

## SECTION 5

### OTHER MATTERS REQUIRING ATTENTION

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**OTHER MATTERS REQUIRING ATTENTION**  
**NATIONAL SECURITY AND CRIMINAL JUSTICE GROUP**  
**DEPUTY SECRETARY: MILES JORDANA**

**Criminal Justice**

**Emergency Management**

**National Security**

## CRIMINAL JUSTICE

### Cyber Crime

Cyber crime has been identified by the Australian Security Intelligence Organisation and the Australian Crime Commission as a significant threat to national security and the Attorney-General's Department is leading whole-of-government efforts to improve Australia's response, including through the Standing Committee of Attorneys-General (SCAG) and the Government response to the House of Representatives Communication Committee's report on cyber crime, which is due to be tabled by the end of September. Under the auspices of SCAG, the Department is working with the States and Territories on a range of cyber crime

[REDACTED]

Comment [b145]: s.47C

### Organised Crime

[REDACTED]

Comment [b146]: s.47C

### Legislative Reform to Enhance Cooperation in Extradition and Mutual Assistance Criminal Matters

An exposure draft of the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill was released for public consultation on 1 July 2009.

[REDACTED]

Measures proposed in the Bill would significantly enhance Australia's international crime cooperation framework by reducing delays in current processes and enabling Australia to cooperate more effectively with other countries in fighting transnational and domestic crime. Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

Comment [b147]: s.47C

### Registration of Alternative Remittance Dealers (Combating the Financing of People Smuggling and Other Measures Bill)

The Department is developing proposed amendments to the AML/CTF Act to strengthen the regulatory regime for remittance dealers for introduction in the next sitting of parliament. The Department is undertaking public consultation on this enhanced regulation that will help protect against criminal infiltration of the remittance sector, including by those seeking to facilitate the funding of people smuggling and other serious and transnational crimes. Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

### Second Tranche of Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) Reforms

The Department is considering the implementation of the second tranche of AML/CTF reform

[REDACTED] This will address a current significant gap in the anti-money laundering regime that is being exploited by serious and organised crime.

Comment [b148]: s.47C

### CrimTrac

The Department is working to establish CrimTrac under its own legislation, which will address the potential for conflict that exists under the current CrimTrac Inter-Governmental Agreement in relation to the roles of the Minister, CrimTrac Board of Management and Chief Executive Officer, and will be seeking Ministerial agreement on a preferred governance model shortly.

CrimTrac's exemption from the Cost Recovery Guidelines expires on 14 January 2011. We propose to prepare a Cabinet Submission to settle the long term arrangements for CrimTrac's funding model.

The Department is conducting a recruitment process for the position of the CrimTrac CEO (which will be vacant from 21 January 2011) and will be in a position to provide advice on suitable candidates for the Minister's decision by October 2010. Refer to **Appointments** in Overview of Ministerial Responsibilities for detail on all significant upcoming appointments.

### Formation of A Commonwealth Firearms Advisory Body

The Commonwealth Firearms Advisory Council (CFAC) was announced on 16 July 2010, replacing the Sporting Shooters and Firearms Advisory Council. A number of groups have expressed concern about the membership of the new Council. The Department will be seeking direction on the future activities of the CFAC, including its composition and a date for the inaugural meeting, if appropriate.

### Frederick Martens

In 2006, Frederick Martens was convicted of child sex tourism offences. Mr Martens's conviction was quashed in November 2009. [REDACTED]

[REDACTED] The matter has attracted considerable media attention, as the judgment quashing Mr Martens's conviction was critical of the Commonwealth Director of Public Prosecutions and the Australian Federal Police. [REDACTED]

Comment [b149]: s.47F

Comment [b150]: s.42

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Comment [b151]: s33(1)(a)(iii)

## EMERGENCY MANAGEMENT

### Crisis Coordination Centre

*NOTE – This brief should be read in conjunction with the **Parliament House Briefing Room Brief in Hot Issues**.*

In line with the recommendations of the Homeland and Border Security Review, the Crisis Coordination Centre will be established through the National Crisis Coordination Capability Program. The Crisis Coordination Centre will centralise information across the Australian government during a crisis to support decision making in the Parliament House Briefing

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Room and to connect relevant Australian Government and jurisdictional agencies. The facility will be established in the Edmund Barton Building alongside the Australian Federal Police Operations Centre and is scheduled for activation early 2011.

