

## CHAPTER 9: SECURITY PROCEDURES AND CUSTODY OF CLASSIFIED MATERIAL

9.1 The raw material of DFAT's business is information. Its functioning as a policy development and policy coordinating agency depends on the flow of information for its effectiveness. By virtue of the nature of the information it is dealing in, much of it advice to the government of the day with international ramifications, there is often a high degree of confidentiality.

9.2 One of the more significant reasons advanced for the Committee to undertake the current review of DFAT arose from a concern that there had been breaches of DFAT's security procedures. Sensitive information which had the potential to embarrass Australia's international standing had appeared in the media. The Committee therefore examined the adequacy of DFAT's security procedures and sought to ascertain whether the incidence of leaks of classified information indicated low morale or other difficulties in the Department's operations.

9.3 The physical security of its staff and property are also major issues for an agency such as DFAT. Departmental employees are dispersed in many locations where they and their families face greater risks than would be accepted by most Australian employees. That officers accept such postings as part of their professional responsibilities is commendable. However, DFAT as their employer has a responsibility to ensure that it acts to protect its personnel. The Committee reviewed DFAT's performance both in Australia and overseas in this respect.

### Leaks

9.4 In his opening statement to the Committee, former DFAT Secretary Richard Woolcott emphasised that "the Department views very seriously the leaks to the media of classified information that have occurred over the last 18 months" (Evidence, p. 11). However, he stressed that this was neither a new phenomenon for the Department nor was DFAT unique in the public service or internationally in this respect. Mr Woolcott told the Committee:

I think the motivation for people who leak material is quite wide. It can relate to policy disagreement: somebody disagrees with a particular policy, sees a piece of information which questions that policy, and thinks it might bring pressure on the Government to move the policy if the material were leaked. Some people have leaked for financial reasons; others presumably for reasons of disenchantment; others to gain favour with certain journalists; and others perhaps for reasons of disillusionment. It is a very complex picture (Evidence, p. 33).

9.5 The Department recognised that leaks could be damaging not only to the Department and the government of the day, but also could adversely affect the ready flow of information between countries. The Committee strongly endorses this view.

However, DFAT sought to place the issue of leaks in perspective against the volume of material generated through its processes, a point also made by the Foreign Affairs and Trade Association (Evidence, p. 206). Mr Woolcott informed the Committee that between the beginning of July 1990 and the end of November 1991 there had been 32 identified leaks, of which 18 were of classified cables. However, he claimed that during the same period the Department had processed 272,000 classified cables, each distributed to an average of 25 internal addressees. The rate of leaks was thus one in 15,000 classified cables (Evidence, pp. 11, S209-13). When allowance was made for the number of copies of classified cables which circulated inside and outside the Department, the rate of leaks was one in 375,000 (Evidence, p. 12). In making these calculations, DFAT identified as a leak any media publication of information which appeared to have been released without authority. That definition has also been used by the Committee in this section of the report.

9.6 The Department later provided the Committee with updated copies of its schedule of leak investigations, showing an additional 16 leaks between the end of November 1991 and early September 1992 (Evidence, pp. S1201-1212). Of the 48 leaks listed in the final schedule supplied to the Committee, one had later been determined to have been a duplicate entry and two not to have been leaks. Six of the other entries were believed by DFAT to have resulted from two identifiable leaks. Adjusting for these factors, the schedule therefore records 41 leaks over a period of 2 years and two months.

9.7 The classifications of the documents involved in the 48 entries on DFAT's schedule of leak investigations are summarised in Table 9.1. It should be noted that the seven recorded leaks involving information classified at levels of Secret or above were believed to be derived from only three incidents with multiple media stories having been drawn from two of those leaks. Any unauthorised release of confidential official information has the potential to damage the public interest. The number and severity of leaks investigated by DFAT since the middle of 1990 are summarised in Table 9.1. There may also be a widespread recognition that some level of leaking will always occur and this recognition can reduce the potential damage. In discussion on a particular leak of correspondence between the Australian Foreign Minister and the United States Secretary of State, Mr Woolcott made the point that:

I think that in the United States, of course, the leakages are probably somewhat higher, so they are not unused to that sort of situation (Evidence, p. 32).

Having noted these arguments, the Committee is of the view that any leak should be considered to be a serious breach of trust and any person found responsible should be dealt with under the public service disciplinary procedures.

