



Electoral Commissioner

Joint Standing Committee on Electoral Matters	
Submission No.	165
Date Received	23/08/02
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Mr Trevor Rowe  
Secretary, Joint Standing Committee on Electoral Matters  
Parliament House  
Canberra ACT 2600

Dear Mr Rowe

**INQUIRY INTO THE 2001 FEDERAL ELECTION: SUPPLEMENTARY SUBMISSION**

Please find enclosed a supplementary submission to the JSCEM's inquiry into the 2001 Federal Election.

Recommendation 15 of the JSCEM's *Report of the Inquiry into the Integrity of the Electoral Roll* stated:

That, during each federal election inquiry, the AEC report all cases of enrolment fraud detected during the previous parliament.

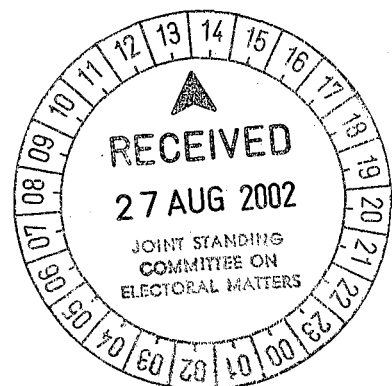
This supplementary submission addresses the requirements of that recommendation with regard to the 39<sup>th</sup> Parliament.

The AEC would welcome an opportunity to appear before the JSCEM to respond to any questions the JSCEM may have in relation to this issue.

Please contact Gabrielle Paten on (02) 6271 4480 if you wish to discuss this matter further.

Yours sincerely

Andy Becker  
Electoral Commissioner



22 August 2002

**AUSTRALIAN ELECTORAL COMMISSION**

**SUPPLEMENTARY SUBMISSION  
TO THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS'  
INQUIRY INTO THE 2001 FEDERAL ELECTION**

**REPORT ON INCIDENTS OF POSSIBLE ENROLMENT FRAUD DURING  
THE 39<sup>TH</sup> PARLIAMENT**

**Canberra  
6 August 2002**

# **Report on incidents of possible enrolment fraud during the 39<sup>th</sup> Parliament (1998-2001) arising from Recommendation 15 of the *Report of the Inquiry into the Integrity of the Electoral Roll*.**

## **1 Introduction**

1.1 This supplementary submission by the Australian Electoral Commission (AEC) is presented to the Joint Standing Committee on Electoral Matters (JSCEM) in response to its 'Inquiry into the conduct of the 2001 Federal Election', as advertised in the national press on 25 May 2002.

1.2 Recommendation 15 of the *Report of the Inquiry into the Integrity of the Electoral Roll* stated:

That, during each federal election inquiry, the AEC report all cases of enrolment fraud detected during the previous parliament.

1.3 This supplementary submission addresses the requirements of that recommendation with regard to the 39<sup>th</sup> Parliament.

1.4 The enclosed table (Table A) details all incidents of possible enrolment fraud detected during the 39<sup>th</sup> Parliament, taken for ease of measurement to be from the close of rolls for the 1998 federal election to the close of rolls for the 2001 federal election. The table is in a similar format to that contained in the AEC's submission 26 to the Inquiry into the Integrity of the Electoral Roll. The majority of the incidents contained in the table will already have been reported to the JSCEM during the Inquiry into the Integrity of the Electoral Roll. However, some new cases have emerged since the completion of that inquiry.

## **2 Analysis**

2.1 In all, 31 incidents of possible enrolment fraud were recorded by the AEC during the 39<sup>th</sup> Parliament, involving potentially 51 fraudulent enrolments. The incidents were spread over the 3 years of the Parliament and across a range of Divisions, with only the Divisions of North Sydney and Fairfax recording more than one incident (two in each case). The recorded incidents indicate there has been no widespread or organised attempt to conduct enrolment fraud during the 39<sup>th</sup> Parliament.

2.2 The majority of the incidents detected were in NSW and Queensland, with 19 and nine incidents respectively. There were no incidents detected in Tasmania, South Australia, the ACT, or the Northern Territory.