[REDACTED]

[REDACTED]

Comment [b152]: s.47B

### **National Disaster Resilience Program**

Commonwealth funding for natural disaster mitigation is delivered through a National Partnership Agreement which allows for each State and Territory to target funding in accordance with their risk profile on natural disasters.

The role of the Attorney-General is to consider and approve implementation plans from States and Territories. There are implementation plans awaiting approval. The Commonwealth has no direct management of projects, but retains visibility of them.

### **Natural Disaster Relief and Recovery Arrangements**

Through the Natural Disaster Relief and Recovery Arrangements (NDRRA) the Australian Government provides partial reimbursement (50 – 75% of actual expenditure) to the States and Territories for their expenditure on relief and recovery measures following natural disasters. On 9 June 2010, the Australian Government agreed, as an interim arrangement pending longer term review, to the inclusion of terrorist incidents as eligible events under the NDRRA. The Arrangements give due recognition to Constitutional roles and responsibilities, and are administered in accordance with the terms and conditions outlined in the 'NDRRA Ministerial Determination 2007' - a Determination of the Attorney-General.

These Arrangements recognise that the States/Territories are best placed to administer assistance and determine the type and level of assistance to be provided to disaster victims. The Arrangements are automatically triggered when State/Territory expenditure exceeds \$240,000. No declaration is required to activate the NDRRA. Relief measures eligible for reimbursement under the NDRRA include: personal hardship and distress assistance; restoration or replacement of essential public assets; concessional interest rate loans to small businesses, primary producers, voluntary non-profit bodies and needy individuals; and certain counter disaster operations. In severe events further assistance can be made available by agreement between the Prime Minister and the affected State/Territory First Minister. In 2009-10 the Australian Government reimbursed jurisdictions \$112 million and estimates for 2010-11 are approximately \$600 million.

## **NATIONAL SECURITY**

### **Air Security Officers**

Australia has a number of existing Air Security Officer (ASO) arrangements in place.

The continuation and ongoing development of the ASO program was endorsed by the Federal Audit of Police Capabilities (Beale). The ASO Program is a component of Australia's counter-terrorism efforts and provides an additional layer of aviation security. ASO deployments are risk-based and adaptable to changing security threats.

Australia is seeking to expand the number of countries with which it has ASO deployment arrangements.

### Aviation Security Bill

The Aviation Crimes and Policing Legislation Amendment Bill 2010 proposes amendments to three Acts - the *Crimes (Aviation) Act 1991*, the *Commonwealth Places (Application of Laws) Act 1970* (COPAL Act) and the *Australian Federal Police Act 1979* (AFP Act). It was not debated in either chamber, and the Senate Legal and Constitutional Affairs Committee's inquiry was suspended during caretaker. Should the Government wish to proceed with the amendments, the Bill would need to be reintroduced.

The Bill would insert new offences and increase penalties for existing offences in the Crimes (Aviation) Act, and rectify technical anomalies in the COPAL Act and AFP Act that impact upon the powers of AFP members to investigate offences committed at certain airports. Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

### Cybercrime Convention

On 30 April 2010, the Attorney-General and Minister for Foreign Affairs announced Australia's intention to accede to the Council of Europe Convention on Cybercrime. The Convention is the only binding international treaty on cybercrime. It serves as a guide for nations in developing comprehensive legislation on cybercrime and provides a framework for international cooperation.

