



Australian Government
Attorney-General's Department

Civil Law Division

09/29632

30 July 2010

Ms Julie Dennett
Committee Secretary
Senate Standing Committee on
Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600



Dear Ms Dennett

Additional Estimates February 2010, Attorney-General's Department – Question on Notice 16

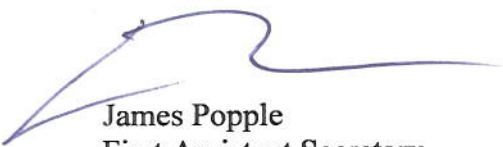
At the Additional Estimates hearing of 8 February 2010, Senator Barnett asked that responses received from the various law enforcement agencies to letters sent by the former Minister for Home Affairs, the Hon Bob Debus, on 4 February 2009 be tabled. An interim response to Question on Notice 16 was tabled on 15 March 2010. The then Acting First Assistant Secretary of the Civil Law Division, Kym Duggan, also wrote to you on 21 May 2010 to provide you with the responses from the Victorian Minister of Police and the Chief Commissioner of Victoria Police. I am writing to provide an updated Departmental response to the Committee.

The Department is now in a position to table the responses from South Australia, Western Australia, Northern Territory and Tasmania Police, the AFP and ACT Policing as well as the New South Wales Police Minister. A copy of each of those letters is attached.

The Department has now provided copies of all of the responses except for those from Queensland. We will contact Queensland again and, if Queensland agrees, provide the Committee with a copy of its responses.

The action officer for this matter is Tara Cheyne who can be contacted on (02) 6141 2740.

Yours sincerely



James Popple
First Assistant Secretary
Civil Law Division

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01 MAR 2009



SOUTH AUSTRALIA POLICE
KEEPING SA SAFE

Your Ref:
Our Ref: 09/012391
Enquiries:
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The Hon Bob Debus
Minister for Home Affairs
Parliament House
Canberra ACT 2600

Dear Mr Debus

I refer to your letter dated 4 February 2009 concerning low levels of compliance by retailers and distributors with classification enforcement laws.

In November 2007 the South Australia Police (SAPOL) Licensing Enforcement Branch (LEB) assumed SAPOL responsibility for alleged breaches of the Act. This includes investigation of offences against the Act, in conjunction with local police areas; provision of training material and advice; collection and dissemination of intelligence; and liaison with the Classification, Human Rights and Copyright Division regarding alleged breaches of the Act and current information regarding classifications.

Since November 2007 LEB have been responsible for the seizure of a significant number of restricted classification or unclassified films, and the report of persons for offences against the Act.

SAPOL, through the Licensing Enforcement Branch, will continue to coordinate and investigate alleged breaches of the Act.

Yours sincerely


(Malcolm A Hyde)
COMMISSIONER OF POLICE

24 February 2009



27 FEB 2009



WESTERN AUSTRALIA POLICE
OFFICE OF THE COMMISSIONER

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Hon Bob Debus MP
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600

Dear Mr Debus

Classification Laws – Publications – Enforcement Issues

Thank you for your correspondence of 4 February 2009 seeking my cooperation in addressing low levels of compliance by retailers and distributors with classification enforcement laws.

The WA Police have previously considered the issue of offensive publications as part of a classification and intellectual property enforcement review in 2006. The majority of State jurisdictions adopted the position that this matter is essentially a non-core police activity and of low priority for police law enforcement.

WA Police maintain the view that the Office of Film and Literature Classification (OFLC) is the most appropriate agency to investigate breaches of classification and copyright due to their considerable knowledge and experience. During the review it was suggested that OFLC officers could be empowered to conduct investigations in each state in conjunction with their current compliance monitoring role, however this would require legislative reform. In addition, it was proposed that the Commonwealth Government consider the initial provision of training and a public education program on the recognition and significance of classification markings, and the identification of objectionable material.

Under the circumstances, I would not support increasing the role of police officers to investigate breaches of classification laws unless there is tangible links with organised crime.

Yours sincerely



KARL J O'CALLAGHAN APM
COMMISSIONER OF POLICE

23 February 2009



31 MAR 2009

COMMISSIONER'S OFFICE

08/26558 : Your Ref

11Q2009/0090 : Our Ref

The Hon Bob Debus
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter of 4 February 2009 concerning low levels of compliance with classification enforcement laws.

The Northern Territory Police in consultation with the Commonwealth Attorney-General's Community Liaison Scheme Officer meet on an annual basis to discuss issues of compliance.

In our latest meeting with the Community Liaison Scheme Officer and from subsequent discussion, it was agreed that the levels of compliance in the NT have been, and remain high. The situation is constantly monitored and you will be aware that the NT Intervention has paid particular attention to issues surrounding pornography.

At the present time, it appears from both the monitoring of compliance and from intelligence presently to hand, that any operation, including one conducted jointly with the Australian Federal Police (AFP) would not be warranted.

