



WESTERN AUSTRALIA POLICE SERVICE

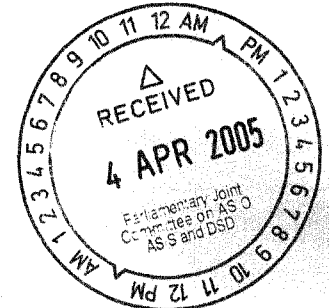
**OFFICE OF DEPUTY COMMISSIONER
(OPERATIONS)**

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Submission No: 77
Date Received: 4-4-05
Secretary:

Mr David Jull MP
Presiding Member
Parliamentary Joint Committee on ASIO, ASIS and DSD
Parliament House
Canberra ACT 2600



Dear Mr Jull

**Re: Review of the Australian Security Intelligence Organisation (ASIO)
Questioning and Detention Powers**

The operational effectiveness and implications of the Australian Security Intelligence Organisation's (ASIO) questioning and detention powers within the Intelligence Services Act 2001 have been considered by the Western Australia Police Service (WAPS).

The Australian Federal Police (AFP) and Western Australia Police Service's Joint Counter Terrorism Team (JCCT) works closely with ASIO and are aware of these legislative requirements. However, to their knowledge, the legislation has not been utilised in Western Australia. If the legislation was acted upon the WAPS is capable of assisting ASIO and the Australian Crime Commission (ACC) in providing resources to conduct investigations and comply with legislative requirements.

Should the need arise to question a person in this State the 'presiding authority' would be sourced and protocols issued by the Director General of Security. In Western Australia the ACC 'hearing rooms' would be utilised to conduct the questioning. The WAPS' role would be to provide investigative and support staff through the JCCT and Counter Terrorism Co-ordination Unit and in the detention of suspects at approved lock-up facilities in accordance with established protocols.

Section 34F subsection (5) and (8) of the Australian Security Intelligence Act 1979 relating to the person giving false, misleading or refusing to answer questions has a penalty of imprisonment for 5 years. In my view, the penalty is slight if this legislation was applied to a person who had knowledge of a terrorist incident which could potentially cause a large number of casualties. Consideration should be given to increasing the maximum term of imprisonment for committing an offence against Section 34F.

Yours sincerely


T. ATHERTON APM
DEPUTY COMMISSIONER (OPERATIONS)

21 March 2005