Australia is currently in a good position to comply with the majority of obligations under the Cybercrime Convention. The Department has been progressing legislative amendments to enable Australia to accede to the Convention, including amendments to both the *Mutual Assistance in Criminal Matters Act 1987* and the *Telecommunications (Interception and Access) Act 1979* to:

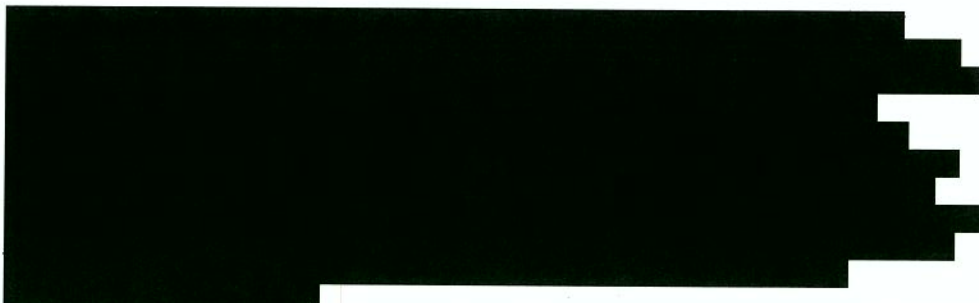
- enable Australian law enforcement to preserve telecommunications data to assist in the investigation of cybercrime
- facilitate access to stored communications for foreign law enforcement purposes, and
- enable the efficient sharing of such information.

Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

### Developing a Framework for National Biometric Interoperability

There is a pressing need to develop a national framework to apply to Commonwealth and State/Territory agencies to ensure biometric interoperability for a range of key government strategies, including national security, law enforcement, border protection and service delivery reform. The recent referral of the draft *Privacy Amendment Bill 2010: Privacy principles* to a Senate Committee on 24 June 2010, provides greater clarity on the privacy framework to apply to biometrics, with the result that developing the biometrics interoperability framework can be progressed without delay.

### Fernandes AAT Appeal



Comment [b153]: s.42

**National Security Legislation Amendment Bill and Parliamentary Joint Committee on Law Enforcement Bill**

The National Security Legislation Amendment Bill implements the Government's responses to a number of independent and bipartisan reviews of national security and counter-terrorism legislation. The Parliamentary Joint Committee on Law Enforcement Bill establishes the Parliamentary Joint Committee on Law Enforcement, which will replace the Parliamentary Joint Committee on the Australian Crime Commission. The Senate Legal and Constitutional Affairs Committee conducted an inquiry into, and released a report on, the Bills. The Bills had not passed at the time the election was called and will need to be re-introduced. Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

**Single Security Vetting Service**

The creation of a single security vetting agency within the Department of Defence was announced by the Australian Government on 1 December 2009. The new Australian Government Security Vetting Agency, to be located in the Department of Defence, will commence operation on 1 October 2010. The Australian Security Vetting Service located in AGD will cease, and staff will transfer to Defence from 1 October.

**Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010**

*The Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010*, introduced in the Winter sittings of Parliament, facilitates greater cooperation, assistance and information sharing within Australia's law enforcement and national security communities. The Bill lapsed when Parliament was prorogued.

The Department will be seeking approval to reintroduce the Bill in the 2010 Spring sittings.

**OTHER MATTERS REQUIRING ATTENTION**

**CIVIL JUSTICE AND LEGAL SERVICES**

**DEPUTY SECRETARY: ELIZABETH KELLY**

**Access to Justice**

**Appointments**

**Classification**

**Improving and Modernising Legislation**

**International Law**

**Native Title**

**Territories**



**ACCESS TO JUSTICE**

**Dealing with Family Violence and Child Protection in the Family Law System**

There are several initiatives underway at both the Commonwealth and State and Territory levels to improve collaboration between the Federal Family Courts and the State and Territory child welfare authorities, including approval by the National Justice CEOs group in July 2010 for the development of a discussion paper identifying national initiatives to improve collaboration by authorities. Prioritising these initiatives and projects is recommended.

