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Estimates

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BY AUTHORITY OF THE SENATE

Office of the Inspector-General of Intelligence and Security

[22:49]

CHAIR: I welcome Dr Vivienne Thom, Inspector-General of Intelligence and Security, and Mr Jake Blight, Assistant Inspector-General. Dr Thom, do you wish to make an opening statement?

Dr Thom: No, I don't wish to make an opening statement.

Senator LUDLAM: Thanks. Sorry we have kept you back so late. Now time is very short; so expect a few questions on notice at the end of the night. Since you last appeared at an estimates committee there has been a lot in the press and a lot has gone on within your purview. I am presuming you have seen documents formerly in the possession of DSD splattered all over *The Guardian* and ABC's websites today.

Dr Thom: I have seen media reporting today.

Senator LUDLAM: That is a substantial security breach from an agency with extraordinarily tight requirements on its own internal document security and management. You have visibility not only of the now ASD but also ASIO and the entire intelligence network. What kind of document and network security does the IGIS employ?

Dr Thom: As you would expect from the nature of the documents that we hold, we have very good document and network security. We have a stand-alone network that is not connected to the internet in any way.

Senator LUDLAM: What degree of confidence do you have that—you must use software; you must be able to send emails to people?

Dr Thom: We do not send emails, except internally on the system on which we keep our very sensitive documents. It is a local area network within the office.

Senator LUDLAM: How do you transmit outside that network to your boss or to the agencies that you deal with?

Dr Thom: We deal mainly in paper.

Senator LUDLAM: Is that right?

Dr Thom: Yes.

Senator LUDLAM: You are not in a position to provide advice to other agencies as to their own security, presumably?

Dr Thom: No, that is the role of the Australian Signals Directorate; not my role.

Senator LUDLAM: They are the ones who have lost custody of the material that is now the most looked at story on *The Guardian* international's website—but I will let that pass. Your annual report indicates that human error is to blame for ASIO's inadvertent collection of third-party communications under a valid warrant. How many cases of inadvertent collection did you notice? And were the people directly concerned ever told?

Dr Thom: There were a small number. I do not have the exact numbers there. I will say at the moment: I think it is fewer than 10 but I will get that for you.

Senator LUDLAM: Thank you. Because I am going to throw to Senator Xenophon in a moment. So, if any of this is too complex, please feel free to take it on notice. You state that you were satisfied with the remedial action taken in each case. Did you make any recommendations for reform of practice within ASIO to prevent future inadvertent collections?

Dr Thom: In general when ASIO report these instances to me, or when I determine them, they initiate remedial actions, if any are required, themselves. In these instances, as far as I can recollect, it was not necessary for me to suggest remedial actions.

Senator LUDLAM: I spoke to ASIO's DG earlier about data collection and about the fact that, because they do not have reporting obligations under the TIA Act, we have no idea how much metadata material they are scooping up, which nearly all other agencies report in the TIA Act annual report. Do you have visibility of the volume of warrantless surveillance requests that ASIO make?

Dr Thom: I have visibility of all of the requests that ASIO make, including the numbers, if I wanted those numbers, yes.

Senator LUDLAM: Do they report to you on an annual or a quarterly basis, or is it up to you to go and find that information?

Dr Thom: I could find out the information. I think we do get an annual reporting on the numbers but I am not sure; I can get back to you on that.

Senator LUDLAM: I know you are not going to be able to tell me what the numbers are—

Dr Thom: I am not going to be able to tell you what the numbers are—

Senator LUDLAM: You are welcome to if you want to—

Dr Thom: but in terms of the reporting—

Senator LUDLAM: I wasn't expecting you to. It is up to you to seek that information out? I guess that is what I am after.

Dr Thom: I have full access to all of their systems. There is a classified annual report that they provide me with that has a lot of that information.

Senator LUDLAM: Does that require you to physically visit the premises?

Dr Thom: My staff are often physically at ASIO's premises and have full access to their systems; that is how we do our inspection work by and large.

Senator LUDLAM: Sorry, I meant you or your staff generally. In your annual report—and this is the last one from me—you also mention having removed the international travel budget, limited interstate travel, and reduced consultancy and legal costs, to amounts that seem quite negligible to me. What impact does that have on your work? And are you subject to any further efficiencies—I don't know what it is called under this government—but is your budget still being chopped up?

