

Analysis of ASIO annual report 2005-6

By Dr Kris Klugman, President, Civil Liberties Australia

The annual report of ASIO for 2005-6 appears to exhibit similar casual thinking to that which permitted the aircraft attacks on New York's Twin Towers five years ago.

The ASIO report also nominates, in a headline, one branch of the Islamic faith in Australia as extremists.

The publication is a poor report on ASIO activities, containing what are clearly literal and numerical errors, as well as selective use of words to give 'wrong' impressions.

The ASIO's report does not indicate it has learned a lesson from the American spy agencies' failure to prevent the aircraft attacks on New York's Twin Towers in September 2001. The ASIO report says:

"ASIO processed all priority material quickly but the backlog of routine information continued to grow." (p72)

It may be prudent to remind Mr Paul O'Sullivan, the Director-General of Security (that is, head of ASIO), that it was unprocessed routine information about Arabs taking flying lessons that failed America five years ago.

CLA believes it is clearly ASIO's core business imperative – given a near-doubling of staff and a trebling of funding – to find a way to cope with all appropriate information. Either ASIO is gathering too much information, or it is not processing the information it gathers quickly enough.

A growing backlog of unprocessed information would, at face value, be a crystal-clear sign of an intelligence agency out of control. Information processing is a fundamental problem of security services which ASIO must quickly resolve, or it may at some future date be giving Australians similar excuses to those given to America by the CIA/FBI axis on 12 September 2001.

The ASIO report also singles out the Sunni branch of Islam as extremist, in a tabloid newspaper-style headline: 'SUNNI EXTREMISM IN AUSTRALIA' (p23). In the text which follows, there is no support for this headline.

The only possible reference, under a subsequent heading of 'OTHER INVESTIGATIONS, Iraq', is a reference to "tensions increased between members of the Sunni and Shia communities in Sydney". The first headline seems to indicate that ASIO has taken sides with the Shia, and nominated the Sunni – only – in Australia as extremists.

This may be an error of not removing a perjorative headline when the text was amended at editing stage. Nevertheless, at the very least, it does not demonstrate that ASIO pays great attention to detail.

The ASIO annual report does not materialise out of the ether: the government has introduced what CLA believes to be draconian laws: federally, 37 dealing with terrorism passed since 11 September 2001, and another five Bills in process.

At least two major 'ASIO' Acts passed in the annual report period – Anti-Terrorism (No 2) 2005 and the ASIO Legislation Amendment Act 2006. They give ASIO enormously increased powers, yet they do not even rate a mention in the overview 'YEAR IN REVIEW' of ASIO's annual report. What does get prominent mention, repeatedly, are selective words and phrases – some might call them weasel words – that combine in the overview to increase the fear factor in Australian society.

Legal academics Andrew Lynch and George Williams, in their new book, *What Price Security*, argue that ASIO's powers to detain people are much more extensive than in Canada, the USA or Britain. "Only in Australia can non-suspects be held in secret by an intelligence agency. Organisations can be banned for not only planning a terrorist attack but for advocating one and people can be jailed for associating with such a body, even though they may disagree with what it says," according to a review of the book by Mike Steketee in the *Sydney Morning Herald*.

"The authors point out that control orders and preventive detention are a significant departure from accepted legal principles, such as not detaining people without trial or restricting their liberty without criminal conviction." There is scant mention of these extraordinary new powers in the ASIO annual report, which overall gives an extremely bare and seemingly unbalanced coverage of what ASIO may, or may not, have done in 2005-6.

However, it would not be possible for ASIO to argue lack of staff or funds for the poor quality of its annual report: staffing is up 80% in four years, from 618 to 1,110 at 30 June (and will reach 1,860 by 2010-11). Funding has risen, from \$75 million to \$233 million over four years.

ASIO conducted 53,147 visa security assessments in 2005-06 but denied entry to only 12 people. Nearly 18,000 assessments for access to national security information resulted in no denied or qualified assessments. Eight Australian passports were denied or cancelled during the year, the annual report says. This statistical reporting gives no information of trends, lessons learned or any other information which CLA would hope was gleaned from these 71,000 interactions with people.

In the absence of ASIO telling us what it has learned from these interactions, is it reasonable to assume it has not learned anything?

