

**Senate Inquiry – Health and Social Services Access Card
Questions on Notice**

77. Will facial recognition technology be used to match people photographed on CCTV cameras to identify them from the centralised database?

The Bill does not authorise any person to access the data in the Register for CCTV matching

81. Given the concerns that our system of privacy laws in Australia is not adequate to deal with new technological challenges, why does the Government not act first to plug the loopholes and leakage points, or at least wait for the results of the ALRC review, before introducing the highly risky and highly invasive so-called access card?

The Australian Law Reform Commission is currently reviewing the Privacy Act and is expected to conclude the review in 2008. It is not possible for the access card program to await the outcome of that review, as by the time it concludes, access card registration is scheduled to have already commenced. Any changes made to the Privacy Act as a result of that review, will be incorporated into access card operating arrangements as required.

1. Liability

Please provide copies of the legal advice about the nature and extent of the Commonwealth's liability to (a) tenderers and (b) contractors, in the event of changes to the tender specifications or contract obligations respectively arising from changes to the Human Services (Enhanced Service Delivery) Bill 2007.

While detailed legal advice on these matters is the subject of legal professional privilege, or in the case of the tender documentation is confidential during tender processes, the following comments provide a general response:

Changes to the scope or nature of services over time are inherent and well understood risks in IT programmes of this scale. Standard and best practice is to manage these risks through specific mechanisms first in the RFT documentation and then in contracts with tenderer vendors.

During the course of the development of the RFT documentation and the draft contract, the Lead Advisor and Legal Advisor to the Office of Access Card were asked to consider and then propose mechanisms to manage risks associated with changes to the scope and nature of the technical solution, including changes that might arise as a result of revisions to the Human Services (Enhanced Service Delivery) Bill 2007 (the Bill).

The mechanisms proposed by the advisors were reflected in the RFT documentation, including the draft contract that currently forms part of the RFT documentation.

The RFT documentation addresses change of scope risks in respect of tenderers. The draft contract addresses change of scope risks in respect of contractors.

The draft contract contains various clauses, which seek to manage changes arising from amendments to legislation:

- One set of provisions establishes an initial contract design validation phase. During this phase, additional clarity around the specifics of the solution and services as described in the RFT, including clarity arising from revisions to the Bill (if any), will be established. At the end of this phase (expected to last up to 10 weeks) the Commonwealth can elect whether to proceed with the contract.
- A second set of provisions allows the Commonwealth to terminate the contract at any time for convenience. If this occurs, compensation will be payable for unavoidable loss. It is not possible at this time to quantify such losses (if any).

These provisions manage the relevant risks as regards contractors.

The RFT documentation reserves the right to the Commonwealth to cease to proceed with the RFT if that is in the public interest. Were changes to the Bill of such a magnitude as to be outside the potential changes anticipated by the tender documentation, as reflected in the draft contract, then the Commonwealth would be in a position to cease to proceed with tenders in the public interest. If the RFT process is ceased for this reason the department is not liable for costs, expenses, losses, claims or damages arising from this termination (to the maximum extent permitted by law). This provision manages risks to the Commonwealth arising from possible revisions to the Bill during the tender process.

2. Australians born and/or married overseas

(a) How many Australians were born overseas?

Approximately 29% of the Australian Population (Source ABS 2006).

(b) How many Australians were married overseas?

These statistics are not required for the access card and have not been reviewed by the department.

(c) Will foreign birth and marriage certificates be accepted as 'Type A' documents?

Foreign birth certificates will not be accepted as Category A (Commencement of Identity) documents. A foreign birth certificate will be accepted as a Category B document (Use of Identity). A foreign Marriage Certificate is not a Category A document. Other Category A documents provide evidence of the change of name.

(d) If yes, how will the Department verify their authenticity?

This will not be necessary. See response to 2 (e) below

(e) If not, how will Australians born and married overseas be expected to verify their identity to the satisfaction of the Department?

