

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN FEDERAL POLICE

**Question No. 29**

**Senator Xenophon asked the following question at the hearing on 18 November 2013:**

**Senator XENOPHON:** Five members of parliament have been subject to authorisation orders. Can you advise whether members of parliament have been subject to interception of their phones or email communications? In other words, apart from metadata, how many have been subject to it?

**Mr Negus:** We do not have that, so I would have to take that on notice again. It was not part of the original questioning, I do not think.

**CHAIR:** I would be very doubtful that you could answer anyhow.

**Mr Negus:** No, there are prescriptions under the Telecommunication Interception Act about releasing elements of that sort of data, so we would have to check from a legal perspective whether we could or could not.

...

**Senator XENOPHON:** ... But, in the sense that there are 226 members of parliament in this place, you cannot advise us—without disclosing who they may be but in terms of raw numbers—whether there have been any interceptions? We know there have been authorisation orders.

**Mr Negus:** The authorisations relate to the last question I answered, and that was less than five. I am prepared to take it on notice. We will get some legal advice about this, but I again do not want to set up expectation that you are going to get very much out of this at all.

...

**Senator XENOPHON:** But Mr Kessing was subject to interception, wasn't he?

**Mr Negus:** I do not have the details of that case in front of me. It was seven or eight years ago. But that is news to me. It would seem very strange and, again, would not be allowed under the law if it were to be taken out for something like releasing information.

**Senator XENOPHON:** So I guess I will wait patiently in relation to those.

**Mr Negus:** We are happy to take it on notice. We are happy to look at the Mr Kessing aspect of this as well. As that matter is well and truly concluded in the courts, we should be able to tell you a little bit about that case.

...

**Mr Negus:** Just coming back to the Mr Kessing question before, I am not sure whether we might be getting confused between interception and metadata checks, because there certainly would have been metadata checks in that regard, but whether there was a telephone interception I highly doubt. But we will check that on notice. But I think, as I said, I am not denying the fact there may well have been metadata checks in regard to that, because that happens in most leak investigations.

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

The AFP has distilled the following questions from the above Hansard extract:

1. Have members of parliament been subject to interception of their phones or email communications.

In the Senate Estimates hearing on 18 November 2013, the Commissioner provided a general answer to the Senator's question to provide some context, however, the AFP is unable to disclose specific information in relation to matters covered by the *Telecommunications (Interception and Access) Act 1979*.

2. Was Kessing the subject of telephone or data intercept.

As above.