

The Senate

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Legal and Constitutional Affairs  
Legislation Committee

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# PREFACE

## Terms of reference

On 13 February 2008, a resolution of the Senate allocated the following portfolios to the Senate Standing Committee on Legal and Constitutional Affairs:

- Attorney-General's portfolio; and
- Immigration and Citizenship portfolio.

This report was prepared pursuant to Standing Order 25(20) relating to the consideration of annual reports by committees. The Standing Order states:

Annual reports of departments and agencies shall stand referred to the committees in accordance with an allocation of departments and agencies in a resolution of the Senate. Each committee shall:

- (a) Examine each annual report referred to it and report to the Senate whether the report is apparently satisfactory;
- (b) Consider in more detail, and report to the Senate on, each annual report which is not apparently satisfactory, and on the other annual reports which it selects for more detailed consideration;
- (c) Investigate and report to the Senate on any lateness in the presentation of annual reports;
- (d) In considering an annual report, take into account any relevant remarks about the report made in debate in the Senate;
- (e) If the committee so determines, consider annual reports of departments and budget-related agencies in conjunction with examination of estimates;
- (f) Report on annual reports tabled by 31 October each year by the tenth sitting day of the following year, and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year;
- (g) Draw to the attention of the Senate any significant matters relating to the operations and performance of the bodies furnishing the annual reports; and
- (h) Report to the Senate each year whether there are any bodies which do not present annual reports to the Senate and which should present such reports.

## **Role of annual reports**

Annual reports place a great deal of information about government departments and agencies on the public record. Accordingly, the tabling of annual reports is an important element of accountability to Parliament, as the information provided in annual reports assists in the effective examination of the performance of departments and agencies and the administration of government programs.

## **Timing of presentation of reports on annual reports**

Standing Order 25(20)(f) requires that committees report on annual reports tabled by 31 October each year by the tenth sitting day of the following year and on annual reports tabled by 30 April each year by the tenth sitting day after 30 June of that year.

Under the guidelines issued by the Department of Prime Minister and Cabinet, the annual reports of departments and executive and prescribed agencies must be tabled by 31 October.<sup>1</sup> If a department is unable to meet this deadline, the secretary is to advise the responsible Minister of the reasons for the delay and the expected tabling date. The responsible Minister is to table this explanation in the Parliament on the next available sitting day.<sup>2</sup>

Orders made by the Minister under section 48 of the *Commonwealth Authorities and Companies Act 1997* set out guidelines for the annual reports of statutory bodies.

Guidelines for the annual reports of non-statutory bodies are set out in the Government Response to recommendations of the then Senate Standing Committee on Finance and Government Operations in its report entitled, *Reporting Requirements for the Annual Reports of Non-Statutory Bodies*. The response was incorporated into the Senate Hansard of 8 December 1987.<sup>3</sup>

## **'Apparently satisfactory'**

Under the terms of Standing Order 25(20)(a), the committee is required to report to the Senate whether reports are 'apparently satisfactory'. In making this assessment, the committee considers such aspects as compliance with relevant reporting guidelines.

## **Timeliness**

Under standing order 25(20)(c), the committee must also report to the Senate on any lateness in the presentation of annual reports. The *Public Service Act 1999* requires that reports be prepared in accordance with guidelines approved on behalf of the Parliament by the Joint Committee of Public Accounts and Audit. These guidelines state:

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1 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, Canberra, 17 June 2009.

2 Department of the Prime Minister and Cabinet, *Guidelines for the Presentation of Government Documents to the Parliament*, Canberra, July 2008, p. 5.

3 *Official Senate Hansard*, 8 December 1987, pp 2643-45.

A copy of the annual report is to be presented to each House of the Parliament on or before 31 October in the year in which the report is given.<sup>4</sup>

A table listing the annual reports tabled (or presented to the President out of session) between 1 November 2008 and 30 April 2009 and which have been referred to the committee for examination in this report can be found at Appendix 1.

