

CHAPTER 2

ATTORNEY-GENERAL'S PORTFOLIO

2.1 This chapter summarises some of the matters raised during the committee's consideration of the additional estimates for the Attorney-General's Portfolio for the 2011-12 financial year.

Australian Human Rights Commission

2.2 The committee asked about the commission's work on the issue of wheelchair capacity on airlines following the recent Federal Court of Australia case of *King v Jetstar Airways Pty Ltd*.

2.3 The Disability Discrimination Commissioner, Mr Graeme Innes AM, advised that he is continuing to work with airlines about the current policy of only carrying two people per flight who use wheelchairs. He further advised that an appeal to the King case has been filed and the commission is still assessing whether it will seek to intervene in the matter.¹

2.4 The Commissioner was asked whether the best resolution to this issue would be through legislative changes rather than through the courts:

Senator SIEWERT: To resolve this issue, would it not be better to make sure the legislation was fairly clear rather than people having to take court action over such a matter?

Mr Innes: The process for alleging discrimination is common across all of the legislation with which we deal on the basis of gender, age, race and disability. There is always an option for legislators to do other things to change that process. I suppose in the broader term that is a matter before the government in its consideration of consolidation of discrimination legislation. But at present the way the disability area is dealt with is no different to the way that areas which are the responsibility of my colleagues are dealt with.

Senator SIEWERT: You have just touched on the reform or the consolidation process. It could be dealt with through that process, could it not?

Mr Innes: It could.²

1 *Committee Hansard*, 14 February 2012, p. 8.

2 *Committee Hansard*, 14 February 2012, p. 8.

Australian Federal Police (AFP)

2.5 The AFP was questioned extensively on a range of issues. One area of interest was the outsourcing of 'open-source monitoring' with the company National Open Source Intelligence Centre (NOSIC). The committee heard that NOSIC has been contracted by the AFP since 2002. The contract is valued at just under \$100,000 a year. NOSIC is required to scan publicly available information, collate the material and provide a daily report to the AFP on matters relating to general law enforcement. Commissioner Tony Negus APM noted that the AFP considers the outsourcing of this service as a cost-effective approach and that, if the AFP were to undertake this role in-house, it would cost approximately four times that of the contracted service.³

2.6 When asked if NOSIC is tasked with monitoring a specific area, Commissioner Negus responded:

...We do not specifically task them with looking at a type of criminal offence per se. These are things that may be of interest to general law enforcement—really keeping tabs on what is happening in that protest community. As I said, our protection liaison officers are out there speaking to these communities. They are making very overt contact with them on a weekly basis to try to understand what is happening and to work with them to achieve those outcomes. Again, we want to keep the public safe and make sure that nothing untoward happens along the way. It is very much a professional relationship. They provide details of things that they may feel are of interest to law enforcement. My understanding is that they are not tasked with specific elements of what is available. It is a longstanding contract—about ten years.

Senator WRIGHT: It would then be quite feasible to think that they would be obtaining open-source information about citizens who may not have committed any criminal offence at all.

Mr Negus: They would collect what is available on the internet and in newspapers—those sorts of things—and provide it to us. This is in a macro sense. If there were any semblance of a criminal investigation that needed to be undertaken, we of course would launch that separately. We would do our own intelligence work and collection on that process. But, as I said, a criminal offence would have to be identified or it would have to relate to the protection of high office holders, foreign dignitaries or something like that.⁴

2.7 Continuing examination of the AFP, the committee requested details of the AFP's role in the Australia Day protest at the Lobby Restaurant in Canberra. Commissioner Negus and officers of the AFP provided a detailed timeline of the

3 *Committee Hansard*, 14 February 2012, p. 54.

4 *Committee Hansard*, 14 February 2012, p. 54.

AFP's involvement and response. Commissioner Negus further advised that a post-operational report was being prepared.⁵

2.8 The AFP was also questioned about the attack on the Syrian Embassy in Canberra on 4 February 2012. Senators sought details of the sequence of events in the lead-up to the incident, and the AFP's response. Commissioner Negus advised the committee that knowledge of attacks on three Syrian embassies overseas was not known to the AFP at the time of its response to the incident. He also confirmed that an assessment by the National Threat Assessment Centre was not conducted prior to the attack.⁶

2.9 Commissioner Negus assured the committee that resourcing levels for this area of intelligence gathering is satisfactory, and further advised:

I am confident...that we can respond appropriately. We had responded appropriately based on the available information. We are now examining if there are ways to better communicate what is happening overseas and make sure our officers are afforded the availability of that information immediately rather than relying on the course of events that took place the other night, where a couple of hours made a big difference in regard to what happened. In fact, the AFP first became aware of the incidents overseas at 10 pm that night. So 20 minutes after the attack took place, the AFP were formally notified of the issues surrounding the Syrian embassy.

Senator HUMPHRIES: As you pointed out, it should not be the AFP's job to gather intelligence about what is happening overseas. It should be somebody else's job to directly get that information.

Mr Negus: You are right. The AFP plays a role in that, of course. The agencies, overwhelmingly, provide that intelligence in sufficient time for the AFP to take appropriate responses. This was an unfortunate incident in which a couple of hours of notification of what was happening overseas would have changed the conditions on the ground. My officers made those decisions based on what was happening.⁷

2.10 The committee also took evidence from the AFP on a range of other matters including the investigation into the alleged leaks relating to the Australia Network tender, the process for charging people suspected of people smuggling, the status of matters relating to Wikileaks, the AFP's role in the development of a cybersecurity strategy, and interception authorisations under the *Telecommunications (Interception and Access) Act 1979*.

