



VICTORIA POLICE

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Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary

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

Thank you the opportunity to make a submission to the Legal and Constitutional Affairs Legislation Committee ("the **Committee**") regarding the National Security Legislation Amendment Bill 2010 ("the **National Security Bill**") and the Parliamentary Joint Committee on Law Enforcement Bill 2010 ("the **Law Enforcement Bill**").

I attach for your consideration a document outlining the suggested Victoria Police amendments in relation to the National Security Bill. These include:

- clarification of the application of subsection 3UEA1(b);
- consideration of police powers in relation to "person initiated explosive devices";
- an additional power in subsection 3UEA(5) to direct members of the public to leave a premises and remain in an area for the period it takes to make safe the premises; and
- powers regarding seizure of the use of devices to initiate an explosive device.

We look forward to seeing the outcomes of the Committee's inquiry and if you have any queries in relation to our suggestions, please contact my Executive Advisor, Ms

_____ on _____ or _____

Yours sincerely

Simon Overland APM
Chief Commissioner

30 / 04 / 2010

National Security Legislation Amendment Bill 2010 and Parliamentary Joint Committee on Law Enforcement Bill 2010

Generally, Victoria Police supports the abovementioned Bills but makes the following suggestions.

**National Security Legislation Amendment Bill 2010 – Schedule 4
(Section 3UEA of the Crimes Act 1914)**

Subsection 3UEA(1)(b) – Threat to a person's life, health or safety

Subsection 3UEA(1)(b) permits entry by a member of police, "... because there is a serious and imminent threat to a person's life, health or safety."

Victoria Police notes that in an emergency a police member may be unable to identify a particular person but has a reasonable suspicion of a threat to people or a person on the premises.

Subsection 3UEA(1)(b) raises uncertainty as to whether the police officer needs to identify a particular person, or whether the provision is applicable to any person whose life is threatened. Victoria Police suggests that this subsection read, "...because there is a serious and imminent threat to any person's life, health or safety."

Subsection 3UEA(5) - "Person initiated explosive device"

Subsection 3UEA(5) proposes to afford police the power to seize any other thing (other than the explosive device), or do anything to make premises safe.

Victoria Police notes that in the contemporary terrorist environment a key consideration is the "person" initiated explosive device (eg. suicide bomber, vehicle borne improvised explosive device.) With devices of this nature, the explosive device includes as a vital part of its detonation mechanism, the person who initiates it.

Victoria Police notes the powers afforded to police (with specific pre-requisites) in subsection 3UEA(5) to "do anything" in circumstances which are "serious and urgent", and suggests an amendment to indemnify members of police when acting in the course of their duties to stop the person initiating the explosive device by use of force.

Subsection 3UEA(5) - Power to Direct Members of the Public

Victoria Police suggests that, to improve the safety of person's at risk, subsection 3UEA(5) is amended to enable police to direct members of the public:

- to leave;
- not to leave; or
- not to enter and have them remain at a safe distance until the area is declared safe.

A similar power is afforded to police in section 21T Terrorism (Community Protection) Act 2003.

Section 3UEA - Devices to initiate explosive devices

Victoria Police suggests amendment to subsection 3UEA in consideration of circumstances where there is a reasonable belief there is an initiator (eg. phone or computer or other initiating device on a premises, thing or vehicle) being used to initiate a live device located in another premises, place, thing or vehicle. For example, a person controlling a suicide bomber (the controller) may have a mobile phone or other device linked to the suicide bomber at another location. The controller may then detonate the device remotely.

Victoria Police suggests that the powers of entry and seizure in section 3UEA are extended to premises where initiator devices are located in addition to premises where the explosive devices are located.