Putting the threat of terrorist attacks in perspective – which the ASIO report does not do – car accidents claim overwhelmingly more lives in Australia each year than terrorism ever has. Yet the Australian Government is not trebling the staff and resources allocated to road safety and accident prevention.

The lack of balance and the excessive laws have a significant downside: increasing alienation amongst Muslims and increasing distrust of the government. Ostracising moderate Muslims will have the result of cutting off sources of information on extremists, making us more vulnerable to attack, particularly home-grown attack.

Singling out one section of the Muslim community, the Sunnis, for blame is a significant error on ASIO's part. In a previous era, when chief executives took responsibility for mistakes, Mr O'Sullivan might have questioned as to his future over this critical mistake. It would seem appropriate for him to at least apologise publicly to all Sunni Muslims in Australia.

Other issues of note:

The ASIO annual report states "ASIO does not investigate lawful protest activity." (page vii). CLA finds it difficult to believe this statement is accurate. Compare it to this statement, in the same ASIO annual report:

"The security of major events, including the 2006 Melbourne Commonwealth Games, the Forbes CEO Conference in Sydney and other events attracting the convergence of issue motivated groups was a focus for ASIO in 2005-2006." (p49)

If ASIO is focusing on 'issue motivated groups', it is undoubtedly investigating the 'lawful protest activity' which are the essential core of such groups. The Australian people deserve better than what appears to be a statement in error, particularly when the same annual report illustrates fewer than 50 pages later that ASIO does the opposite of what it says.

The report infers (p19) that Australians have been targeted by bombers because we are identified as part of the West, and plays down the connection with the US invasions (supported by Australia) of Afghanistan and Iraq. This former Australian government contention is now discredited – and disowned even by the government – since the 30 June 2006 end date of the ASIO report.

CLA believes that tailoring intelligence reporting, as seems to have happened here, to what the government wants is always problematic: the government might change its direction before the annual report can be printed and tabled in Parliament, as seems to have happened here.

Under Civil Proceedings, reference is made to "Federal Court applications on behalf of Scott Parkin (removed from Australia **at his request**..." p31, emphasis added). In fact Parkin was deported with no explanation given by ASIO to the people of Australia. Subsequently, the Federal Court has ruled (3 November 2006) that ASIO must reveal why it considered Parkin a risk.

The revelation is eagerly awaited by people who consider Parkin may have departed Australia because he was critical of the American invasion of Iraq and the fact of US

companies benefiting financially from the invasion, and that this criticism embarrassed the Australian government in front of its American political friends, who had ties to the companies.

There appears to be a new language – spyspeak – developing among the US Administration and the world’s security agencies: words mean what they want them to mean. Torture is aggressive interrogation...or isn’t, as the case may be; deportation is leaving a country at your own request; ‘rendition’ is a new word for being kidnapped and flown to a torturing country shackled and in a hood; ‘we don’t investigate lawful protest activity (on page vii)’ means “we do (on p49), but we’re not telling the Australian people”.

In the ASIO annual report, ‘Developing our engagement with the Australian community’ (p44) evidently involved ‘enhanced dialogue’ but the only examples given are speaking to the Islamic and Jewish communities, which represent a very small section of the Australian community.

‘Release of ASIO’s records’ states (p33) ‘Part of this performance report has been excluded from the unclassified *Report to Parliament* for reasons of national security’. In other words, the section of the report all about ‘public release’ cannot be publicly released.

Telecommunications Intercepts (p46) notes the requirement that all carriers and carriage service providers give “such help as is reasonably necessary to...safeguard national security”. In simple terms, this means that every phone call, email and fax that Australians make or send is stored and/or monitored for and/or by ASIO...and the private sector companies involved pay the cost of storage

So, if an Australian has a phone or an email account, he or she is personally paying the cost of spying on him/herself. This would seem to provide an apt simile for how twisted the excessive, repressive security regime has become in Australia.

The ASIO annual report says the National Security Hotline referred 42,000 calls since its inception in 2002 (p48). About a quarter, 11,500, were assessed as requiring further investigation. It is not reported how many were of any practical use – ASIO admits that “...not all National Security Hotline calls provided useful intelligence”.

Of the 42,000 calls, a considerable number must have been of the “spying on the neighbour” or the “vindictive/vengeance” variety...but there is no mention of how many of these were among the 42,000. The extent to which the concentration on security, by the government and therefore ASIO, is changing the natures and values of Australians should not be underestimated.

