

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group: 3

Program: Other Agency

Question: BE14/057

Senator Xenophon asked the following question at the hearing on 26-29 May 2014:

1. The Australian Federal Police reportedly were involved in identifying by DNA techniques the bodies of two Australians killed in a US drone strike on November 19 2013 in Yemen. The two Australians, Christopher Havard from Queensland and New Zealand dual national "Muslim bin John", birth name Darryl Jones, were killed in Yemen's eastern province of Hadra-mout by a US Predator drone, according to this report in The Australian on 20 May:

<http://www.theaustralian.com.au/national-affairs/policy/pine-gap-supports-us-drone-hits/story-e6frg8yo-1226923350422>

According to the report the Australian Government were informed by the Americans that Australians may have been among the dead. In what circumstances did the AFP first become involved in identifying these men as possibly Australians following the strike?

2. Who did the testing?

3. What kind of testing was carried out?

4. Did the families provide consent for this testing?

5. How was DNA used to confirm identity – did this require DNA samples being taken from family members and if so was this done voluntarily?

6. Where was the testing done?

7. What condition were the bodies in after the drone strike, or is it more accurate to refer to remains or body parts?

8. When (how long after the strike) did the testing occur?

9. Did the AFP or any other Australian Government agency take custody of the bodies for the purpose of repatriation back to the families?

10. Where are the bodies or remains now?

11. Has the AFP been required to conduct identification of other deceased – Australian or suspected of being Australian - from US drone or other 'war on terror' strikes in foreign countries?

12. If so, please provide details.

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

1. On 20 November 2013, the AFP was informed that Mr Christopher Havard (an Australian citizen) and Mr Darryl Jones (a dual Australian-New Zealand citizen) were possibly killed by an explosion during a counter-terrorism operation conducted in Yemen on 19 November 2013. There was no Australian involvement in, or prior awareness of, the operation. Biological samples were received by the AFP on 28 November 2013.
2. Testing was done by the AFP Forensic Biology team, at the AFP's Forensic and Data Centre in Canberra.
3. Deoxyribonucleic acid (DNA) analysis was carried out in order to formally identify the remains provided to the AFP.
4. Consent was not required from Mr Havard's family as his DNA profile was already held on the National Criminal Investigation DNA Database (NCIDD). Mr Jones' family in New Zealand provided their consent to the NZ Police for the DNA analysis to be conducted.
5. Mr Havard's DNA profile, which was held on the National Criminal Investigation DNA Database (NCIDD), was compared to the DNA profile obtained from DNA analysis of the remains. As such, DNA samples were not requested or obtained from Mr Havard's family. Mr Jones' family in New Zealand provided voluntary DNA samples which were obtained by the NZ Police and provided to the AFP.
6. DNA analysis was undertaken at the AFP Forensic and Data Centre, Canberra ACT.
7. The AFP has not directly sighted or examined the remains, and therefore cannot comment on their actual condition. Due to the manner in which Mr Havard and Mr Jones died, their remains were assessed to be in poor condition.
8. DNA analysis occurred in December 2013 after the AFP received samples of human remains. The samples were identified as belonging to Mr Havard and Mr Jones.
9. No.
10. The AFP understands that the remains are in Yemen. Further enquiries should be referred to DFAT.
11. No.
12. Not applicable.