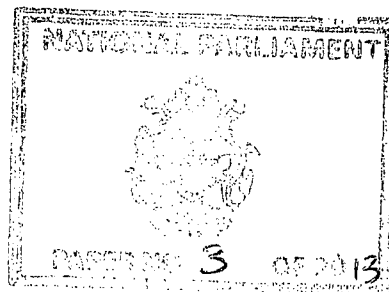




**NATIONAL PARLIAMENT OF SOLOMON ISLANDS
BILLS AND LEGISLATION COMMITTEE**

**Report on the Police Bill 2013
(No.3 of 2013)**



National Parliament Paper No. 3 of 2013

Presented on 2nd April 2013

National Parliament Office

CONTENTS

EXECUTIVE SUMMARY	2
1 INTRODUCTION.....	3
1.1 Inquiry Process.....	3
1.2 Functions of the Committee.....	3
1.3 Terms of Reference	4
1.4 Membership	4
2 REVIEW OF THE BILL	5
2.1 Purpose of the Bill	5
2.2 Consultation	5
2.3 Regulatory Impact Assessment.....	6
4 ISSUES AND CONCERNS.....	7
4.1 Rearmament of the Police Force.....	7
4.2 Omission of certain special units	8
4.3 Military Force	8
4.4 Community Policing	10
4.5 Independence of the police force	10
4.6 Deployment of foreign police officers	11
4.7 Integrity and discipline	11
5 CONCLUSION	12
6 RECOMMENDATIONS.....	13
7 APPENDICES.....	14
APPENDIX 1: SUBMISSIONS	14
APPENDIX 2: WITNESSES.....	15

EXECUTIVE SUMMARY

The Bills and Legislation Committee (the 'Committee') conducted and completed a hearing into the Police Bill 2013. A total of fifteen witnesses appeared before the Committee over a period of two days. The Committee submitted its report on the 2nd of April 2013.

The Committee acknowledges the assistance rendered to the Committee by relevant stakeholders and organisations, especially the Ministry of Police, National Security, and Correctional Services.

After hearing all the witnesses and submissions, the Committee is impressed with the intentions of the Bill, and especially the level of consultation conducted by the responsible Ministry. The Bill was submitted together with supporting documents which the Committee appreciates. These are consultation workshop materials, a Discussion Paper, a Regulatory Assessment, and an Information Guide for the Committee. The Committee encourages other Ministries to do likewise in the future as this will greatly assist the Committee in preparing its report.

There are some issues of concern which the Committee would like to highlight and bring out to the fore for discussion and deliberation of the House. The highlighted issues and associated discussions and recommendations are discussed further in this Report. These are in relation to:

- a) Rearmament of the Police Force
- b) Establishment of a military unit
- c) Independence of the Police Force
- d) Omission of certain specialised units in the Force
- e) External relations
- f) Community policing
- g) Integrity and discipline of police officers

In general, the Committee has no problem with the Bill. What the Committee is concerned with is what is not in the Bill and some aspects of the Bill that needs further discussion and deliberation.

1 INTRODUCTION

1.1 Inquiry Process

The Police Bill 2013 was submitted and received by the Office of the Speaker of the National Parliament of Solomon Islands on Thursday 7th March 2013. The Speaker certified and endorsed the Bill on the same day in accordance with Standing Orders 45 and 46 of the Standing Orders of the National Parliament of Solomon Islands.

The Bills and Legislation Committee (BLC) resolved to conduct a public hearing into the Bill. Advertisement calling for submissions was advertised in the Solomon Star Newspaper and Island Sun Newspaper.

The inquiry process included seeking written submissions and a public hearing at Parliament House. A total of fifteen stakeholders were identified and invited to make written submissions or to appear in person at the hearing, or both.¹ Two submissions were received by the Committee: One from the responsible Ministry and the other from the Director of Public Prosecutions.²

1.2 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*³. The Order made pursuant to the *Constitution*⁴ has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and

¹ See Appendix 2.

² See Appendix 1.

³ *Standing Order 71*

⁴ *Section 62, Constitution of Solomon Islands 1978*

- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee's deliberations.

1.3 Terms of Reference

Pursuant to its mandate under the *Standing Orders*⁵, the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

1.4 Membership

The members of the Bills and Legislation Committee are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Mathew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

⁵ *Standing Order*71

2 REVIEW OF THE BILL

2.1 Purpose of the Bill

The Police Bill 2013 ('Bill') proposes to repeal and replace the *Police Act* [Cap.110] ('Act'). Whilst the Bill retains the main structure of the Act, the Bill seeks to modernise the current framework regulating the organisation, discipline, powers and duties of the police force. It is drafted in plain English language that is easy to read and understand.