Dr Thom: We are subject to the same efficiency measures that other government agencies are subject to. I think the reduction in, for example, the overseas travel budget was sustainable for one year but will not be sustainable into the future.

Senator LUDLAM: I would have thought for a very small agency, it has proportionally a greater impact on your operations than something very large.

Dr Thom: The proportions are the same, but it certainly has an impact on operations, yes.

Senator LUDLAM: Any further cuts would—is that what you are telling us?

Dr Thom: Yes.

Senator LUDLAM: I would love to talk more but I will leave it there.

CHAIR: Senator Xenophon.

Senator Abetz: Keeping the best till last.

CHAIR: No, Senator Abetz; we will go to Senator Xenophon.

Senator Abetz: That was cruel.

Senator XENOPHON: Dr Thom, further to the line of questioning from Senator Ludwig, I take it that in terms of the interceptions carried out by ASIO, the number of interceptions are not published.

Dr Thom: That is correct.

Senator XENOPHON: That is something you cannot disclose.

Dr Thom: I cannot disclose that.

Senator XENOPHON: Can you disclose what percentage of those intercepts are reviewed by you in the sense that the AFP, the Ombudsman's office reviews about one in five according to their report of the intercepts carried out by the AFP—

Dr Thom: We review about one in three of ASIO's warrants.

Senator XENOPHON: Do you know the number of intercepts that DSD carries out?

Dr Thom: I will hand over to Mr Blight to explain a little bit about DSD's business, because it is really hard to explain in terms of number of intercepts.

Mr Blight: We focus, particularly, in DSD on the ministerial authorisation regime. That is the regime whereby, before DSD undertakes an activity to produce intelligence on an Australian, they must have the prior approval of their minister. We inspect 100 per cent of those authorisations.

Senator XENOPHON: In terms of the privacy rules with which the files must be in accordance, are those rules published?

Dr Thom: Yes.

Senator XENOPHON: In terms of the rules being complied with, what is the pass rate for those files—the one in three, for instance—with respect to ASIO?

Dr Thom: ASIO is not subject to the privacy rules; the privacy rules apply to the foreign intelligence agencies.

Senator XENOPHON: So in terms of any privacy rules—there are no privacy rules that apply to ASIO intercepts.

Dr Thom: No. It is not that there is no privacy regime, but the particular privacy rules do not apply to ASIO.

Senator XENOPHON: Do you regularly meet with ASIS, for instance, as part of your duties.

Dr Thom: Yes.

Senator XENOPHON: Do you keep minutes of those meetings.

Dr Thom: Yes.

Senator XENOPHON: In the United States, the NSA has judicial oversight by the Foreign Intelligence Surveillance Court—is there anything similar to that here?

Dr Thom: There isn't judicial review of the foreign intelligence agencies.

Senator XENOPHON: So there is no—

Dr Thom: Judicial oversight.

Senator XENOPHON: So if you feel that an agency has breached its powers in any way, what remedies are there?

Dr Thom: I report it to the relevant minister and to the Prime Minister, if I believe that correct action has not been taken. In my annual report, of course, I would note it.

Senator XENOPHON: So if there was a breach, it would be subject to noting in your annual report.

Dr Thom: Yes.

Senator XENOPHON: How many staff do you actually have?

Dr Thom: Thirteen and me.

Senator XENOPHON: And there would be a fair degree of technical expertise in relation to your staff.

Dr Thom: Yes.

Senator XENOPHON: I cannot take it any further.

CHAIR: Are there any other questions for the Inspector-General of Intelligence and Security?

Senator LUDLAM: One last one which tacks onto Senator Xenophon's: do you have a rough idea of the number of staff employed by the agencies that it is your job to oversee?

Dr Thom: No. I think you would have to speak to the individual agencies to see what numbers they would disclose.

Senator LUDLAM: Two or three of them do not even report to this parliament, so I cannot do that.

Dr Thom: I cannot disclose some of the numbers of the agencies and, to be honest, I cannot recall which ones I can disclose and which ones I cannot at this stage.

Senator LUDLAM: You can't tell us what you can't tell us.

CHAIR: Thank you, Senator Ludam , and I thank the officers for their attendance this evening. I am sorry it was so brief—mercifully brief, you may say—but thank you for waiting so late. Thank you, Senators. Thank you Hansard and thank you, secretariat. The committee will stand adjourned and recommence at 9 am tomorrow morning.

Committee adjourned at 22:59