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**An independent statutory body
accountable to the Victorian Parliament**

Submission to the Parliamentary Joint Committee on ASIO, ASIS
and DSD Review of Division 3, Part III of the ASIO Act 1979 -
Questioning and Detention Powers.

March 2005

The Equal Opportunity Commission Victoria (EOCV) appreciates the opportunity to provide this submission to the Parliamentary Joint Committee on ASIO, ASIS and DSD (“the Committee”) in response to its review of Division 3, Part III of the *Australian Security and Intelligence Organisation Act 1979* (“ASIO Act”) (questioning and detention powers). This review represents a vital opportunity to critically evaluate the provisions in the ASIO Act relating to questioning and detention by the Australian Security and Intelligence Organisation (ASIO) against human rights standards adopted by Australia, through the ratification of a core set of human rights instruments, which set the minimum benchmark for the treatment of Australians in all circumstances.

THE EQUAL OPPORTUNITY COMMISSION VICTORIA.

The EOCV is responsible for advancing the right of the Victorian community to participate in public life without unfair discrimination, as required by the *Equal Opportunity Act 1995* (Vic) (Equal Opportunity Act). This right applies across the areas of employment, education, the receipt and provision of goods and services, accommodation, sports, clubs and local government. Discrimination is prohibited on the basis of 17 attributes¹. It is also unlawful in Victoria to vilify a person or section of the community on the basis of that person or group’s racial or religious identity, as provided for under the *Racial and Religious Tolerance Act 2001* (Vic). Complaints of discrimination under the Equal Opportunity Act and racial and religious vilification under the *Racial and Religious Tolerance Act 2001* can be lodged with the EOCV on a confidential basis, and those complaints that satisfy the respective Acts’ legislative requirements referred to resolution through the EOCV’s conciliation service.

The EOCV also educates and informs Victorians about their rights under the Equal Opportunity Act and *Racial and Religious Tolerance Act 2001* and conducts research into more effective measures to improve Victorians’ enjoyment of their human rights in the broad areas covered by the legislation.

GENERAL COMMENTS ON DIVISION 3, PART III OF THE ASIO ACT 1979 (QUESTIONING AND DETENTION POWERS).

The EOCV agrees with the notion that Australia, along with other countries, can properly establish effective measures to protect its citizens against the threat of terrorism. This is consistent with declarations of the United Nations (UN) that terrorism crimes represent a breach of the fundamental rights to life and security of person² and in this respect the EOCV endorses the UN’s comments. Of course, as is argued in this submission, any “effective measures” adopted must themselves conform with human rights if they are to protect human rights.

¹ The *Equal Opportunity Act 1995* (Vic) makes unlawful discrimination on the basis of age, breastfeeding, gender identity, impairment (disability), industrial belief or activity, lawful sexual activity, marital status, parental and carer status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, sexual orientation, and personal association with another person identified by one or more of the specified attribute/s (section 6).

² Stated in General Assembly Resolution 56/160 (Human rights and terrorism), 13 February 2002.

Effective measures that assist Australia's security organisations to detect, deter and prevent terrorist attacks are clearly warranted since the tragic events of 11 September, 2001 however there is an equally compelling need to ensure that any measures (but particularly laws) directed at preventing terrorism do not breach fundamental human rights nor encroach on the human rights framework established within Australia over several decades. Crucially, it is advanced, anti-terrorism measures should neither conflict with the underpinning criteria of "transparency, proportionality and necessity" of laws designed for this purpose³, nor the long established common law notions of due process, such as the right to silence.

The benchmark of "transparency, proportionality and necessity", the EOCV submits, is the most appropriate one for the appraisal of laws that (wittingly or unwittingly) may clash with fundamental human rights. Additional protection against the application of laws in a way that would be inconsistent with human rights would be available by seeking the views of human rights bodies, notably the Human Rights and Equal Opportunity Commission (HREOC) with expertise in ensuring laws have minimal or no impact on human rights (for example, HREOC could usefully advise the Director-General of Security during the revision of the Protocol governing the conduct of officers exercising questioning and detention functions under the ASIO Act, to ensure such actions are carried out humanely and consistently with interviewee and detainees' human rights).