An Australian who was born and married overseas will normally prove their commencement of identity for the Access Card by producing either their Australian Passport, Citizenship or the passport from their previous country (used to enter Australia) with their visa. Two other documents from the range of acceptable use of identity list would then be required such as a bank account statement and driver licence. If the name in their passport/citizenship or Category B documents was not that of their married name they would also be required to produce a Change of Name Certificate.

3. Australians born and/or married in Australia

(a) How many Australians (i) born in Australia and (ii) married in Australia have not been issued their birth and marriage certificates (e.g. they have never sought a copy)?

Quantitative market research suggest 93% of the adult population have a birth certificate and can find this readily.

(b) Will Australians born or married in Australia be expected to purchase birth and marriages certificates, if they don't have them?

Exemption rules will allow genuine customers who cannot meet the POI requirement to still receive an Access card.

There are well established procedures in place within service delivery agencies for enrolling those in the community who do not hold identifying documentation.

People will be asked to bring the documents they already have.

4. Evidence of fraud

(a) How many Medicare card holders are estimated not to be entitled to the Medicare card?

The Medicare card is cheap and relatively easy to fraudulently copy. Recently, the Australian Federal Police estimated that Medicare cards are involved in some way in more than 50 per cent of identity fraud cases. Also see the supplementary submission.

6. Children/dependants

(a) Will only biological children's name appear on parents' Access Cards?

No. Any dependant child can be listed. They will be listed on the chip of the card and not on the face of the card.

Refer to Additional Budget Estimates p22-23.

(b) Will they be on both parent's card?

Yes if this is requested.

(c) What about mixed households, where two adults care for both biological children and stepchildren? Will stepchildren be on the card?

Refer to Additional Budget Estimates p22-23.

These details will be the subject of future legislation following community consultation. However we expect that information such as name, date of birth and gender will be recorded.

(d) Will Access Cards be issued to adults with significant intellectual disabilities, who need a carer to help them access services?

The details of these arrangements will be covered in subsequent legislation. However, we envisage that an adult with significant intellectual disabilities will:

- a) be registered for an access card but be exempt from parts of the registration process such as the requirement for an interview; or
- b) be listed on the card of their carer.

Will a carer be able to use the dependent's Access Card on their behalf?

Refer to Additional Budget Estimates p22-23.

These details will be the subject of future legislation following community consultation.

(e) How many Australian Government benefits for which a card is issued are 16 and 17 year olds potentially entitled to, which will be replaced by the Access Card (eg, Medicare card, Health Concession Card, Austudy card?)

The following benefits are available for 16 and 17 year olds depending on individual circumstances and meeting of eligibility criteria.

- Medicare Benefits
- Pharmaceutical Benefits Scheme
- Special Benefit
- DVA Gold Card
- Pensioner Concession Card
- Health Care Card
- Low Income Card
- Youth Allowance
- Newstart Allowance
- Family Tax Benefit A and B
- Child Care Benefit
- Abstudy
- Austudy
- Carer Allowance and Carer Payment
- Disability Support Pension
- Maternity Allowance
- Parenting Payment
- Rent Assistance

9. Advertising

How much money is budgeted, by year, for advertising of the Access Card?

The following figures outline the total communication budget. Advertising forms only a part of this and exact amounts are yet to be determined.

\$47.3 million over four years has been allocated for communication activities associated with the Access Card. DHS has been allocated \$40.7 million for access card communication activities and this is broken down by financial year as follows:

Attachment B – Questions from Senator Lundy – 21 February 2007

- 2006-07 \$6.574 million
- 2007-08 \$20.664 million
- 2008-09 \$8.516 million
- 2009-10 \$4.951 million

In addition, \$6.623 million has been allocated to Medicare, Centrelink and the Department of Veterans' Affairs for access card communication activities. This is broken down as follows:

- Medicare: \$0.623 million
- Centrelink: \$3.9 million
- DVA: \$2.1 million

1a. Will an applicant for an Access Card be requested to provide their citizenship status and details of country of birth?

