

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN FEDERAL POLICE**

Question No. 83

Senator Barnett asked the following question in writing, following the hearing on 19 October 2009:

The Australian Federal Police is to investigate the 1975 killings of five Australian journalists in Balibo, in the former Portuguese colony of East Timor.

- a) What confidence does the AFP have in this investigation leading to the prosecution of individuals responsible, and
- b) please provide a status report of the investigation, the terms of reference, due time to report and any other relevant information.

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

a) No forecast as to the success or otherwise of a prosecution can be made until the investigation is completed. If the AFP investigation reveals sufficient material to compile a brief of evidence of criminality, then the Australian Federal Police (AFP) will refer that information to the Commonwealth Director of Public Prosecutions (CDPP). It is then a matter for the CDPP to consider, in accordance with the Prosecution Policy of the Commonwealth.

b) (i) The AFP is currently reviewing evidence gathered from previous inquiries conducted by the United Nations, Australia and Timor-Leste. This includes a review of material presented at the inquest into the death of Mr Brian Raymond Peters by New South Wales Deputy State Coroner Magistrate Dorelle Pinch. The AFP now intends to interview witnesses resident in Australia before making overseas inquiries.

(ii) There are no set terms of reference. The matter is being conducted as an operational investigative activity.

(iii) It is unknown at this stage how long the investigation will take. Allegations of war crimes committed overseas give rise to complex legal and factual issues that require careful consideration. The investigation of war crime allegations can be problematic where witnesses and evidence are located offshore, or where a significant period of time has elapsed since the commission of the offence/s.