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August 2006

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
CANBERRA ACT 2600

**REVIEW OF SECURITY AND COUNTER-TERRORISM LEGISLATION - RESPONSE
TO QUESTIONS ON NOTICE**

Please find attached the AFP's response to two questions on notice received from the Committee at the public hearing into the Review of Security and Counter-Terrorism Legislation held in Canberra on 1 August 2006.

The AFP would welcome the opportunity to assist the Committee further if required. The contact officers for this matter are Peter Whowell, Manager Legislation, phone 62757467 and Verity Hanks, Senior Legislation Officer, phone 62757104.

Yours sincerely

Andrew Colvin
Chief of Staff

Parliamentary Joint Committee on Intelligence & Security
Review of Security & Counter-Terrorism Legislation

PUBLIC HEARING

TUESDAY 1 AUGUST 2006

Questions on notice

Australian Federal Police

Question 1: Investigation of unlawful disclosure of information page 22

Senator FAULKNER—That is a very strong statement, Deputy Commissioner. I am sure it is appreciated by the committee. Can you tell the committee whether there has been any follow-through investigation since this legislation has come into effect in relation to any of those cases where there appears to have been unexpected media presence at the time of a police operation?

Federal Agent Lawler—Yes, there has.

Senator FAULKNER—Can you provide the committee with a status report of where that is up to? I do not want to go into the specific details. You can let us know what you are able to in relation to the status of those ongoing investigations.

Answer

There have been two specific instances where members of the AFP have been involved in multi-agency investigations where allegations of unlawfully disclosing information have been raised. The first related to the arrest of Jack Thomas, where the arrest details were leaked to the Channel 7 network and cameramen were on site during the arrest. The AFP internal investigation by its Professional Standards Unit into this matter was oversighted by the Commonwealth Ombudsman. The investigation was unable to identify the source of the disclosure but there was no information identified which suggested that a member of the AFP was responsible for the disclosure.

The second matter related to the arrest in June 2005 by the AFP of a number of terrorist suspects in Brunswick where the names of the accused and the charges relating to the events were leaked to the News Corporation. The AFP internal investigation into this matter was unable to identify the source of the disclosure. Further, there was no information identified which suggested that a member or special member of the AFP was responsible for the disclosure. The investigation of this matter was initiated by the AFP demonstrating the seriousness with which the AFP treats instances of unlawful release of information.

Question 2: AFP involvement in the classification of terror suspect in state prisons page 26

Following general evidence on the development and application of the national classification system applied to terrorist suspects commencing at page 24.

Mr KERR—You might come back to us on the degree to which your advice has been sought. The proposition which has been put to us is that persons are being held in punitive conditions pending their trial, in circumstances where the risk assessment would not warrant that were it applied in any circumstance other than the definitional nature of the offence that they are facing. That is coming back to us as a concern from the community.

Federal Agent Lawler—I am happy to look at that.

Answer

The AFP was not consulted in the development of the inmate classification scheme referred to during the Hearing on 1 August 2006 which is applied by corrective service authorities to both individuals held on remand pending trial and to convicted offenders serving prison sentences. The classification scheme is specific to individual jurisdictions and the AFP has no involvement in the establishment or management of those arrangements.

In relation to individuals held on remand pending trial for terrorist offences, the AFP is consulted on the conditions under which they should be held. AFP advice has been limited to ensuring that those individuals have access to materials or persons that we have a legal responsibility to ensure are offered and/or provided.

As pointed out during the AFP appearance, the AFP has responded to specific requests for assistance which did not relate to the conditions under which individuals were being held. The first example was where the AFP provided computers to prisoners in Victoria to enable them to read the briefs of evidence which were supplied and which were quite voluminous. This was in relation to persons held on remand for Operation Pendennis. The second, example was of another person currently on remand for a terrorist offence who this year was facing the pending death of a family member. The AFP was able to work with the correctional facilities and the court to enable that person to visit their relative under appropriate security arrangements.

The physical conditions under which the individuals concerned are held is a matter for the relevant jurisdictional corrective service authority.