

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
OFFICE OF THE PRIVACY COMMISSIONER

Question No. 172

Senator Carr asked the following question at the hearing on 31 October 2006:

(a) Can you explain why it was either necessary or advantageous in the execution of the complaint by Mr Mark McBurney against DIMA and DFAT for an officer of the OPC (My Muscio) to make the following comment in a letter about the case to DIMA dated 25 September 2005:

“The circumstances appear to be that the complainant did not advise his employer that he would be entering Australia, seeking leave of absence under another pretext.”?

(b) Since Mr McBurney’s complaint goes simply to the fact that either DIMA or DFAT, or both, inappropriately and unnecessarily disclosed personal information about him to the US Embassy, why was it necessary for an OPC officer to make any comments at all as to why Mr McBurney might be concerned that the information had been disclosed?

(c) Can you confirm that the matter under investigation is simply the disclosure of certain information, and not Mr McBurney’s intentions, circumstances or actions?

(d) Have you replied to Mr McBurney’s letter of 29 October on this matter?

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

(a) The OPC at the time was conducting preliminary enquiries under section 42 of the *Privacy Act 1988* (the Act) to assist it to decide whether there was a case to answer and was aiming to provide sufficient context for its question to be answered accurately.

(b) Please refer to the answer provided at (a).

(c) Yes, we confirm that the matter under investigation is simply the disclosure of certain information, and not Mr McBurney’s intentions, circumstances or actions.

(d) Yes. The response was sent to Mr McBurney on 24 November 2006.