



**Hon Cameron Dick MP**  
Member for Greenslopes

Our reference: 533888/1, 1469797



**Queensland  
Government**

**Attorney-General  
and Minister for Industrial Relations**

Mr Hamish Hansford  
Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr ~~Hansford~~ *Hamish*,

Thank you for your email dated 6 October 2010 advising that the Senate has once again referred the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 (the Bill) to the Committee for inquiry and is inviting written submissions. I apologise for the delay in responding.

The Bill seeks to enable the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, the Defence Signals Directorate and the Defence Imagery and Geospatial Organisation to work cooperatively, provide assistance and share information within Australia's law enforcement and national security communities.

The Department of Justice and Attorney-General (DJAG) has consulted with the Department of Premier and Cabinet and the Queensland Police Service (QPS) in preparing this response.

I note that the organisational and operational benefits the Bill provides to law enforcement agencies are particularly welcomed by the QPS.

The following drafting issue has been identified by (DJAG) for the Committee's consideration.

Section 178A(3) will allow police to access information or documents regarding a person, without their consent, if they are satisfied that the disclosure is reasonably necessary for the purposes of finding a person who is reported as missing.

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In recognition of the particular privacy concerns attached to accessing the telecommunications data of a person who may or may not wish to be found, and in acknowledgement of the fact that the data is sought by police in discharge of their public safety function rather than their capacity to conduct criminal investigations, the explanatory notes advise that stringent limitation on the disclosure and use of any information obtained is vital. Consequently, clauses 5 and 7 of the Bill restrict police disclosure and use of missing person information to instances where it is reasonably necessary for the purposes of finding the missing person.

However, it would appear that the strict disclosure and use exemptions have the potential to be circumvented in situations where information obtained under a section 178A warrant provides evidence of a criminal offence committed by the missing person.

In such circumstances, there is nothing in the Bill to prohibit police from subsequently using the information obtained under the section 178A warrant as an impetus to seek authorisation, pursuant to section 178 (disclosures necessary to enforce the criminal law) or section 180 (disclosures necessary to investigate an offence punishable by at least three years imprisonment), to access the same information for the purpose of investigating an offence committed by the missing person.

It is noted that section 180 includes a requirement for an authorised officer to have regard to how much the privacy of the missing person is likely to be interfered with by a disclosure, prior to providing authorisation. No such requirement is included in section 178.

Access to information pursuant to sections 178, 179 and 180 is justified on the basis that it is necessary to assist police in investigating a criminal offence. On the other hand, access to missing person information is permitted in the interest of maintaining public safety. If intended that the use and disclosure of missing person information be solely restricted to instances where it is necessary to locate a missing person, consideration should be given as to whether it is appropriate that the information be used as an impetus to obtain authorisation under sections 178, 179 or 180.

I trust these comments are of assistance to the Committee. I look forward to the Committee's report on the Bill later this year.

Yours sincerely

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