2.3 Most incidents (24) involved one potential fraudulent enrolment. There were four incidents involving two potential fraudulent enrolments, two involving three, and one involving 14 potential fraudulent enrolments. This incident was only recently reported and is still being investigated. The AEC will report to the JSCEM on the outcome of the investigation when it is completed.

2.4 Most of the individual incidents are minor cases with a wide range of causes, such as frivolous or opportunistic misconduct (for example QLD1, QLD3), or inadvertent non compliance with the law for various reasons (NSW3). In other instances, the reason for the possible enrolment fraud is not apparent (NSW8, NSW14, NSW18). Political motivations are another cause of apparent fraudulent enrolment. This includes nomination for council elections (NSW1, NSW4), internal political party plebiscites (NSW7), or enrolment in a Division for the purposes of nomination or support for an employer candidate (NSW13, QLD4). Finally, a number of incidents appear to be the result of ongoing personal relationship disputes (VIC1, QLD6).

2.5 A number of incidents appear to involve premeditated misconduct of a more serious kind, such as apparent fraudulent enrolment for the purposes of creating a false identity in order to conduct other crimes (NSW19, QLD5, QLD9, WA1, and WA2).

### **3 Investigation process**

3.1 The vast majority of incidents of possible enrolment fraud are resolved administratively because they disclose nothing more than an innocent error on the part of an elector or an AEC staff member.

3.2 Of the enrolment fraud incidents that do disclose sufficient evidence to indicate a deliberate intention to defraud the electoral system (which are those recorded here), the majority are referred to the Australian Federal Police (AFP) for investigation and the Director of Public Prosecutions (DPP) for advice on prosecution. The AEC has limited expertise and resources with which to investigate possible enrolment fraud, and therefore relies on the AFP for investigation and the preparation of briefs of evidence.

3.3 Because the number of cases referred to the AFP exceeds its capacity to investigate, it applies an objective test to all matters that are referred to it. This test is called the Case Categorisation and Prioritisation Model (CCPM), and it applies seven criteria to the incident being tested:

- the type of incident that is involved in the matter;
- the impact of the particular referral on the Australian community;
- the priority of the matter (the degree of urgency, or interest, or exceptional circumstances);
- the resources that would be required for the AFP to investigate the matter;
- the budget that would be necessary for the AFP to take on a particular investigation;
- the length of time it would take to complete; and
- where relevant, the property value that can be identified.

3.4 On the basis of the application of these seven criteria an operational committee determines whether or not the incident will be investigated.

3.5 Of the 31 incidents of possible enrolment fraud recorded by the AEC during the 39<sup>th</sup> parliament, 25 were referred to the AFP for investigation. The AFP declined to investigate six of the matters referred to it. In all but one of these cases, the AFP indicated a lack of resources prevented it from investigating. Six incidents remain under

investigation by the AFP, and six incidents were accepted by the AFP but did not proceed any further due to lack of evidence. Of the remaining seven cases, two remain under consideration by the DPP, two were rejected by the DPP due to lack of evidence, and three resulted in prosecutions.

#### **4 Penalty Levels**

4.1 One of the variables taken into account by the CCPM process is the level of penalty for the offence. In an environment of limited resources, the AFP accords a low priority to lower penalty offences.

4.2 In May 2001, a number of offences previously contained in the *Commonwealth Electoral Act 1918* (Electoral Act) were transferred to the *Criminal Code*. This increased the penalty for a number of electoral fraud type offences from 6 months imprisonment to 12 months imprisonment in some cases and 10 years in others. Given the short space of time since the transfer of these offences, it is not yet possible for the AEC to assess whether this change has had an impact on the number of possible enrolment fraud incidents accepted by the AFP for investigation.

4.3 A number of offences relating to enrolment fraud still remain in the Electoral Act. Recommendation 12 of the *Report of the Inquiry into the Integrity of the Electoral Roll* recommended that the penalty for these remaining offences be increased to 12 months imprisonment. Some preliminary work has been undertaken to complete this task. The review will be completed during this financial year depending on availability of resources.