The Bill codifies and clarifies police functions, powers and responsibilities. This will allow police officers to clearly understand their duties and responsibilities and confidently carry out their tasks with fairness and consistency. Also, the public would now be able to understand with clarity the extent and limits of police powers and their relationship with communities. The Bill also provides for clear, just and transparent process for reporting, investigating and inquiring into breaches of discipline. It also contains provisions to ensure fair and transparent internal processes for recruitment and promotion. It makes provisions for community involvement in policing and development of partnerships with other agencies to increase public satisfaction, trust and confidence. Finally, the Bill seeks to foster and maintain independence and internal morale and reputation.

2.2 Consultation

The review includes a consultation process to ensure that the views of the people were reflected in the Bill. Workshops were held in each province. More than five thousand (5,000) individuals were consulted, including –

- Community and Police workshops in all nine provinces
- Provincial governments
- Police officers of all ranks in all provinces
- Specialist police areas such as Human Resources, Professional Standards and the Training Unit
- Chiefs and community leaders
- Women leaders
- Church leaders
- NGO's
- Legal stakeholders

2.3 Regulatory Impact Assessment

The Regulatory Impact Assessment ('RIA') first considers the objectives of the legislation and the basis for the new Bill. It then examines the options of continuing with the Police Act or the preferred option of repealing the Police Act and replacing it with the new Police Bill.

After examining and identifying the objectives of the police legislation, two options have been selected to achieving the objectives. These are either do nothing and continue with the current Police Act 1972 and Regulations, or repeal the Police Act and replace it with the new Police Bill 2013 and Regulations. The latter option is taken.

The proposed new legislation is then assessed on the basis on the population that will be affected by the new law. The assessment showed that all of the citizens of this country will be affected in one way or the other.

Finally, the proposed Bill is assessed on the basis of *cost-benefit-analysis*. This looks at the proposed options to be taken and measure it against the costs of implanting the new law, and the benefits that will be gained in passing the new Bill.

4 ISSUES AND CONCERNS

4.1 Rearmament of the Police Force

Clause 70 of the Bill provides for the use and possession of police weapons. The Minister may make regulations, after consulting with the Prime Minister, specifying what police weapons and firearms may be used by police and the circumstances under which police weapons are to be issued and used. The storage, handling, use and possession of police weapons are to be regulated by the Commissioner's Orders.

The Permanent Secretary to the Ministry of Police, National Security and Correctional Services explained that the Bill provides for stringent measures for the use and possession of police weapons as compared to the current legislation.⁶ There are stricter penalties in the Bill for unlawful use and possession of police weapons. A person commits an offence liable upon conviction to a maximum penalty of \$50,000.00 or five years imprisonment for using or possessing police weapons without lawful authority.⁷

Furthermore, the Permanent Secretary explained that at the moment police officers receive training on handling of non-lethal weapons, primarily for public order management, such as riots, and also for protection. The Committee was assured that rearming the Force will come with stringent requirements.

The Committee is concerned of likely unwanted political interference with the decision to rearm the police force. Needless to say that political interference would make the police force inoperable. It is the view of the Committee that the Commissioner alone should be given the prerogative to decide whether or not to rearm the police force.

The idea of rearming the RSIPF does not really go down well with the public and the country at large given the recent past experiences of social turmoil. The Ministry of Police, National Security and Correctional Services informed the Committee that although there wasn't any national consensus carried out to gather views of ordinary citizens regarding rearming the police force, there are mixed feelings amongst the

⁶ Edmond Sikua, *Hansard Transcript*, 19th March 2013.

⁷ Clause 184 and 185.

people of this country. For example, the people of Guadalcanal Island are hesitant and are vigilant of seeing the police force rearm, whilst the people of Shortland Islands in the Western Province and Choiseul Province do want to see the police force rearm as soon as possible.⁸

4.2 Omission of certain special units

The Committee is concerned that there are some special units that are not captured in the Bill, such as the Close Protection Unit, Special Branch, and Criminal Investigation Division.

The Committee was assured by the Ministry that these units are core policing duties and every police officer in the Force is trained to do them and should be able to have the powers to do so. What the Bill does is it builds in as much management flexibility so that in the future special units, such as drug units or counter-terrorism, can be enhanced. But for now core policing functions are being legislated for so that in the future other special units will have the power to carry out their functions.

