

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

**Output 2.3**

**Question No. 61**

**Senator Stott-Despoja asked the following question at the hearing on 27 May 2008:**

*National Security Information (Criminal and Civil Proceedings) Act 2004:*

- a) Justice Anthony Whealy, who presided in the matter of *Lodhi*, has described the *National Security Information (Criminal and Civil Proceedings) Act 2004* (the Act) as having 'the appearance of having been drafted by persons who have little knowledge of the function and processes of a criminal trial'. The Inspector-General of Intelligence and Security, Mr Ian Carnell said this 'trenchant criticism...surely points to it being ripe for review' – in light of this will the Department commit to a thorough and public review of the Act?
- b) The Government has advised that it will 'consider lessons learnt from cases in which the Act has been invoked' – what lesson have been learned so far?

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

The *National Security Information (Criminal and Civil Proceedings) Act 2004* (the NSI Act) was drafted in consultation with people who had extensive experience with criminal trial processes.

The development of the NSI Act was also informed by submissions made to the inquiry of the Australian Law Reform Commission into the protection of classified and security sensitive information, as well as submissions made to the Senate Legal and Constitutional Affairs Committee, which inquired into the NSI Bill.

The Department monitors all cases in which the *National Security Information (Criminal and Civil Proceedings) Act 2004* is invoked. The Department is currently considering whether there is scope to improve and clarify existing procedures under the Act.