As noted in its first report for 2009, the committee was concerned by the number of agencies that were required to table reports by 31 October 2008 and failed to do so. The committee considers the timely tabling of annual reports an important element of accountability. Agencies are reminded that 'it remains the Government's policy that all annual reports should be tabled by 31 October'.<sup>5</sup>

## **Conclusion**

The committee examined all of the annual reports submitted between 1 November 2008 and 30 April 2009 and found them to be of a satisfactory standard, adequately describing the functions, activities and financial positions of the department or agency. The committee therefore finds all submitted annual reports to be 'apparently satisfactory'.

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4 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, Canberra, 17 June 2009, paragraph no. 4.

5 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports*, Canberra, 17 June 2009, paragraph no. 4.



# CHAPTER 1

## ANNUAL REPORTS OF STATUTORY AUTHORITIES

1.1 The following reports of statutory authorities for the financial year 2007-08 were referred to the committee for examination and report:

### **Attorney-General's Portfolio**

- Administrative Appeals Tribunal
- Administrative Review Council
- Audio-Visual Copyright Society Limited (Screenrights)
- Australian Crime Commission<sup>1</sup>
- Australian Government Solicitor
- Australian Institute of Criminology and Criminology Research Council
- Australian Law Reform Commission
- Australian Security Intelligence Organisation
- Commonwealth Ombudsman<sup>2</sup> [Prime Minister and Cabinet portfolio]
- Copyright Agency Limited
- Family Court of Australia
- Federal Court of Australia
- Federal Magistrates Court
- High Court of Australia
- Human Rights and Equal Opportunity Commission (now Australian Human Rights Commission)
- Insolvency and Trustee Service Australia
- National Capital Authority
- National Native Title Tribunal
- Classification Board and Classification Review Board
- Office of Parliamentary Counsel

### **Immigration and Citizenship Portfolio**

- Migration Agents Registration Authority

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<sup>1</sup> Also stands referred to the Joint Committee on the Australian Crime Commission, under the *Australian Crime Commission Act 2002*.

<sup>2</sup> Forwarded to the Finance and Public Administration Committee also.

- Migration Review Tribunal
- Refugee Review Tribunal

1.2 In each of these reports, the committee's custom has been to select a small number of reports for closer examination. On this occasion, the committee decided to select the annual reports of the following agencies:

- Australian Security Intelligence Organisation
- Human Rights and Equal Opportunity Commission
- Migration Agents Registration Authority
- National Native Title Tribunal

### **Australian Security Intelligence Organisation**

1.3 The annual report of the Australian Security Intelligence Organisation (ASIO) was tabled in the Senate on 11 November 2008. As indicated in the letter of transmittal, this report is provided to the Attorney-General in an unclassified form for tabling, while a classified annual report is also provided to the Attorney-General in accordance with section 94 of the *Australian Security Intelligence Organisation Act 1979*.

1.4 ASIO's role as Australia's security service limits the information which is included in the unclassified annual report. Subsection 94(4) of the Act allows the Minister to make deletions from the classified report 'in order to avoid prejudice to security, the defence of the Commonwealth, the conduct of the Commonwealth's international affairs or the privacy of individuals.'

1.5 The level of scrutiny available with regard to ASIO's operations was the subject of questioning during the recent budget estimates 2009-10 hearings. The Director-General of Security described the role of the unclassified report within the broader accountability regime for the organisation.

**Senator LUDLAM**—How do the Australian public know if they are getting value for money? What are your distinct outputs? How are we measuring the success of the agency, particularly benchmarked against big increases in funding?

**Mr Irvine**—I frankly think that is a difficult question to answer to the full satisfaction of the Australian public in the sense that, necessarily, ASIO's activities and its successes cannot be made public. So what the system has in place is, first of all, a form of reporting which is public. The annual report of ASIO is put forward in an unclassified form for the public. That necessarily tends to speak in generalities. For the government itself, there is a much more complete report of a highly classified nature. The second area of oversight, if you like, is through the Joint Parliamentary Committee on Intelligence and Security, which looks into the management and administration of ASIO. There are other measures of oversight that ensure or add substance to the notion of assurance to the Australian public that ASIO is indeed working effectively and with appropriate levels of probity.

