

## GOVERNMENT RESPONSE

### TO THE REPORT OF THE PARLIAMENTARY JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY:

#### *LAW ENFORCEMENT IN AUSTRALIA – AN INTERNATIONAL PERSPECTIVE*

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The Report of the Parliamentary Joint Committee (PJC-NCA), which summarises some of the topics discussed at a meeting the Committee held with Mr Raymond Kendall QPM, Secretary General, International Criminal Police Organisation (Interpol), was tabled in the Parliament on 24 February 1997.

The Committee report has concluded that inter-agency cooperation at an international level is essential in order to benefit Australia's readiness and capacity to confront international criminal activity. The Committee's report summarises discussions held by the Committee with Mr Kendall on Australia's relations with Interpol, law enforcement and security, electronic commerce, immigration issues, paedophile activity, and mutual assistance.

The Committee's report makes recommendations on three matters; Australian representation at the Executive Committee of the International Criminal Police Organisation; the need for Australia to take a leading role in developing cooperative arrangements between law enforcement bodies in the south-west pacific region; and the importance of ensuring that there are no unnecessary legislative barriers to inhibit the flow of information and intelligence between security and law enforcement agencies.

The recommendations, together with the Government response to each recommendation, are set out below:

**(1) The Committee recommends that the Australian Government promote the appointment of an Australian representative to the Executive Committee of the International Criminal Police Organisation.**

The recommendation is accepted. The Government is actively promoting the appointment of the Commissioner of the Australian Federal Police as an Australian representative to the Executive Committee of the International Criminal Police Organisation (Interpol). Representation in this forum by a senior Australian law enforcement officer would provide an opportunity for Australia to contribute where appropriate to the development of Interpol policy, including resource allocation, outcomes, and increased effectiveness. That said however, Interpol, while facilitating contact and the exchange of information between agencies, does not become involved in actual operations. More often than not, Australian law enforcement agencies either relate directly with overseas agencies or through the Australian Federal

Police (AFP) international liaison network for actual operational outcomes. This will continue to be the case in the future.

**(2) The Committee recommends that the Australian Government take a leading role in the development of cooperative arrangements between law enforcement bodies in the south-west pacific region.**

The recommendation is accepted. The Government assists in the development of cooperative arrangements between law enforcement bodies in the south-western pacific region. Some areas of contribution include the involvement of the AFP, the Attorney-General's Department, AusAID, the Department of Foreign Affairs and Trade (DFAT), the Department of Defence and the Australian Customs Service(ACS) in the coordination of Australian support to law enforcement in the South Pacific by an Inter-Departmental Committee chaired by DFAT, regular meetings of Customs Heads of Administration Regional Meeting (CHARM), of the South Pacific Chiefs of Police Conferences, and of the Australasia and South West Pacific Region Police Commissioners' Conference.

Commonwealth agencies continue to support south pacific nations' law enforcement agencies through the provision of operational cooperation and training where appropriate. The AFP and ACS are working with the South Pacific Forum Secretariat to deliver illicit drugs training and identification programs. The AFP's South Pacific Liaison Officer assists regional law enforcement authorities by promoting effective cooperation in tracking the movement of criminals in the region, working to strengthen fraud prevention, and providing assistance to improve regional authorities' awareness of, and ability to counter money laundering activities. The Liaison Officer also provides appropriate practical assistance such as conducting international criminal checks on behalf of south pacific nations.

**(3) The Committee recommends that the Australian Government take steps to ensure that there are no unnecessary legislative barriers which would inhibit the flow of information and intelligence between security and law enforcement agencies.**

The Government accepts that there should be no unnecessary legislative barriers which would inhibit the flow of information and intelligence between Australian security and law enforcement agencies. There are several points that should be kept in mind. While the flow of relevant information and intelligence between security and law enforcement agencies is desirable, and in some circumstances operationally essential, there need to be appropriate legislative controls in place to protect the legitimate civil rights and privacy of Australian citizens. Legislative controls currently in place ensure that the activities of the Australian Security Intelligence Organization (ASIO) are restricted to legitimate security interests.

There are areas of overlapping interest and responsibility between security agencies and police forces which necessitate close cooperation. The Committee's report notes the particular need for exchange of information

between agencies in relation to countering international terrorism. This is mentioned in the report as a particular concern in the lead-up to the Sydney Olympic Games. The Commonwealth and New South Wales governments are cooperating closely in planning for the security and enforcement needs of the Sydney Olympic Games. In this respect, there are already mechanisms established to ensure close cooperation between ASIO and law enforcement agencies, including relevant New South Wales agencies. Whether amendments to current legislation are necessary to facilitate such cooperation is currently under consideration.

The ASIO Act provides a mechanism for provision of relevant information to law enforcement agencies. The functions of ASIO include obtaining, correlating and evaluating intelligence relevant to security and, for purposes relevant to security, to communicate any such intelligence to such persons, and in such manner, as are appropriate to those purposes. In relevant cases, this includes communication to law enforcement agencies. In addition, paragraph 18(3)(a) of that Act specifically provides for the communication of information to law enforcement agencies in relation to the commission or intended commission of offences. While that paragraph is limited to indictable offences, this merely recognises the balance which must be found in a democratic society between collection of intelligence for national security purposes and the protection of the individual. It would scarcely be appropriate for ASIO to be providing intelligence in relation to summary offences, unless that information was relevant to security, as defined in the ASIO Act. Subsection 19(1) of the ASIO Act specifically provides for cooperation with authorities of the Commonwealth, Departments, Police Forces and authorities of the States and authorities of other countries approved by the Minister as being capable of assisting ASIO in the performance of its functions.

There is also cooperation the other way, from law enforcement agencies to the security agencies. For example, both the AFP and the National Crime Authority (NCA) provide relevant information to Australian security agencies, subject to the secrecy provisions of their respective legislation. The AFP and the NCA are restricted from providing information to other persons or agencies except in the performance of their respective statutory functions.

Concerns implied by the Committee in its report that either security or law enforcement agencies may be "protecting their patches" were examined in the 1994 Report into the Review of Commonwealth Law Enforcement Arrangements. In implementing that report's recommendations, additional steps have been taken to ensure improved cooperation and consultation between security and law enforcement agencies. So called "turf protection" has not been an issue. A prime example of the degree of cooperation that exists between security and law enforcement agencies is the national counterterrorism program. The counterterrorism program demonstrates the utmost cooperation between ASIO and the AFP and other relevant Commonwealth and State agencies. There have not proven to be any legislative barriers to that cooperation.

Importantly, the AFP, the NCA, and the ACS are members of the Consultative Committee on Security Intelligence, which:

- provides a consultative forum on security intelligence priorities;
- enables agencies and departments to identify their security intelligence requirements (and so help ASIO and others to manage their product and research programs effectively);
- provides a mechanism for coordinating the provision of security intelligence; and
- provides a consultative forum on policy issues affecting more than one agency, so that responses can be developed and brought to government's attention.

A related issue is the need for law enforcement agencies, both onshore and offshore, and the Department of Immigration and Multicultural Affairs (DIMA) to share information on criminals to ensure that DIMA's visa systems effectively exclude criminals / terrorists from entering Australia.

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