Applicants will be required to provide details of Australian citizenship and Australian residency. Details of other citizenship/residency status are not required. Details of country of birth are not required.

1b. Will this information be recorded on the Access Card and/or the register?

Details of Australian citizenship and Australian residency will be included in the Register. These details will not be included on the surface of the card or in the chip.

1c. If so, for what purpose?

Determining citizenship status is a principal method for establishing commencement of identity in Australia.

2. Does the government intend to collect sensitive information, as defined, in the *Privacy Act* including male to female and female to male transgender information?

Personal information will be collected in accordance with the requirements of the *Privacy Act 1988*. The information that will be collected is set out clauses 17, 30 and 34 of the Bill. This includes information about a person's sex which will be stored on the Register and chip.

The sex of a person in the Register and chip will be that provided on their birth certificate. Where a person has changed their sex, the Register will record the sex as recognised by the records of the relevant state/territory Births, Deaths and Marriages Register.

3a. Will an applicant for an Access Card have a right to refuse to answer any questions asked of him/her?

Yes, but if it relevant to establishing proof of identity and therefore is a requirement for issue of an access card it may delay, or prevent, issuance of a card.

An applicant who refuses to answer a question that goes to establishing proof of identity would fail to complete the application process and therefore would not be issued a card.

3b. What might the consequences be for an applicant who refuses to answer a question?

See above answer at 3(a).

3c. How does the proposal, if at all, affect privilege against self incrimination?

The registration process is not a circumstance in which a claim of 'self-incrimination' would arise. Such a claim arises in judicial proceedings, such as criminal prosecutions.

4a. Why will the chip on the card record that some people have only provided ‘interim’ proof of identity rather than ‘full’ proof of identity?

The access card will be issued to all people who achieve either ‘full’ or ‘interim’ proof of identity status. In both cases, the cardholder will be able to access Commonwealth benefits and services.

It is the intent of the Australian Government that access card registrations meet the Gold Standard Enrolment Framework of the National Identity Security Strategy wherever possible.

Part of the registration process requires verification of key documents. It may take some time for a person to achieve verification of all the documents required for the Gold Standard. A person will have an ‘interim’ status until that is achieved.

This will ensure that the risks of identity fraud are managed and appropriate protections to Australian Government outlays are provided.

4b. Who will have access to this information and what affect will it have on the card holder?

This information will be recorded on the Register and on the chip. It will not be visible on the face of the card.

The access card will be required to be produced for accessing health benefits, veterans’ and social services, but “interim or full” registration status has no effect on a person’s eligibility to receive these benefits or services.

If a person chooses to use the card for other purposes then third parties may request the information from the card owner which may require access to the information contained in the chip on the card.. This information can be PIN protected by the card owner. A card owner cannot be compelled to provide the access card for any other purpose other than to obtain Commonwealth health benefits, veterans and social services.

4c. Under what circumstances will the Secretary, Department of Human Services, be able to include such proof of identity in the register?

Clause 17 item 8 provides that the Secretary must include on the Register whether a person’s proof of identity is ‘full’ or ‘interim’ once that is determined by the Secretary. This registration status will not affect a person’s eligibility for Commonwealth health benefits, veterans’ or social services.

5a. Will a person’s personal and health information collected and processed as part of the application for an Access Card, at any stage, travel outside of Australia?

No.

5b. If so, (a) for what reason and (b) how will the information be protected against possible misuse?

N/a.

6. Are there any plans to link digital photographs on the card, or from a back end database, with still or live footage taken from any camera operating throughout Australia? CCTV

No.

7. What non-governmental partners will use the Access Card and will they contribute revenue to the running cost of the card?

The access card is only for accessing Australian Government health benefits, veterans' and social services. Non-DHS agencies including state government, local government or private sector business who chose to provide reduced prices for concession holders may use the card to verify concession status. They will not contribute revenue for the running costs of the card.