9.8 The Department has sometimes reacted to leaks by restricting the distribution of information (Evidence, pp. 34, S68, S216). This practice has its own costs. FATA, for example complained that "officers without access to all relevant information are clearly going to be hindered in their efforts to produce detailed and well-founded policy advice" (Evidence, p. S501) and the Department accepts that point. Then DFAT Deputy Secretary, Michael Costello, told the Committee:

There is this tremendous tension between making available to the people information they need to do their work, not only in our Department but also in other departments, and the need to ensure that you do not have these things appearing in the papers. It is always hard to define the line (Evidence, p. 35).

The effect on policy development of restrictions on the general flow of information within the Department to guard against leaking is an additional and potentially large cost of leaking.

**Table 9.1**  
**Classification of DFAT Documents Leaked**  
**1 July 1990 to 9 September 1992**

Classification	No. of Leak Investigations
Secret or above	7 *
Confidential	22
Restricted	6
Unclassified	8
Not specified	2
Duplicate entry/not leak	3
<b>Total</b>	<b>48</b>

\* resulting from 3 leaks.

9.9 DFAT commented "in a system where information sharing is essential to good government, it is impossible to guarantee 100 percent security 100 per cent of the time" (Evidence, p. S68). The Committee accepted this but was concerned to assess whether the Department had established adequate processes for minimising the risk of leaks and for identifying and dealing with offenders.

#### *Strategies for controlling leaks*

9.10 Several strategies are available for minimising the risks of classified material being leaked. These include reducing hard copy distribution, improving hard copy filing practices, reforming the classification system to limit the amount of restricted material, and ensuring through training that managers and staff are fully aware of their responsibilities.

9.11 Representatives of DFAT's staff favoured the last two approaches. FATA suggested to the Committee that too many documents are over-classified, and audits could be undertaken to ensure that appropriate standards are being applied. The Association also argued that a more informed public debate on foreign and trade policy would result if more information that is currently classified was made generally available (Evidence, pp. 207, S501). The PSU, with FATA's support, urged the upgrading of

security training and for pre-posting training to be made mandatory for all A-based officers going overseas (Evidence, pp. 212, S300-1). Both FATA and the PSU emphatically expressed their opposition to leaking by DFAT officers (Evidence, pp. 212, S501, S300).

9.12 The Department indicated that only 37% of its cables are classified now (Evidence, p. S70) and that it aims to improve the security of the hard copy distribution of cables through electronic distribution. However, the upgrade to its ADCNET communications system for this purpose has not yet been funded, although it has been identified as a priority in the Department's information technology strategic plan (Evidence, pp. 36, 220, 836). The Committee notes that this proposal, if and when it eventually proceeds, will have the additional benefit of a reduction in waste of paper. DFAT told the Committee that four tonnes of classified waste is disposed of each calendar month (Evidence, p. S71).

9.13 DFAT stated that, until electronic distribution is available, it has adopted other strategies to minimise the risk of leaks. These include restricting the distribution of certain material, issuing a security manager's handbook, issuing jointly with its unions a circular on security, and involving the Fraud Control and Discipline Section in fraud investigations. It has also urged officers to avoid over-classifying documents (Evidence, p. 835). The Committee is unable to suggest any additional steps that should be taken.

9.14 The Committee acknowledges that the rate of leaks is low relative to the total volume of sensitive material. The rate, however, is only part of the story. Even a single leak can cause serious damage to Australia's interests and the number of leaks recorded on DFAT's leak investigations schedule might not be fully indicative of the situation. DFAT should not allow these statistics to encourage complacency about the problem of leaks. Having said that, there is no indication that the pattern of recent leaks reflects low morale in the Department. Most of the reported leaks concern policy matters rather than departmental administration (36 of 42 cases) and cover a range of policy areas with no apparent areas of concentration in subject matter. The Committee expected that some pattern would have been discernible and more of the leaks would have concerned management issues if low morale was a causal factor. There could, however, be a causal connection in the other direction. As FATA pointed out in its submission, "the vast majority of officers are tarred publicly with the same brush as the few who leak classified information" (Evidence, p. 501). That factor might contribute to some lowering of morale.