**Senator LUDLAM**—I am a little more familiar with the role of the joint parliamentary committee, but can you describe for us in broad terms the classified reporting obligations that you have, presumably to the Attorney-General? What sort of form do they take?

**Mr Irvine**—In essence it takes the form of a typical Public Service annual report but sometimes it goes into quite considerable detail about cases and statistics that perhaps cannot be made public and so on.<sup>3</sup>

1.6 It was noted in the annual report that ASIO is the only agency within the Australian intelligence community that produces a publicly available annual report.<sup>4</sup>

1.7 The committee found the report for 2007-08 adhered to the reporting requirements under section 94 of the ASIO Act<sup>5</sup> and followed the requirements for annual reporting. Taking into account the limitations placed on the agency with regards to public reporting, the annual report provided a good account of activities, initiatives and financial position for the year under review.

1.8 The one-page summary of key statistics for 2007-08 in the introductory section of the report was a useful inclusion. It provided quick access to key items of continuing interest, including staffing numbers and budget, and a snapshot of the ASIO's work throughout the year in review, often with a comparative figure for the previous year.<sup>6</sup>

1.9 The report stated that terrorism continues to pose a significant security threat to Australia and counter-terrorism continues to be a major priority for the organisation. "Terrorism.....currently commands the majority of ASIO's operational attention and resources."<sup>7</sup> However, ASIO is also building capability to meet the growing demands in the areas of countering espionage and foreign intelligence.<sup>8</sup> It was reported that ASIO has boosted the level of resources devoted to counter-espionage work and plans to build further capability through to 2010-11.<sup>9</sup>

1.10 ASIO reported on the progress of the Next Generation Border Security (NGBS) initiative. ASIO has worked with the Department of Immigration and Citizenship on this initiative which is aimed at improving service delivery related to border security through better identification and prevention of entry to Australia of

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3 *Committee Hansard*, 26 May 2009, p.138.

4 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 61.

5 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 122.

6 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. viii

7 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 3.

8 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. vii.

9 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 7.

people of security concern.<sup>10</sup> The report advised that the implementation of the NGBS is well advanced and the committee looks forward to further updates.

1.11 The report notes an increase in ASIO's involvement in criminal and legal litigation during 2007-08. This includes the provision of information to support terrorism prosecutions, civil litigation and review of administrative decisions.<sup>11</sup> In response to this growing trend, a Legal Division was created in July 2007.<sup>12</sup>

1.12 Staffing numbers have continued to increase during the reporting period. The ASIO workforce grew from 1356 to 1492 during 2007-08 but was still below the target growth figure of 170 for the year. However, ASIO reported that the organisation was still confident of achieving its target of 1860 by 2010-11.<sup>13</sup>

1.13 The growth in staffing has put pressure on ASIO's office accommodation and a new central office building was approved in the 2007-08 Federal Budget. The new building is scheduled for completion by 2012.<sup>14</sup>

1.14 The total price of ASIO's outputs increased by \$69.345m in 2007-08. It was reported that the agency received a significant equity injection of \$159m during the year which allowed ASIO to continue its major capital investment activities.<sup>15</sup>

1.15 The committee noted that the report referred to several recent reviews and inquiries that ASIO cooperated with during 2007-08. These included the Homeland and Border Security Review (the Smith Review) and the Clarke inquiry into the handling by Australian agencies of investigations following attempted bombings in the United Kingdom in June 2007. The report also provided a summary of the recommendations which related directly to ASIO which came out of the review of interoperability between the Australian Federal Police (AFP) and its national security partners conducted by the Honourable Sir Laurence Street AC KCMG QC. It noted that implementation of these recommendations, working with the AFP and the Commonwealth Director of Public Prosecutions, was well advanced.<sup>16</sup>

1.16 The committee considers the ASIO annual report to be 'apparently satisfactory'.

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10 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 20.

