

**Senate Finance and Public Administration Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

Budget Estimates Hearing 21-24 May 2012

Prime Minister and Cabinet Portfolio

**Department/Agency:** Department of the Prime Minister and Cabinet

**Outcome/Program:** 1.1.2 National Security and International Policy

**Topic:** National Security Legislation Monitor - annual report

**Senator:** Senator Rhiannon

**Question reference number:** 132

**Type of Question:** Written

**Date set by the committee for the return of answer:** 6 July 2012

**Number of pages:** 2

**Question:**

1. Brett Walker's annual report does not make any recommendations and government has said in a press release that there will be no formal response. Why not?
2. Has the Prime Minister asked for advice from National Security and International Policy Group Policy group following on from the annual report or has the group given a response to the Prime Minister?
3. If not, what is the purpose of the annual report and having the role of Independent National Security Legislation Monitor?
4. How does it feed into government policy making?
5. At p31 of the annual report, there is reference to questioning warrants under the ASIO Act. Law allows 168 hours as the maximum period for a person to be detained continuously. Walker says that 'so far and on incomplete inquiries this year, no operation justification for regarding such a long period of detention as reasonably necessary in order for useful intelligence to be gained'. What is the government response to this?

**Answer:**

1. As he is an independent office holder, it is up to Mr Walker whether or not he makes recommendations. Because the Independent National Security Legislation Monitor (INSLM) does not make any recommendations in his report, there will be no formal response. The Government welcomes the work agenda the INSLM

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has outlined for the next year and looks forward to considering any recommendations resulting from this work in due course.

2. A brief on the INSLM's inaugural annual report was provided to the Prime Minister on 6 February 2012 as part of the department's normal briefing process.
3. See response to question part 1.
4. When the INSLM forms recommendations, the Government will consider them. The INLSM plays an important role in reviewing the operation, effectiveness and implications of Australia's counter-terrorism and national security legislation on an ongoing basis. This includes considering whether the laws contain appropriate safeguards for protecting the rights of individuals, remain proportionate to any threat of terrorism or threat to national security or both, remain necessary and are consistent with Australia's international obligations. This includes our human rights, counter-terrorism and international security obligations.
5. The INSLM does not make any recommendations in his report. The INLSM notes (see Appendix 3 of his report) that the questions and issues posed for consideration are not intended to indicate that he will lean in any direction as to the appropriate answers. The Government will consider any recommendations resulting from the INSLM's work in due course. The Government does not wish to pre-empt recommendations that will be made in future reports by commenting on specific issues raised in this first report.