In a statement by Mr O’Sullivan (on 2 November 2006), the Director-General of Security expressed surprise at the number of home-grown terrorists – yet no mention of a “surprising” number of home-grown terrorists is made anywhere in the annual report. Surely if there are many home-grown terrorists, we are entitled to be told something by ASIO in its annual report. As we haven’t been told in the report, it would seem to indicate that Mr O’Sullivan only found out about the surprising number of home-grown terrorists in the five months since 30 June.

Media Policy: 'Consistent with long-standing practice ASIO does not comment on operational matters' (p63). Yet ASIO expects public and media cooperation.

It is always a mystery to CLA how the media becomes aware in advance that an ultra-secret, non-commenting ASIO is about to be involved in a particularly photogenic, video-friendly and news-worthy raid. As the next election comes closer during 2007, CLA expects more photogenic ASIO/AFP raids to occur in front of many more media who assemble mysteriously, without being pre-warned, at the right place and at the right time.

The ongoing public statements of the Director-General to business forums, conferences and institutions stress continuing threats from terrorism – without annual report evidence to the contrary. The assumption might be made that this constant ramping up of the fear factor in Australian society is necessary for him to justify the enormous increase in funding for ASIO from the government.

ASIO's Achilles heel for more than half a century has been reporting accuracy.

The spy agency won't have done itself any favours in parliamentary ranks by spelling incorrectly (p115) the surname of rising former National, now Liberal, Senator Julian McGauran, who was a member of the Parliamentary Joint Committee on Intelligence and Security.

It is extremely worrying that ASIO's standards of accuracy are so poor that the agency does not know exactly how many people work for it.

On p5 of the annual report, it says: 'As at 30 June 2006 ASIO had 1110 staff'. On p108, in the financial statements, it says: 'Total Full Time Equivalent staffing levels for ASIO at the end of the year were: 1062.

If anyone finds one or all of the 48 missing ASIO employees, please let Paul O'Sullivan know where they are. He's sure to be very interested, as he's in the business of people security and accurate intelligence.

ENDS

Analysis of ASIO annual report 2005-6

By Dr Kris Klugman, President, Civil Liberties Australia

The annual report of ASIO for 2005-6 appears to exhibit similar casual thinking to that which permitted the aircraft attacks on New York's Twin Towers five years ago.

The ASIO report also nominates, in a headline, one branch of the Islamic faith in Australia as extremists.

The publication is a poor report on ASIO activities, containing what are clearly literal and numerical errors, as well as selective use of words to give 'wrong' impressions.

The ASIO's report does not indicate it has learned a lesson from the American spy agencies' failure to prevent the aircraft attacks on New York's Twin Towers in September 2001. The ASIO report says:

"ASIO processed all priority material quickly but the backlog of routine information continued to grow." (p72)

It may be prudent to remind Mr Paul O'Sullivan, the Director-General of Security (that is, head of ASIO), that it was unprocessed routine information about Arabs taking flying lessons that failed America five years ago.

CLA believes it is clearly ASIO's core business imperative – given a near-doubling of staff and a trebling of funding – to find a way to cope with all appropriate information. Either ASIO is gathering too much information, or it is not processing the information it gathers quickly enough.

A growing backlog of unprocessed information would, at face value, be a crystal-clear sign of an intelligence agency out of control. Information processing is a fundamental problem of security services which ASIO must quickly resolve, or it may at some future date be giving Australians similar excuses to those given to America by the CIA/FBI axis on 12 September 2001.

The ASIO report also singles out the Sunni branch of Islam as extremist, in a tabloid newspaper-style headline: 'SUNNI EXTREMISM IN AUSTRALIA' (p23). In the text which follows, there is no support for this headline.

The only possible reference, under a subsequent heading of 'OTHER INVESTIGATIONS, Iraq', is a reference to "tensions increased between members of the Sunni and Shia communities in Sydney". The first headline seems to indicate that ASIO has taken sides with the Shia, and nominated the Sunni – only – in Australia as extremists.

This may be an error of not removing a perjorative headline when the text was amended at editing stage. Nevertheless, at the very least, it does not demonstrate that ASIO pays great attention to detail.

