

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 286**

**Senator Ludwig asked the following question on 2 December 2004:**

- (a) Do AFP officers serving in PNG have the capacity to use force?
- (b) If so what level, or levels of Force are authorised?
- (c) Under what circumstances are they authorised to use this/these level/levels of force?
- (d) Do individual AFP officers make a judgement or do they seek authorisation from a higher authority?
- (e) If individual AFP officers do have that discretion, are they required to file a report when the use of force was considered?
- (f) If so how many such reports have been filed?
- (g) If individual AFP officers do have that discretion, are they required to file a report when the use of force was required?
- (h) If so how many such reports have been filed?
- (i) If authorisation is required, how many such requests have been made?
- (j) If authorisation is required, how many such requests have been granted?

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

- (a) Yes.
- (b) AFP members serving as part of the Enhanced Cooperation Program Assisting Australian Police (AAP) have a range of force options available to them, up to and including the use of lethal force.
- (c) AFP members serving with the AAP are subject to Commissioner's Order 3, which deals with the use of force. While not prescriptive, Commissioner's Order 3 details circumstances under which members of the AFP may use force, and stresses the use of minimum force.
- (d) Individual AFP officers are required to make their own decision about the use of force, based on the circumstances at the time. At the completion of any incident members are expected to be able to justify their decisions. AFP officers are not required to seek approval from another authority before they utilise any of their Use of Force options.
- (e) No, however AAP (and all AFP members) are required to submit a Use of Force report whenever they have used force in dealing with a situation.
- (f) At 10 December 2004 no Use of Force reports have been filed from PNG.

- (g) See the answer to (e).
- (h) See the answer to (f).
- (i) Not applicable.
- (j) Not applicable.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN FEDERAL POLICE

**Question No. 287**

**Senator Ludwig asked the following question at the hearing on 2 December 2004:**

Injuries:

- a) Does the Australian Federal Police keep records of the amount of time AFP officers are incapacitated following an injury sustained while they are on duty?
- b) If so, what is the average time per officer per year of such incapacitation?
- c) Does the AFP keep records of the amount of time AFP officers deployed in PNG have been incapacitated following an injury sustained while they are on duty?
- d) If so, what is the average time per officer per year of such incapacitation?
- e) In how many instances have AFP officers servicing in PNG been incapacitated following an injury sustained while they are on duty, in circumstances where they were denied authority to use force?

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

- a) Yes. The Australian Federal Police does keep records of the amount of time AFP employees are incapacitated following a work related injury (according to *Australian Standard 1885.1 1990*).
- b) For those injuries that resulted in the loss of complete working days, the average time lost rate for financial year 2003/2004 was 13.78 days. The following table includes the comparison of AFP lost time injury rates for the past three financial years.

**Lost Time Injury Rates – AFP – comparison of annual rates**

(As per Australian Standard 1885.1 - 1990)

Data source: AFP SAP OH&S module

	AFP Financial Year 2001/2002	AFP Financial Year 2002/2003	AFP Financial Year 2003/2004
<b>Incidence Rate</b>	<b>3.87</b>	<b>3.34</b>	<b>2.99</b>
<b>Frequency Rate</b>	<b>16.83</b>	<b>16.25</b>	<b>14.36</b>
<b>Average Time Lost Rate</b>	<b>13.5</b>	<b>13.68</b>	<b>13.78</b>
Total number of Lost Time Incidents*	114	111	102
Total number of complete working days lost*	1539	1518	1406
Staff counted average	2942	3324	3416
Total number of hours worked	6,771,632	6,830,927	7,101,289
*Data as at	18/7/02	29/7/03	6/8/04

*Incidence Rate* - The number of occurrences of lost-time injury/disease for each one hundred workers employed.

*Frequency Rate* - The number of occurrences of injury/disease for each one million hours worked.

*Average Time Lost Rate* - The average of working days lost per occurrence of injury/disease. This rate provides a measure of the severity of the occurrences being experienced by workplaces over time.

c) Yes.

d) At 10 December 2004 there have been no instances of AFP members serving in PNG being injured on duty.

e) Not applicable.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 288**

**Senator Greig asked the following question on 2 December 2004:**

I refer ASIO to the findings of ANAO Audit Report No.10 2004-2005, The Senate Order for Departmental and Agency Contracts (Calendar Year 2003 Compliance).

- a) What progress has ASIO made in developing its CEIs and updating its procurement guidance documentation?
- b) What progress has ASIO made in enhancing its contracts register to meet the requirements of the Senate order?

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

a) ASIO has developed revised Chief Executive's Instructions which are currently being reviewed by the Senior Executive prior to issue by the Director-General of Security. ASIO is also developing revised procurement guidance documentation which will form part of a suite of financial management guidance material for use by staff performing financial functions. The procurement guidance is currently in draft form and takes into account the recommendations of the ANAO Audit Report No.10 2004-2005 and other key Commonwealth procurement guidance documents.

b) ASIO has in place an interim contract register to meet the requirements of the Senate Order, and is currently developing a comprehensive data register to record contract details across the Organisation. It is expected that this system will be in place by the end of the 2004-05 financial year.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 289**

**Senator Greig asked the following question on 2 December 2004:**

Does ASIO now have formal documentation specifying that the Organisation's contract details cannot be listed on the Internet? Please provide a copy of the documentation.