Recent reviews and research indicate that more needs to be done to help protect and support families who have experienced or are at risk of violence within the family law system to improve outcomes for children. An early decision on final stages of implementation of pilots of legally assisted family dispute resolution and distribution of multidisciplinary training materials developed in response to those reviews will be required.

**Ethiopia-Australia Intercountry Adoption Program**

There are a number of decisions relating to the ongoing viability of the Ethiopian program that will require your consideration including the appointment of a replacement Ethiopian-based representative and approval to work with new partner orphanage/s. The program does not currently have an operational orphanage which means no new adoptions can occur.

[REDACTED]

Comment [b154]: s.33(1)(a)(iii)

**Family Dispute Resolution – Strategies to Keep More Families out of Court**

The former Government announced proposals to extend the requirement to attend family dispute resolution before attending court beyond parenting cases to include property and spousal maintenance disputes and to expand arbitration under the Family Law Act to include children's matters.

[REDACTED] We will provide further briefing on options in relation to this issue.

Comment [b155]: s.33(1)(a)(iii)

**Reform of Marriage Celebrants Program**

Reforms to the Marriage Celebrants Program, and related marriage policy, are being considered to improve the Program and allow greater efficiencies in the way the program is administered. The Department will provide you with separate briefing on reform options.

**Regulations on Court and Tribunal Fees**

[REDACTED]

These would come into force on 1 October 2010, and follow initial changes to fees that commenced on 1 July 2010.

Comment [b156]: s.47C

**Bath Inquiry into Northern Territory Child Protection System**

[REDACTED]



Comment [b157]: s.47C

## APPOINTMENTS

Refer to **Appointments** in Overview of Ministerial Responsibilities for detail on all significant upcoming appointments.

### Upcoming Appointments and General Issues Around Appointments

There are a number of upcoming appointments to statutory, judicial and advisory bodies that will require your early attention. The Department will provide you with separate briefings on these at the appropriate time. Public notices appeared in newspapers on 10, 16 and 17 July for appointments to the Family Court in Queensland and the Federal Magistrates Court in Newcastle. Advisory panels, comprising the relevant head of court, former judicial officers and senior departmental officers, have been convened to consider potential candidates.



Comment [b158]: s.47C

## CLASSIFICATION

### R 18+ Classification for Computer Games

On 7 May 2010, SCAG Ministers agreed that the Commonwealth would progress eight areas of work to further analyse community and expert views with regard to whether there should be an R 18+ classification for computer games, and report back at the 4-5 November 2010 SCAG meeting.

Work includes further targeted research into community views to determine their consistency with the December 2009 public consultation and community assessment panels to provide feedback on community standards.

Agreement will be sought on proposed options to carry out this work.

## IMPROVING AND MODERNISING LEGISLATION

### Civil Dispute Resolution Bill

On 16 June 2010 the Civil Dispute Resolution Bill was introduced into the House of Representatives. A decision will need to be made about whether to introduce the Bill. The Bill, based on recommendations from the 2009 NADRAC *Resolve to Resolve* report, encourages the resolution of disputes outside of the courts and seeks to improve access to justice by focussing on the early resolution of disputes.

### Government Response to the Senate Legal and Constitutional Affairs References Committee Report on 'Australia's Judicial System and the Role of Judges'

The report's 16 recommendations include: the establishment of a federal judicial commission to handle complaints, assist in consistent sentencing and enhance judicial education; part-time working arrangements for judicial officers; a nationally consistent retirement age; and enhanced transparency in appointments to federal courts. The Government has not yet responded to this report.

### ITSA Cost Recovery

The Insolvency and Trustee Service Australia (which regulates the personal insolvency system) is implementing new cost recovery measures in order to offset additional funding it

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received in the 2010-11 Budget. The first of the cost recovery measures is due to commence on 1 October 2010 and consultation will need to start as soon as possible after the election.

