

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN FEDERAL POLICE

**Question No. 90**

**Senator Ludlam asked the following question in writing, following the hearing on 19 October 2009:**

In relation to serious and organised crime;

- a) is information obtained by telecommunication interceptions investigating a certain crime currently allowed to be used to investigate crimes other than the crime for which the information was initially obtained,
- b) does the AFP share information it obtains from telecommunication interceptions with other Commonwealth and State law enforcement agencies,
- c) what are the limits on the sharing of information obtained by the AFP with other law enforcement organisations,
- d) is the AFP only permitted to intercept telecommunications relating to serious offences,
- e) in the past 12 months on how many occasions has the AFP applied for a telecommunication interception warrant,
- f) in the last 5 years what is the average length of a controlled operation, and
- g) has a control operation during this period been forced to end due to it reaching the 6 month time limit?

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

- a) Provisions of the *Telecommunications (Interception and Access) Act 1979* (Cth) (TIA Act) allow scope for information lawfully obtained by telecommunications interceptions investigating a particular offence to be used to investigate certain classes of other offences as specified in the TIA Act. Specifically, section 67 of the TIA Act allows an agency which has lawfully obtained information by telecommunications interception to use it and to disclose it for a "permitted purpose". The definition of a "permitted purpose" includes use of information to investigate prescribed offences other than offences for which the information was initially obtained. The term "prescribed offence" includes any offence punishable by at least three years imprisonment.
- b) Yes. The AFP shares information it obtains from telecommunication interception with other law enforcement agencies for permitted purposes under section 67 and also in accordance with section 68 of the TIA Act.
- c) Section 67 of the TIA Act enables lawfully intercepted information to be shared with other law enforcement agencies for permitted purposes such as in joint operations. Any information communicated under this section can only be used for the purposes of furthering the AFP's investigation.

Alternatively, this information can be used by the receiving agency in its own investigations. Section 68 of the TIA Act permits lawfully intercepted information to be communicated to certain agencies for defined purposes. The agencies with which the AFP may share information include Australian Crime Commission, state police, New South Wales (NSW)

Crime Commission, Australian Commission for Law Enforcement Integrity, NSW Independent Commission against Corruption, NSW Police Integrity Commission and Queensland Criminal Justice Commission. Information is also able to be shared with the Director-General of Security where it relates to activities prejudicial to security.

- d) Section 7 of the TIA Act generally prohibits interception of telecommunications. The main exception to this prohibition is interception under a warrant. Under sections 46, 46A and 48 of the TIA Act a telecommunication interception warrant, a named person warrant and a warrant for entry on premises can only be granted for investigations of serious offences as defined in section 5D.
- e) During the annual reporting period from 1 July 2008 to 30 June 2009 the AFP applied for 573 telecommunication interception warrants.
- f) The average length of a controlled operation is as follows:
  - 2007-08 – 69 days
  - 2008-09 – 84 days
  - 2009-10 (to date) – 54 days
- g) No.