

2010

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Parliamentary Joint Committee on Law  
Enforcement Bill 2010**

**No.     , 2010**

*(Attorney-General)*

**A Bill for an Act to establish a Parliamentary Joint  
Committee on Law Enforcement, and for related  
purposes**



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1     **A Bill for an Act to establish a Parliamentary Joint**  
2     **Committee on Law Enforcement, and for related**  
3     **purposes**

4     The Parliament of Australia enacts:

5     **Part 1—Preliminary**  
6

7     **1 Short title**

8                     This Act may be cited as the *Parliamentary Joint Committee on*  
9                     *Law Enforcement Act 2010*.

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1     **2 Commencement**

2                     This Act commences on the day after this Act receives the Royal  
3                     Assent.

4     **3 Definitions**

5                     In this Act:

6                     **ACC** means the Australian Crime Commission established by  
7                     section 7 of the *Australian Crime Commission Act 2002*.

8                     **ACC operation/investigation** has the same meaning as in the  
9                     *Australian Crime Commission Act 2002*.

10                    **AFP** means the Australian Federal Police.

11                    **AFP appointee** has the same meaning as in the *Australian Federal*  
12                    *Police Act 1979*.

13                    **AFP conduct or practices issue** has the same meaning as in the  
14                    *Australian Federal Police Act 1979*.

15                    **CEO of the ACC** means the Chief Executive Officer of the ACC.

16                    **intelligence operation** has the same meaning as in the *Australian*  
17                    *Crime Commission Act 2002*.

18                    **law enforcement agency** means:

- 19                    (a) the ACC; or  
20                    (b) the AFP; or  
21                    (c) a Police Force of a State; or  
22                    (d) any other authority or person responsible for the enforcement  
23                    of the laws of the Commonwealth or of the States.

24                    **member** means a member of the Committee.

25                    **member of the staff of the ACC** has the same meaning as in the  
26                    *Australian Crime Commission Act 2002*.

27                    **relevant criminal activity** has the same meaning as in the  
28                    *Australian Crime Commission Act 2002*.

1                    ***sensitive information*** means information that, if disclosed:

2                    (a) could prejudice:

3                    (i) the security, defence or international relations of  
4                    Australia; or

5                    (ii) relations between the Commonwealth Government and  
6                    the Government of a State or between the Government  
7                    of a State and the Government of another State; or

8                    (b) would disclose:

9                    (i) deliberations or decisions of the Cabinet, or of a  
10                    Committee of the Cabinet, of the Commonwealth or of a  
11                    State; or

12                    (ii) deliberations or decisions of the Australian Capital  
13                    Territory Executive or of a committee of that Executive;  
14                    or

15                    (iii) deliberations or advice of the Federal Executive Council  
16                    or the Executive Council of a State or the Northern  
17                    Territory; or

18                    (c) could reveal, or enable a person to ascertain, the existence or  
19                    identity of a confidential source of information in relation to:

20                    (i) the enforcement of the criminal law of the  
21                    Commonwealth, a State or Territory or a foreign  
22                    country; or

23                    (ii) an investigation relating to misconduct or alleged  
24                    misconduct by an AFP appointee; or

25                    (iii) an investigation relating to misconduct or alleged  
26                    misconduct by a member of the staff of the ACC; or

27                    (iv) an investigation into an AFP conduct or practices issue;  
28                    or

29                    (v) an ACC operation/investigation (including an ACC  
30                    operation/investigation that has been concluded); or

31                    (d) could endanger a person's life or physical safety; or

32                    (e) could prejudice the protection of public safety; or

33                    (f) could prejudice the fair trial of a person or the impartial  
34                    adjudication of a matter; or

35                    (g) could prejudice the proper enforcement of the law or the  
36                    operations of law enforcement agencies; or

37                    (h) could prejudice a person's reputation; or

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- 1 (i) would disclose information the disclosure of which is  
2 prohibited (absolutely or subject to qualifications) by or  
3 under another law of the Commonwealth; or  
4 (j) would unreasonably disclose personal information (within  
5 the meaning of the *Privacy Act 1988*); or  
6 (k) would unreasonably disclose confidential commercial  
7 information.

8 **State** includes the Australian Capital Territory and the Northern  
9 Territory.

10 **the Committee** means the Parliamentary Joint Committee on Law  
11 Enforcement for the time being constituted under this Act.

