



Australian Federal Police Association

Submission to the Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the *National Security Legislation Amendment Bill 2010 and the Parliamentary Joint Committee on Law Enforcement Bill 2010*

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Senator Trish Crossin
Chair, Senate Legal and Constitutional Affairs Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

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Dear Madam Chair,

RE: Submission to the Senate Legal and Constitutional Affairs Legislation Committee Inquiry into the *Parliamentary Joint Committee on Law Enforcement Bill 2010*.

It is with pleasure that we present this submission to this Committee's Inquiry into the *Parliamentary Joint Committee on Law Enforcement Bill 2010* on behalf of the members of the Australian Federal Police Association.

The Australian Federal Police Association Branch (AFPA) of the Police Federation of Australia (PFA) strives to enhance the operational capability of the Australian Federal Police (AFP) through representing its people, the law enforcement professionals themselves. The AFPA has industrial coverage of all AFP employees however our role is greater than mere industrial representation. The AFPA has an obligation to ensure that the AFP operates to the best of its capabilities and that our members, as law enforcement and national security professionals, are provided with the tools and protections to perform their duty of protecting Australia and Australians from criminal attack.

The AFPA strongly supports the proposed provisions in this important bill. We are pleased that the Federal Government has decided to establish a Parliamentary Joint Committee on Law Enforcement with combined oversight of the AFP and the Australian Crime Commission (ACC.)

The AFPA first advocated joint parliamentary oversight of the AFP in 2001 via a submission to the Senate Legal and Constitutional Affairs Committee *Inquiry into the Management Arrangements and Adequacy of Funding of the Australian Federal Police and National Crime Authority*. In our submission the AFPA stated:

The Association supports the creation of a permanent Parliamentary Joint Committee (PJC) to monitor and review the performance of the AFP...The PJC would be able to report to both Houses of Parliament on any matter relevant to the AFP or the performance of its functions to ensure that the Commonwealth is adequately addressing crime.

Since then the Association has reiterated the importance of joint parliamentary oversight on numerous occasions including submissions to the *Clarke Inquiry into the case of Dr Mohamed Haneef* and the Attorney-General Department's *Security Legislation Review Committee 2006* as well as various other inquiries. In addition, the AFPA National Council called for the establishment of a Joint Parliamentary Committee on Law Enforcement in a resolution passed at its 2008 meeting.

Unfortunately, our support for the Joint Parliamentary Committee has been the subject of criticism from the AFP over a number of years. Indeed, former Commissioner Keelty was referring to proposed joint parliamentary oversight when he called upon AFPA members "*who care about our organisation to influence your executive to act in the interests of the AFP and not some political agenda that might be expedient but is not productive.*" The AFPA has always taken a bi-partisan approach in its dealings with Federal Parliament and remains confident that the new committee will prove both relevant and

productive in its oversight of the AFP and the Australian Crime Commission and will further entrench principles of public accountability that are vital in any law enforcement context.

We are confident that the Committee will not only provide additional accountability measures to satisfy the Australian Government and Opposition, but will also provide protections to AFP employees from unfair criticism by the media and the public. We look forward to working constructively with the AFP and indeed all stakeholders via this new forum to ensure that the interests of both AFP employees and the public interest are held paramount.

The AFPA is additionally pleased with majority of the substantive provisions contained in the *Parliamentary Joint Committee on Law Enforcement Bill 2010*. The proposed legislation builds upon the former provisions located at Part III of the *Australian Crime Commission Act 2002* but also introduces important new changes that will assist the Committee in fulfilling its listed functions. In particular, the Association supports the inclusion of a detailed definition of the term *sensitive information* based on a similar definition in the *Law Enforcement Integrity Commissioner Act 2006*. This definition provides an important clarification for both the Committee and the AFP Commissioner regarding the exact parameters of the information that can be divulged by the AFP Commissioner.

Inadequacy of the Bill in relation to financial oversight of the AFP and ACC

The AFPA would like to bring to the attention of the Inquiry the fact that the proposed Bill states at section 7 subsection 1(a) and (e) that a key function of the committee is to monitor and to review the performance of the ACC and the AFP with regard to their respective functions. This can be contrasted with the Joint Parliamentary Committee on Intelligence and Security. A primary function of this body is to review the administration and expenditure of ASIO, ASIS, DIGO, DIO, DSD and ONA as described at section 29 subsection 1(a) of the *Intelligence Services Act 2001*.

While there is no doubt that the AFP operates according to different structures and guidelines compared to the largely covert organisations listed above, it is the Association's view that the proposed legislation would benefit from similar coverage to that which is applied to the Commonwealth's intelligence agencies. The proposed legislation would be strengthened by the inclusion of a provision that specifically allows the review of administration and expenditure.

Recommendation

The *Parliamentary Joint Committee on Law Enforcement Bill 2010* should be amended to include provisions for reviewing the annual expenditure of the AFP and the ACC similar to Part 4 s 29 subsection 1(a) of the *Intelligence Services Act 2001* which states:

(1) The functions of the Committee are:

- (a) To review the administration and expenditure of ASIO, ASIS, DIGO, DIO, DSD and ONA, including the financial statements of ASIO, ASIS, DIGO, DIO, DSD and ONA;**

I thank the committee for inviting the AFPA to make a submission on this important bill and for your consideration of the issue that we have raised regarding oversight of AFP and ACC administration and expenditure. The Association whole heartedly supports this vital bill and looks forward to appearing before the newly formed committee in the future.

Yours faithfully,

Jon Hunt-Sharman
National President
Australian Federal Police Association