

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN FEDERAL POLICE

**Question No. SBE15/079**

**Senator Bilyk asked the following question at the hearing on 20 October 2015:**

1. A report in *The Guardian* on 22 September 2015 indicates the criminal investigation into Mal Brough remains ongoing. It is entitled “Federal police say inquiry into leaking of Peter Slipper's diary is still active” and the by-line reads “Malcolm Turnbull’s new special minister of state, Mal Brough, faces renewed questions over the disclosure of the former speaker’s diary in James Ashby case”.
  - a. What is the current status of the investigation into the criminal allegations against Mr Brough?
  - b. Has Mr Brough been charged with any criminal offences?
  - c. When does the AFP expect to finalise the investigation?
  - d. Has the AFP discussed the matter with the Director of Public Prosecutions?
  - e. Is it against the law to take official documents from the Commonwealth without authorisation?
2. According to the report, the basis of the referral to the AFP is at least in part an admission that Mr Brough made on the 60 Minutes program. According to the report by *The Guardian*, Mr Brough was asked: “Did you ask James Ashby to procure copies of Peter Slipper’s diary for you?” To which Mr Brough replied: “Yes I did.”
  - a. What is the significance of an admission in a criminal investigation?
  - b. Can an admission be used as evidence against an accused in a criminal trial?
  - c. Noting that the investigation into Mr Brough has been ongoing for some time, could you please advise the Senate what the normal length of time is for an investigation of this kind to be resolved?
  - d. Are there any statistics that can be provided?
  - e. Are there any documents the AFP is able to produce to the Senate in relation to this matter, without breaching the confidence of sensitive law enforcement records?

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

1.
  - a. The AFP investigation is ongoing.
  - b. No.
  - c. It is inappropriate to speculate. The AFP will undertake the investigation thoroughly and methodically.
  - d. No, the AFP has had no need to discuss the matter with CDPP to date.
  - e. Yes. Under Section 79.1(a) of the Crimes Act 1914 it is an offence communicate, receive or retain prescribed information in contravention of that section or Section 91.1 of the criminal Code Act 1995, Espionage and similar activities, unless there is lawful authority to do so.

2.
  - a. An admission may assist in a criminal investigation.
  - b. Admissibility is dealt with on a case-by-case basis and is a matter for the courts.
  - c. These matters are often complex and it is inappropriate to speculate. The AFP undertakes these investigations thoroughly and methodically.
  - d. The AFP would like the Senator to narrow the scope of the question and identify the type of statistics sought.
  - e. No. As the investigation is ongoing it is not appropriate to produce documents to the Senate.