

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION

Question No. 34

Senator Rhiannon asked the following question at the hearing on 18 November:

Senator RHIANNON: And in this 2012-13, how many [adverse security assessments (ASAs)] have been issued in relation to Australian citizens and for Australian permanent residents?

Mr Irvine: I do not have that figure in front of me. I would need to get it, because you are not talking about visa assessments now.

Senator RHIANNON: No, I am still with the ASAs, and just trying to get a breakdown between—

Mr Irvine: A visa assessment by definition is only given to a non-Australian who is applying for a visa to come to Australia—whatever type of visa.

Senator RHIANNON: So, do I take from that that no Australian citizens have come under an adverse security assessment?

Mr Irvine: No, and I would need to get you the figure for that. We issue adverse security assessments in relation to a number of Australians in relation to, for example, working with the Commonwealth in sensitive positions—security assessments for that sort of thing—for Commonwealth employment purposes. We issue security assessments in relation to people applying for work or appropriate passes to work at airports and in maritime ports. We issue security assessments in relation to people who we believe may be contemplating or risking an act of terrorism and so on.

Senator RHIANNON: I am happy for that to be taken on notice. I was just after the total figures for Australian citizens and for Australian permanent residents, and also the figures since 1 July 2013.

Mr Irvine: I will get that.

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

One of ASIO's core statutory functions is to advise Ministers and Commonwealth authorities in respect of matters relating to security¹ to inform the exercise of their functions and responsibilities. This includes the provision of a 'security assessment,' which is a type of security advice defined within section 35(1) of the *Australian Security Intelligence Organisation Act 1979* (Cth) ('the ASIO Act').

Part IV of the ASIO Act defines and regulates the provision of 'security assessments' to Commonwealth agencies. The key features of a 'security assessment' include a statement in writing expressing a recommendation, opinion or advice that refers to the requirements of security in contemplating a prescribed administrative action by a Commonwealth agency.

For ASIO's security advice to fall within the statutory definition of a 'security assessment' it must be advice that relates to 'prescribed administrative action' by a Commonwealth agency. In relation to the Department of Immigration and Border Protection, the exercise of any power, or the performance of any function, in relation to a person under the *Migration Act 1958* (Cth) or the *Australian Citizenship Act 2007* (Cth) falls within the definition of 'prescribed administrative action' as set out in section 35(1) of the ASIO Act. Other forms of 'prescribed administrative action' include:

¹ 'Security' as defined in section 4 of the ASIO Act.

- access by a person to any information or place controlled or limited on security grounds;
- access to restricted areas and sensitive goods such as ammonium nitrate;
- the exercise of any power, or the performance of any function, in relation to a person under the *Australians Passports Act 2005* (Cth); and
- the exercise of a power under section 58A, or subsection 581(3), of the *Telecommunications Act 1997* (Cth).

Part IV of the ASIO Act requires that Australian citizens, and persons who are the holders of a permanent visa, special category or special purpose visa, who are the subject of a qualified or adverse security assessment, receive a statement of the grounds for ASIO's security assessment. They are also entitled to seek merits review of the security assessment in the Security Appeals Division of the Administrative Appeals Tribunal.

Information on ASIO's security assessment performance during 2012–13 is found in the *ASIO's Report to Parliament 2012–13*, from pages 15 to 19 (available at www.asio.gov.au).

The following table lists the number of adverse security assessments issued by ASIO in relation to Australian citizens and/or permanent residents for the requested periods:

	2012-13	1 July – 31 October
Passports	18	29
Citizenship	1*	0
Existing permanent residency visa	1*	0
Personnel security assessments (security checks on employment applicants with other agencies)	1	2
Counter-terrorism checks	0	0
Total	21 (to 20 people)	31 (to 31 people)

*Issued to the same person

ASIO has issued no adverse security assessments in relation to Australian citizens or permanent residents in relation to counter-terrorism security assessments for access to a range of restricted areas and dangerous goods. More information regarding ASIO's counter-terrorism security assessments can be found on page 18 of the ASIO Report to Parliament 2012-13.

In the current financial year to date ASIO has not issued any adverse security assessments to Australian citizens in relation to citizenship applications.

In the financial year 2012–13 ASIO issued two adverse security assessments in respect of one person who was an Australian permanent resident applying for citizenship. As a result of ASIO's adverse security assessments, the then Department of Immigration and Citizenship refused the person's citizenship application and cancelled the person's permanent resident visa.