



Australian Government

15 November 2006

Ms Jackie Morris
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600



Dear Ms Morris

Please find attached answers from Centrelink arising from the hearing of the Committee on 10 November 2006. In addition, the material below provides further background and context to the answers.

The Australian government is committed to ensuring high levels of compliance with social and welfare payments. As part of this commitment, the government has decided to have an increased focus on serious social security fraud, including through more vigorous investigation of possible frauds against the social security system.

Centrelink has a long standing arrangement with the Australian Federal Police (AFP), governed by a Service Agreement (2004). This agreement provides a statement of services to be provided to Centrelink by the AFP. These services include the outposting of AFP officers to Centrelink fraud investigation teams and assistance with the investigation of matters including, where necessary, seeking the execution of warrants to enter and search premises for evidence relating to suspected fraud.

The AFP has experienced a rapid increase in the level of demands placed upon it in the enhanced security environment over the last five years, which have been addressed by government through increased resources. As a result of these issues, a perception has grown amongst Centrelink staff that the AFP is less able to assist with serious fraud investigations. This perception of the AFP's reduced capacity to service Centrelink's requirements is not shared by the AFP, nor was it raised officially at senior levels with the AFP.

Despite the different perceptions, Centrelink and the AFP agree that there are resource implications in meeting the government's commitment to reduce the incidence of serious social security fraud. The Enhanced Focus on Serious Social Security Fraud 2006-07 Budget measure that was taken forward by the Minister for Human Services

was designed to address this need. As part of this process, Centrelink sought access to search and seizure powers comparable to those exercised by some other Australian government agencies.

Centrelink acknowledges the AFP's pre-eminent expertise, capability and role under the Commonwealth Fraud Control Guidelines, particularly, in investigating matters of serious and complex fraud against the Commonwealth.

The AFP and Centrelink are in full consultation about maximising the AFP's involvement in the investigation of serious and complex social security fraud and the execution of search warrants relating to serious fraud investigations undertaken by Centrelink with a view to minimising the need for separate search and seizure powers. Any agreement reached between Centrelink and AFP on the execution of search warrants and the referral of matters for investigations will be reflected in a new Service Level Agreement that will cover agreed service levels and corresponding resource implications for both agencies.

Yours sincerely,



Jeff Whalan
Chief Executive Officer

Questions for Centrelink

Question 1: Senator Payne, p. 35 of Transcript

If there has been a noticeable reduction in Centrelink's access to AFP officers, what formal communications have there been between Centrelink and the AFP to consult on that and to address that problem?

Response

On 26 October 2001 the Commissioner of Police, Mr Keelty, wrote to Centrelink advising of operational impacts arising from the 11 September 2001 terrorist attacks. Mr Keelty advised that there would be an operational impact on Centrelink due to the demands on Australian Federal Police resources. The letter advised that if the environment remained similar then services provided by the Australian Federal Police would be affected. Mr Keelty concluded by saying that any significant changes in the Australian Federal Police operational priorities would be communicated to Centrelink. In October 2002 the Bali bombings placed further demands on the Australian Federal Police.

In response to this situation as part of a 2003 Budget initiative, resources were provided to Centrelink to engage ten outposted Australian Federal Police in Centrelink's fraud investigation teams. This arrangement was developed with the Australian Federal Police to secure dedicated resources.

Regular liaison meetings between the Australian Federal Police outposted Agents and Centrelink are held at an operational level. At these meetings Centrelink is advised of the Australian Federal Police current capacity to respond to Centrelink priorities.

Question 2: Senator Payne, p. 35 of Transcript

In its opening statement to the committee, Centrelink said that the AFP has not been able to assist with the timeliness needed on some matters, what formal communications there have been between Centrelink and the Australian Federal Police on those specific matters where timeliness has not been the best?

Response

Answered by question 1 above.

Question 3: Senator Payne, p. 35 of Transcript

FACSIA/Centrelink's response to questions on notice refers to 'a cash economy operation conducted in February 2005 which resulted in seven convictions, with sanctions ranging from good behaviour bonds to imprisonment'. In the paragraph after that, the response goes on to say, 'The search warrant was executed after a 12-month delay.'

Please provide to the committee as much information as you are able to about the reason for the delay in the execution of the search warrant.

Response

In February 2003 Centrelink commenced an investigation after reliable and confidential information was received that a number of Centrelink customers were employed at a meat processing plant.

