

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN FEDERAL POLICE

**Question No. 42**

**Senator Xenophon asked the following question at the hearing on 30 May 2013:**

**Senator XENOPHON:** ...I need to ask you a series of questions in relation to the Surveillance Devices Act and the Telecommunications (Interception and Access) Act.... Is it the case under the Australian legislation, particularly under sections 178, 179 and 180 of the Telecommunications (Interception and Access) Act, that, in order to obtain the phone records and the phone data and also presumably the Facebook and Google data of a person, you do not actually need to get a warrant?

...

**Mr Phelan...** You are right: when it comes to non-content data, under the Telecommunications (Interception and Access) Act the AFP can have access to that data by way of an internal authorisation.

...

**Senator XENOPHON:** Does that relate to getting access to Facebook and social media sites as well?

**Mr Phelan:** No, because things like Facebook, Google and so on are overseas. Depending on the entity themselves, if we want to get details of those particular individuals we have to make a request to the United States and, more often than not, that requires some sort of mutual assistance request.

**Senator XENOPHON:** Are there requests? Have requests been made to the United States in relation to Facebook and Google?

**Mr Phelan:** We have made a number of requests over the time.

**Senator XENOPHON:** On notice, can you tell me how many requests have been made?

**Mr Phelan:** We should be able to find that out.

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

The Australian Government has made 59 Mutual Assistance Requests to overseas countries for internet records on behalf of the Australian Federal Police (AFP) since 1 January 2011 which includes 'social media' accounts.