

Joint Standing Committee on Foreign Affairs Defence and Trade
**Australia's efforts to advocate for the worldwide abolition of the death
penalty**
Attorney-General's Department

Hearing date: 13 September 2024

Hansard page: 13-14

Dean Smith asked the following question:

Senator DEAN SMITH: I'll go to the statistics that you identified in regard to mutual assurance requests for 2021 to 2023. You identified 1,157, and then a subset of that was 300 requests from retentionist nations. What were the countries that were represented in that 300? Mrs Williamson-de Vries: I don't have the exact casework figures before me, but I think, as we identified in our submission, we have very strong, longstanding and robust relationships with partner countries that retain the death penalty, including, for example, the United States, Singapore, Indonesia, India and Malaysia. So I would suggest that some of those countries would make up those statistics there.

Senator DEAN SMITH: Perhaps, on notice, you could just let us know. That would be great. Mrs Williamson-de Vries: We can do that.

The response to the question is as follows:

In a two-year period from 2021-2023, the department received 300 mutual legal assistance requests from the following jurisdictions that retain the death penalty in some form: Belarus, Botswana, Brazil, Chile, China, Egypt, Ghana, Guatemala, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Lebanon, Malaysia, Peru, Russia, Saudi Arabia, Singapore, the Republic of Korea, Sri Lanka, Taiwan, Thailand, the United Arab Emirates, the United States of America, and Vietnam.

This list includes jurisdictions which retain the death penalty only for exceptional crimes (such as crimes committed during war), and jurisdictions that are regarded as abolitionist in practice, meaning they retain the death penalty in law but have not carried out an execution for 10 or more years.

Of these 300 requests, 11 were identified as relating to conduct that could potentially result in charges for death penalty offences (either because a death penalty offence was specified in the request, or because the department identified that such offence may be applicable).

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Linda Reynolds asked the following question:

Senator REYNOLDS: Thank you. Could we unpack that a bit further? I've seen some of them myself over the years, so I know just how frustrating it can be not just for the individual officers and non-uniform staff but also for the families and other people you're dealing with who then express frustration to your people, particularly with long time delays. Are these suboptimal processes, as we could describe them, mainly on the Australian side, or are they compounded because they're not in sync with the many other nations that you're working in and dealing with? Can you unpack those a bit more? Are they in the act? Are they in regulations? You might take this on notice. What are some of the improvements that could be made to the act regulations, practice and process that could still have integrity but get rid of some of the dumb stuff? There's always dumb stuff in the process!

Mrs Williamson-de Vries: We spoke earlier about the fact that our respective agencies keep our own internal processes under constant review. There have been a number of reviews in recent years. I think some of the delays are partly due to the trend that we noted, which is that we increasingly need to seek and also provide evidence to and from Australia in recognition of the increasingly transnational nature of crime. Some of them are potentially unavoidable. It's just an open discussion about where we recognise improvements and work towards streamlining while maintaining safeguards.

Senator REYNOLDS: I accept that, but no system is perfect, particularly when you've got different agencies and departments. You've got DFAT, yourself, the AFP. Mr Mansfield, are there improvements not just internally within the three stovepipes but also across—I mean, I know you do work very well together. Maybe you could take that on notice. Again, it's not a criticism; it's actually one of the things we want to look at: how can we actually improve, and what are the things that we could recommend that could help.

Mrs Williamson-de Vries: Thank you, Senator. We should also note that our DFAT colleagues spoke about the strategy refresh, and certainly both of our agencies have been very closely involved and consulted in that process. That's currently before government.

The response to the question is as follows:

The department considers that current processes and legislative arrangements in relation to the death penalty in crime cooperation matters are appropriate. The existing safeguards in legislation, policy and processes are effective in identifying and responding to the death penalty, and ensure that cooperation only occurs in appropriate circumstances.

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Dean Smith asked the following question:

Senator DEAN SMITH: A last question from me: in the data that you provided at the beginning of this hearing, you identified 10 mutual assurance matters. What were the nations that gave rise to those?

Mrs Williamson-de Vries: I don't have that detail with me, but we can provide that on notice.

The response to the question is as follows:

In a two-year period from 2021-2023, the department received 11 mutual legal assistance requests that were identified as relating to conduct that could potentially result in charges for death penalty offences (either because a death penalty offence was specified in the request, or because the department identified that such offence may be applicable).

The department sought death penalty assurances in relation to 10 requests. One request was not progressed for other reasons. These 10 requests were made by China, India, the Republic of Korea, Vietnam, Taiwan, Malaysia and Thailand.