11 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 23.

12 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 24.

13 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 45.

14 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 55.

15 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. xiv.

16 *Australian Security Intelligence Organisation Report to Parliament 2007-08*, p. 64.

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## **Australian Human Rights Commission (formerly the Human Rights and Equal Opportunity Commission)**

1.17 The committee commends the Australian Human Rights Commission (AHRC) on a report that is well presented and which provides a good account of the commission's performance and activities for the year in review. The report also clearly articulates the Commission's role and objectives. It includes a review of the 'HREOC21' summit, a planning exercise 'to initiate a AHRC-wide strategic planning process by creating a refreshed vision for AHRC's future and a concrete plan of action that would make the vision happen'.<sup>17</sup> The outcomes from the summit included a new vision and mission, a new strategic plan and a full-time position to implement these.<sup>18</sup>

1.18 The committee notes that a compliance index was not included in the report. While the inclusion of a compliance index is not mandatory, the committee recommends agencies include one as a useful cross reference to the annual reporting requirements.

1.19 The report began with a summary of milestones for the year under review.<sup>19</sup> Amongst the range of items highlighted was the appointment of Ms Elizabeth Broderick as Sex Discrimination Commissioner and Commissioner responsible for Age Discrimination; the reaccreditation of three national Indigenous Legal Advocacy courses of which AHRC is the copyright holder; and the implementation of the Community Partnerships for Human Rights Program, a set of initiatives to assist the achievement of social inclusion for Australia's Muslim communities and to help decrease marginalisation and discrimination on the basis of race or religion.<sup>20</sup>

1.20 Complaints handling forms a significant part of the work of AHRC. The Commission has responsibility for the investigation and conciliation of complaints lodged under federal anti-discrimination and human rights law, and provides information to the public about the law and the complaint process.<sup>21</sup> The annual report provided a detailed account of the Commission's performance in this area and included extensive use of tables and graphs. Additionally, the committee found the use of case studies to illuminate the work of the Complaints Handling Section a useful inclusion in this chapter.

1.21 During 2007-08 the volume of both inquiries and complaints increased. Inquiries increased by 13 per cent from the previous year and 32 per cent in comparison to the average number of enquiries received over the previous four years. The number of complaints for the period increased by 17 per cent from the previous

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17 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. 1.

18 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. 2.

19 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, pp v-vii.

20 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, pp v-vi.

21 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. 43.

reporting year and 28 per cent in comparison with the average number of complaints over the past four years.<sup>22</sup> Despite these increases, the Commission reported that it had exceeded its targets for the performance standards for timeliness, the conciliation rate and customer satisfaction.<sup>23</sup>

1.22 The report made references to budget pressures impacting on the organisation. The committee notes that the outgoing President, the Honourable John von Doussa QC, expressed concern that budget restraints were 'seriously limiting research and policy initiatives that could otherwise be undertaken to enhance the understanding and enjoyment of human rights in Australia and our near Pacific neighbours.'<sup>24</sup> Similarly, the Race Discrimination Commissioner stated that:

It is with continuing disappointment I note ... that HREOC must continue its works in an environment of ever-diminishing financial resources and staff reductions at the very time that modest budget supplementation could offer such significant benefits to the entire nation.<sup>25</sup>

1.23 The committee considers the annual report of AHRC to be 'apparently satisfactory'.

### **Migration Agents Registration Authority**

1.24 The Migration Agents Registration Authority (MARA) was established to ensure relevant provisions of the *Migration Act 1958* are administered and to regulate the migration advice profession.<sup>26</sup> From 1 July 2009 MARA has been attached to the Department of Immigration and Citizenship as a discrete office.

1.25 As stated in the letter of transmittal, MARA prepares its annual report in accordance with Guidelines for the Presentation of Government Documents to the Parliament and to the extent that it is relevant to its operation, it also complies with the Requirement for Annual Reports for Departments, Executive Agencies and FMA Act Bodies 2008.