#### **5 Relations between the AEC and the AFP and DPP**

5.1 During the Inquiry into the Integrity of the Electoral Roll, the JSCEM expressed a degree of concern at the relationship between the AEC and the AFP and DPP. Recommendation 11 of the *Report of the Inquiry in the Integrity of the Electoral Roll* recommends that the AEC develop agreements with the AFP and the DPP to cover the referral of electoral fraud offences for legal advice, investigation and prosecution.

5.2 An agreement is now in place between the AEC and the AFP (copy attached). However, the DPP advised that it did not consider it was necessary to be a party to the agreement as it was satisfied that the current arrangements with the AEC were working in accordance with the DPP's *Guidelines for Dealings between Commonwealth Investigators and the Commonwealth Director of Public Prosecutions*.

**TABLE A: REPORTED INCIDENTS OF POSSIBLE ENROLMENT FRAUD DURING THE 39<sup>TH</sup> PARLIAMENT**

<b>Case No</b>	<b>Division</b>	<b>Year</b>	<b>AFP</b>	<b>Category</b>	<b>Result</b>
<b>NSW1 (NSW32 in submission 26 to the Inquiry into the Integrity of the Electoral Roll)</b>	Lindsay	1999	Yes	Three council candidates allegedly made false enrolment declarations.	AFP advised that there was insufficient evidence for prosecution.
<b>NSW2 (NSW33)</b>	Cook	1999	No	Enrolment for another elector's address.	Applicant removed by objection on grounds of non-residence.
<b>NSW3 (NSW34)</b>	Cowper	1999	No	Elector enrolled twice for same address with different signatures and dates of birth.	Father completed first enrolment – dual enrolment deleted.
<b>NSW4 (NSW35)</b>	Werriwa	1999	Yes	Council candidate transferred address twice for no apparent reason.	DPP advised that there was not a reasonable prospect of conviction.
<b>NSW5 (NSW36)</b>	North Sydney	1999	Yes	Dual enrolment.	AFP investigating.
<b>NSW6 (NSW37)</b>	North Sydney	1999	No	Attempted enrolment at non residential address.	Follow up correspondence returned as 'not known.' No further action taken.
<b>NSW7 (NSW38)</b>	Charlton	2000	No	Candidate for ALP internal ballot attempted to enrol for vacant block.	AEC issued warning to elector.
<b>NSW8 (NSW39)</b>	Chifley	2000	Yes	Elector received AEC enrolment acknowledgment card for unknown person.	AFP closed the matter due to lack of evidence.
<b>NSW9 (NSW40)</b>	Parramatta	2000	No	Elector received MP mail for another person.	Matter closed – AEC office error.

<b>NSW10 (NSW41)</b>	Throsby	2000	Yes	Multiple enrolments for different names with same date of birth and address.	AFP advised the elector had mental health problems and closed investigation.
<b>NSW11 (NSW42)</b>	Warringah	2000	Yes	Two enrolment cards from same address with inconsistent details.	AFP advised AEC that no offender could be identified and closed the investigation.
<b>NSW12 (NSW43)</b>	Wentworth	2000	Yes	Two nursing home applications with inconsistent signatures.	AFP declined to investigate on advice from the Australian Government Solicitor that there was no real evidence of fraud.
<b>NSW13 (NSW44)</b>	Mackellar	2000	No	Applicant possibly not eligible for nomination to the NSW upper house due to insufficient residence period.	Enrolled person made a statutory declaration to NSW Electoral Commissioner attesting to their eligibility.
<b>NSW14 (NSW45)</b>	Reid	2000	Yes	Application allegedly falsified by one person.	The AFP declined to accept the matter for investigation. The matter was referred again but was again rejected because it was outside the statute of limitations.
<b>NSW15 (NSW46)</b>	Robertson	2000	Yes	Elector submitted an enrolment form for an address where a residence was under construction.	AFP investigated and closed the matter.
<b>NSW16 (NSW47)</b>	Fowler	2000	Yes	Elector incarcerated in gaol allegedly submitted a claim for enrolment.	Elector denied submitting the enrolment form. The AFP took no further action and the matter is now closed.

