

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

Group: 3

Program: 1.7

Question No. BE15/018

Senator Collins asked the following question at the hearing on 27 and 28 May 2015:

Senator JACINTA COLLINS: Was there any other action taken in relation to the correspondence?

Senator Brandis: In my office there was none taken, other than having it assessed and then sent to the ministerial communications unit for the department to deal with. What was done in relation to the letter within the department, Ms Chidgey would be the one to know.

Ms Chidgey: The process would be that once a reply is prepared it would come back to the Ministerial Correspondence Unit and the reply mailed out to the recipient.

Senator JACINTA COLLINS: No. I understand that element of a response; what I am curious about is whether the acting assistant secretary or some other person in the National Security Law and Policy Division thought that some further response, such as referring the matter to the AFP, might be appropriate.

Ms Chidgey: And that would be a matter for the relevant division to assess in each case—that is, whether there was further action or another agency that needed to be notified.

Senator JACINTA COLLINS: And that is what I am asking: did that occur?

Senator Brandis: I am not sure that Ms Chidgey is in a position to answer that.

Senator JACINTA COLLINS: I am not asking her specifically.

Ms Lowe: Senator, I lead the division from which this response was developed and sent. It is not routine practice necessarily to forward correspondence onto agencies, and whether it in fact occurred in this case I would have to take on notice.

Senator JACINTA COLLINS: If you would not mind taking that on notice please, with regard to the AFP or some other security alert process.

Ms Lowe: Yes.

Senator JACINTA COLLINS: I suspect later tonight we will get to the complexity of some of that. But certainly now, with our heightened security arrangements, it might be reasonable to expect that the department would not just simply respond to correspondence of that nature, but might think it is appropriate to alert other players in the national security space about requests of this nature.

Senator Brandis: These judgements are really expert judgements, not judgements of politicians. I am bound to say the tone of the letter is not obviously threatening, nor does the letter apparently

contain any endorsement of or indication of favourability towards the Islamic State. It merely, in a neutral tone, asks a question about whether to communicate with this individual by making comments and asking questions is legal or illegal.

Senator JACINTA COLLINS: Yes, it is general in that sense but it is—

CHAIR: I have the feeling that these may be questions for ASIO or someone else.

Senator Brandis: There is a coronial inquiry going on at the moment, as we all know, in Sydney. This correspondence was in evidence before the coronial inquiry a couple of days ago.

CHAIR: I think what Senator Collins is saying is, if I could put it more bluntly, is: wouldn't someone forward anything relating to IS to someone else—I do not want to ask you who else. I am just wondering whether we are getting into high security grounds that are perhaps not the purview of this committee. Perhaps if there were something that needed to be said and Senator Collins could be briefed more privately—I am only guessing.

Senator Brandis: As Ms Lowe has said, she is going to take this on notice; and, in taking it on notice, no doubt she will turn her mind to what protocols, procedures and guidelines may have been in place in the department to deal with inquiries of this nature.

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

The letter from Sheikh Haron (Monis) dated 7 October 2014 was appropriately referred to and handled by, officers within the Attorney-General's Department, consistent with many previous letters from this individual. The letter was not referred to another agency.

Mr Monis was a frequent correspondent and was well known to security and policy agencies. The tone of the letter is not, on its face, threatening, provocative or offensive. In fact, Mr Monis referred to himself in the correspondence as a 'Peace Activist'.

The Attorney-General's Department regularly receives correspondence as well as telephone calls from a range of individuals seeking advice about the legality of certain action. On this occasion, the relevant Departmental officer was able to warn Mr Monis of the serious risk associated with the proposed course of action without providing legal advice. Specifically, the Departmental officer advised:

The Islamic State is listed as a terrorist organisation under Part 5.3 of the *Criminal Code Act 1995*. Under the Criminal Code, it is an offence to direct the activities of, be a member of, recruit for, provide training to, receive training from, provide funds to or receive funds from or provide support to, a terrorist organisation. It is also an offence to associate with a member of a listed terrorist organisation in certain circumstances where such association intentionally provides support to that organization. The penalties for these offenses are severe, and could be up to 25 years imprisonment.

The Attorney-General's Department does not always provide copies of correspondence to other agencies but will do so where, for example, a letter is implicitly or explicitly threatening, makes allegations about improper or illegal behaviour or otherwise references the activities of other agencies and input is sought from the other agency to ensure a comprehensive response to the correspondent.