

Submission to the Inquiry into the Telecommunications Legislation Amendment (Information Disclosure, National Interest and Other Measures) Bill 2022

Environment and Communications Legislation Committee.

SAPOL supports the *Telecommunications Legislation Amendment (Information Disclosure, National Interest and Other Measures) Bill 2022* ('the Bill') as the key components are likely to enhance the timeliness and effectiveness of assistance provided by the telecommunications industry to law enforcement and emergency service agencies.

Section 5 of the *Police Act (Sth Aust) 1998* sets out the purpose of the South Australia Police (SAPOL). SAPOL are mandated to provide services to the community which include reassuring and protecting the community in relation to crime and disorder and assisting the public in emergency situations. Co-ordinating and managing responses to emergencies includes taking all necessary steps to keep people safe. Locating intentional and unintentional 'at risk' missing persons is a critical and priority policing role.

SAPOL supports the proposed amendment in the Bill as they relate to S285 relating to a person's unlisted landline or mobile number and associated addresses contained in an IPND. The disclosure will apply to emergency call persons and now include unlisted mobile phone numbers and associated addresses which will be a critical enabler for emergency services.

In relation to Section 287, SAPOL, as do other Australian law enforcement agencies, regularly relies on provisions contained within S 287 of the *Telecommunications Act 1997* (the Act) to obtain 'live' telecommunications data from domestic telecommunications providers - in particular the geo location of mobile handsets. SAPOL acknowledges the location of a mobile handset is considered as personal information about an individual. SAPOL therefore also acknowledges the protection of confidentiality of carrier service users as an essential feature of the Bill.

In recognising and preserving these privacy aspects SAPOL only utilises S287 to assist in locating 'at risk' missing persons who are not the subject of criminal investigations. The use of Section 287 for those considered 'at risk' persons has and does assist law enforcement agencies in preventing the loss of life and prevention of serious threats to a person(s) life or health.

In particular, SAPOL anticipates that the removal of the 'imminent' threat criteria contained within S 287 of the Act will undoubtedly increase the ability to efficiently and effectively locate 'at risk' persons and therefore significantly enhance the ability to save lives or prevent threats to a person's life or health. SAPOL acknowledges concerns about potential misuse of location data due to the amendment but is confident that its internal practices and policies including oversight by senior police officers are robust enough to sufficiently alleviate any concern whatsoever.

Whilst SAPOL supports the Bill in general, SAPOL prefers that the requisite legal burden under Section 287 is also changed in line with NSW coronial recommendations. The NSW Coroner has heard evidence in two missing person's inquests which has led him/her to recommend *inter alia* amending the requisite burden in S 287 from 'belief' to 'suspicion'. This Bill expressly omits the recommended amendment. SAPOL considers this omission to be a missed opportunity to remove a likely future impediment that could ultimately prevent or lessen a serious threat to the life or health of a 'at risk' missing person.

SAPOL appreciates the need to protect the privacy of individuals, however there is strong community expectation that law enforcement will act promptly and will use all available resources to save lives. In 'at risk' missing person cases the window for intervention is often small. The police and emergency services response is reliant on the battery life of a telecommunications device. In practical terms the time taken to elevate a 'reasonable suspicion' to a 'reasonable belief' will likely mean the expenditure of further time and resources and the passing of critical time and irretrievable opportunities.

The rationale for not incorporating the amendment is dated in terms of what the public are prepared and not prepared to offer third parties in terms of their geo location data. The concept of privacy in terms of geo location data has shifted if not evaporated. Many people openly and unhesitantly install apps, join establishments and conduct confidential business on their mobile devices where volunteering their geo location is essential. A future 'at risk' missing person may lose their life because law enforcement had a 'suspicion' but not a 'belief' and therefore could not access their geo location. The irony may well be played out in a future coronial inquest where the deceased had openly allowed third party apps to access his/her geo location but not law enforcement. SAPOL holds a valid fear, based on experience, that the time taken to elevate 'suspicion' to 'belief' will almost certainly cost lives.

SAPOL considers that sufficient safeguards are in place to preserve privacy principles and prevent misuse of information disclosed pursuant to the provisions of S 287. These include internal practices, policies, training and senior officer governance.