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Senator Nita Green
Chair
Senate Standing Committee on Legal and Constitutional Affairs

Via email: legcon.sen@aph.gov.au

Dear Chair

Inquiry into the Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022

Thank you for the invitation to provide a submission to your inquiry into the Privacy Legislation Amendment (Enforcement and Other Measures) Bill 2022 (the Bill). Recent events have shown that data and personal information are increasingly the target of criminals.

The AFP is seeing an increased prevalence of cybercrime activities. For example, the AFP-led Operation ORCUS, which targets ransomware threats, has disrupted 13 would-be attacks against Australian businesses from July to September this year alone. Following the recent data breach, the AFP-led Operation Guardian is deterring and disrupting criminal activity against more than 10,000 Optus customers, whose identification credentials were unlawfully released online.

The AFP supports the introduction of measures that promote and strengthen protections for the handling of the personal information of the Australian community.

It is also important that there continues to be support and promotion of early reporting of data breaches, which leads to faster engagement by law enforcement. The AFP implores businesses to alert authorities immediately when a data breach is suspected. It is like any crime scene - the longer it takes for relevant agencies to be informed, the harder it is for perpetrators to be identified, disrupted or prosecuted.

The Office of the Australian Information Commissioner (OAIC) may engage with the AFP where there is a criminal element to a privacy breach. The Bill affords the OAIC additional enforcement powers to carry out its functions. This includes the sharing of information it obtains. The AFP supports amendments that will enable the OAIC to share important information with law enforcement, which will contribute to better outcomes for affected individuals and entities.

I note the Bill also includes a number of measures to enable sensitive information (including that of law enforcement and other agencies) to be protected from disclosure. For example, where the OAIC seeks to publicly report on its findings following an investigation or assessment, consideration must be given to the public interest test in doing so, which includes the potential prejudice to law enforcement activities. This should ensure the appropriate protection of any sensitive AFP information. The AFP considers it is important to ensure sensitive information is not inappropriately made public, and supports these measures.

As an APP entity under the *Privacy Act 1988*, the provisions in the Bill will also apply to the AFP, where relevant. The AFP takes the privacy of individuals very seriously, and abides by obligations under the Privacy Act. The AFP works closely with the OAIC to ensure our handling of personal information remains appropriate, and where relevant, proactively engages with the OAIC to advise and work through identified issues.

I trust this information will assist your consideration of the Bill. The AFP is able to elaborate further on any of these points if it would assist the Committee, including by appearing in a public hearing.

Yours sincerely

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Deputy Commissioner Investigations