8. What is to happen to a person below the age of 18 in relation to the Access Card? Will their personal and health information be included on the Access card of a parent? If so, which parent?

Children aged 15 years and over will be able to have their own access card if they apply.

A person under 15 years may be issued with their own access card, if eligible, with the consent of a parent or guardian, or in certain circumstances where:

- The person is homeless;
- The person is in care or a ward of the state;
- Other personal circumstances of the person warrants the issue of his or her own card; or
- The person is in receipt of, or entitled to receive, Commonwealth payments or pensions in their own right.

A child's personal and health information will not be included on the access card of a parent.

Parents will be able to include children on their access card as they currently do with the Medicare card. Children's details such as name, date of birth and sex can appear in the chip of the card of both parents.

9. Will cardholders be able to access and correct information held in a) the Commonwealth area of the chip and/or (b) the consumer area of the chip and/or (c) on the register?

a) No, information in the Commonwealth area of the chip cannot be directly updated by the cardholder.

b) Procedures for viewing and updating of information in the consumer area of the chip, are the subject of separate consultations being conducted by the Consumer and Privacy Taskforce.

c) Cardholders will be able to access and update information on the Register via face-to-face, phone and internet service delivery channels. Authorised changes to the Register will be updated to the chip the next time it is docked in an authorised online reader.

10. Can the government guarantee that there will be no analysis of the log files (eg. details about the date of the transaction, when and where it occurred) created by Access Card transactions when they are swiped by agencies who hold card readers?

For audit and security purposes logs will be retained. A limited number of approved DHS agency and DVA staff will have access to these logs.

11. Who will be entitled to have, or prohibited from having, card readers that can read (a) the Commonwealth area of the chip and (b) the consumer's area of the chip?

Information on the Commonwealth area of the chip will only be available to

- a) approved Department of Human Services (DHS) and Department of Veterans' Affairs (DVA) officers and officers of agents issuing the access card. DHS and DVA will use secure terminals operated in a secure environment by approved officers.
- b) Pharmacists and general practitioners will use secure terminals to access limited information. That information is expected to be limited to a person's name, concession status and Medicare number. Software controlling the card readers will be used to customise and limit the information which can be seen on a need to know basis.
- c) Third party concession providers will use readers that will only reveal concessional status.

Access to, and use of, information in the consumer's area of the chip is the subject of consultations currently underway by the Consumer and Privacy Taskforce.

12. How will public sector employees and their contracted service providers be deterred and held accountable for breaching privacy when the Crown is given immunity? Will individual officers of the federal public sector be personally responsible for any offences committed under the proposed legislation?

The Crown immunity in clause 9(2) of the Bill is a standard provision found in Commonwealth (and state/territory) legislation. It is based on the common law presumption that the Crown is not criminally liable and cannot prosecute itself.

However, such immunity does not extend to Crown servants, ie Commonwealth public servants. That is, public servants who breach the prohibitions in the Bill are subject to prosecution in the same way as any other person who breaches the legislation. They would also be liable to prosecution under the *Crimes Act 1914* and the *Criminal Code Act 1995* for improper use of information.

We refer to 'A Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers' issued by authority of the Minister for Justice and Customs dated by February 2004.

Senator Stott Despoja has previously referred to the case of *Laing v Carroll* [2004] FCA 1509 where the state, through the individual, refused to produce documents requested. In that case the state employee was not criminally liable for their actions. The Laing case is distinguishable at law from the hypothetical situation where a public servant breaches the Bill. In the circumstances of a breach of the proposed legislation it could not be said that the public servant was acting on behalf of the Crown.

See the Senate Inquiry, Hansard 0703/07 in relation to evidence given by the Attorney-General's Department.

13. What is the government's best estimate of the costs associated with the Access Card, including the roll out by post of the Card? Will applicants have to pay any money toward the cost of the new card, including loading information to the consumer side of the chip and obtaining a pin number?