1.26 MARA's annual report sets out a clear account of organisational performance for the year under review. Appendix Four presents the performance targets for MARA as provided for in the Deed of Agreement entered into between the Commonwealth and the Migration Institute of Australia (MIA). These targets are referenced to relevant sections in the report.<sup>27</sup>

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22 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. 43.

23 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, pp 44-45.

24 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. xiii.

25 *Human Rights and Equal Opportunity Commission Annual Report 2007-2008*, p. 131.

26 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 6.

27 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 35.

1.27 The committee notes that MARA generally performed well against performance targets. The section of the report dealing with performance in relation to complaints provided detailed data on various aspects of the complaint handling processes, including volume, finalising times, sources and issues. MARA met or exceeded performance targets in the area of complaint finishing times.<sup>28</sup> It was noted in the Executive Officer's report that the complaint handling processes have become more streamlined and flexible, the complaint backlog had been eradicated and processing times are at a record low.<sup>29</sup>

1.28 The report included a summary of progress on the implementation of recommendations of the Commonwealth Ombudsman's report on MARA's complaint handling process which was released in June 2007.<sup>30</sup> MARA accepted all of the Ombudsman's recommendations and reported good progress on their implementation, but acknowledged that further improvements are required.<sup>31</sup>

1.29 Appendix Nine of the report contained a special purpose financial report on MARA for the period 1 July 2003 to 30 June 2008 which received a qualified independent audit report. The qualification related to a carried forward surplus of \$771 240 that had been identified by MIA to be surplus funds from the performance of the statutory functions of MARA that existed at 30 June 2003. The auditor advised that this balance was not audited and did not have an opinion on the accuracy or otherwise of this amount.<sup>32</sup>

1.30 The committee considers the annual report of MARA to be 'apparently satisfactory'.

### **National Native Title Tribunal**

1.31 The annual report of the National Native Title Tribunal outlines the Tribunal's activities during the year, detailing changes in legislation and external factors affecting the Tribunal and forecasts within the native title system, particularly the resolution of native title applications.

1.32 The Tribunal lists its key results, which include an operating surplus of \$2.95 million<sup>33</sup> for 2007-08 and an increase of \$3.08 million in net equity due to

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28 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 15.

29 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 5.

30 *Migration Agents Registration Authority 2007-2008 Annual Report*, pp 36-39.

31 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 36.

32 *Migration Agents Registration Authority 2007-2008 Annual Report*, p. 58.

<sup>33</sup> *National Native Title Tribunal Annual Report 2007-2008*, p. 105.

accumulated surplus<sup>34</sup>. The Tribunal attributes its operating surplus as being largely due to reductions in suppliers' expenditure and depreciation.<sup>35</sup>

1.33 Staffing numbers at 30 June 2008 show no change from the previous reporting period, however that level was not sustained throughout that period as 75 employees left the Tribunal, resulting in a 30 per cent turnover, an 8 per cent increase in staff turnover from the last reporting period.<sup>36</sup> The Tribunal did not give a reason for the increase in turnover however the committee notes the Tribunal has continued its employee survey to assess staff satisfaction and determine people-management priorities<sup>37</sup>.

1.34 The Tribunal achieved an overall client satisfaction rate of 94 per cent, which equates to an average of 7.15 out of a maximum of 10. The target client satisfaction rate is 80 per cent. The committee notes the client satisfaction rate has risen steadily since 2003<sup>38</sup> and attributes commissioned research into the satisfaction of its clients and stakeholders as the basis of the improved ratings.

1.35 The Tribunal provided a useful summary of significant decisions of the Full Court of the Federal Court that were handed down. These decisions are noted as significant because they illustrate interpretation and application of the principles laid down by the High Court.

1.36 The report provides comprehensive performance information, including presentation of performance indicators and useful maps of Indigenous land use agreements. The inclusion of trend data over several years is a practical and helpful comparison of performance indicators and results.