<b>NSW17</b>	Banks	2001	Yes	Alleged fraudulent enrolment at different addresses.	AFP declined to investigate due to lack of resources and the matter is now closed.
<b>NSW18</b>	Paterson	2001	Yes	Alleged fraudulent enrolment at same address.	AFP declined to investigate due to lack of resources and the matter is now closed.
<b>NSW19</b>	Greenway/ Warringah	2001	Yes	Alleged fraudulent enrolment for a different address.	AFP found a case of identity fraud for immigration purposes. The alleged offender is currently in detention.
<b>VIC1 (VIC5 in submission 26 to the Inquiry into the Integrity of the Electoral Roll)</b>	Lalor	2000	Yes	Enrolment form received for an elector that appeared to have been completed by estranged spouse.	AFP declined to investigate due to limited resources.
<b>QLD1 (QLD15 in submission 26 to the Inquiry into the Integrity of the Electoral Roll)</b>	Ryan	2000	Yes	Fraudulent enrolments (husband and wife) using the names of parents.	Both offenders were convicted and fined \$300 each on 10 November 2000.
<b>QLD2 (QLD16)</b>	Moncrieff	2000	Yes	Duplicate enrolment forms submitted.	The AFP referred this incident to the DPP. There was insufficient evidence to proceed beyond DPP.
<b>QLD3 (QLD17)</b>	Bowman	2000	Yes	Enrolment form containing dead person's details submitted during doorknock.	Offender convicted of forging and uttering under s344(1) of the Electoral Act, fined \$350.



<b>QLD4 (QLD18)</b>	Longman	2000	Yes	Staff member of MP admitted to falsifying her enrolment for the 1998 federal election in order to vote for MP.	A legal opinion is being sought from the DPP as to whether an offence has been committed.
<b>QLD5</b>	Herbert	2001	Yes	Alleged fraudulent enrolment referred by the AFP as part of another investigation they were conducting.	AFP investigating.
<b>QLD6</b>	Blair	2001	Yes	Elector advised the AEC that her ex husband did not reside at his enrolled address.	The AFP did not accept the matter for investigation and the matter is now closed.
<b>QLD7</b>	Fairfax	2001	Yes	Two alleged enrolments for an address the electors were not living at.	The investigation is ongoing.
<b>QLD8</b>	Petrie	2001	Yes	Fourteen suspicious enrolments received by the AEC for three different addresses.	The investigation is ongoing.
<b>QLD9</b>	Fairfax	2001	Yes	Referred to the AEC by the AFP as part of another investigation they were conducting.	The investigation is ongoing.
<b>WA1 (WA2 in submission 26 to the Inquiry into the Integrity of the Electoral Roll)</b>	Stirling	2000	Yes	Fraudulent enrolment uncovered by AFP during investigations into criminal fraud.	The DPP is currently investigating prior to charges being laid. The case is expected to go to court in the next few months.

<b>WA2 (WA3)</b>	Perth	2000	Yes	Fraudulent enrolment uncovered by AFP during investigations into criminal fraud.	The offender was convicted on two counts in the Perth Magistrates Court on 14 December 2001 and fined \$400 with costs of \$126.20.
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# **Service Agreement between the Australian Federal Police (AFP) and the Australian Electoral Commission (AEC)**

## **Background**

This Agreement has been prepared following discussions between the Australian Federal Police (AFP) and the Australian Electoral Commission (AEC) regarding the development of a service agreement which was reaffirmed by recommendation 11 of the June 2001 Report of the Parliamentary Joint Standing Committee on Electoral Matters (JSCEM) inquiry into the Integrity of the Electoral Roll. The JSCEM recommended that: "as a matter of immediate priority, the AEC, the AFP and the DPP develop a service agreement to cover the referral of electoral fraud offences for legal advice, investigation and prosecution."

## **Objective**

This Agreement is between the AFP and the AEC and provides a framework for cooperation between the two agencies.

This Agreement provides a statement of the services to be provided by the AFP to assist the AEC in achieving its stated objectives of ensuring an effective electoral roll and an impartial and independent electoral system. The provision of AFP services will assist the AEC by investigating serious or complex breaches of the *Commonwealth Electoral Act 1918*, the *Referendum (Machinery Provisions) Act 1984*, the *Aboriginal and Torres Strait Island Commission Act 1989* and the *Workplace Relations Act 1996*, in order to maintain the integrity of Australia's electoral system. The Agreement specifies the commitment required from both agencies to ensure that services can be provided to the agreed level.

