question that I go to, though—and I think Mr Negus has partly answered it—is whether there was a brief provided to Mr Keenan post the circumstances being revealed or whether Mr Keenan or you, Senator Brandis, which I think you answered no to, provided any feedback to the AFP or requested any briefing from the AFP on this matter.

Senator Brandis: You are not defining the point in time.

Senator LUDWIG: At any time post 24 February and the committee report.

Senator Brandis: I do not recall receiving a written brief from the AFP after the Senate estimates hearing, if that is what you are getting at. I will check that, but I cannot recall having received a written briefing, nor would I have expected to because these briefs go to Mr Keenan, who has ministerial responsibility for this agency. We have heard Commission Negus say that he has had discussions with Mr Keenan, as you would expect. He was not sure whether a written brief had been provided, but I think he is going to take that on notice.

Senator LUDWIG: Yes, take it on notice, Commissioner. I just wanted to clarify what I was particularly asking for.

Mr Negus: Clearly there would be written briefs put up at the end of the court process to inform the minister and those sorts of things, but the review and decisions on actions we are taking subsequent to the review have not been completed just yet.

Senator LUDWIG: Did you make any recommendations to the minister, Mr Keenan, as to whether or not he should apologise on behalf of the AFP, or have the AFP indicated that they intend to apologise to Seven West Media?

Mr Negus: I take full responsibility for it. This is not something that I would expect the minister to apologise for.

Senator LUDWIG: In the cabinet of government he is the responsible minister.

Mr Negus: This is an operational matter and I take full responsibility for it.

Senator LUDWIG: All right. Thanks very much -

The answer to the honourable senator's question is as follows:

The AFP provided written briefs to the Office of the Minister for Justice on 25 February 2014, 28 February 2014, 11 March 2014, 13 March 2014 and 26 March 2014.