- a) The estimated cost associated with the access card is \$1.089B. This estimate includes the cost of the card and mail out to the customer.
- b) The consumer's part of the chip is the subject of consultations currently underway by the Consumer and Privacy Taskforce.
- c) No applicants will not have to pay money towards the cost of the new card or obtaining a PIN.

In the case of the owner controlled area of the card, the Consumer and Privacy Taskforce is looking into the question of provision of voluntary emergency and medical information on the chip of the card.

In this discussion paper which was released on 21 February 2007 the Taskforce provides a number of suggestions about use of the owner controlled section of the card. For example on page 8, the Taskforce suggests in discussing provision of verified medical or pharmaceutical information " it would be possible and practical to devise a system by which appropriate verification (for example by medical practitioners on a standard form showing provider numbers and other relevant data or by a pharmacist when changes in medication are being recorded) is provided before such information is entered into the chip. Similarly, data could be updated, to keep it relevant and contemporary with each visit to a practitioner.

It remains an open question as to whether there should be some charge for this service, and if so, who should bear that charge. The general position of the Taskforce is that, since this facility is being accessed at the choice of the individual cardholder it could be the responsibility of the individual to bear the costs associated with it".

14. What estimate has there been made of the number of access card which (a) per annum will be (a) lost and (b) stolen?

The estimated number of lost and stolen cards is 836,000 in 2009-10 and 950,000 cards from 2010-11. This estimate does not distinguish between lost and stolen cards.

15. Does the government intend to fund any legal service providers and/or translation services to assist cardholders (a) complete the application form and/or (b) challenge any adverse decision made by the Secretary Department of Human Services?

The Australian Government does not routinely fund legal services for completion of application forms and for challenges to adverse administrative decisions and this is not expected to change in relation to the access card.

However the legislation provides at Section 13 (3) (a) and (b) that the Office of the Privacy Commissioner will be consulted on the development of application forms. In addition the Government will be considering a wide range of special assistance measures including interpreters.

Communication material will also be translated into other languages.

16. How will the access card impact on state jurisdictions which require proof of identity documents in order to administer various statutory and licensing schemes? In particular, do the provisions of the Bill preventing demands for the production of the card apply to every possible use that a State or Territory government might make of the card? Why does the Act simply not prohibit requests for other purposes?

The only circumstances where State or Territory governments could request a person to provide their access card would be where they are providing benefits or services on behalf of the Commonwealth – for example if a person was attending a public hospital they could be required to provide their access card. This is the same situation as applies now with production of a Medicare card and or a DVA Gold card.

In other circumstances the access card can be provided by the card holder if they chose to do so for their own benefit – such as to provide verification of identity to various state government agencies providing a service or goods at a concessional rate. However, Clauses 45 and 46 make it an offence to require the access card to be produced for identification purposes unless it is required for the purposes of the Bill or to verify concessional status.

17. Can the register be used to locate a person? If so in what circumstances?

The use of information in the Register will be regulated by the *Privacy Act 1988*. The Privacy Act would allow information to be used if it is necessary to prevent or lessen a serious threat to the life or health of a person. Accordingly, the information in the Register could be used to locate a missing person assuming the use of the information was necessary to prevent or lessen a serious threat to the life or health of that person.

18. Has the government examined the possibility of matching individual's personal information on the card rather than against a central register which would negate the need for information to ever leave the card? If so, why has this option been dismissed?

Over the past year, DHS investigated a variety of models for the implementation of the Access Card.

The main criteria used to select a particular model was based on

- The delivery of secure, efficient health, veterans and social services to the Australian population
- The proposed solution to use proven technology with large successful reference sites,
- The cost efficient implementation,
- Low maintenance for the implementation

The main features of the model DHS has adopted are:

- Access to the register and the information of the chip is strictly controlled,
- When the card is docked, the information is read from the chip and not from the register,
- Only relevant information to the given service is displayed.