### INTERNATIONAL LAW

#### Arbitration Reforms

Significant amendments to the *International Arbitration Act 1974* received Royal Assent on 6 July 2010. Regulations under the amended Act to prescribe authorities able to appoint arbitrators have been drafted. There are also a number of minor amendments which would be desirable if drafting resources are available. You will be briefed on these issues.

Comment [b159]: s.33(1)(a)(iii)

#### Australia's Preparations for its Universal Periodic Review Appearance in 2011

Australia is due to be reviewed under the United Nations Human Rights Council's Universal Periodic Review (UPR) mechanism on 27 January 2011, with Australia's National Report due on 18 October 2010. The Attorney-General's Department is the lead agency in preparing for Australia's first UPR and the Attorney-General may be approached to head the Australian delegation.

#### Response to Request from the United Nations Human Rights Committee for Information on Follow-Up to Concluding Observations

Following Australia's appearance before the UN Human Rights Committee in March 2009 regarding its latest periodic report under the International Covenant on Civil and Political Rights, the Committee issued its Concluding Observations in early April 2009 and requested a response to four of the recommendations – concerning counter terrorism, the Northern Territory Emergency Response, violence against women, and immigration – within one year. The response is now overdue and will require the Attorney-General's clearance after the election.

#### Trade Measures Review Officer

The Trade Measures Review Officer submitted to the previous Minister for Home Affairs a report in regard to a dumping notice imposed on silicone emulsion concrete admixtures from the United States of America on 16 July 2010. This report was returned due to the caretaker period and will be resubmitted for your consideration. **On 24 August 2010, the Trade Measures Review Officer also reversed a termination decision to a particular company exporting aluminium extrusions to Australia. This matter will now be further considered by Customs and Border Protection.**

### NATIVE TITLE

#### Confirming a Native Title Ministers' Meeting Date

The Native Title Ministers' Meeting, comprising all relevant Commonwealth, State and Territory Ministers, is the ministerial council which endorses national native title policy developed by the intergovernmental Joint Working Group on Indigenous Land Settlements (JWILS). States rotate hosting and being Secretariat for the meetings and the Attorney-General's Department is the Secretariat for the Joint Working Group.

Following the election, the Government will need to confirm if it wants to continue to participate in the Ministers' Meetings - if so, it will need to finalise a date for the next meeting which will consider progress and next steps of the Joint Working Group, including consideration of JWILS recommendations for Ministers against its 2009-10 Terms of

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Reference on improving the governance of benefits provided under native title settlement agreements.

### **Native Title Agreements Discussion Paper**

When the election was called, the Department and FaHCSIA suspended consultations on the discussion paper "Leading practice agreements: maximising outcomes from native title benefits", which canvasses proposals to improve native title agreement-making and benefits management. Authorisation from the Government would be required to complete the consultations and advise on options.

### **Native Title—Legislation**

In June 2010, the Senate passed the Coalition's Wild Rivers' (Environmental Management) Bill, which requires agreement of traditional owners to the development of native title land in wild river areas. The Bill was not considered by the House of Representatives before the election was called. Reintroduction of the Bill would provide Cape York traditional owners with a right to prevent regulation over native title land under Queensland's *Wild Rivers Act 2005*. (Policy Implementation Strategy refers).

Further information on Bills can be found in the **Priority/Time Critical Legislation** brief.

[REDACTED] The application for funding is being assessed in accordance with Indigenous Test Case Guidelines. The Wild Rivers Act regulates activities in wild river areas. The challenge seeks to declare the Queensland Act invalid on the basis that it is inconsistent with the *Racial Discrimination Act*, the *Native Title Act* and *Constitution*

Comment [b160]: s.47C

### **Native Title Financial Assistance to States**

[REDACTED] (original offer made by Prime Minister Keating in 1994, and reaffirmed by Prime Minister Howard on several occasions). However, no jurisdictions ever entered into an agreement with the Commonwealth to formalise the offer. The Government will need to consider its approach to contributing to State and Territory native title compensation and settlement costs.