The ASIO annual report does not materialise out of the ether: the government has introduced what CLA believes to be draconian laws: federally, 37 dealing with terrorism passed since 11 September 2001, and another five Bills in process.

At least two major 'ASIO' Acts passed in the annual report period – Anti-Terrorism (No 2) 2005 and the ASIO Legislation Amendment Act 2006. They give ASIO enormously increased powers, yet they do not even rate a mention in the overview 'YEAR IN REVIEW' of ASIO's annual report. What does get prominent mention, repeatedly, are selective words and phrases – some might call them weasel words – that combine in the overview to increase the fear factor in Australian society.

Legal academics Andrew Lynch and George Williams, in their new book, *What Price Security*, argue that ASIO's powers to detain people are much more extensive than in Canada, the USA or Britain. "Only in Australia can non-suspects be held in secret by an intelligence agency. Organisations can be banned for not only planning a terrorist attack but for advocating one and people can be jailed for associating with such a body, even though they may disagree with what it says," according to a review of the book by Mike Steketee in the *Sydney Morning Herald*.

"The authors point out that control orders and preventive detention are a significant departure from accepted legal principles, such as not detaining people without trial or restricting their liberty without criminal conviction." There is scant mention of these extraordinary new powers in the ASIO annual report, which overall gives an extremely bare and seemingly unbalanced coverage of what ASIO may, or may not, have done in 2005-6.

However, it would not be possible for ASIO to argue lack of staff or funds for the poor quality of its annual report: staffing is up 80% in four years, from 618 to 1,110 at 30 June (and will reach 1,860 by 2010-11). Funding has risen, from \$75 million to \$233 million over four years.

ASIO conducted 53,147 visa security assessments in 2005-06 but denied entry to only 12 people. Nearly 18,000 assessments for access to national security information resulted in no denied or qualified assessments. Eight Australian passports were denied or cancelled during the year, the annual report says. This statistical reporting gives no information of trends, lessons learned or any other information which CLA would hope was gleaned from these 71,000 interactions with people.

In the absence of ASIO telling us what it has learned from these interactions, is it reasonable to assume it has not learned anything?

Putting the threat of terrorist attacks in perspective – which the ASIO report does not do – car accidents claim overwhelmingly more lives in Australia each year than terrorism ever has. Yet the Australian Government is not trebling the staff and resources allocated to road safety and accident prevention.

The lack of balance and the excessive laws have a significant downside: increasing alienation amongst Muslims and increasing distrust of the government. Ostracising moderate Muslims will have the result of cutting off sources of information on extremists, making us more vulnerable to attack, particularly home-grown attack.

Singling out one section of the Muslim community, the Sunnis, for blame is a significant error on ASIO's part. In a previous era, when chief executives took responsibility for mistakes, Mr O'Sullivan might have questioned as to his future over this critical mistake. It would seem appropriate for him to at least apologise publicly to all Sunni Muslims in Australia.

Other issues of note:

The ASIO annual report states "ASIO does not investigate lawful protest activity." (page vii). CLA finds it difficult to believe this statement is accurate. Compare it to this statement, in the same ASIO annual report:

"The security of major events, including the 2006 Melbourne Commonwealth Games, the Forbes CEO Conference in Sydney and other events attracting the convergence of issue motivated groups was a focus for ASIO in 2005-2006." (p49)

If ASIO is focusing on 'issue motivated groups', it is undoubtedly investigating the 'lawful protest activity' which are the essential core of such groups. The Australian people deserve better than what appears to be a statement in error, particularly when the same annual report illustrates fewer than 50 pages later that ASIO does the opposite of what it says.

The report infers (p19) that Australians have been targeted by bombers because we are identified as part of the West, and plays down the connection with the US invasions (supported by Australia) of Afghanistan and Iraq. This former Australian government contention is now discredited – and disowned even by the government – since the 30 June 2006 end date of the ASIO report.

CLA believes that tailoring intelligence reporting, as seems to have happened here, to what the government wants is always problematic: the government might change its direction before the annual report can be printed and tabled in Parliament, as seems to have happened here.

Under Civil Proceedings, reference is made to "Federal Court applications on behalf of Scott Parkin (removed from Australia **at his request**..." p31, emphasis added). In fact Parkin was deported with no explanation given by ASIO to the people of Australia. Subsequently, the Federal Court has ruled (3 November 2006) that ASIO must reveal why it considered Parkin a risk.