12 **4 Extension to external Territories**

13 This Act extends to every external Territory.



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2 **Part 2—Parliamentary Joint Committee on Law**  
3 **Enforcement**  
4

5 **5 Parliamentary Joint Committee on Law Enforcement**

6 (1) As soon as practicable after the commencement of the first session  
7 of each Parliament, a joint committee of members of the  
8 Parliament, to be known as the Parliamentary Joint Committee on  
9 Law Enforcement, is to be appointed according to the practice of  
10 the Parliament.

11 (2) The Committee is to consist of 10 members, namely, 5 members of  
12 the Senate appointed by the Senate, and 5 members of the House of  
13 Representatives appointed by that House.

14 (3) A member of the Parliament is not eligible for appointment as a  
15 member of the Committee if he or she is:

- 16 (a) a Minister; or  
17 (b) the President of the Senate; or  
18 (c) the Speaker of the House of Representatives.

19 (4) A member ceases to hold office:

- 20 (a) when the House of Representatives expires by effluxion of  
21 time or is dissolved; or  
22 (b) if he or she becomes the holder of an office specified in any  
23 of the paragraphs of subsection (3); or  
24 (c) if he or she ceases to be a member of the House of the  
25 Parliament by which he or she was appointed; or  
26 (d) if he or she resigns his or her office as provided by  
27 subsection (5) or (6).

28 (5) A member appointed by the Senate may resign his or her office by  
29 writing signed by him or her and delivered to the President of the  
30 Senate.

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1 (6) A member appointed by the House of Representatives may resign  
2 his or her office by writing signed by him or her and delivered to  
3 the Speaker of that House.

4 (7) Either House of the Parliament may appoint one of its members to  
5 fill a vacancy amongst the members of the Committee appointed  
6 by that House.

## 7 6 Powers and proceedings of the Committee

8 All matters relating to the powers and proceedings of the  
9 Committee are to be determined by resolution of both Houses of  
10 the Parliament.

## 11 7 Functions of the Committee

- 12 (1) The Committee has the following functions:
- 13 (a) to monitor and to review the performance by the ACC of its  
14 functions;
  - 15 (b) to report to both Houses of the Parliament, with such  
16 comments as it thinks fit, upon any matter appertaining to the  
17 ACC or connected with the performance of its functions to  
18 which, in the opinion of the Committee, the attention of the  
19 Parliament should be directed;
  - 20 (c) to examine each annual report on the ACC and report to the  
21 Parliament on any matter appearing in, or arising out of, any  
22 such annual report;
  - 23 (d) to monitor and to review the performance by the AFP of its  
24 functions;
  - 25 (e) to report to both Houses of the Parliament, with such  
26 comments as it thinks fit, upon any matter appertaining to the  
27 AFP or connected with the performance of its functions to  
28 which, in the opinion of the Committee, the attention of the  
29 Parliament should be directed;
  - 30 (f) to examine each annual report on the AFP and report to the  
31 Parliament on any matter appearing in, or arising out of, any  
32 such annual report;
  - 33 (g) to examine trends and changes in criminal activities,  
34 practices and methods and report to both Houses of the

1 Parliament any change which the Committee thinks desirable  
2 to the functions, structure, powers and procedures of the  
3 ACC or the AFP;

- 4 (h) to inquire into any question in connection with its functions  
5 which is referred to it by either House of the Parliament, and  
6 to report to that House upon that question.

7 Note 1: For the functions of the ACC, see section 7A of the *Australian Crime*  
8 *Commission Act 2002*.

9 Note 2: For the functions of the AFP, see section 8 of the *Australian Federal*  
10 *Police Act 1979*.

- 11 (2) The functions of the Committee do not include:

- 12 (a) undertaking an intelligence operation or investigating a  
13 matter relating to a relevant criminal activity; or  
14 (b) reconsidering the findings of the ACC in relation to a  
15 particular ACC operation/investigation (including an ACC  
16 operation/investigation that has been concluded); or  
17 (c) reviewing sensitive operational information or operational  
18 methods available to the ACC or the AFP; or  
19 (d) reviewing particular operations or investigations that have  
20 been, are being or are proposed to be undertaken by the ACC  
21 or the AFP; or  
22 (e) reviewing information provided by, or by an agency of, a  
23 foreign government where that government does not consent  
24 to the disclosure of the information; or  
25 (f) conducting inquiries into individual complaints about the  
26 activities of the ACC or the AFP.