Given this, it is dismaying to note that this review by the Committee represents the only mandated review of Division 3, Part III of the ASIO Act. The EOCV hopes that this review demonstrates the efficacy of periodic review of legislation that is unprecedented in its nature and scope in relation to Australians suspected of involvement in terrorist activity and the right of those people to fair and humane treatment. To guarantee further appropriate scrutiny of this legislation, the EOCV encourages the Committee to consider the incorporation of a further sunset clause into Division 3, Part III of the ASIO Act, consistent with the imperative of ensuring Parliamentary oversight of significant but largely untested legislation of this nature.

In light of the general principle stated above, the EOCV considers that the current provisions in Division 3, Part III of the ASIO Act represent a significant departure from the human (and many civil) rights Australia has openly and freely agreed to respect and uphold through ratification of a core set of international human rights treaties⁴, notably the International Covenant on Civil and Political Rights (ICCPR), and other treaties (mentioned later in this submission).

³ Mary Robinson, former United Nations High Commissioner for Human Rights, articulated these criteria in a speech given at the World Conference on Human Rights, 58th session, 20 March 2002. A text of the speech is located at <http://www.statewatch.org/news/2002/mar/12unhchr.htm>.

⁴ The core human rights declarations and treaties which Australia has endorsed or to which it is a party are: the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and Optional Protocol to the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of all forms of Racial Discrimination (CERD), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC)

THE IMPORTANCE OF MAINTAINING AN EFFECTIVE AUSTRALIAN HUMAN RIGHTS FRAMEWORK.

A robust, effective human rights framework is crucial to the preservation of the Rule of Law in Australia which in its various manifestations can be summarized by the concept of a “fair go”. A human rights framework also ensures that the dignity and humanity of Australian citizens is respected in all their interactions with public institutions and officialdom.

The Rule of Law and a corresponding appreciation of the human, civil and legal rights which underpin this notion is essential to the responsible exercise of executive power (and the integrity of institutions through which that power is exercised) and the respect accorded by the community to government and its institutions.

In this way the Rule of Law ensures a civilised society respectful of the mutually-reinforcing human (and civil) rights of its constituent members. The preservation of the Rule of Law and its derivative social benefits is also contingent on an appropriate balance between the executive and judicial spheres of government in the distribution and exercise of power. When this balance is achieved a country’s citizens can be more confident that government and public institutions will act consistency, non-arbitrarily and humanely.

The amendments to the ASIO Act since 2002 that significantly expanded ASIO’s questioning and detention powers vis-à-vis Australian citizens and others believed to have information useful to an ASIO investigation, and which are the subject of this review do, in this submission, upset this balance. This is because of the laws’ inherently arbitrary character, and their disregard for the human rights that underpin due process in legal proceedings and, because of this, the Rule of Law. These flaws in the legislation, in the EOCV’s submission, work against their (claimed) objective, namely of enabling the Australian security organizations to more effectively or responsively detect and prevent illegal activity⁵. Without this nexus, it seems clear that the provisions under review do not satisfy the test of proportionality and necessity advocated by the United Nations as the benchmark for laws introduced in response to the threat of terrorism (referred to above). This is the case, the EOCV submits, even if, as commonly asserted, ASIO’s bolstered questioning and detention powers will only be applied in rare and exceptional circumstances and as a last resort.

The claim that the laws under review provide an important fillip for ASIO to investigate and prosecute terrorism-related offences should also be investigated in view of the raft of other powers under the ASIO Act (Division 2) enabling ASIO to conduct sophisticated monitoring and surveillance of individuals and organisations suspected of engaging in, or preparing for, criminal activity. This point is raised to highlight the risk that laws targeting terrorist offences can incrementally erode important human rights without

⁵ Phillip Ruddock, Attorney-General, Second Reading Speech to the House of Representatives, 27 November 2003.

adequate checks to ensure that the laws in question achieve and remain focused on their stated aim.

IMPACT OF THE QUESTIONING AND DETENTION PROVISIONS IN THE ASIO ACT ON AUSTRALIA'S STANDING IN THE DEVELOPMENT OF HUMAN RIGHTS STANDARDS AND INSTITUTIONS.

