

Legal Affairs, Police, Corrective Services and Emergency Services Committee

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Your Ref:

Our Ref: 11.1.4.c

6 October 2011

Mr Bob Atkinson APM
Commissioner of Police
Queensland Police
GPO Box 1440
BRISBANE QLD 4001

Dear Commissioner

Police Powers and Responsibilities and Other Legislation Amendment Bill 2011

Thank you for the appearance by your department at the committee's public hearing on 4 October 2011.

At its meeting on 4 October, the committee amended its timeframe for reporting on this bill. I have included an updated schedule at the end of this letter.

The committee looks forward to receiving your report, by noon on Monday 10 October, on the issues raised in the submissions and by witnesses at the public hearing.

The committee also seeks your response to the matters of fundamental legislative principle identified in the enclosed report by 17 October 2011.

The committee draws your attention to the following matters of particular interest raised during the hearing with submitters, and would appreciate your comment on them:

1. The submission by the CMC that the additional pat down powers will lead to an increased number of referrals of police officers to the CMC.
2. The submission by the Youth Advocacy Service that the new power would lead to an increase in the number of charges for obstructing police.
3. The suggestion that, unless the discretion not to prosecute is exercised with careful regard for the Director of Public Prosecutions guidelines, particularly the guideline that a prosecution should not proceed unless it is in the public interest to do so, the new power would lead to the generation of an increased number of police records for persons whose circumstances might be better handled differently.

4. The suggestion that minors in possession of alcohol could be dealt with in another way, using existing powers.
5. The submission by the CMC that, if laboratories other than the Queensland Health facility were used for DNA, we might see the emergence of accommodating opinions from laboratories seeking work.
6. The argument by Respect Inc. that the provision of the power for the Police to lawfully impersonate a client to seek sexual services from prostitutes without a prophylactic undermines the strategies pursued by Queensland Health, because every time the prostitutes say no to such a request, they are reminded that they could get considerably more money if they had said yes.
7. The argument by Respect Inc. that, because the Police do not identify themselves when the prostitute says no, the provision of this power would tend to normalise the behaviour that the law is designed to stop (namely the clients seeking to obtain sex without a prophylactic from a prostitute).
8. The argument of the Queensland Law Society that the practice of police referring a defendant to a particular solicitor, at whatever stage of the proceeding, creates a real or perceived conflict of interest.
9. The extent to which the Director of Public Prosecutions guidelines in respect of the discretion to prosecute, particularly the public interest guideline, are fully understood by officers involved in public contact duties?

The committee seeks your comment on the following specific questions:

10. In relation to the proposed **pat-down search powers in clause 6 and clause 8** of the Bill, please outline for each:
 - why the power is necessary, i.e. in what way are the current powers inadequate?
 - how the power will address the issues to be resolved;
 - what alternatives to the pat down search were considered and why these were not considered adequate; and
 - whether police in other states have similar powers to the proposed pat down search power.
11. In relation to **clause 6**, what is the view of the Department of Communities on the impact of pat-down searches on vulnerable members of society such as those with a disability and/or mental illness?
12. In relation to **clause 8**:
 - what alternatives to the pat down search power are available for dealing with the problem of minors suspected to be in possession of alcoholic beverages?
 - what would be the result of a police officer finding other prohibited items following a pat down search of a minor suspected of carrying alcohol?

13. In relation to **clause 101**, please outline:

- the view of the Queensland Police Service on whether the proposal would undermine the public health strategies in relation to sex workers;
- the practicalities of exercising this power and whether officers will have a discretion to issue warnings; and
- what internal processes will be in place to monitor the use of this power e.g. rotation of staff, effective training etc.

14. In relation to **clauses 63 (outsourcing of DNA analysis)**, please outline:

- why is this power is required; what is the problem being addressed?
- do other jurisdictions outsource DNA analysis, and if so have any issues of actual or perceived bias arisen?
- has there been any judicial comment, of which the Service is aware, in other jurisdictions that outsource DNA analysis, as to the quality of that analysis?
- how many Queensland laboratories have been identified as able to undertake the analysis;
- the proposed safeguards to ensure continued high standards of DNA analysis.

15. In relation to **clause 12**, how does the proposal to extinguish a charge or security interest registered under the Motor Vehicles Boats and Securities Act 1986, conform to the overall policy on registered security interests, particularly in relation to the Personal Property Securities Act 2009 (Cth)?

Indicative schedule for examining the Bill

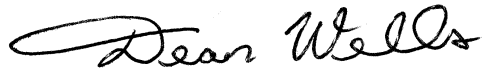
The committee's indicative schedule for examining the Bill has changed as follows:

Date	Committee	Department
Monday 10 October		Deadline for provision of report on identified fundamental legislative principles matters, and comments on matters raised in submissions and during the public hearing.
Wednesday 12 October	Consider department comments on submissions and evidence presented at the public hearing on	Attend committee meeting to present report and answer questions.

Date	Committee	Department
Late October	Secretariat prepares committee's draft report to the House	Review committee's draft report for factual accuracy.

Please contact the committee's Research Director, Ms Amanda Powell, on (07) 3406 7042 or email lapcsesc@parliament.qld.gov.au if you have any questions on the matters in this letter.

Yours sincerely



Hon Dean Wells MP
Acting Chair

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