1.37 The Tribunal noted that the number of Indigenous Land Use Agreements was 57, far exceeding the predicted total figure of 45, with the most significant activity occurring in Queensland.

1.38 The committee considers the annual report of the Tribunal to be 'apparently satisfactory'.

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<sup>34</sup> *National Native Title Tribunal Annual Report 2007-2008, p. 105.*

<sup>35</sup> *National Native Title Tribunal Annual Report 2007-2008, p. 105.*

<sup>36</sup> *National Native Title Tribunal Annual Report 2007-2008, p. 90-91.*

<sup>37</sup> *National Native Title Tribunal Annual Report 2007-2008, p. 89.*

<sup>38</sup> *National Native Title Tribunal Annual Report 2007-2008, p. 99.*

## CHAPTER 2

### REPORTS ON THE OPERATION OF ACTS AND PROGRAMS

2.1 Standing Order 25(20) does not provide for consideration of reports on the implementation or operation of acts or programs. The committee is not therefore required to include them in its report on the examination of annual reports. However, the committee chose to examine the following reports:

- Protection Visa Processing Taking More Than 90 days for the Reporting Period 1 July 2008 to 31 October 2008 (published by the Department of Immigration and Citizenship); and
- Report Pursuant to Section 440A of the Migration Act on the conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 July 2008 to 31 October 2008 (published by the Refugee Review Tribunal); and
- Australian Crime Commission (ACC) annual report on assumed identities for 2007-08.

#### **Protection visa processing taking more than 90 days and refugee reviews taking more than 90 days**

2.2 Section 65A of the *Migration Act 1958* imposes a requirement for the Minister to make a decision on a protection visa application within 90 days of the lodgement of the application. If this target is exceeded, under section 91Y of the Act the Secretary of the Department of Immigration and Citizenship (DIAC) is required to report on protection visa applications for which decision making has taken over 90 days. Similarly, section 440A requires the Refugee Review Tribunal (RRT) to report on reviews not completed within 90 days.

2.3 The Department and the RRT are required to report every four months with the latest reports reviewed by the committee covering the period 1 July 2008 to 31 October 2008.

#### ***Protection visa processing taking more than 90 days***

2.4 The table below compares protection visa processing by DIAC taking more than 90 days for the three previous reporting periods.

	1 November 2007 to 29 February 2008	1 March 2008 to 30 June 2008	1 July 2008 to 31 October 2008
Total number <i>undecided</i> outside	396	375	366

of 90 day period			
Total number <i>decided</i> outside of 90 day period	251	443	388
<b>Total number processed outside of 90 day period</b>	<b>647</b>	<b>818</b>	<b>754</b>
Percentage of total applications processed outside of 90 day period	16.6%	28.9%	23%

2.5 The committee was pleased to note the decrease in both the total number of applications undecided and on hand over 90 days old and the total number of applications decided outside 90 days from the previous reporting period. The report identified 92 applications where delays were attributable to DIAC, an increase of 23 from the previous report. The Secretary noted that 'the Department continues to work on strategies to eliminate delays, improves adherence to the 90 day timeframe and to clear older cases as quickly as possible.'<sup>1</sup>

#### ***Refugee Review Tribunal reviews not completed within 90 days***

2.6 This table outlines the number of RRT reviews not completed within 90 days for the previous three reporting periods.

	1 November 2007 to 29 February 2008	1 March 2008 to 30 June 2008	1 July 2008 to 31 October 2008
Reviews completed <i>outside</i> of 90 days	216 (32%)	266 (31%)	186 (25%)
Reviews completed <i>within</i> 90 days	453 (68%)	603 (69%)	557 (75%)
<b>Total</b>	<b>669</b>	<b>869</b>	<b>743</b>

2.7 The committee was pleased to note an increase in the percentage of reviews completed within 90 days from the previous reporting period.

