

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN FEDERAL POLICE

**Question No. 63**

**Senator Trood asked the following question at the hearing on 18 October 2010:**

AFP guidelines:

- a) What are the current guidelines for the AFP to protect Australians at risk of overseas death penalties?
- b) How do they offer protection for Australians?
- c) What impact do they have on operational decisions?
- d) When were they introduced?
- e) Would these rules have protected the three Australians currently facing the death penalty in Bali?

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

- a) The guideline is the *AFP Practical Guide on International Police-to-Police Assistance in Potential Death Penalty Situations*.
- b) The guideline provides a robust and accountable framework in relation to law enforcement cooperation with countries that may apply the death penalty. This guideline requires:
  - AFP senior management to take account of a series of relevant factors, before providing assistance in potential death penalty scenarios;
  - The AFP to seek ministerial approval to provide assistance in any case in which a person has been arrested or detained in relation to, charged with, or convicted of, an offence which carries the death penalty;
  - The AFP to submit biannual reporting to the Minister for Home Affairs regarding the number and nature of circumstances in which assistance is provided in potential death penalty cases; and
  - it be applied to Australian and foreign citizens prior to any release of information or provision of assistance provided to foreign law enforcement agencies.
- c) This guideline is considered in all AFP investigations prior to any release of information or provision of assistance provided to foreign law enforcement agencies.

If a potential death penalty situation exists, an application is made to AFP senior management outlining a series of relevant factors to consider prior to releasing information or providing assistance to foreign law enforcement agencies.

If a person has been arrested or detained in relation to, charged with, or convicted of, an offence which carries the death penalty, approval is required from the Minister for Home Affairs or the Attorney-General prior to releasing information or providing assistance to foreign law enforcement agencies.

- d) The *AFP Practical Guide on International Police-to-Police Assistance in Potential Death Penalty Situations* was introduced on 11 July 2006 and changes to the guideline came into effect on 18 December 2009.
- e) It would not be appropriate for the AFP to speculate on what decisions may or may not have been made under the guidelines had they applied in 2005.