

THE UNIVERSITY OF  
NEW SOUTH WALES



FACULTY OF LAW

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Mr Stephen Palethorpe  
Committee Secretary  
Senate Standing Committee on Finance and Public Administration  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

By Email: [Stephen.Palethorpe@aph.gov.au](mailto:Stephen.Palethorpe@aph.gov.au)

Dear Mr Palethorpe

**INQUIRY INTO THE NATIONAL SECURITY LEGISLATION MONITOR BILL 2009: QUESTION ON NOTICE**

Thank you for providing the Gilbert + Tobin Centre of Public Law with the opportunity to appear before the Senate Standing Committee on Finance and Public Administration.

At the hearing, in response to a question from Senator Bernardi, we committed to providing the Committee with 'any other examples of legislation or regulations that specify in more detail the staffing or resourcing arrangements of an office like [the National Security Legislation Monitor]'.

Unfortunately, we have been unable to identify any such legislation or regulations.

We simply point the Committee's attention to Recommendation 3 of the Senate Standing Committee on Legal and Constitutional Affairs in relation to the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2] that the Bill should include details of, amongst other things:

- The resourcing of the office (in the sense of how the office would be resourced rather than a fixed amount of money set out in the legislation);
- The corporate structure of the office and its legal status; and,
- Under what legislation the office would employ staff.

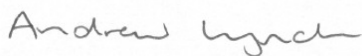
These issues are discussed at page 20 (paragraph 3.40) of the Committee's report.

We note that in highlighting before the Committee the failure of the National Security Legislation Monitor Bill 2009 to deal with matters such as the resourcing and staffing of the office, we were simply responding to the Terms of Reference of the inquiry into the Bill. These Terms of Reference required the Committee to consider whether the Bill complied with the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs.

We do not believe that it would be practical, or even desirable, for the staffing and resourcing arrangements of the office to be fixed in stone in the Bill. It is, however, important for the community perception of the independence of the office that it is not perceived to be subject to the whim of the executive branch of government. To that end, as we commented at the hearing, the Bill should make it clear that the office is an independent statutory office and is located within the Department of Prime Minister and Cabinet purely for administrative purposes. Furthermore, the reporting arrangements in the Bill should be altered to ensure that the National Security Legislation Monitor reports directly to Parliament.

Please do not hesitate to contact us if we can be of any further assistance.

Yours sincerely,



**Dr Andrew Lynch**  
Centre Director



**Ms Nicola McGarrity**  
Director  
Terrorism and Law Project



**Professor George Williams**  
Anthony Mason Professor  
and Foundation Director