19. Are secondary uses by other public authorities of concern? If so, how does the government propose such uses be authorised, controlled or prohibited? For instance should law enforcement authorities have the same rights of search of the register as ordinary members of the public or should they be given greater or lesser access?

The objects and purposes of the Bill are restricted to facilitating the provision of health benefits, veterans' and social services involving the participating agencies (ie the Departments of Human Services and Veterans' Affairs, Centrelink, Medicare Australia, Australian Hearing and Health Services Australia).

Nothing in the Bill authorises other Commonwealth agencies or law enforcement or security agencies or ordinary members of the public to have access to information in the Register.

Existing Commonwealth legislation such as the *Privacy Act 1988*, the *Crimes Act 1914*, the *Criminal Code Act 1995* and the *Public Service Act 1999* and regulations will apply to disclosure of information and data in the Register to third parties.

It is not intended to disclose information in the Register unless compelled to do so by law (for example under a search warrant) or disclosure is permitted by the *Privacy Act 1988*.

QUESTION 8:

Senator NETTLE—No, it does not. I accept everything you say about the AML. I am very well aware of what I consider to be concerns with the legislation. But, in earlier evidence we got from the bankers, it was their understanding that the provisions of the AML did not preclude AUSTRAC from determining a number of points to it as ID.

Ms Scott—We have some information here from Attorney-General's which they have given to us. But I have to say that it does not go to that issue, so we will have to take that one on notice—and potentially refer it to our colleagues in the Attorney-General's Department.

Senator NETTLE—Sure, but if we could just get some idea of that. Just on the AML legislation, the bankers raised a number of concerns around that impact. I do not know if you want to answer that now or if you want to—

Senator NETTLE—Can I ask you to take on notice any more specifics that you are able to give about the interaction between the AML legislation and the access card. I have concerns around the AML legislation but it is there and I think it does create some difficulties with the interaction of these two bits of legislation.

Ms Scott—This is the point on which the Bankers Association feel the two are inconsistent.

Senator NETTLE—Yes.

Ms Scott—We have checked that out with A-G's and they have given us some words which we can provide in an answer. I will ask Ms Hartland to go to that issue. I will not be surprised if you do not find it completely satisfying and still want to put the question on notice, but we will give you what we have.

Ms Hartland—Very briefly, the advice we had was the Anti-Money Laundering and Counter-Terrorism Financing Act is not inconsistent with the access card legislation.

Senator NETTLE—Is there any more detail—I am happy for you to give it on notice—about the aspects, because the bankers' concerns around the clauses and how they relate are quite specific? I would appreciate more detail.

Ms Scott—We will see what we can do.

ANSWER

The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AMLCTF Act) is not inconsistent with the access card legislation.

Neither the AMLCTF Act nor the AMLCTF Rules refer to the access card. The AMLCTF Act does not impose any obligations, on any organisation, in relation to the yet to be introduced and implemented access card.

The AMLCTF Act provisions relating to customer identification take effect from 12 December 2007. The 100 point test under the *Financial Transaction Reports Act 1988* will, from 12 December 2007, only apply to a very limited class of 'cash dealers' who are not covered under the AMLCTF Act.

From 12 December 2007 it will be up to businesses to determine the extent of customer identification to be conducted under the AMLCTF Act on the basis of their assessment of the risk that the service they are providing to the customer might facilitate money laundering or terrorism financing. Businesses will be required to have in place customer identification programs setting out applicable customer identification procedures.

QUESTION 9:

Senator NETTLE—Thank you. The last one was a witness in Melbourne—I do not remember who it was—who raised the interaction of this legislation with the Census and Statistics Act. Their explanation was that the census act requires the Commonwealth to provide certain pieces of information and they ask the question which I am now asking you about how the census act interacts with this.

