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**Submission to the Parliamentary Joint Committee on Intelligence and Security:
Telecommunications Legislation Amendment (International Production Orders)
Bill 2020**

Thank you for the invitation to provide the Parliamentary Joint Committee on Intelligence and Security (**PJCIS**) with submissions addressing the Telecommunications Legislation Amendment (International Production Orders) Bill 2020 (**the Bill**).

Overall, the Western Australia Police Force (**WA Police Force**) support the framework that the Bill provides for law enforcement agencies to obtain independently-authorised international production orders (**IPO**). The WA Police Force will benefit from being able to obtain interception, stored communications and telecommunications data to assist with investigations and for intelligence-gathering purposes.

With regards to the three types of data that will be obtainable under an IPO, the WA Police Force make the following comments –

Intercepted Data

The WA Police Force require more information and guidance as to what services are able to be intercepted from overseas carriers, especially those that originate in the United States of America (**USA**). If the restrictions imposed by encrypted services (such as, WhatsApp, Viber, Facebook Messenger) may be overcome to enable live interceptions, we expect that the IPO framework under the Bill will provide law enforcement officers with a highly valuable investigative tool.

Stored Communications Data

The WA Police Force expect that the stored communications data provisions in the Bill will be valuable for investigations regarding online communications (for example, child sex offences). The potential encryption challenges relating to an intercepted data IPO

may mean that the provisions under the Bill for a stored communications data IPO are most effective for law enforcement to obtain content from international providers.

The Bill does not provide an avenue for Australian law enforcement to serve a preservation notice on a US carriage provider. It is noted, however, that Australian agencies will be able to request preservation to support orders. The WA Police Force welcome further guidance as to how these requests may be made.

Telecommunications Data

Currently, requests for telecommunications data from companies in other countries (e.g. Facebook, Google) are processed by local law enforcement agencies. Although these companies are located outside of Australian jurisdiction, these requests are currently submitted pursuant to section 178 of the *Telecommunications (Interception and Access) Act 1979 (Cth)*.

Under the current legislative arrangement, the WA Police Force processed 614 requests for telecommunications data in 2019. In order to comply with the administrative requirements of obtaining a telecommunications IPO under the Bill, and without an increase in resources, the proposed provisions are likely to have a significant resourcing impact upon the WA Police Force. The WA Police Force supports the framework provided within the Bill, however, we anticipate that additional resources will be required for the Bill to be effective.

The WA Police Force expect to continue consulting with the Department of Home Affairs (DOHA) in relation to the specific resourcing and financial implications of the Bill. In order to ensure the Bill's effectiveness, the WA Police Force look forward to further consultation with DOHA regarding forthcoming bi-lateral agreement with the USA under the *Clarifying Lawful Overseas Use of Data Act 2018 (USA)*.

Thank you once again for the opportunity to provide comment on the Bill. [REDACTED]

Yours sincerely

[REDACTED]
DIANE KONSTANTINO
ACTING ASSISTANT DIRECTOR
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