The Committee was enlightened that two units are given statutory recognition in the Bill. They are the Police Maritime Division and the Fire and Rescue Services. The reason for this is because, although these two divisions play an important role in policing, they do not have the necessary power under the current Act to execute their duties and responsibilities. The Bill gave them statutory recognition to provide for their functions and powers.

4.3 Military Force

Under the current Act, the Prime Minister has the discretion to direct the RSIPF to form a military unit *if Her Majesty is at war*, or if it appeared to the Prime Minister that there is a grave threat to the defence or internal security of Solomon Islands.⁹ The Prime Minister may also waive the command, supervision and direction for the RSIPF vested in the Commissioner of Police by section 7 of the current Act.

Clause 9 of the Bill retains the option of forming a military unit within the RSIPF, but with more stringent conditions. The Prime Minister may give such a direction in times of public emergency as defined by section 16 of the Constitution. The military unit shall be under the direction, command and supervision of the Commissioner of Police

⁸ Pamela Wilde, *Hansard Transcript*, 19th March 2013.

⁹ s.6, *Police Act* [Cap.110]

or any other military authority approved by a resolution of Parliament supported by the votes of at least two-thirds of all members of Parliament. The command and supervision of the military authority vested in the Commissioner under the Bill may only be waived by resolution of Parliament.

The Committee is concerned of the ad hoc nature of the establishment and operation of the military force envisaged in the Bill and whether there should be a separate and appropriate framework warranting specialised training to cater for situations over and above normal policing duties.

The Ministry of Police, National Security and Correctional Services (MPNSCS) assured the BLC that the military force envisaged in the Bill is primarily to cater for emergency situations when the need arises and dissolves when the need dissipates. The MPNSCS is aware that –

...having a full military unit is a different kind of organisation than a disciplined police force. So we felt that if and when the country moves to the state where they have a military police force, there should be separate legislation with completely different provisions governing that body because it would be a full on military body.¹⁰

The Committee is also concerned that there might be a tendency to rely on foreign forces for intervention. The dependency on foreign force must be on arms length and by specific vote in Parliament requesting foreign intervention rather than something that is embedded in law that is always attached to a foreign force.

It was explained to the Committee that –

This is not really thinking about a foreign authority. It is talking about, the default position is the Commissioner of Police but if two-thirds of Parliament wanted some other person to be the head of that, which may be, if it is to be someone within the country...This is envisaged to be entirely within Solomon Islands but the default position is the Commissioner of Police to be the natural head but if for some other reason two-thirds of Parliament votes some other

¹⁰ Above, n8.

*person to be the authority, may be a retired commissioner or some other prominent person who have some experience on that.*¹¹

4.4 Community Policing

The Committee is concerned how the idea of community policing is built into the Bill and how it will harness traditional or community structures such as chiefs and community leaders.

The MPNSCS explained that in the past there were pilot projects especially in the rural areas where RSIPF worked with the community to bring law and order because law and order should be everyone's concern and not just the police. However, different locales have different levels of traditional leadership and to create a *one-size-fits-all* model would not be suitable. Hence, the Bill builds in allowance for the Force to work with communities but as to exactly how it is to be done should be dealt with at the local level, such as provincial governments, where local practices varies through out the country.

The Committee is of the view that the RSIPF and the responsible Ministry must engage local communities in finding a way to establish and support existing community structures that will effectively foster community policing.

4.5 Independence of the police force

The Committee is concerned of the impartiality of the Force. Past experiences show that the Force is not free from external and internal interferences into proper execution of police functions.

The Ministry explained that the Bill seeks to clearly distinguish the functions and powers of the Commissioner, the responsible Minister, and the Prime Minister. The relationship between the Commissioner and the Executive is not clearly spelt out under the current Act. Hence, one of the innovations of the Bill is to provide with clarity the distinction and boundaries of the relationship between the Commissioner, the Minister, and the Prime Minister when it comes to policing issues. Changes have been made to ensure that *checks and balances* are in place to foster and maintain good governance principles and practices.

¹¹ *Ibid.*

4.6 Deployment of foreign police officers

The Bill provides for the Prime Minister to request, if necessary, and authorise foreign police officer from prescribed countries or territories to be deployed in Solomon Islands for the purposes of assisting the police force.

The Committee is concerned that the question whether or not to authorise foreign police should be best left to the executive or the legislature.

