

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING : 25 May 2015

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE15/160) - Public Interest Disclosure - Internal Product (DIBP)

Senator Hanson-Young, Sarah (L&CA) written:

- The Public Interest Disclosure Act does not extend to ‘sensitive law enforcement information’ (see sections 26 and 41). What kind of activities or operations by the Department may be considered ‘sensitive law enforcement information’ for the purposes of section 42 of the Australian Border Force Act 2015? Could any detention centre operations or incidents be categorised as ‘sensitive law enforcement information’ in the Department’s view?

Answer:

The statement that the *Public Interest Disclosure Act 2013* (PID Act) does not extend to sensitive law enforcement information is not correct.

The definition of ‘sensitive law enforcement information’ is found at section 41(2) of the PID Act. Whether the definition of ‘sensitive law enforcement information’ is satisfied would be determined on a case-by-case basis.

The secrecy provisions in Pt 6 of the *Australian Border Force Act 2015* (ABF Act) do not prevent a person from making a disclosure under the PID Act. A disclosure under the PID Act constitutes an exception to the prohibition on entrusted persons disclosing protected information: section 42(2)(c) of the ABF Act.