In view of the breadth and potential reach of the operation of the powers in Division 3, Part III of the ASIO Act, and of the responses to the threat of terrorism in other countries, notably the United Kingdom, Canada and the United States, the EOCV contends that the laws the subject of this review harm Australia's reputation as a leader and defender in many areas of human rights protection and as an active participant in the reform of human rights institutions regionally and internationally⁶.

Australia's standing in the international community as a responsible protector of human rights is easily unraveled if the national Parliament continues to endorse laws that tear at the fabric of human (and common law) rights and protections established to date. The counter-argument that laws of this nature are non-intrusive of the public's human (and in many cases civil) rights (in the sense that they are used sparingly or rarely) is beside the point. The international human rights community, led by the United Nations (UN) Human Rights Committee, has consistently affirmed that it is irrelevant that national laws that breach human or civil rights are not actively asserted by a government or by the authorities; their offending status warrants their abolition and failure to remove such laws represents an on-going breach of the relevant human or civil right⁷.

It is also noted that the provisions of the ASIO Act under review may cumulatively impact on the rights of a person (for example, through the granting of successive detention warrants) to an extent not contemplated when the laws were introduced⁸ or originally debated.

⁶ In the development of human rights standards and institutions over the past half century, Australia has played an influential and profound role. From its contribution to the development of the United Nations Universal Declaration on Human Rights to its election as Chair of the United Nations Commission on Human Rights in 2003 (following occupying this position from 1991 to 1996), Australia has maintained an active presence in the international community in the progression of human rights standards and institutions. Whilst there continue to be significant gaps in Australia's protection of the human rights of its citizens and others within its territory and flaws in the framework for protecting rights (for example, Cheryl Saunders' assessment in "Protecting Rights in Common Law Constitutional Systems: A Framework for a Comparative Study", Victoria University of Wellington Law Review [2002] 2, that Australia's framework for the protection of rights is "arbitrary and patchy") Australia's contribution towards the broad protection and advancement of human rights has been consistent.

⁷ This was demonstrated when the UN Human Rights Committee expressed the view that provisions of the Tasmanian Criminal Code criminalising sexual acts between men were inconsistent with provisions of the ICCPR and to that extent in breach of that Convention: *Toonen v Australia* (CCPR/C/50/D/488/1992 and dated 4 April 1994).

⁸ The EOCV notes in relation to this point that further legislative changes in the post-September 11 environment, including empowering the Attorney-General to unilaterally declare organisations to be terrorist organisations for the purposes of the Commonwealth Criminal Code, have the potential to act oppressively on the enjoyment of rights of people associated in the public arena with those declared organisations, particularly Muslim people.

SPECIFIC COMMENTS ON THE PROVISIONS OF THE ASIO ACT 1979, DIVISION 3, PART III UNDER REVIEW.

The key submission of the EOCV is that the questioning and detention powers contained in Division 3, Part III of the ASIO Act are inimical to human rights voluntarily assumed by successive Australian governments through the ratification of the ICCPR and other key human rights instruments. It is important therefore to evaluate the provisions of Division 3, Part III of the ASIO Act in light of these treaties. Based on this evaluation, the provisions under review, against any objective standard, undermine several of the fundamental human rights affirmed through Australia's ratification of the relevant treaties⁹ which form the common template for human rights' observance among civilized nations:

- The provisions of the ASIO Act enabling detention (that is, incarceration) of a person for up to a week without charge (that is, where a person is suspected of having information or a "thing" that would substantially assist an ASIO investigation) for up to 168 continuous hours (ss.34F and 34HC) appear to contravene Article 9 of the ICCPR¹⁰ on the basis that involuntary detention for this (or any period) without being notified of a charge can be characterized as an arbitrary form of detention. This problem is exacerbated by ASIO's ability under the ASIO Act to apply for successive and consecutive warrants for a person's detention: section 34C(1A).
- The important right of a person involuntarily detained or questioned in relation to the commission of a criminal offence to seek confidential legal advice is, on any objective basis, severely curtailed by Division 3, Part III of the ASIO Act. This is because ASIO has the ability to request restrictions (on time) on a person's contact with a lawyer but further than this to request that that person have no contact with a lawyer for the duration of his or her questioning or detention: s.