The revelation is eagerly awaited by people who consider Parkin may have departed Australia because he was critical of the American invasion of Iraq and the fact of US

companies benefiting financially from the invasion, and that this criticism embarrassed the Australian government in front of its American political friends, who had ties to the companies.

There appears to be a new language – spyspeak – developing among the US Administration and the world’s security agencies: words mean what they want them to mean. Torture is aggressive interrogation...or isn’t, as the case may be; deportation is leaving a country at your own request; ‘rendition’ is a new word for being kidnapped and flown to a torturing country shackled and in a hood; ‘we don’t investigate lawful protest activity (on page vii)’ means “we do (on p49), but we’re not telling the Australian people”.

In the ASIO annual report, ‘Developing our engagement with the Australian community’ (p44) evidently involved ‘enhanced dialogue’ but the only examples given are speaking to the Islamic and Jewish communities, which represent a very small section of the Australian community.

‘Release of ASIO’s records’ states (p33) ‘Part of this performance report has been excluded from the unclassified *Report to Parliament* for reasons of national security’. In other words, the section of the report all about ‘public release’ cannot be publicly released.

Telecommunications Intercepts (p46) notes the requirement that all carriers and carriage service providers give “such help as is reasonably necessary to...safeguard national security”. In simple terms, this means that every phone call, email and fax that Australians make or send is stored and/or monitored for and/or by ASIO...and the private sector companies involved pay the cost of storage

So, if an Australian has a phone or an email account, he or she is personally paying the cost of spying on him/herself. This would seem to provide an apt simile for how twisted the excessive, repressive security regime has become in Australia.

The ASIO annual report says the National Security Hotline referred 42,000 calls since its inception in 2002 (p48). About a quarter, 11,500, were assessed as requiring further investigation. It is not reported how many were of any practical use – ASIO admits that “...not all National Security Hotline calls provided useful intelligence”.

Of the 42,000 calls, a considerable number must have been of the “spying on the neighbour” or the “vindictive/vengeance” variety...but there is no mention of how many of these were among the 42,000. The extent to which the concentration on security, by the government and therefore ASIO, is changing the natures and values of Australians should not be underestimated.

In a statement by Mr O’Sullivan (on 2 November 2006), the Director-General of Security expressed surprise at the number of home-grown terrorists – yet no mention of a “surprising” number of home-grown terrorists is made anywhere in the annual report. Surely if there are many home-grown terrorists, we are entitled to be told something by ASIO in its annual report. As we haven’t been told in the report, it would seem to indicate that Mr O’Sullivan only found out about the surprising number of home-grown terrorists in the five months since 30 June.

Media Policy: 'Consistent with long-standing practice ASIO does not comment on operational matters' (p63). Yet ASIO expects public and media cooperation.

It is always a mystery to CLA how the media becomes aware in advance that an ultra-secret, non-commenting ASIO is about to be involved in a particularly photogenic, video-friendly and news-worthy raid. As the next election comes closer during 2007, CLA expects more photogenic ASIO/AFP raids to occur in front of many more media who assemble mysteriously, without being pre-warned, at the right place and at the right time.

The ongoing public statements of the Director-General to business forums, conferences and institutions stress continuing threats from terrorism – without annual report evidence to the contrary. The assumption might be made that this constant ramping up of the fear factor in Australian society is necessary for him to justify the enormous increase in funding for ASIO from the government.

ASIO's Achilles heel for more than half a century has been reporting accuracy.

The spy agency won't have done itself any favours in parliamentary ranks by spelling incorrectly (p115) the surname of rising former National, now Liberal, Senator Julian McGauran, who was a member of the Parliamentary Joint Committee on Intelligence and Security.

It is extremely worrying that ASIO's standards of accuracy are so poor that the agency does not know exactly how many people work for it.

On p5 of the annual report, it says: 'As at 30 June 2006 ASIO had 1110 staff'. On p108, in the financial statements, it says: 'Total Full Time Equivalent staffing levels for ASIO at the end of the year were: 1062.

If anyone finds one or all of the 48 missing ASIO employees, please let Paul O'Sullivan know where they are. He's sure to be very interested, as he's in the business of people security and accurate intelligence.

ENDS