Dr Kathleen Dermody
Committee Secretary
Senate Foreign Affairs, Defence and Trade Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Dr Dermody

I write in response to a letter to the Premier concerning the Standing Committee's inquiry into the *Defence Legislation Amendment (Security of Defence Premises) Bill 2010* (the Bill). Your letter has been referred to me for reply.

The proposed intent of the Bill is to enhance the security of defence bases, facilities, assets and personnel across the country, in response to the changing nature of security threats. Contained within the Bill are a number of provisions that involve the Australian Federal Police or State/Territory Police.

Accordingly, the Bill was referred to the NSW Police Force for consideration and advice.

I am advised by the NSW Police Force that it does not have any major concerns in relation to the Bill. Police have, however, offered the following comment regarding the principle issue relating to training requirements for staff authorised to use lethal force.

The NSW Police Act does not contain any training requirements. However, the *Police Regulation 2008* (NSW) requires a 'fitness report' to be furnished to determine an officer's aptitude in discharging his/her relevant duties and competence, integrity, performance and conduct in order for promotion as a constable.

In considering the requirement to incorporate training requirements into legislation, the Commonwealth may wish to consider a similar scheme.

If training requirements are embedded in the Bill there may be concerns that if an officer uses the requisite powers without having completed all of the training requirements then he or she may be acting unlawfully.

Any such use of force would come under the scrutiny of many agencies, including the courts, although it is acknowledged that the majority of these powers already exist in any event.

Thank you for the opportunity to comment on the Bill.

Yours sincerely

Brendan O'Reilly
Director General
28 Oct. 2010