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

The Director-General of Security issued a formal Direction for the non-publication of contract details on the Internet. A copy of the Direction is attached.

DIRECTION OF THE CHIEF EXECUTIVE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION  
**NON-PUBLICATION OF CONTRACT DETAILS**

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I, Dennis Richardson, Director-General of Security, make the following directions for the publication of contract details of the Australian Security Intelligence Organisation.

**Contracts exempt from publication in the *Purchasing and Disposals Gazette***

WHEREAS I am satisfied that ASIO agreements, contracts and standing offers are exempt documents under s 33 of the *Freedom of Information Act 1982* for the reason that disclosure of such documents would, or could reasonably be expected to, cause damage to the security of the Commonwealth;

I DIRECT, in accordance with paragraph 6.20 of the *Commonwealth Procurement Guidelines*, that details of these documents must not be notified in the *Purchasing and Disposals Gazette*.

**Contracts exempt from publication on the Internet – compliance with the *Senate Order on Departmental and Agency Contracts***

WHEREAS, having regard to the *Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters*, I am satisfied that ASIO agreements, contracts and standing offers are documents the disclosure of which could reasonably be expected to cause damage to national security, and are therefore within the scope of public interest immunity;

I DIRECT, in accordance with paragraph 6.21 of the *Commonwealth Procurement Guidelines*, and the *Guidance on the Listing of Contract Details on the Internet (Meeting the Senate Order on Departmental and Agency Contracts)*, that details of these documents must not be notified on the Internet.

**Contract details to be made available to Parliament**

Details of ASIO agreements, contracts and standing offers may be made available to Members of Parliament as a confidential briefing, or to the Parliamentary Joint Committee on ASIO, ASIS and DSD.

Dennis Richardson  
Director-General of Security

19 August 2004

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 290**

**Senator Greig asked the following question on 2 December 2004:**

Has ASIO revised its tender templates in accordance with the recommendations made at page 40 of ANAO Audit Report No.10 2004-2005?

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

ASIO is currently revising its tender templates in accordance with the recommendations made at page 40 of ANAO Audit Report No.10 2004-2005. Recent contracts prepared by the Organisation have included model clauses issued by the Department of Finance and Administration.



SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 291**

**Senator Greig asked the following question on 2 December 2004:**

What progress has ASIO made in updating its delegations documentation?

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

ASIO has developed a revised delegations instrument which is currently in draft form and being reviewed by the Senior Executive prior to issue by the Director-General of Security.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 292**

**Senator Greig asked the following question on 2 December 2004:**

Please provide details of any other actions ASIO has taken to implement the recommendations made in the above report, particularly in regard to training for procurement staff.

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

Managers, senior officers and other agency staff engaged in procurement activities are being educated in the use of the new ASIO contracts register in order to meet the requirements of the Senate Order.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 293**

**Senator Ludwig asked the following question on 2 December 2004:**

In relation to the *ASIO Legislation Amendment Act 2003*, what were the practical issues identified by ASIO that led to these amendments and how is the legislation designed to address these issues?

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

The amendments to extend the time permitted for questioning through an interpreter were intended to address the fact that a lot more time is required to question a person needing an interpreter.

The amendments in relation to the surrender of passports and the prevention of unauthorised overseas travel by the subjects of questioning warrants were intended to limit the risk that such persons may leave Australia in order to avoid appearing before a prescribed authority in accordance with a questioning warrant.

The amendments in relation to non-disclosure of warrant information and ASIO operational information were intended to protect the effectiveness of ASIO's intelligence gathering operations by maintaining the confidentiality of questioning proceedings while a questioning warrant remains on foot and any operational information that may be revealed in the course of questioning.

The amendments in relation to the making of directions by a prescribed authority were necessary to remove any doubt that a prescribed authority is able to make an order under subsection 34F(1) of the *Australian Security Intelligence Organisation Act 1979* in respect of a person appearing before the prescribed authority under a questioning warrant (including an order for the detention of the person) even though the warrant, when issued, did not provide for the person to be taken into custody, brought before the prescribed authority for questioning and detained.

The amendments to the *Intelligence Services Act 2001* were intended to ensure that the review of the powers in Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* to be carried out by the Parliamentary Joint Committee on ASIO, ASIS and DSD will constitute a review of the powers as amended from time to time, rather than the powers in the form originally enacted by the Parliament.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 294**

**Senator Ludwig asked the following question on 2 December 2004:**

Security Assessments:

- a) Can ASIO adopt security assessments of individuals by foreign agencies?
- b) If so, in what circumstances may ASIO do so?
- c) Does ASIO have a procedure to ensure the accuracy of such assessments?
- d) Is this procedure modified in circumstances where such assessments come from countries with poor human rights records?
- e) In this instance (refer to facts above), was this procedure complied with?
- f) If not, why?
- g) Has ASIO sought or received any legal advice regarding this incident?
- h) If so, what was the nature of that advice?
- i) Has ASIO subsequently adopted any new policies or procedures to ensure the accuracy of such assessments?
- j) If so, when shall these policies or procedures come into effect?
- k) If not, why?
- l) Does ASIO have a record of the number of appeals against such assessments that individuals have made?
- m) If so, how many of these appeals relate to assessments adopted by ASIO that were originally made by foreign agencies?
- n) How many of these appeals were successful?
- o) Has ASIO set aside any amount of funds, or otherwise budgeted for compensation arising from successful appellants?
- p) If so, how much has been set aside?