In July 2003 Centrelink investigators met with the Australian Federal Police Client Liaison to discuss the availability of resources. At this time the Australian Federal Police advised Centrelink they would be able to provide assistance. Centrelink subsequently commenced the planning of the operation. Later Centrelink agreed to put the investigation on hold as the Australian Federal Police advised they were investigating the same entities in relation to a more serious criminal matter.

In July 2004 Centrelink made another approach to the Australian Federal Police seeking warrant assistance. The Australian Federal Police advised they were able to assist in the execution of a search warrant. Centrelink was then able to recommence planning, including undertaking further surveillance to ensure the currency of information and to substantiate the case for a warrant.

In February 2005, with the assistance of the Australian Federal Police, the operation took place resulting in seven convictions.

Question 4: Senator Ludwig, pp 35-36 of Transcript

In relation to the 'cash economy operation' conducted in February 2005, and referred to in the question above, during the 12 month delay in the execution of the search warrant, did Centrelink complain to the AFP at any time? Did Centrelink complain to anyone about the delay in the execution of the search warrant? Did Centrelink seek the warrants from alternative places? Did Centrelink seek alternative methods for obtaining the evidence it was after? If Centrelink complained to the AFP, what response did it receive, and did it follow up on the response that was received?

Response

Centrelink made no formal complaint to the Australian Federal Police or anyone else regarding the delay in providing assistance. The chronology in answer to question 3 details the communications that took place between Centrelink and the Australian Federal Police. See question 3 for more information.

Centrelink assessed alternative investigative options, including requesting the consent of the occupier of the premises. Centrelink investigators considered that the investigation would be compromised if consent was requested and denied.

Question 5: Senators Ludwig and Trood, p. 38 of Transcript

Please make available to the committee the correspondence from Centrelink and the AFP in relation to Centrelink's concerns that the revision of the case categorisation and prioritisation model (CCPM) would result in Centrelink matters increasingly not falling within the matters with which the AFP were able to assist Centrelink with.

Please also provide the committee with the AFP's response to this correspondence.

Response

There is no record of formal correspondence between Centrelink and the AFP. However, officer level contact occurred in relation to the revision of the 2005 Case Categorization and Prioritisation Model.

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Question 6: Senator Ludwig, p. 40-41 of Transcript

Please provide the committee with the number of instances where Centrelink officers have sought access to premises and been denied. What were the dates? What did Centrelink do about these denials at the time? What follow-up did Centrelink put in place? Did it look at alternative ways with the AFP or other agencies of overcoming this problem?

Response

Centrelink does not keep a record of the number of cases and dates where attempted access has been denied.

Centrelink regularly seeks access by consent to a range of premises for a variety of purposes. Not all of these approaches would relate to situations appropriate to the use of a search warrant. Each case is assessed individually and a decision is made as to the most appropriate means of gaining access to the property.

In many instances Centrelink seeks access to properties for reasons other than the gathering of physical evidence. An example of this would be where Centrelink investigators seek access to speak to employees working at a business premises.

On occasions Centrelink uses its information gathering powers under Section 195 of the *Social Security (Administration) Act 1999*. There are however a limited number of circumstances where this is an effective method of gathering evidence. It is not an appropriate replacement for the execution of a search warrant where there is a risk of the loss or destruction of evidence.

Centrelink has sought to use a variety of other means to gain access to premises and property. This includes “piggy-backing” on the back of other agencies operations such as the cash economy field operations. These arrangements work well but can only be applied in limited circumstances.

Question 7: Senator Ludwig, p. 42 of Transcript

How old are the agreed guidelines between Centrelink and the DPP about what cases that Centrelink refers? Are these the guidelines that are contained within the MOU that exists between the two agencies?

Response

The guidelines between Centrelink and the Commonwealth Director of Public Prosecutions that detail types of cases to refer to them were agreed in 2004. These guidelines are detailed in the “Centrelink Investigation and Prosecution Manual 2004”.

The ‘Centrelink Investigation and Prosecution Manual 2004’ was jointly published by the Commonwealth Director of Public Prosecutions and Centrelink.

There is a memorandum of understanding between Centrelink and the Commonwealth Director of Public Prosecutions that was agreed to in 1999. This memorandum of understanding also provides guidance on the relationship between the two organisations.

Question 8: Senator Payne, p. 43 of Transcript

In the development of this policy and in managing the challenges that you have identified apparently in terms of having warrants executed, was any contemplation given, or is it possible to give any contemplation, to extending the relationship with the AFP to include the state police so that they could assist with the execution of warrants?

Response

Consideration was given to this approach in 2004 and included a two day conference attended by representatives of FaCSIA, Centrelink, Australian Federal Police, State and Territory Police Services and the Commonwealth Director of Public Prosecutions. The objectives of the conference included enhancing relationships between agencies, identifying barriers and exploring options for effective collaboration.