⁹ The EOCV notes that not all human rights treaties to which Australia is a signatory have been incorporated into domestic law, to ensure their full realization. For example, whilst the ICCPR and CEDAW are annexed to the *Human Rights and Equal Opportunity Act 1986* (Cth) and the *Sex Discrimination Act 1984* (Cth) respectively, there has been no movement in the Australia legislature to incorporate the rights of the child as set out in the Convention of the Rights of the Child into Australian law.

¹⁰ Article 9 of the ICCPR provides: (1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. (2) Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. (3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement. (4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. (5) Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

34TB. Furthermore, all contact between a person and his or her lawyer *must* be “monitored” by the questioning or detaining authority: s.34U(2). Where a lawyer seeks to intervene in his or her client’s interrogation, such intervention may only be in the form of a request for “clarification of an ambiguous question”: s.34U(2). Otherwise, the lawyer may be forcibly removed from the place where questioning and/or detention is being carried out.

These provisions represent a substantial deviation from the long-recognised right accorded to detainees of confidential, unimpeded access to a lawyer. In this respect the provisions breach Art.14(3) of the ICCPR and the United Nations Basic Principles on the Role of Lawyers (1990) Chapter 6¹¹.

- The ASIO Act provides only a very narrow avenue of review where a person wishes to challenge the legality of their questioning and/or detention by ASIO. The primary form of redress provided to a person questioned or detained is via a complaint to the Inspector-General of Intelligence and Security or to the Ombudsman. Beyond this, there is no automatic right to seek Federal Court review because, as mentioned above, ASIO can request and be granted a warrant that prevents a person from contacting *any* person, including a lawyer, who could otherwise assist them apply to the Federal Court for review. In the EOCV’s submission, and from the perspective of providing real access to justice, this is an ineffectual arrangement given the long period for which individuals may be isolated from a legal advisor (or indeed another person who may act as a conduit to legal representation). It is also noted that, more so than the Inspector-General of Intelligence and Security and the Ombudsman, the Federal Court is equipped to deal with cases and applications involving urgent issues of national security¹². This outcome of this limited form of review is inconsistent with the ICCPR, Art.9, which requires a compulsorily detained person to be brought before a person with “judicial power” for determination of the legality of his or her detention.
- Sections ss.34D(5) and 34G(3) of the ASIO Act override a person’s right to silence when questioned by the prescribed authority and by s.34G(8) normal privilege against self-incrimination is removed. Additionally, a person who is accused by ASIO of having information or a “thing” relevant to an ASIO investigation must, if he or she wishes to deny ASIO’s assertion, demonstrate that he or she does not have the information or thing sought by ASIO, ostensibly to ASIO’s satisfaction: ss.34G(4) and 34G(7). On this basis, these provisions appear to undermine the important protections against self-incrimination and the presumption of innocence built up through the common law and affirmed under the ICCPR.
- As a result of the 2003 amendments to the ASIO Act, a person against whom a warrant is issued or for whom a warrant is sought for questioning or detention can

¹¹ These principles are listed at http://www.unhchr.ch/html/menu3/b/h_comp44.htm.

¹² For example, the proceedings instigated by the detention by Federal authorities of asylum seekers aboard the MV Tampa demonstrate the timeliness and thoroughness with which the Federal Court is able to review the merits of a complex case with profound implications for the rights of a group or class of people: see *Ruddock v Vadarlis* [2001] FCA 1329.

- be prevented from leaving Australia and, to this end, must surrender their passport/s: ss.34JBA and 34 JBB. Given that a single warrant can be granted for up to 28 days and successive warrants can be sought, and that a person need not personally be suspected of committing an offence to activate the provisions, these provisions encroach on a person's right to freedom of movement, protected under the ICCPR¹³.
- The absence of a remedy (by way of compensation or otherwise) in instances where a person is unreasonably or unlawfully detained or questioned is also problematic, given the affirmation of this right in the ICCPR¹⁴.