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

a) – d) ASIO does not adopt security assessments of individuals by foreign agencies but could include information from foreign agencies in its assessments, giving due regard to the credibility of the information and reliability of the source. A country's human rights record is taken into account.

Without more specifics, ASIO cannot answer questions e) to p).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 295**

**Senator Ludwig asked the following question on 2 December 2004:**

Disclosure:

- a) What matters is ASIO required to disclose in its Annual Report?
- b) Is ASIO required to disclose serious breaches of its internal policies?
- c) Is ASIO required to disclose actions that have resulted in ASIO paying-out substantial compensation?
- d) Why has ASIO failed to disclose in its most recent annual report the fact that it recently paid out substantial compensation to a Kuwaiti refugee, after the failure by ASIO to ensure the accuracy of a security assessment made by a foreign agency lead to his incarceration for 2 years?

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

a) The requirements for ASIO's *Annual Report* are set out under section 94 of the *Australian Security Intelligence Organisation Act 1979* (the ASIO Act). ASIO produces two versions of its *Annual Report*. The first version is classified and contains an account of ASIO's performance over the previous year, including sensitive reporting on security risks and details of investigations that cannot be released publicly. The report is provided to the Attorney-General, the Prime Minister, members of the National Security Committee of Cabinet and the Leader of the Opposition. An unclassified *Report to Parliament* is prepared for tabling in Parliament in accordance with section 94 of the ASIO Act.

b & c) Serious breaches of ASIO's internal policies and matters involving public complaints are detailed, to the extent that security allows, in either ASIO's *annual Report to Parliament* or in the *Annual Report* by the Inspector-General of Intelligence and Security (IGIS).

d) The question is based on a false assumption. The case referred to was detailed in the IGIS's *Annual Report* of 1998-99 (p17), 1999-00 (pp 20-22), 2002-03 (p20) and 2003-04 (p11) and in ASIO's *Report to Parliament* in 1999-00 (p40).

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 296**

**Senator Ludwig asked the following question on 2 December 2004:**

Security Cards:

- a) How many requests has ASIO received in the past 18 months from DOTARS to re-screen workers employed at Sydney Airport for terrorist traits?
- b) Has ASIO accepted and completed all such requests?
- c) If not, how many requests have been refused?
- d) On what basis were such requests refused?
- e) Has ASIO implemented any policy to ensure that all such requests are accepted?
- f) Has ASIO made a risk-assessment as to the threat posed to national security by any failure by ASIO to re-screen all workers at Sydney Airport for terrorist traits?
- g) If so, what is that risk-assessment?

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

- a) The re-issue of Aviation Security Identity Cards (ASICs) commenced in November 2003. Between 1 November 2003 and 30 November 2004 ASIO received 76,447 requests for ASIC security checks.
- b) As of 30 November 2004 76,440 had been completed.
- c) None
- d) Not applicable, but such details, in the event of an adverse assessment, are not made public.
- e) Yes
- f) Not applicable.
- g) Not applicable, but in the event of such a risk assessment, the details would not be made public.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 297**

**Senator Ludwig asked the following question on 2 December 2004:**

Espionage

- a) Does ASIO keep records of all breaches of security by its personnel?
- b) If so, does ASIO have in place a procedure to review such breaches?
- c) Is ASIO aware of how many such breaches derive from espionage by foreign agencies?
- d) If so, how many such breaches have occurred?
- e) Does ASIO currently have in place a policy to evaluate the threat to national security arising from any such breaches?
- f) If so, have any such breaches posed a threat to national security?
- g) Does ASIO currently have in place a policy to counter-act any such breaches?
- h) If so, does ASIO have in place a procedure to review the effectiveness of any such policy?

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

a) Yes.

b) Yes

c) – h) In accordance with the relevant provisions of the ASIO Act 1979, ASIO investigates covert activity conducted by foreign governments, including espionage. It has long been the practice of successive Governments not to comment publicly on the details of such investigations.

SENATE LEGAL AND CONSTITUTIONAL LEGISLATION COMMITTEE  
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

**Question No. 298**

**Senator Greig asked the following question on 2 December 2004:**

ASIO Act:

- a) How many individuals have been questioned pursuant to Part III, Division 3 of the *Australian Security Intelligence Organisation Act* ("the Act")?
- b) How many of these individuals were detained for the purpose of questioning?
- c) How many warrants issued under section 34D of the Act have resulted in the arrest of either the person questioned or another person?

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

- a) – c) As required by the ASIO Act 1979, the details sought are published in ASIO's annual *Report to Parliament*.