Compliance will continue to be monitored and where intelligence warrants that particular attention should be paid to this issue we will work with both the Commonwealth Attorney-General's Office and the AFP to conduct an appropriate operation.

Yours sincerely

Paul White
Commissioner of Police

26 March 2009



Northern Territory Government

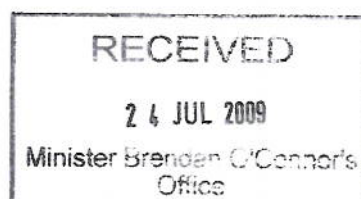


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Our Ref: A09/22062
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22 July 2009

The Honourable Brendan O'Connor MP
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600



Dear Minister O'Connor

I refer to correspondence dated 4 February 2009 from Mr Bob Debus, MP the former Minister for Home Affairs seeking co-operation in addressing low level compliance with classification enforcement laws.

As you are no doubt aware the number of reported breaches of the Act in Tasmania is very low. Tasmania Police assess reported breaches of classification legislation, enter the information into our intelligence data management system and refer it to the relevant police division for further attention if warranted.

The impact of breaches of classification laws in Tasmania is not considered significant in terms of our strategic priorities at this time. Should intelligence suggest that the impact of low level compliance is significantly increasing then the focus will be reviewed at that time.

Yours sincerely

D L HINE
Acting Commissioner of Police

30 MAR 2009



AFP

AUSTRALIAN FEDERAL POLICE

COMMISSIONER

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24 March 2009

The Hon Bob Debus MP
Minister for Home Affairs
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer to your correspondence of 4 February 2009 seeking cooperation in addressing low level of compliance by retailers and distributors with classification enforcement laws.

I note your concerns on this serious matter and the Publications Enforcement Bulletin provided. Under the National Classification Scheme, the AFP does not have jurisdiction for enforcement of classification laws.

There are, however, two circumstances where AFP officers may be involved in enforcement action. The first is as part of the Northern Territory Emergency Response (NTER) and the second is when performing duties as part of ACT Policing.

The AFP's role in this area of the NTER is carried out as part of their duties as sworn NT Police Officers working remotely, or as members of the NT Police-led joint Child Abuse Taskforce. Any resulting administration and / or prosecution of such matters occur under the usual procedures and jurisdiction of the NT Police.

I am aware the Chief Police Officer of ACT Policing, as the agency within the Australian Capital Territory with jurisdiction for enforcement of classification laws, has received similar correspondence from your office and will respond accordingly.

I trust this information has been of assistance.

Yours sincerely


M J Keelty

On 1 July 2009, the ACT Department of Justice and Community Safety provided the following information via e-mail to the Commonwealth Attorney-General's Department.

Please find below comments from Superintendent Christopher Sheehan of ACT Policing, regarding the enforcement of classification enforcement laws.

Within the 2008/2009 financial year, ACT Policing did not undertake any investigations into breaches of the Classification (publications, films and computer games) Act 1995. Further, during the same period, ACT Policing did not receive any referrals requesting investigation into alleged breaches of the Act from any external source.

ACT Policing do not proactively investigate or target breaches of this legislation, therefore specific data regarding levels of compliance or otherwise is unavailable. Should we receive a referral from an external source it would be prioritised according to seriousness and urgency with response / investigative resources allocated accordingly. For example, matters involving child pornography or those where children are placed at risk would be accorded a high priority compared to technical breaches of the Act. Issues such as the sale of unclassified material would generally not be accorded a high priority by ACT Policing and it is unlikely we would allocate investigative resources to the issue. However, all referrals are assessed on their individual merits with ACT Policing recording and retaining any information provided regarding breaches of the Act.



Michael Daley MP
Minister for Police

M102125

The Hon Brendan O'Connor
Minister for Home Affairs
Parliament House
Canberra ACT 2600

Dear Mr O'Connor,

Brendan

I write in relation to your letters to the former Minister for Police and the NSW Commissioner of Police regarding the enforcement of classification offences.

I am advised this is currently very resource-intensive for the NSW Police Force. The decision made at the April 2009 Standing Committee of Attorney's General meeting to amend the *Classification (Publications, Films and Computer Games) Regulations 2005 (Cth)* will effectively double the quota of free applications and help ease the burden. However, a quota of 200 remains inadequate for the requirements of NSW.

These resource implications mean that at this time NSW is unable to commit to increasing the priority given to the enforcement of classification laws by the NSW Police Force. NSW is however considering legislative amendments to allow for classification by consent, as currently occurs in South Australia and Western Australia. This could reduce the need to pay for classification and hence allow NSW to investigate more classification offences.

I look forward to exploring these issues further so that NSW can be in a position to improve its enforcement of classification offences.

The action officer for this matter in the Law Enforcement Policy Branch is Ms Fiona Lansdown who can be contacted on (02) 9228 5120, or by email at fiona.lansdown@dpc.nsw.gov.au.

Yours sincerely,

Michael Daley
Michael Daley
Minister for Police

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