

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
AUSTRALIAN CUSTOMS AND BORDER PROTECTION SERVICE

**Question No. 144**

**Senator Humphries asked the following questions at the hearing on 16 October 2012:**

- a) Is the ACBPS directly involved in on-water interception operations either with the Sri Lankan navy or coast guard or in any other capacity?
- b) Please provide details as to the manner in which ACBPS co-ordinates activities with the Sri Lankan navy, coast guard and police, and the roles played by ACBPS in that co-ordinated activity. For example, what would co-ordination of surveillance and “on-water responses” entail on the part of ACBPS? Would that include ACBPS being actively involved in operations with the Sri Lankan navy or coast guard?
- c) As stated above, persons intercepted by the navy are handed to the SLSP which has a history of widespread use of torture and arbitrary detention. Could you please provide details of the assessment undertaken, and the safeguards in place, to ensure that Australia's close cooperation with Sri Lanka to prevent people smuggling – whether through provision of financial or other resources, information and intelligence sharing, capacity building or other assistance – does not expose people, directly or indirectly, to human rights violations in Sri Lanka following their interception, including arbitrary arrest, arbitrary detention, torture and other ill-treatment?
- d) Please explain whether and to what extent Australia does or has ever provided air surveillance assistance to Sri Lanka’s navy in the course of cooperation on people smuggling.
- e) Please explain whether and to what extent ACBPS or any other government department plans to provide resources such as a vessel to assist in the Sri Lankan patrol.
- f) Are there any limits placed on Australia’s ability to share its analysis of information with Sri Lankan authorities? If so, please explain the basis on which intelligence or information is provided or withheld. Is there a formal policy or procedure in place that governs the extent to which Australian authorities can share information with their Sri Lankan counterparts?
- g) Please provide details of any operational equipment that has been gifted to the Sri Lanka Coast Guard.
- h) Is any part of the 2012-13 ACBPS budget being allocated towards operational equipment to be provided to Sri Lanka, or any other form of resourcing, training or operational cooperation with the Sri Lankan authorities? If so, please provide details of the spending and its aims.

**The answer to the Honourable Senator’s question is as follows:**

- a) No. The Australian Customs and Border Protection Service (Customs and Border Protection) is not involved in on-water operations with the Sri Lankan Navy or Coast Guard.
- b) Not applicable. Customs and Border Protection is not actively involved in coordinating operational activities with Sri Lankan authorities.
- c) Australia’s cooperation with Sri Lanka on people smuggling is conducted in full compliance with Australia’s human rights law obligations. Australian agencies have established processes and relationships for clearing and sharing information and intelligence with foreign authorities, including some in Sri Lanka. Any action to provide information must, however, take account of concerns under relevant domestic law, and any relevant international law obligations.

Australia's High Commission in Colombo regularly emphasises to Sri Lankan authorities the Australian Government's expectation that all detained potential irregular immigrants (PIIs) are treated in accordance with Sri Lankan law, that they are treated fairly and that their rights are respected. Our High Commission in Colombo monitors the broader human rights situation in Sri Lanka.

- d) Customs and Border Protection is not aware of any Australian aerial surveillance assistance provided to Sri Lanka's Navy in the course of cooperation on people smuggling.
- e) Customs and Border Protection has gifted equipment to the Sri Lankan Coast Guard as outlined in question (g). Customs and Border Protection does not have plans to provide a surface asset to Sri Lanka.
- f) Australian agencies have established processes and relationships for clearing and sharing information and intelligence with foreign authorities, including some in Sri Lanka. Any action to provide information must, however, take account of concerns under relevant domestic law, Australia's international obligations and accepted international norms.

Under domestic law, the *Migration Act 1958* establishes restrictions on the disclosure of identifying information (eg, fingerprints, photographs, signatures) of asylum seekers. Australian authorities are also mindful of the UN High Commissioner for Refugees' declaration of the paramount importance of confidentiality in relation to asylum procedures, including not revealing the identity of asylum seekers to their countries of origin. Australian authorities do not disclose information which could identify an asylum claimant. We are unable to share information on individual asylum seekers as our privacy laws prevent us from doing so.

The decision to provide or withhold intelligence or information is made on a case-by-case basis bearing in mind the considerations outlined above.

- g) Customs and Border Protection has gifted the following equipment to the Sri Lankan Coast Guard:
  - IT equipment, including laptops and printers
  - stabilised binoculars
  - Global Positioning System equipment.
- h) It is anticipated that a senior Sri Lankan Coast Guard delegation will visit Border Protection Command (BPC) in 2013 to provide an enhanced understanding of how BPC operates within the maritime domain. Other training services, such as intelligence and vessel search training are being considered.