



22 June 2021

Senator James Paterson
Chair
Parliamentary Joint Committee on Intelligence and Security
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Chair,

AFP information to assist Committee's inquiry into the *Migration and Citizenship Legislation Amendment (Strengthening Information Provisions) Bill 2020*

Thank you for the invitation to make a submission to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) inquiry into the Migration and Citizenship Legislation Amendment (Strengthening Information Provisions) Bill 2020 (the Bill), following its introduction in 10 December 2020.

The AFP supports the reforms proposed in the Bill, and I hope the information below assists.

Safeguarding protected information provided by law enforcement is essential to combatting crime and ensuring the safety of the community. It is also fundamental to maintaining the AFP's operational effectiveness through partnerships with our key foreign counterparts.

Protected Information

The AFP provides protected information to the Department of Home Affairs which could be used by the Minister for Home Affairs (the Minister) in making character related visa and citizenship assessments. Protected information is highly sensitive in nature, and potentially relates to the existence of ongoing criminal investigations, AFP methodology and capabilities, and even the identity of human sources.

It is in the public interest that sensitive sources, as well as investigation and intelligence gathering methods are not publicly disclosed. Disclosure would harm the safety of the community by jeopardising future investigations and intelligence gathering activities to combat terrorism and serious and organised crime. Disclosure may also put the life and safety of individuals at risk if information is traced back to the source.

The AFP sources information from State and Territory partners as well as foreign law enforcement and intelligence agencies. Disclosure of information in court proceedings that was provided to the AFP in confidence by these agencies, would put at risk AFP's domestic and international partnerships.

Without appropriate legislative safeguards to protect information from being disclosed, the AFP may be unable to provide information to the Minister to make character related visa and citizenship assessments.

Proposed Reforms

The Bill proposes a number of reforms that would be beneficial to the AFP in protecting the information that it provides to the Minister to assist in making character related visa and citizenship assessments.

The mechanisms in the Bill allowing for disclosure after consultation will ensure that agency information is not disclosed contrary to the interests of the relevant agency or the Australian Government more broadly.

In deciding whether to allow the disclosure of protected information, the court must consider whether the disclosure would create a real risk of damage to the public interest. The relevant factors that the court may consider in making this decision are defined in an exhaustive list. For the AFP's purposes, the inclusion of 'the need to avoid disruption to national and international efforts relating to law enforcement, criminal intelligence, criminal investigation and security intelligence' is a positive step towards preserving AFP's law enforcement interests and partnerships with other agencies.

The AFP considers that non disclosure serves the important purpose of preventing criminal intelligence information from reaching organised crime groups and/or entities of counter terrorism interest.

The AFP appreciates the opportunity to write to the Committee in relation to this Bill. Progression of this Bill will safeguard protected information and ensure the ongoing protection of law enforcement capabilities and intelligence information.

Yours sincerely



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Deputy Commissioner Investigations