Comment [b161]: s.47C

## **TERRITORIES**

### **Centenary of Canberra**

The Commonwealth has agreed in principle to support the 2013 Centenary of Canberra celebrations since 2006. In December 2008 the Australian and ACT Governments signed an Intergovernmental Agreement committing to work together to plan the Centenary of Canberra celebrations. The ACT Government would like the Commonwealth to match their \$14 million contribution. The Commonwealth has agreed to provide \$100,000 for some specific centenary projects, but there has not been any further financial commitment from the Australian Government. The ACT expects the Commonwealth to provide a substantial gift to commemorate the centenary.

### **Economic and Environmental Future of the Indian Ocean Territories**

In 2009, the former Minister for Home Affairs established a Taskforce to provide advice on an environmentally and economically sustainable future for Christmas and the Cocos (Keeling) Islands. Following consultation across Government and with the community, this group has developed a draft report that will be presented in the near future.

The Joint Standing Committee on the National Capital and External Territories published its report on the *Inquiry into the Changing Economic Environment of the Indian Ocean Territories* out of session on 1 April 2010. A total of 26 recommendations were made in that

report. A draft response has been compiled, with input from other relevant Departments, and will be presented for consideration in the near future.

#### **Impact of Immigration Detention Centre Operations on Christmas Island Services and Infrastructure**

The operations of the Christmas Island Immigration Detention Centre have had a significant impact on local services and infrastructure. On 15 December 2009, the previous Government announced a \$50 million package of measures to expand key services, including power, wastewater, health and education. The major infrastructure upgrade to wastewater will be completed by October 2010 and the power station expansion by August 2011.

An additional \$47.3 million over four years was announced in the 2010-11 budget to continue to fund these initiatives as well as fund additional flights, housing and community policing.

Immigration policy changes relating to the housing of detainees on the mainland or in other regional centres are not likely to decrease the demand on local services and these expansions will still be required (refer to Policy Implementation Strategy **Closure of Christmas Island Immigration Detention Centre**).

#### **Impact of Operation Sunlight on Capital Funding for Maintaining Territories Infrastructure**

Implementation of 'Operation Sunlight' this financial year has extinguished \$27.037m of capital depreciation funding required for the refurbishment or replacement of existing essential services assets on Christmas Island and Cocos (Keeling) Islands at a time when community pressures on this infrastructure is at an all-time high with the influx of Irregular Maritime Arrivals. The remaining funds will not meet requirements.

The Department is consulting with the Department of Finance and Deregulation on resolution of this issue and expects to provide further advice as part of the budget process.

#### **National Capital Authority Financial Sustainability**

The Chief Executive of the National Capital Authority (NCA) raised concerns about the financial sustainability of the NCA beyond the 2009-10 financial year. The Department convened a Taskforce to examine the financial sustainability of the NCA and to explore options for the NCA's continued financial viability in the future. The Taskforce will present a report to you in October 2010.

#### **National Capital Responsibilities – ACT Planning**

An Intergovernmental Committee (IGC) on Planning in the National Capital was established as a key measure of the then Government's Response to the Joint Standing Committee on the National Capital and External Territories report *The Way Forward – inquiry into the role of the National Capital Authority*. The IGC is considering the simplification of planning arrangements in the national capital, especially relating to Commonwealth and ACT responsibilities. Briefing on the status of discussions with the ACT Government will be provided in October 2010.

#### **Phosphate Mine on Christmas Island**

Phosphate Resources Ltd (PRL) makes a significant contribution to the Christmas Island economy and funds a conservation levy for rainforest rehabilitation. PRL's existing lease to mine phosphate expires in February 2019. The decision of the Minister for Environment Protection, Heritage and the Arts on 16 July 2010 to refuse environmental approval for eight new mining leases will not impact on PRL's current mining activities. The Attorney-General's Department is in the process of reviewing the current lease in conjunction with PRL to clarify some of the conditions of the lease and to consider extending the life of the lease beyond 2019.

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