

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group: 3

Program: Other Agency

Question: BE14/013

Senator Rhiannon asked the following question at the hearing on 26-29 May 2014:

Senator RHIANNON: Sorry, Chair, I have one other question. I understand that, with regard to the Electoral Act, if disclosures are not made properly and if there are inconsistencies the Australian Electoral Commission has to refer investigations of all possible potential offences, other than a failure to vote, to the AFP for investigation. My question is: in the last three years, how many breaches of the funding and disclosure requirements under the Electoral Act has the AEC referred to the AFP?

Mr Negus: I will go to the deputy commissioner on the figures that we have around the Electoral Commission. But I am not sure whether it actually covers the question that you are asking.

Mr Phelan: I think you asked in relation to matters around funding and disclosure.

Senator RHIANNON: Yes, please.

Mr Phelan: The information that I have is: none. However, I am happy to take that on notice. From a couple of the investigations that I have, it is unclear to me in the advice as to whether they are specifically related to funding and disclosure. I suspect the answer is none, but I am happy to take that on notice. Senator RHIANNON: I want to ask you a couple more questions to clarify what I was after. How many investigations into breaches of the Commonwealth Electoral Act has the AFP undertaken in the last three years where the Australian Electoral Commission is the complainant? Of these, how many have the AFP referred to the Commonwealth Director of Public Prosecutions for consideration? How many prosecutions have been initiated as a result? I did not want it to be narrowed down to just disclosures. Could you provide details of whatever has been referred to you by the AEC, please.

Mr Phelan: I am happy to do that now if you want, Senator. I can go through a bit of the table of the information that I do have. That might help a little bit and narrow it down. Since the financial year 2010-11, the AFP has received 24 referrals from the Australian Electoral Commission. We have investigated 18 of those. We have rejected six of those, where either there were no offences disclosed or there was insufficient evidence. So far, from the advice that I have, no matters have been referred for prosecution.

Senator RHIANNON: So no matters to the—

Mr Phelan: No offenders have been charged.

Senator RHIANNON: No-one has been charged. Can we detail that out: 24 referrals and 18 investigated. What happened to the six that were not investigated?

Mr Phelan: They would have been rejected first off.

Senator RHIANNON: So they were the rejected ones?

Mr Phelan: They were the six rejected, yes. So it is just 24—18 accepted with a balance of six.

Senator RHIANNON: Can you tell us where the 18 are up to, please? And can you categorise what they cover in any way? Mr Phelan: I can take that on notice, if you like, in relation to some of those matters.

Senator RHIANNON: If you could take on notice the 18, what they cover and where they are up to.

Mr Phelan: Yes, certainly, I can. Senator RHIANNON: Thank you for that information. You have identified the areas of enrolment fraud and fake how-to-vote cards. Are they some of the 18 cases that you have been looking at?

Mr Negus: They would be, yes, and multiple voting as well. These are active investigations that are ongoing, so I cannot talk about them, but we do have these matters on foot and they have not reached conclusions. Although no one has been charged yet—these matters may lead to that or they may not—we are still investigating them.

Senator RHIANNON: What about political funding, political donations and inconsistency in disclosure? Do you look at any of that?

Mr Negus: I think I will go back to what the deputy said in that we will have to take that on notice, because I do not have details of those types of things. We do not think that they have been referred, but we will check on notice.

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

The AFP has no record of any referrals from the Australian Electoral Commission, over the last 3 years, for alleged breaches of funding and disclosure requirements, in accordance with Part XX (Electoral funding and financial disclosure) of the *Commonwealth Electoral Act 1918*.