It was explained that –

It's envisaged that this sort of things would allow for more things like secondments and regional deployment. We thought one area might develop an area of expertise in say something like fingerprints in Vanuatu where we all have relatively small police forces so they could be a lot more deployments and secondments, not necessary of the whole forces but might be individual officers or units that can come and go at the Prime Minister's request.¹²

4.7 Integrity and discipline

The integrity and discipline of the RSIPF was tarnished in the past years. This leads to mistrust and lack of confidence in the Force. The Committee is concerned about how that concept is embedded into the Bill.

It was explained by the Ministry that, unlike the Act, the Bill provides for a Code of Conduct.¹³ This will come in the regulations and it will set out guidelines for police officers to act ethically and to display high standards of professional conduct and integrity. Furthermore, tougher penalties are provided for breach of disciplinary offences.

¹² Above, n8.

¹³ Clause 5

5 CONCLUSION

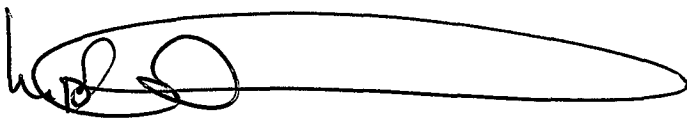
After benefiting from the inquiry process and the submissions received, the Committee concludes that:

- a. The Bill captures much needed reform to the legislative framework for the organisation, discipline, powers and duties of the police force.
- b. The Bill is drafted in plain English language which will make it easier for users with no legal background to read and understand.
- c. There was wide consultation with sectors of society that will be affected by the law.
- d. The Bill clarifies a lot of administrative and legal issues surrounding police powers, discipline, and organisation.

6 RECOMMENDATIONS

After gathering evidences from the inquiry process and the submissions received, the Committee recommends that:

- a. The decision to rearm the Police Force remains with the Police Commissioner.
- b. The Ministry of Police, National Security and Correctional Services immediately carry out a nation-wide survey collecting the views of the people of this country regarding the rearmament of the Police Force.
- c. The control, supervision and command of any military unit formed by virtue of Clause 9 of the Bill must remain with the Commissioner of Police only.
- d. The Ministry of Police, National Security and Correctional Services and the Royal Solomon Islands Police Force immediately work with provincial and local communities to establish a workable relationship and allocate necessary budgetary support to enable an effective and efficient community policing.
- e. The decision to invite or request foreign military or police force must be at arms length with and by specific vote by Parliament.



Hon. Manasseh Sogavare

Chairman

Bills and Legislation Committee

April 2nd 2013

7 APPENDICES

APPENDIX 1: SUBMISSIONS

Person/Ministry /Organization/ Institution	Title of Document	No. of Documents Submitted	Date received
Ministry of Police, National Security, and Correctional Services	<ul style="list-style-type: none">• Consultation materials• Discussion Paper• Regulatory Impact Assessment• Information Guide	Four (4)	March 11 th 2013
Director of Public Prosecutions	<ul style="list-style-type: none">• Presentation by the Director of Public Prosecutions to the Bills and Legislation Committee	One (1)	March 20 th 2013

APPENDIX 2: WITNESSES

The Committee acknowledges and appreciates the attendance of the following witnesses who appeared before the Committee on the 19th and 20th of March 2013.

ORGANISATION	NAME/POSITION
Ministry of Police, National Security and Correctional Services	<ol style="list-style-type: none">1. Mr. Edmond Sikua, Permanent Secretary MPNSCS2. Ms Pamela Wilde, Legal Advisor
Royal Solomon Islands Police Force	<ol style="list-style-type: none">1. Mr. John Langley, Commissioner2. Mr. Walter Kola, Deputy Commissioner/Chair of the Promotion Board3. Mr John Lee Kanabaea -Director CID4. Mr. David Diosi- Guadalcanal Provincial Police Commander5. Mr. Russell Tagini- Director (Ag) Police Maritime6. Mr. Peter Sipolo - Senior Police Officers Association.7. Ms. Doris Sukaria - Vice Chair8. Mr. Maxwell Saelea- Senior Superintendent
Attorney General's Chamber	<ol style="list-style-type: none">1. Mr. Ranjit Hewegama, Legal Draftsman2. Mr. Anthony Makambo, Senior Crown Counsel
Office of the Director of Prosecution	<ol style="list-style-type: none">1. Mr. Ronald Bei Talasasa (jnr), Director of Public Prosecutions
Public Solicitors Office	<ol style="list-style-type: none">1. Mr. Douglas Hou, Director of Public Solicitor's Office
Police Prosecution Branch	<ol style="list-style-type: none">1. Mr. Daniel Gideon Hunikera, Director of Police Prosecutions

National Parliament Office
National Parliament of Solomon Islands