This Agreement is not intended to create legally binding obligations on either party. Neither party to this Agreement shall be required to honour these commitments in the event of major or unforeseen demands on their resources.

## **Scope of this Agreement**

This Agreement should be read in conjunction with, and is subject to the requirements of Government policy, in particular the draft *Commonwealth Fraud control guidelines*.

## **Agency responsibilities**

In accordance with the requirements of the draft Commonwealth *Fraud control guidelines*, the AFP is required to focus on the investigation of serious or complex matters. In determining whether matters are serious or complex, all referrals to the AFP are evaluated against the AFP's Case Categorisation and Prioritisation Model (CCPM) (at Attachment A).

Serious or complex matters which the AEC may refer to the AFP for consideration of possible investigation include instances of apparent dual or multiple voting (where a voter has been marked off the certified list of voters twice [dual] or three or more times [multiple]); possible electoral fraud offences (such as those relating to enrolment claims, party registration and funding and disclosure matters); and serious internal fraud.

The AEC will refer instances of voting offences to the AFP within six months of an election. With reference to apparent instances of dual voting, the AEC will only refer selected cases which appear to involve a deliberate intention to breach the law.

In instances of apparent dual or multiple voting, the AEC will undertake administrative investigations before forwarding them to the AFP for possible investigation. In these instances, the AEC will provide the AFP with any documentary or other relevant evidence to assist in the investigation. Administrative investigations by the AEC may include checks of the electoral roll and of any related documents and initial contact with alleged offenders by telephone or by letter. In seeking to maintain the integrity of the electoral roll, and to assist the AFP in identifying recidivist offenders, where appropriate, the AEC will provide the AFP with data relating to an individual's recorded voting history.

In the case of more serious offences, such as electoral bribery, the AEC may obtain preliminary legal advice from the DPP before referring to the AFP for investigation.

Where the AEC is uncertain whether a matter should be considered as serious or complex, it is encouraged to discuss the issue with the AFP.

In accordance with the requirements of the *Fraud control guidelines*, the AFP will provide the AEC with Quarterly Case Management Reports, which detail the progress of AFP investigations.

This Agreement is to be widely circulated within the AFP and the AEC to ensure that members of both agencies are aware of this Agreement and their respective responsibilities.

## **Politically sensitive matters**

The AEC, as the agency responsible for electoral matters, will notify the Special Minister of State with respect to politically sensitive matters it has referred to the AFP for investigation.

The AFP will notify the Minister for Justice and Customs and the AEC, simultaneously of the outcome of an investigation of a politically sensitive matter referred by the AEC.

### **Timeframe**

This Agreement will take effect from the date of signing and shall remain in place for a period of two years unless otherwise amended by mutual consent between the AFP and the AEC or the basis on which it is made is significantly altered. Any variation or amendment must be in writing and formally agreed to by both the AFP and the AEC.

### **Disputes**

Where there is any disagreement over any matter related to issues covered in this Agreement, the two agencies will seek to resolve such issues at the operational level. Should this negotiation fail, the matter is to be referred to the First Assistant Commissioner - Electoral Operations, AEC, and the Director, Outcome Service Delivery in the case of the AFP.

### **Review and liaison**

The effectiveness of this Agreement will be reviewed 12 months after the date on which it is signed. An informal review process will be agreed between the AFP and the AEC.

Liaison meetings will take place at least three times a year or may be arranged where key issues arise.

### **Communication**


Regular communication on ongoing operational aspects will be between the Coordinator of the relevant Operations Monitoring Centre of the AFP and the Australian Electoral Officer for the relevant State or Territory (or their nominated representative), or the Director, Parliamentary and Ministerial, as applicable.

Communication on any aspect of this Agreement will be between the First Assistant Commissioner - Electoral Operations, AEC and the Director, Outcome Service Delivery, AFP.



M. J. Keelty  
Commissioner

Date: 11/2/02.....



Andy Becker  
Electoral Commissioner

Date: 12/2/02.....