

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Budget Additional Estimates Hearing March 2015

Prime Minister and Cabinet Portfolio

Department/Agency:	Office of the Inspector-General of Intelligence and Security
Outcome/Program:	Outcome 1
Topic:	2013 Inquiry into the use of weapons and self-defence techniques in ASIS
Senator:	Xenophon
Question reference number:	90
Type of question:	Written
Date set by the committee for the return of answer:	10 April 2015
Number of pages:	1
Question:	1

I refer to the 2013 Inquiry into the use of weapons and self-defence techniques in ASIS which identified key areas of concerns relating to:

- Delays in providing oleoresin capsicum spray and batons to some overseas stations after this had been approved by the Minister on the basis that weapons were necessary for the safety of staff
- The consumption of alcohol – the inquiry found that ASIS did not have adequate controls to provide assurance that there was compliance with this requirement.

I understand six recommendations were made as a result of this inquiry - all of which were accepted by ASIS.

1. Have all of these recommendations now been implemented by ASIS?
2. Can this report, or parts of this report, be made public? If not, why not?
3. With regards to the delays in providing oleoresin capsicum spray and batons, did IGIS view that this may have left personnel safety at risk?

Answer:

1. ASIS have implemented all recommendations from the 2013 inquiry.
2. The full report cannot be made public due to national security considerations. An unclassified executive summary is available on the IGIS website.
3. Given the Minister had approved training in and issue of oleoresin capsicum spray and batons on the basis they were necessary for the safety of staff, the IGIS was concerned about delays in their issue and that the Minister had not been informed they had not been provided as approved. ASIS advised there were other mitigation strategies in place to ensure the safety of staff.

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Question:	2

I also note the more serious incident in 'December 2013' where a Special Forces soldier allegedly threatened a female Australian spy with a handgun during a drinking session in Afghanistan in December. I note a further inquiry was instigated in June 2014 into the management of weapons to investigate these issues and review the findings of the 2013 Report.

1. I note the investigation by ASIS into this incident raised "systemic issues" – can you elaborate on this?
2. What is the status of this investigation? Is it still ongoing?
3. When is it expected to be completed? Will the results be made public?

Answer:

1. The IGIS 2013-14 Annual Report refers to an ASIS investigation into a weapons-related incident that occurred overseas in December 2013. The ASIS internal report and a subsequent IGIS inquiry identified serious instances of non-compliance with guidelines, policies and procedures particularly regarding the carriage of weapons.
2. The IGIS inquiry was completed on 12 December 2014 and a copy of the report was provided to the Minister for Foreign Affairs on that date.
3. The results of the IGIS inquiry will not be made public due to national security considerations.

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Question:	3

I note your statement in the annual report *"I was advised by the Director-General of ASIS that the investigation also revealed that there were inaccuracies in the information provided to me during the course of my 2013 inquiry. My review of the ASIS investigation report and interviews indicated substantial discrepancies"*

As you would be aware, I have previously raised concerns that this incident showed the IGIS needs additional powers and that there seems to be no real penalty for lying to the Inspector-General by intelligence services.

I thank you for your letter to me of 23 October 2014 wherein you advise me that *"if a person provided false or misleading information or documents during an IGIS inquiry then division 137 of the Criminal Code would apply. The relevant penalty is imprisonment for 12 months"*.

"If I had evidence that a person had, for example, lied to me under oath I would refer the matter to the Australian Federal Police for investigation".

1. What action has been taken by IGIS to address the inaccuracies in the information provided during the 2013 Inquiry?
2. What do you believe is the cause of these "inaccuracies" and "substantial discrepancies"?
3. Has the matter been referred to the AFP for investigation?
4. Can you advise of how many referrals you have made to the AFP for investigation under this division? Are you aware of referrals made by your predecessor?
5. Are you aware if any person has been imprisoned under the Criminal Code for providing false or misleading information or documents during an IGIS inquiry?

Answer:

1. The 2014 IGIS Weapons Inquiry addresses the inaccuracies in the information provided during the 2013 inquiry. The 2014 IGIS report includes recommendations for dealing with both the issues concerned and the factors that led to inaccurate information being provided to the first inquiry.
2. The second IGIS inquiry found that the inaccuracies in information in the 2013 IGIS Weapons Inquiry report were due to a lack of communication between senior management in Headquarters and staff overseas. There was no evidence that any ASIS officer had lied to the IGIS under oath.
3. The IGIS has not referred any matters to the AFP for investigation.
4. No referrals have been made to the AFP for investigation under Division 137 of the Criminal Code. No referrals have been made by the previous Inspectors-General of Intelligence and Security under this Division.
5. No person has been imprisoned under the Criminal Code for providing false or misleading information or documents during an IGIS inquiry.