- 27 (3) To avoid doubt, the Committee may examine, and report to both  
28 Houses of the Parliament on, information given to it under  
29 section 8 or 9.

## 30 **8 Disclosure to Committee by CEO of the ACC**

- 31 (1) Subject to subsection (2), the CEO of the ACC:

- 32 (a) must comply with a request by the Committee to give the  
33 Committee information in relation to an ACC  
34 operation/investigation (including an ACC  
35 operation/investigation that has been concluded); and

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- 1 (b) must when requested by the Committee, and may at such  
2 other times as the CEO thinks appropriate, inform the  
3 Committee concerning the general performance of the ACC's  
4 functions.
- 5 (2) The CEO of the ACC may decide not to comply with the request if  
6 the CEO is satisfied that:  
7 (a) the information is sensitive information; and  
8 (b) the public interest that would be served by giving the  
9 information to the Committee is outweighed by the  
10 prejudicial consequences that might result from giving the  
11 information to the Committee.
- 12 (3) If the CEO of the ACC does not give information to the Committee  
13 because of subsection (2), the Committee may refer the request to  
14 the Minister responsible for the ACC.
- 15 (4) If the Committee refers the request to the Minister responsible for  
16 the ACC, the Minister responsible for the ACC:  
17 (a) must determine in writing whether:  
18 (i) the information is sensitive information; and  
19 (ii) if it is, whether the public interest that would be served  
20 by giving the information to the Committee is  
21 outweighed by the prejudicial consequences that might  
22 result from giving the information to the Committee;  
23 and  
24 (b) must provide copies of that determination to the CEO of the  
25 ACC and the Committee.
- 26 (5) The Minister responsible for the ACC is not required to disclose  
27 his or her reasons for making a determination under subsection (4).
- 28 (6) A determination made by the Minister responsible for the ACC  
29 under subsection (4) is not a legislative instrument.

30 **9 Disclosure to Committee by Commissioner of the AFP**

- 31 (1) Subject to subsection (2), the Commissioner of the AFP:

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- 1 (a) must comply with a request by the Committee to give the  
2 Committee information in relation to an investigation that the  
3 AFP has conducted or is conducting; and  
4 (b) must when requested by the Committee, and may at such  
5 other times as the Commissioner thinks appropriate, inform  
6 the Committee concerning the general performance of the  
7 AFP's functions.
- 8 (2) The Commissioner of the AFP may decide not to comply with the  
9 request if the Commissioner is satisfied that:  
10 (a) the information is sensitive information; and  
11 (b) the public interest that would be served by giving the  
12 information to the Committee is outweighed by the  
13 prejudicial consequences that might result from giving the  
14 information to the Committee.
- 15 (3) If the Commissioner of the AFP does not give information to the  
16 Committee because of subsection (2), the Committee may refer the  
17 request to the Minister responsible for the AFP.
- 18 (4) If the Committee refers the request to the Minister responsible for  
19 the AFP, the Minister responsible for the AFP:  
20 (a) must determine in writing whether:  
21 (i) the information is sensitive information; and  
22 (ii) if it is, whether the public interest that would be served  
23 by giving the information to the Committee is  
24 outweighed by the prejudicial consequences that might  
25 result from giving the information to the Committee;  
26 and  
27 (b) must provide copies of that determination to the  
28 Commissioner of the AFP and the Committee.
- 29 (5) The Minister responsible for the AFP is not required to disclose his  
30 or her reasons for making a determination under subsection (4).
- 31 (6) A determination made by the Minister responsible for the AFP  
32 under subsection (4) is not a legislative instrument.

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1 **10 Ombudsman to brief Committee about controlled operations**

- 2 (1) At least once in each calendar year the Ombudsman must provide a  
3 briefing to the Committee about the involvement of the ACC and  
4 the AFP in controlled operations under Part IAB of the *Crimes Act*  
5 *1914* during the preceding 12 months.
- 6 (2) For the purposes of receiving a briefing from the Ombudsman  
7 under subsection (1), the Committee must meet in private.

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2 **Part 3—Miscellaneous**

3

4 **11 Regulations**

5 The Governor-General may make regulations prescribing matters:

6 (a) required or permitted by this Act to be prescribed; or

7 (b) necessary or convenient to be prescribed for carrying out or  
8 giving effect to this Act.