

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. SBE15/108**

**Senator Xenophon asked the following question at the hearing on 20 October 2015:**

I refer to a recent article from the Sydney Morning Herald stating the NSW Government has authorised the release of photographs taken of people who are granted licences and permits to the Australian Security Intelligence Organisation (ASIO) and the state crime commission without a warrant or court order. I understand previously the NSW Roads and Maritime Services has previously only been permitted to release drivers licence photographs to ASIO but the changes will now include photographs for licences and permits for firearms, to work in security, private investigation, debt collection industries and applications to operate tattoo parlours. Changes will also apply to Photo Cards – voluntary proof of age cards, photographs taken for licences for tradespeople, real estate agents, contractors, pawn brokers, second hand dealers, motor dealers and repairers, strata managers and importers and exporters. This extra access was granted by the NSW Government on Friday, almost three weeks after the killing of police accountant Curtis Cheng at Parramatta.

1. Did ASIO request this extra access from the NSW Government? If so, when was this request made?
2. Has ASIO made similar access requests (or have existing agreements) from other states and territories in Australia? Which ones?
3. Will ASIO be accessing photographs only, or additional information contained with licenses?
4. Prior to the authorisation, was ASIO able to access these photographs with a warrant or court order?

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

1. ASIO requested legislative amendments to the Road Transport (Driver Licensing) Regulations 2008 at the invitation of the NSW Government. ASIO made the request on 24 March 2015.
2. Access to transport related data including licence photographs is governed by State and Territory laws and is jurisdiction specific. As you are aware, the Joint Commonwealth-NSW review of the Martin Place Siege recommended that all States and Territories should review relevant legislation, in particular with respect to privacy and health, to ensure appropriate access by ASIO.

While the disclosure of photographs and/or data to ASIO is governed by relevant laws, ASIO has in place agreements with relevant state and territory agencies, governing how the photographs and/or data may be disclosed to ASIO.

3. In NSW, under the Road Transport (Driver Licensing) Regulations 2008, ASIO is permitted to access certain photographs, or any photographic image or other matter contained in any database of such photographs, from the Roads and Maritime Services for the investigation of a terrorism offence.

4. Yes, but under the *ASIO Act*; ASIO could only obtain a warrant where access would substantially assist the collection of intelligence in respect of a matter that was important in relation to security.