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1 Protection Visa Processing Taking More Than 90 Days for the Reporting Period 1 July 2008 to 31 October 2008, Letter of Transmittal.

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## Australian Crime Commission Assumed Identities Annual Report 2007-08

2.8 Section 15XUA(2) of the *Crimes Act 1914* requires that, within three months after 30 June in each year, the ACC must prepare, and provide to the Minister, a report which must include:

- The number of authorisations issued by an authorising person from the agency during the year covered by the report;
- a general description of the activities undertaken by approved officers when using their assumed identities during the year covered by the report; and
- a statement whether or not any fraud or any other unlawful activity was identified by an audit during the year covered by the report.

2.9 A letter from the Chief Executive Officer of the ACC to the Minister for Home Affairs dated 14 October 2008 was tabled in the Senate on 25 November 2008 advising of ACC's failure to report on the use of assumed identities for the period ending 30 June 2008 by the prescribed deadline. The Chief Executive Officer advised the Minister that he was 'satisfied that the required records of assumed identities were kept and audited for the period ending 30 June 2008 as required by the Act.'<sup>2</sup> He further advised that alternative processes were in place within the ACC to ensure that all statutory reporting requirements are being implemented.

2.10 Tabled with the letter was the ACC's report for 2007-08. The report indicated that 14 authorisations were issued in the period and that staff and approved persons conducted operations to gather intelligence and evidence against individuals and criminal networks under investigation by the ACC.<sup>3</sup>

2.11 The committee noted that the report title and page two of the letter referred to the wrong reporting period, that is, 2006-07 rather than 2007-08. An erratum has not yet been tabled in the Senate but the committee understands that one will be presented shortly.

**Senator Trish Crossin**  
**Committee Chair**

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2 Letter from Chief Executive Officer, ACC to the Minister for Home Affairs dated 14 October 2008.

3 Australian Crime Commission, *Assumed Identities Annual Report 2006-07 Section 15XUA(2) Crimes Act 1914*, dated 14 October 2008.



# APPENDIX 1

## ANNUAL REPORTS REFERRED

### List of annual reports referred

Department/authority	Submitted to Minister (if known)	Received by Minister (if known)	Tabled in Senate (Received in Senate out of session)
<b>Attorney-General's Portfolio</b>			
Administrative Appeals Tribunal – Report for 2007-08	8/10/08	20/10/08	11/11/08
Administrative Review Council – Report for 2007-08	14/10/08	20/10/08	11/11/08
Audio-Visual Copyright Society Limited (Screenrights) – Report for 2007-08	3/11/08	10/11/08	25/11/08
Australian Crime Commission – Report for 2007-08 <sup>1</sup>			3/2/2009 (9/1/09)
Australian Government Solicitor – Report for 2007-08			10/11/08 (3/11/08)
Australian Institute of Criminology and Criminology Research Council – Report for 2007-08	9/10/08	9/10/08	11/11/08
Australian Law Reform Commission – Report for 2007-08	15/10/08	16/10/08	11/11/08
Australian Security Intelligence Organisation – Report for 2007-08	26/9/08	26/9/08	11/11/08
Commonwealth Ombudsman - Report for 2007-8 <sup>2</sup> [Prime Minister and Cabinet portfolio]	2/10/08	14/10/08	11/11/08
Copyright Agency Limited – Report for 2007-08	25/11/08	3/12/08	4/2/09
Family Court of Australia – Report for 2007-08	16/10/08	16/10/08	11/11/08
Federal Court of Australia – Report for 2007-08	16/10/08	22/10/08	11/11/08

<sup>1</sup> Also stands referred to the Joint Committee on the Australian Crime Commission, under the *Australian Crime Commission Act 2002*.

<sup>2</sup> Forwarded to the Finance and Public Administration Committee also.