#### *Leak investigations*

9.15 The Committee questioned DFAT on its processes for investigating leaks and the results of the investigations. A particular matter of concern was that apparent leaks known to members of the Committee or to other senators did not appear on the schedule of leaks investigated by the Department. For example, the apparent leaking in mid-1991 of sensitive information on Australia's position on the Cambodian peace negotiations was not listed nor were several leaks on a current disciplinary case. However, other apparent leaks raised by senators proved to be cases where unclassified material had been reported in the media in a way which wrongly suggested that it had been leaked.

9.16 The Department argued that, in the case of the Cambodia leak, it had satisfied itself at an early stage that any release of information by DFAT officers had not been a leak and the case was not included on the schedule of leak investigations because there had been no need for a formal investigation (Evidence, pp. 805-6). The Minister confirmed in a letter to the Committee that the release of information by DFAT officers had been authorised and regulated by a framework of authority determined by him (Evidence, p. S1217). The Department told the Committee that it considered this to be a unique case (Evidence p. 818). However, its omission from the schedule for the reason stated was not consistent with the inclusion of other leaks on the schedule where no substantial formal investigation had taken place and where the disclosures in question were not actually leaks.

9.17 The leak of information on a disciplinary case apparently was the subject of legal action at the time the Committee questioned DFAT officers on it (Evidence, p. 865) but seems to have been regarded by DFAT as being in a different category. None of the leaks listed on the Departmental schedule appeared to relate to issues of individual privacy and none of the matters publicised by the ORC and Mr Carroll was listed.

9.18 The Committee had no basis for believing that large numbers of leaks had been omitted from the Department's schedule of leak investigations. It would be expected that significant omissions would have come to the Committee's attention during the inquiry as did the two noted above. The Committee believes, however, that the Department should attempt to maintain a comprehensive register of leaks and investigations. Both the cases discussed above would have been listed in such a register as would some of the disclosures by Mr Carroll and the ORC. Some of the information from the register should be reported in any case in the Department's annual report under the fraud control heading of the annual reporting guidelines. **The Committee recommends that all cases of apparently unauthorised release of information within DFAT's area of responsibility be recorded in the Department's list of leak investigations, including the release of information on individual current or former members of the Department's staff and the release of information other than by DFAT officers. The Committee further recommends that summary information from the schedule be reported in the section of DFAT's annual report relating to fraud control.**

9.19 The Department's process for the examination of leaks begins with an in-house investigation of the possible source of any leak, conducted by the Diplomatic Security Section (DSS). If DSS considers that there should be a further investigation by the Australian Federal Police (AFP), it must recommend to that effect to the relevant Division Head and that officer must agree before the matter is referred, through the relevant ministers, to the AFP (Evidence, pp. S204-6).

9.20 Of the 41 leaks recorded in the DFAT leaks investigation schedule for the period 1 July 1990 to 9 September 1992, 19 had been referred to the AFP. These included all three leaks involving documents classified as Secret or above, 13 of the 19 cases involving Confidential documents, none of the six cases involving Restricted documents and one of the 8 cases involving unclassified documents. The one case involving a classification below Confidential which was referred to the AFP involved the release of a document in which the Minister expressed a low opinion of this inquiry.

9.21 Although 19 cases were referred to the AFP in a period of more than two years, none of the referrals led to the detection of the person or persons responsible for the leak. DFAT argued that the principal problem in finding the source of any leak is the large volume of material in circulation. For example, the 32 entries on the leaks investigation schedule for the period July 1990 to November 1991 involved 51 separate documents, 68% of which were cables. DFAT informed the Committee that the material was distributed on average to 76 addressees in DFAT, 24 posts and nine other agencies. The average number of hard copies of each cable was 126.

9.22 Whatever may be the reason, it has been the case that neither DFAT nor the AFP have had much success in establishing the origins of leaks. The Committee's examination of DFAT's disciplinary records reported in Appendix III showed only three cases of officers (one of them Mr Carroll) having been identified as releasing or circulating information without authority in the last 10 years.

9.23 On the rare occasions when officers have been proven to have released information without authority, the penalties are severe. The outcomes of disciplinary action in the three cases listed in the Department's disciplinary statistics were that two officers were recommended for dismissal and one was transferred with a reduction in salary. These punishments are at the upper end of the penalty scale under the public service disciplinary system. However, more severe punishments are available under section 70 of the *Crimes Act 1914*.