The EOCV concurs with the view expressed during the Senate Legal and Constitutional Legislation Committee's scrutiny of the provisions of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 that the provisions of Division 3, Part III of the ASIO Act depart from or overturn legal rights generally available to the Australian public, particularly in comparison with a person under suspicion of or charged with committing a non-terrorist related crime¹⁵. In particular, the criticisms aired during the Senate Legal and Constitutional Committee's review of the original amending legislation, that the questioning and detention powers exercisable against people suspected of having information useful to an ASIO investigation are generally more oppressive than those enforceable against criminal suspects in relation to non-terrorism crimes¹⁶, are warranted and point to the provisions' lack of proportionality.

The continuation of the provisions of Division 3, Part III of the ASIO Act without concrete evidence of their contribution to protecting the Australian public against further terrorism attacks would, disturbingly, pave the way for the erosion of fundamental rights and freedoms in other areas, particularly where government determines that the risk to the welfare of Australians justifies that stance. The EOCV reiterates the comments of Mary Robinson and other commentators¹⁷ that robust protection of human rights is not incompatible with robust measures to prevent terrorism. This approach should inform Parliament whenever government organisations and agencies seek to augment their powers and it can be contemplated that those powers, if used irresponsibly or beyond the scrutiny of government or the Parliament, could infringe on human rights.

¹³ Article 9 (paragraph 2) of the ICCPR affirms an individual's right to liberty. Article 12 of the same convention states that "everyone shall be free to leave any country, including his own" except where restrictions on that rights are provided by law, necessary to protect national security, public order, public health or morals or the rights and freedoms of others.

¹⁴ Article 9(5).

¹⁵ For example, see the views of Dr Greg Carne and Professor Williams referred to in the Senate Legal and Constitutional Legislation Committee's final report (June 2002) at http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2002-04/asio/report/report.pdf.

¹⁶ Ibid.

¹⁷ For example, see the views expressed by Hilary Charlesworth in her article, "Is the War on Terror Compatible with Human Rights?: An International Law Perspective", delivered at the Castan Centre for Human Rights Law Conference "Human Rights 2003: The Year in Review" (4 December 2003) available at www.law.monash.edu.au/castancentre.

PROTECTING THE RIGHTS OF THE CHILD.

The Convention on the Rights of the Child (CRC), ratified by Australia in 1990, sets out minimum and in some instances non-derogable standards for the protection of rights and welfare of children (defined as any person under the age of 18 years) in a broad range of situations (through this the Convention recognizes the particular vulnerability of children, particularly during periods of civil unrest and warfare). An underlying theme of the CRC is preventing the exploitation and coercion of children contrary to their best interests by the demands and whims of authorities.

Division 3, Part III of the ASIO Act permits the questioning and detention of children aged 16 and above but specifies certain additional requirements for the integrity of this process. These additional requirements do not, however, overcome the basic requirement that a child must not, under the CRC, be arbitrarily detained¹⁸ except where detention is in conformity with the law, and is used *only as a measure of last resort* and for the shortest appropriate period of time.

Detention and questioning of a child can be sought by ASIO (and subsequently authorised by the Minister) where it is believed that the child has or is engaged in, or is likely to engage in terrorist activity¹⁹ and where other conditions regarding the supervision of the child are met. Given the expanded and general definition of “terrorist act” in the Criminal Code²⁰, this raises a real risk that children as young as 16 engaging in innocent or foolish behaviour (which nonetheless activates the terrorism provisions of the Criminal Code) can be detained against their will for a prolonged period. The severity of this type of detention appears to be in contravention of the CRC given the analogous powers available to state and territory authorities for the arrest and, in exceptional cases, detention of children engaged in criminal acts²¹.

LACK OF EFFECTIVE OVERSIGHT OF LAWS THAT INFRINGE FUNDAMENTAL HUMAN RIGHTS.