Federal Magistrates Court – Report for 2007-08	16/10/08	16/10/08	11/11/08 Errata 3/2/09 (27/1/09)
High Court of Australia – Report for 2007-08			3/2/09 (16/12/08)
Human Rights and Equal Opportunity Commission – Report for 2007-08	20/10/08	21/10/08	11/11/08
Insolvency and Trustee Service Australia – Report for 2007-08	10/10/08	13/10/08	11/11/08
National Capital Authority – Report for 2007-08			3/2/09 (9/12/2008)
National Native Title Tribunal – Report for 2007-08	21/10/08	22/10/08	11/11/08
Classification Board and Classification Review Board – Reports for 2007-08	10/10/08	10/10/08	11/11/08 Addendum tabled 3/2/09 (24/12/08)
Office of Parliamentary Counsel – Report for 2007-08	16/10/08	21/10/08	11/11/08
<b>Immigration and Citizenship Portfolio</b>			
Migration Agents Registration Authority – Report for 2007-08	29/10/08	31/10/08	11/11/08
Migration Review Tribunal and Refugee Review Tribunal – Report for 2007-08			10/11/08 (7/11/08)

### List of reports on the operation of acts

Department/authority	Submitted to Minister (if known)	Received by Minister (if known)	Tabled in Senate (Received in Senate out of session)
<b>Attorney-General's Portfolio</b>			
<i>Australian Federal Police Act 1979</i> — Report on the Ombudsman's activities under Part V of the Act for 2007-08			26/11/08
<i>Bankruptcy Act 1966</i> Report for 2007-08 on the operation of the Act	10/10/08	13/10/08	11/11/08
<i>Crimes Act 1914</i> – Authorisations for the acquisition and use of assumed identities – Report for 2007-08 – Australian Crime Commission	13/10/08	16/10/08	25/11/08

<i>Crimes Act 1914</i> – Authorisations for the acquisition and use of assumed identifies – Report for 2007-08 – Australian Customs Service	26/9/08	26/9/08	26/11/08
<i>Criminal Code Act 1995</i> — Preventative detention and control orders report for 2007-08	10/9/08	12/9/08	11/11/08
<i>National Security Information (Criminal and Civil Proceedings) Act 2004</i> – Non-disclosure and Witness Exclusion Certificates Annual Report 2007-08	23/9/08	24/9/08	12/11/08
<i>Telecommunications (Interception and Access) Act 1979</i> – Report for 2007-08 on the operation of the Act			10/3/09 (13/2/09)
<i>Surveillance Devices Act 2004</i> – Report for the year ending 30 June 2008			10/2/09 (6/2/09)
<i>War Crimes Act 1945</i> – Report for 2007-08 on the operation of the Act	15/12/08	15/12/08	13/3/09
<b>Immigration and Citizenship Portfolio</b>			
<i>Migration Act 1958</i> – Section 91Y – Protection visa processing taking more than 90 days for the reporting period 1 July to 31 October 2008	15/12/08	15/12/08	4/2/09
<i>Migration Act 1958</i> – Section 440A – Conduct of Refugee Review Tribunal reviews not completed within 90 days for the period 1 July to 31 October 2008	15/12/08	2/2/09	4/2/09
<i>Migration Act 1958</i> – Section 486O – Assessment of detention arrangements – Personal identifiers 481/08 to 491/08 – Report by the Commonwealth and Immigration Ombudsman	14/11/08	14/11/08	25/11/08
<i>Migration Act 1958</i> – Section 486O – Assessment of detention arrangements – Personal identifiers 481/08 to 491/08 – Government response to Commonwealth Ombudsman's report	14/11/08	14/11/08	25/11/08
<i>Migration Act 1958</i> – Section 486O – Assessment of detention arrangements – Personal identifiers 492/08 to 508/09 – Commonwealth Ombudsman's report	3/2/09	3/2/09	4/2/09  Corrigenda 11/3/09
<i>Migration Act 1958</i> – Section 486O – Assessment of detention arrangements – Personal identifiers 492/08 to 508/09 – Government response to Commonwealth Ombudsman's reports	3/2/09	3/2/09	4/2/09

