

URGENT

Submission 020

NSWP/D/2013/11223

RML

Issue:

New South Wales Police Force (NSWPF) submission to the Australian Parliament House of Representatives Social Policy and Legal Affairs Committee inquiry into the arrangements surrounding crimes committed at sea.

Background:

The terms of reference (see attached) require the Committee to investigate the effectiveness of the Crimes at Sea Act 2000 legislation and the accompanying Intergovernmental Agreement, and cross jurisdictional issues that may affect the investigation.

Comment:

Maritime law is a vast and complex area. It encompasses a wide range of inter-related Commonwealth and State legislation along with International Treaties and Conventions. Consequently, there is a need for close cooperation between all agencies and governments involved in the investigation of crime off the Australian coast. Enforcing maritime law is often difficult because a situation may cross many different jurisdictions, agencies and pieces of legislation. The NSWPF view the Crimes at Sea Act 2000 as being an effective piece of legislation which adequately applies the criminal law of this state, extraterritorially, in the areas adjacent to the coast. Legislative jurisdictional issues should not effect the initial investigation however *Clause 7 of Sch 1* of the Crimes At Sea Act 2000 provides that the written consent of the Commonwealth Attorney-General is required before a charge of a maritime offence can proceed to hearing, determination or committal proceedings for an indictable offence.

On 3 December 2010 Magistrate Milledge, the former Deputy State Coroner, handed down her findings and recommendations following the inquest into the death of Ms Dianne Brimble, who died on 24 September 2002 on the P & O vessel Pacific Sky. The Coroner made a number of recommendations, one of which was:

I recommend that the Federal, State and Territory Police Commissioners devise, in consultation with each other, firm guidelines clearly setting out the geographical jurisdiction of each investigative agency.

This recommendation has been addressed by the National Protocols for Reporting Crimes at Sea (NPRCS) which was endorsed by the NSWPF on 29 April 2010 and subsequently endorsed by all other Australian police jurisdictions. The NPRCS is a documented agreement for the purpose of better responding to reports of crimes at sea. The NPRCS aims to ensure that all reported crime is thoroughly investigated by the responding agency as if the crime had occurred in their own area of jurisdiction. In fact one of the stated objectives of the NPRCS is to ensure the rights and needs of victims of crimes at sea are protected.

The NSWPF have identified an estimated 91% increase in Cruise ship visitation and 11% increase in international freight into NSW ports between 2008 and 2012. However, NSWPF records indicate that there has been no marked increase in reported crime during the same period.

In relation to crime reported at sea the NSWPF have developed consistent lines of communication with the Carnival Corporation group which represent the majority of the Australian Cruise industry. This communication enables the timely flow of information and evidence between the ship at sea and the NSWPF. To enhance consistency across the industry the NSWPF believes that consideration should be given for a Code of Practice for ship operators covering such areas as the preservation of evidence, initial investigative response and timely dissemination to police.

The NSWPF Prosecutions have published a Maritime Law Manual which is a practical guide to the application of New South Wales and Commonwealth Maritime Legislation and Policy for the NSWPF. The NSWPF believes that consideration should be given to the development of a National Maritime Law Manual or each jurisdiction should develop a unique Maritime Law Manual similar to the NSWPF Maritime Law Manual (Attached).

Recommendation:

1. Consideration should be given for a Code of Practice for ship operators covering such areas as the preservation of evidence, initial investigative response and timely dissemination to police.
2. Consideration should be given to the development of a National Maritime Law Manual or each jurisdiction should develop a unique Maritime Law Manual similar to the NSWPF Maritime Law Manual (Attached).
3. Forwarded for advice as requested.

Darren Schott
Detective Inspector
Crime Manager
Marine Area Command
6 February 2013

1. Commander, Special Services Group

gjo
2. Deputy Commissioner, Specialist Operations
Proposed submission recommending a Code of Practice and Maritime Law Manual for consideration by the Committee is supported.

3. Commissioner

Director

13/2/11 Office of The Commissioner

4. Minister for Police and Emergency Services