It is advanced in this submission that through the introduction of the provisions contained in Division 3, Part III of the ASIO Act, important human (and civil) rights are gradually being ceded in the “war against terror”. However unlike other instances in which rights are foregone for some other identified societal benefit, the ceding of rights in response to the inherently nebulous and ongoing threat posed by terrorism is a “false economy”. That is, the “improved” measures for detecting and preventing terrorism are not, in this submission, warranted by the removal of the rights which the measures are claimed to protect.

¹⁸ Article 37(b).

¹⁹ ASIO Act, s.34NA(4).

²⁰ As defined under the Criminal Code Act 1995, at Division 100.1.

²¹ For example, under the Victorian *Children and Young Persons’ Act* 1989 a child may be arrested in exceptional circumstances but any detention must be preceded by application to a court at the earliest opportunity.

Contrary to the claim that Australia's system of Parliamentary democracy is sufficient to ensure that human rights are observed and protected, the speed with which laws in response to terrorism have been introduced is disconcerting, both from the perspective of accountable and transparent law-making and of the protection of human rights. This new environment in which laws of increasing severity are hastily passed by legislatures bolsters the view that the only long-term guarantee against erosion of fundamental rights is a statutory charter or Bill of rights. An instrument for the protection of human rights across Australia would set a clear benchmark that Parliaments and governments would be required to meet; if Parliament or government sought to introduce laws that manifestly infringed on basic rights, the author or supporter of the law would be required to clearly demonstrate the overriding benefit of the law to the community, so as to justify its restrictive effect on human or civil rights. A structure along these lines has been adopted locally and overseas²² and whilst the question of the adoption of a charter or Bill of Rights for Australia is beyond the terms of the current review, it highlights the susceptibility of a country (without an overarching human rights instrument) to the diminution of rights protected in that country in times of public insecurity.

THE IMPACT ON PARTICULAR GROUPS IN THE COMMUNITY OF ANTI-TERRORISM LAWS.

The extent of discrimination and vilification against Arab-speaking and Muslim Australians is well documented and points to the significant increase in the hostility displayed towards these communities since the events of 11 September, 2001²³. Whilst the causes of discrimination and vilification are usually complex and difficult to isolate, such hostility can be driven by erroneous assumptions about communities with national, ethnic or religious ties to groups associated with terrorism. For this reason, education and information about the rights of all members of the Australian community to participate fully in their social, work and other networks is an important component in reversing racist and stereotypical attitudes.

Against this background, it is submitted that government should avoid actions or pronouncements that may be misinterpreted by some in the community as condoning hostility towards or vilification of particular groups in the community. An unfortunate facet of the environment since the 11 September 2001 and 12 October 2002 Bali terrorist attacks is that some sections of the community and, in particular, the media may view any strengthening of anti-terrorism measures as justifying harsher treatment of groups more readily identified as the "recipients" of those measures. Sadly, the brunt of hostility in this context has been borne by Australia's Islamic and Arab-speaking communities but

²² Under the *Human Rights Act 2004 (ACT)* and *Human Rights Act 1998 (UK)*.

²³ For example, see the report by the Human Rights and Equal Opportunity Commission, "Isma: National consultations on eliminating prejudice against Arab and Muslim Australians", 2004, which can be found at http://www.hreoc.gov.au/racial_discrimination/isma/index.html. See also the comments of the UN Committee on the Elimination of Racial Discrimination in its *Concluding observations of the Committee – Australia*, CERD/C/AUS/CO/14 (March 2005), paragraph 13: "The Committee notes with concern reports that prejudice against Arabs and Muslims in Australia has increased and that the enforcement of counter-terrorism legislation may have an indirect discriminatory effect against Arab and Muslim Australians". The entire report is located at www.humanrights.gov.au/cerd/report.html.

the potential for others to be caught up in public disapprobation and vilification when (apparently) punitive laws are introduced is broader.

Accordingly, the EOCV advocates that this and subsequent reviews of anti-terrorism legislation should closely evaluate the impact of any proposed laws for the detection and prevention of terrorism on Australians whose community networks may expose them to a greater risk of hostility and vilification. The EOCV hopes that this review focuses on the effects of anti-terrorism legislation on, in particular, the Australian Islamic and Arab-speaking communities and others who, in the future, may be vulnerable to anti-terrorism sentiment in the community.