9.24 The deterrent effect of any punishment system is a function of both the likelihood of detection and the severity of punishment. The Committee acknowledges that leak investigations will frequently be fruitless. Nevertheless, there would be value in the Department indicating to its staff that it will endeavour to identify the source of leaks in the future with the greatest vigour, and that any offender will be dealt with as severely as possible. **The Committee recommends that DFAT adopt a policy of:**

- (a) referring to the Australian Federal Police for investigation all cases where information classified at Confidential level or higher appears to have been released without authority; and**
- (b) where appropriate, referring to the Director of Public Prosecutions for consideration of prosecution under the Crimes Act any future case in which an officer appears to be culpably responsible for the unauthorised release of classified information.**

The latter policy would not preclude alternative or additional proceedings under the Public Service Act but would indicate the significance attached by the Department to the leaking of information. The decision on whether to act against offenders in leaking cases under the Public Service Act or the Crimes Act should be made in the light of the degree of the culpability in the particular case and having regard to the possibility that the prospect of too severe a penalty might reduce the chances of detection in some cases.

## **Personal security and security of assets**

### *Personal security*

9.25 The Committee heard a variety of criticisms of DFAT's arrangements for the personal security of its staff. The Public Sector Union (PSU) expressed particular concerns in this area, arguing that there was no more important issue than the safety of officers and their families (Evidence, p. 212). The PSU complained that, because of resource constraints, DFAT had had to cut corners on security. It called for:

- . all officers serving overseas with security responsibilities to have mandatory pre-posting security training;
- . a minimum standard of protective security to apply to missions and residences commensurate with the assessed level of threat;
- . the inspection of security at posts to be targeted more at the high threat posts;
- . the level of security training and awareness to be increased and given a continuing priority (Evidence, p. S300).

FATA agreed with the PSU that "security training...seems not to have been pursued as vigorously as it might have been" (Evidence, pp. 206-7).

9.26 DFAT responded to the points made by the PSU and FATA, stressing its commitment to personal security matters. In relation to post security, DFAT said that it systematically undertakes threat assessments of posts and seeks additional resources where the need is recognised. In this respect it cited the speed with which the Government had responded to problems in Port Moresby (Evidence, p. 219), where the security threat had led to the construction of a housing complex within a security compound (Evidence, p. 879).

### *Security of assets*

9.27 DFAT indicated that its general strategy was to try to make the management of security a function of its senior officers and heads of mission. In 1991 it had reviewed the management and delivery of security services, including personal security of officers at posts, security passes, emergency planning for posts, security inspections and contingency planning. The review drew on the way security services are provided by foreign ministries of selected countries, including the United States, the United Kingdom and Canada. One of the major outcomes of DFAT's review was the reorganisation of the Diplomatic Security Section (DSS) into what the Department called a "one-stop shop". DSS officers were nominated to assume responsibility for security matters for a group of posts. Each such officer would be the single point of contact for posts and for officers proceeding on postings and would ensure that new officers and heads of mission were fully briefed on the security situation at the post and their security responsibilities (Evidence, pp. 217-8).

9.28 The Department did not accept that its security training was inadequate, although it commented that resource constraints did limit its capacity to conduct pre-posting security courses to four or five times a year. These courses were also attended by officers of other overseas operating agencies and spouses. With the introduction of the DSS one-stop shop concept, it was felt that a pre-posting interview one-on-one with the relevant DSS contact officer was an effective adjunct to any security training given in the past. However, not all officers will have had any security training in the past. Rather than pre-posting security courses being mandatory, DFAT requires all officers going on posting to sign an acknowledgment which includes that they have been told to seek advice from DSS about personal security at the post to which they are going (Evidence, pp. 218-9).

9.29 The DFAT Reform Group alleged a generally poor standard of security both at missions and at the Administrative Building in Canberra. The Group claimed that there were many deficiencies in the supervision of visitors to secure areas, in the supervision of security passes, in the supervision of computers, and in the management of the international safe-hand courier system (Evidence, pp. S962-5). Specific accusations related to the theft of personal computers and the ease with which some visitors and support personnel were able to move within the building. The Department responded to those of the Group's claims that were referred to it by the Committee, generally rejecting the claims (Evidence, pp. S999-1027).