5 *Committee Hansard*, 14 February 2012, p. 68.

6 *Committee Hansard*, 14 February 2012, p. 76.

7 *Committee Hansard*, 14 February 2012, p. 77.

Attorney-General's Department

2.11 The Attorney-General's Department was briefly examined on a range of issues, including justice reinvestment, the government's response to the *Doing time – time for doing* report, Australian Government Disaster Recovery Payments to people in the Gascoyne region of Western Australia following flooding in 2010, and the emergency alert upgrade.

Efficiency dividend increase

2.12 The committee raised the increase of 2.5 per cent in the efficiency dividend in 2012-13 with a number of agencies within the Attorney-General's Portfolio which appeared at the hearing. The committee notes that all the courts and tribunals within the portfolio are exempt from this 'one-off' increase.⁸

2.13 The President of the Australian Human Rights Commission, the Hon Catherine Branson QC, tabled a letter to the Minister for Finance and Deregulation outlining the impact of the increased efficiency dividend on the commission. Her letter revealed that the dollar amount of the increase is \$1.6 million over four years. This may potentially impact the commission's ability to perform its key statutory functions, and could place at risk the commission's accreditation as a 'status A' national human rights institution.⁹ Ms Branson elaborated at the hearing:

The commission, as you know, is evaluated at the international level under the Paris Principles, which have been adopted by the General Assembly of the United Nations as the principles which an independent national human rights institution should meet. We were re-assessed late last year and were very gratified to have our status A confirmed. But one of the observations made by those who undertook the assessment was that the growing impact of efficiency dividends on our budget was regrettable and we would be expected to limit our capacity to undertake policy work of our own choice in the way they would wish a national human rights institution to be able to do. That is a concern.

We have greatly appreciated the additional funding that has come the commission's way in recent years, but it has been funding linked to particular areas of work. It has not been funding that has a significant impact on our ability to decide for ourselves that an issue warrants our

8 These include the Family Court of Australia, the Federal Court of Australia, the Federal Magistrates Court of Australia, the High Court of Australia, the Administrative Appeals Tribunal, and the National Native Title Tribunal: see attachment to the Minister for Finance and Deregulation, 'Driving Efficiency Savings Within Government', Media Release, PW 253/11, 29 November 2011, http://www.financeminister.gov.au/media/2011/mr_pw25311.html (accessed 6 March 2012).

9 *Tabled Document No. 1*, Correspondence from the President of the Australian Human Rights Commission to the Minister for Finance and Deregulation, dated 7 December 2011.

attention. Without the capacity to do that, the commission cannot hold its status A accreditation.¹⁰

2.14 Ms Branson further advised at the hearing that the commission has not yet made any decisions on how it will manage the increased efficiency dividend, but expected that it will result in both staffing losses and the loss of some program work.¹¹

2.15 The committee also heard that the Australian Information Commissioner has written to the Secretary of the Department of Finance and Deregulation regarding the additional efficiency dividend, outlining its main areas of concern and requesting a review of the measure.¹² The committee was advised that the impact on the agency would be approximately \$300,000 a year and that it would result in a reduction in staff numbers.¹³

2.16 The Office of the Director of Public Prosecutions advised the committee that the increase in the efficiency dividend will reduce its budget by approximately \$2 million each year over the next three years, and will result in a decrease in staffing numbers (most likely by natural attrition).¹⁴

2.17 The Australian Crime Commission advised the committee that the increased efficiency dividend will equate to approximately \$2.1 million a year over the forward estimates. While the Chief Executive Officer, Mr John Lawler, could not provide a definitive answer in terms of staffing losses at the time of the hearing, he advised the committee that 'in all probability, depending on how the budget falls, there will be staffing reductions.'¹⁵

2.18 The committee also questioned the Australian Federal Police about the impact of the increased efficiency dividend on its budget. The committee heard that it would represent \$24.545 million in the 2012-13 financial year for the AFP budget, and approximately \$22 million each year over the forward estimates.¹⁶ The organisation is currently looking at approaches to minimise the impact. Commissioner Negus conceded that there will be staff reductions as a result of these budgetary impacts; however, he confirmed that the AFP would be aiming to minimise the impact on operational staff.¹⁷

10 *Committee Hansard*, 14 February 2012, p. 13.

11 *Committee Hansard*, 14 February 2012, p. 13.

12 *Tabled Document No. 2*, Correspondence from the Australian Information Commissioner to the Secretary of the Department of Finance and Deregulation, dated 2 February 2012.

13 *Committee Hansard*, 14 February 2012, p. 28.

14 *Committee Hansard*, 14 February 2012, pp 45-46.

15 *Committee Hansard*, 14 February 2012, p. 47.

16 *Committee Hansard*, 14 February 2012, p. 72.

17 *Committee Hansard*, 14 February 2012, p. 72.

2.19 Finally, the committee heard briefly from the Attorney-General's Department on its approach to finding savings as a result of the increased efficiency dividend. The Secretary advised that the department would be prioritising savings from reductions in areas such as consultants and contractors, virtual meeting facilities, hospitality and entertainment, and media and advertising, so that front line services that are provided to the community are kept intact.¹⁸

Senator Trish Crossin
Chair