The benefits of working together included economies of scale, enhanced information and intelligence exchange, whole of government approach to fraud and flexibility in the execution of search warrants. However, there were a number of barriers and issues that prevented these discussions from progressing beyond the conference. These included privacy issues associated with the sharing of information, legislative constraints (different States operate under different legislation), conflicting client service needs, conflicting priorities and jurisdictional issues.

Question to Centrelink from Senator Ludwig

At p.38 of the Transcript, Dr Browne states that Centrelink refers to the AFP to investigate the more complex cases that Centrelink does not have the capability. Dr Browne then refers to an 'emerging gap', and that the numbers of cases that the AFP has been able to investigate has been declining.

How many cases fall within this emerging gap? What type of cases fall in this gap? What losses (as a dollar amount) have been suffered as a result of this gap?

Response

In 1995-96 the Australian Federal Police accepted 319 Centrelink cases. In 2005-06 the Australian Federal Police accepted less than 50 Centrelink cases. This reflects the changes in priorities detailed in the Case Categorisation and Prioritisation Model over the period.

However, Centrelink's investigative capacity, skills and resources has been steadily increasing at the same time as the Australian Federal Police acceptance of cases has declined.

Centrelink investigates cases not accepted by the Australian Federal Police.

There is no gap in the sense that where the Australian Federal Police decline to accept a case, it will continue to be investigated by Centrelink. However, if a search and seizure warrant is required, Centrelink needs to re-approach the Australian Federal Police for assistance.

We are not able to quantify any losses incurred.

Question to Centrelink/ Department of Human Services/ FACSIA from Senator Ludwig

How much money has been set aside by each agency/ Department for the implementation of this legislation? Can you provide the committee with a breakdown of those costs, including the amounts set aside for: awareness raising; training; putting in place the appropriate procedures such as guidelines and recordkeeping.

Response

The table below outlines the additional resources provided to Centrelink as part of the 2006-07 Federal Budget in relation to the search warrant powers.

Item	2006-07 \$000'	2007-08 \$000'	2008-09 \$000'	2009-10 \$000'
Search Warrant Training	190	200	85	90
Investigation Training	260	232	244	269
Procedure and Guidelines	140	140	70	70

The 'Investigation Training' item relates to general fraud investigation training and is not specific to the search warrant powers. However, this training includes a number of modules associated with search warrants, including search procedures and search warrant applications.

Approximately \$6.2 million has been provided for systems enhancements for the whole serious fraud budget measure. This amount includes resources to enhance systems in relation to record keeping for search warrants.

Resources for awareness raising are included in the broader communication strategy for the whole serious fraud measure. The communication strategy includes communication products/marketing, internal communication for staff and managers, and media management.

Question to Centrelink/ Department of Human Services/ FACSIA from Senator Ludwig

Which agency/ Department requested that Centrelink be given search and seizure powers?

Response

As part of the 2006-07 budget process Department of Human Services put forward a series of measures under the heading “Better Service Better Compliance”. One of these measures was ‘Enhanced Focus on Serious Social Security Fraud’. This measure was proposed by Centrelink and included the search and seizure powers.

Questions for Centrelink

Additional Questions on Notice

The following questions were not raised in the hearing, and Senators have put them on Notice.

Question to Centrelink from Senator Trood

In FACSIA's submission, the second paragraph under the heading 'Current Centrelink fraud investigation', says 'Under current arrangements, Centrelink is depend upon the Australian Federal Police (AFP) or other State or Territory agencies to obtain search warrants'.

Why doesn't Centrelink approach State police authorities to execute search warrants?

Response

This question is answered in Question 8.

Question to Centrelink from Senator Ludwig

In light of the ANAO Report No. 29, 'Integrity of Electronic Customer Records: Centrelink' on Centrelink's record keeping, what reassurance can Centrelink offer the committee that it will have the appropriate procedures in place to manage records in relation to obtaining and executing search warrants?

Response

Since the ANAO report, Centrelink has developed a number of mechanisms that will significantly improve the accuracy and integrity of data stored on Centrelink's customer database. As part of the proposed search and seizure powers Centrelink plans to enhance its existing fraud management and access control elements within its integrated systems to record and monitor warrants. All existing procedures and guidelines will be updated to include the new recording arrangements and control measures. System access will be restricted to a limited number of authorised staff with an appropriate security classification. These staff will also receive specialist training on the new procedures and guidelines.