9.30 The Committee has no reason to doubt DFAT's claims that its security procedures are sound. The Committee visited the Administrative Building on 12 May 1992 and was able to observe the security procedures at first hand. While security procedures appeared adequate, the references in evidence to resource constraints in this area are of concern, however. Of greater concern is the decision not to make pre-posting security training mandatory. **The Committee stresses the importance of the security of Australian personnel operating overseas on behalf of their country and recommends that pre-posting security training be made mandatory for all officers who have not previously undergone such training and for a DSS briefing prior to posting be made mandatory in all cases.**

#### **Office accommodation in Canberra**

9.31 The PSU also raised its concerns about the state of DFAT's Canberra headquarters, the Administrative Building, which it said was the cause of health problems arising from its poor design and construction (Evidence, p. 213). The Committee visited the Administrative Building on 12 May 1992 and was able to gauge the state of the building. Committee members were concerned to note that parts of the building had been allowed to deteriorate to a shabby state. The front reception area in particular was of a lower standard of appearance than is desirable for an organisation with important representational functions. During the inspection a Committee member also observed a "graffiti wall" near the Communications Centre in the basement of the building. The Committee was told that space had originally been allowed for graffiti as art. A DFAT officer expressed objections to a Committee member about the nature of some of the items of graffiti that had been added to the wall. The Department later advised the Committee that it had had the offensive comments removed (Evidence, p. S701).

9.32 The Government announced in the 1992-93 Budget that DFAT's central office will be moved to a new 47,000 square metre building at York Park, Barton, ACT, a site to the east of Parliament House, at a cost of \$187 million. The proposal is currently before the Joint Committee on Public Works and it would not be appropriate for this Committee to comment on it.

### **Security of foreign diplomatic missions in Australia**

9.33 During the Committee's inquiry a violent incident involving injury to persons and considerable damage to property occurred at the Embassy of the Islamic Republic of Iran in Canberra. The incident raised questions about the efficiency of arrangements for the security of diplomatic missions in this country. Criminal cases were before the courts at the time this report was prepared and it would be inappropriate for the Committee to discuss the matter in detail.

9.34 However, the Committee notes that two extensive reviews of the incident produced results reflecting on the operations of the protective security system. DFAT shares responsibility for this system with other Australian Government agencies charged with roles including the Australian Protective Service, the Australian Federal Police, the Australian Security Intelligence Agency, and the Protective Security Coordination Centre (Evidence, p. 349).

9.35 Australia has obligations under the international conventions to take appropriate measures to prevent attacks on the persons and protect the premises of diplomatic agents, and to apply the full force of the law where protective measures fail (Evidence, pp. 349-50). At the time of the incident, April 1992, DFAT was responsible for the security of foreign diplomatic and consular missions in Australia. The failures of DFAT and other agencies with security responsibilities at the time of the incident and the changes to procedures for diplomatic security that were subsequently introduced are detailed in a report tabled in the Senate on 28 April 1992 by the Minister for Foreign Affairs and Trade. The report was incorporated in the Senate *Hansard* and in the Committee's transcript of evidence at pages 349-54. Senator Evans told the Senate that the report on the incident:

makes it clear that no one agency or department was totally responsible for the failure to adequately protect the Iranian Embassy. The fact is that they all bear some degree of responsibility for what happened. The key conclusion...is expressed in a single paragraph as follows:

...the major reason for the failure of protective procedures was that critical information was not communicated promptly enough or in sufficient detail to the right people to trigger appropriate responses, and that as a result the decisions made and actions taken by those to whom information was provided, in the event, were either insufficient or inappropriate (Evidence, pp. 353-4).

9.36 The inadequacies of the then counter-terrorism plans and arrangements exposed by this incident led the Government to ask Michael Codd, former Secretary of the Department of Prime Minister and Cabinet, to undertake a comprehensive review. Mr Codd's report has not been published but all its recommendations were reported to have been endorsed by the Government in June 1992 (Attorney-General's Department, 1992, p. 170). One outcome was disclosed in DFAT's Program Performance Statements for 1992-93, with the comment that "operational responsibility for provision of protection was transferred from the Department to Attorney-General's Department" (DFAT 1992c, p. 283).

9.37 Since DFAT no longer has operational responsibility for the protection of foreign missions, the issue is largely outside the scope of this inquiry. The Committee points out, however, that DFAT necessarily remains involved in the protective security system and should draw the appropriate lessons from the Iranian Embassy incident.