Ms Scott—We will take that on notice. I had discussions with the Statistician at the time—it was a number of months ago. We had discussions about de-identified data, but I think I provided those answers earlier on. The Statistician currently uses de-identified data from Medicare because the Australian population is so mobile that between the censuses you do not have good figures about how many people have gone from Victoria to Queensland or from Queensland to Western Australia. They are very keen to get this information not only for planning purposes of the Commonwealth Grants Commission—funding to individual states related to the carve-up of the GST, and so on. So this is quite useful information to have. As you know, a lot of people forget to advise their change of address. This happens in Centrelink all the time. One of the advantages of the card would be that with one contact to advise change of address, if you are a very fit and healthy person who is a Centrelink customer but you hardly ever see Medicare, that information will go to Medicare.

I was talking to the statistician about the fact that I did not want to make a direct link between ABS and our data. Our data will provide change of address data to Medicare. Medicare data is de-identified and currently provided to ABS. In that way, they will have better data than ever before in terms of their de-identified data. So we have had discussions. No-one has pulled out their act yet. That may happen, but it has been all very civil to this point in time.

Senator NETTLE—If you are able to provide anything further, that would be great. I will put the rest of my questions on notice. I would like to flag that one of them relates to an issue which I do not think we have dealt with at all—that is, the civil remedies. I do not think we have dealt with that with you this time round.

Ms Scott—No, I do not think you have.

ANSWER

The Bill does not provide for matching of the information on the Register to census data.

There will be no technology linking the identified data from the access card Register with the census database.

The Australian Bureau of Statistics (ABS) census database does not include name and address information. Those are destroyed after the processing of the census.

It is proposed that existing laws applying to the Human Services agencies regarding providing information to the ABS will continue as they do now.

The census and statistics legislation would not require information from the Register to be provided to the ABS. It does not have provisions specifically requiring the Commonwealth to provide certain pieces of information, but rather general provisions for the collection of information. The ABS' legislation requires the ABS to consider the use of information available to official bodies, for statistical purposes. This would generally relate to de-identified data. In particular, the ABS would require continuing access to Medicare data to produce intercensal State and Territory population estimates.

QUESTION 10:

Senator FORSHAW—I wanted to ask you, as it were, to verify that. It is not that I did not believe them and I am not suggesting that I think it would be a bad thing if there were. But it would seem to me that, if necessary, the tax office would still have the right to seek access to the information, wouldn't it, given their general powers to pursue?

Ms Scott—We have now explored ASIO, AFP and the state police. I resign myself to the fact that I might take this one on notice. But we have not had discussions about it. They have not sought any of that information. I think I can say quite frankly that at no time has it been within the mandate of this project for them to have access to it. I will have to check what their powers are, but I think they have powers to get information about individuals. Anyway, I will take that on notice.

ANSWER

The Bill does not provide for matching of the information on the Register to taxation information.

There will be no technology linking the access card Register with the taxation database.

Nothing in the legislation authorises the ATO to have access to information or data in the Register.

It is not intended to disclose information in the Register to the ATO unless compelled to do so by law or unless disclosure is allowed by the *Privacy Act 1988*.

1. Can the Department please provide a copy of their current privacy policy and written guidelines that the Secretary follows in making a decision about whether or not to disclose personal information pursuant to IPP11?

We refer to the extract of Senate Inquiry Hansard on 6 March 2007 set out below:

Ms Scott—We have to deal with each case on a case-by-case basis. Certainly the Privacy Commissioner can assist. For example, in the tsunami a question arose about whether we could utilise information available in the agencies to assist in the tsunami recovery, and the Privacy Commissioner's advice was sought there. That is one source of information. I can take legal counsel, and I would on some of these matters. I did on the case that I referred to earlier. It has to be done on a case-by-case basis. It is not like there is an easy, simple set of rules. Bali was different from anything else that we had encountered.

3. Will the department approach citizens and inform them that someone had unauthorised access to their personal information?

The Department proposes to report in its Annual Report to Parliament on unauthorised access. We will work with the Office of the Privacy Commissioner on arrangements. Additional information protection, disclosure and associated administrative arrangements will be included in the next tranche of legislation.

