

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
May 2017 Estimates

PM&C Portfolio

Agency: Inspector-General of Intelligence and Security

Outcome/Program Group:

Topic: Incoming Government

Senator: Xenophon

Question reference number: 220

Type of question: Written

Date set by the committee for the return of answer: 7 July 2017

Number of pages: 2

Question:

- a) **Does IGIS provide an incoming Prime Minister or Attorney with an Incoming Government Brief? In written or verbal form?**
- b) **Is there any legal restrictions or convention in providing an incoming government minister any IGIS past reports, should they request them?**

Answer:

- a) The Office of the Inspector-General is part of the Prime Minister's portfolio and may provide input to a written brief for the incoming Prime Minister.
- b) If an inquiry under the *Inspector-General of Intelligence and Security Act 1986* (the IGIS Act) was ongoing at the time of a change of government the report of that inquiry would go to the person who is the responsible Minister at the time the inquiry is finalised in accordance with s22(4) of the IGIS Act. A copy may also go to the Prime Minister in accordance with subsection 22(4A) or 22(5) of the IGIS Act.

There is nothing specific in the IGIS Act which would prevent the Inspector-General from providing an incoming government Minister with the report of a past IGIS inquiry. Any disclosure by IGIS would need to be in accordance with the secrecy obligations in s 34 of the IGIS Act which require that the Inspector-General, and IGIS staff, only disclose information in the performance of their functions or duties under the IGIS Act or in accordance with the specific exceptions listed in that section. There could be a range of circumstances where a new Minister might request a past report for purposes consistent with the performance of IGIS Act functions or where the IGIS would offer to provide such a report. For example, if the IGIS was initiating a

second inquiry into a subject it may be relevant to bring a previous report, or part of a previous report, on the matter to the Minister's attention.

Successive governments have accepted the convention that Ministers do not seek access to the deliberative documents of their predecessors. This would not preclude the Inspector-General providing a previous report, or part of a report, where it is necessary to do so for the performance of IGIS Act functions.