

**QUEENSLAND POLICE SERVICE**

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19 JAN 2007

Ms J Morris
Acting Secretary
Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

LegCon.Sen@aph.gov.au

Dear Ms Morris

I refer to your invitation of 11 December 2006 to the Queensland Police Service (the Service) to make submissions to the Senate's Legal and Constitutional Affairs Committee inquiry into the *Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006*. In response, the following issues are raised for your consideration.

Section 15KP (Disclosure of operative's identity to presiding officer)

Under this section, a judge presiding over a proceeding may require the true identity of a covert operative to be provided to him or her even though a witness identity protection certificate has been issued for the operative. This provision is designed to enable the judge to determine if a potential bias exists which may result in the proceeding being aborted. Subsection (2) provides that the judge may require the disclosure of the operative's true identity and/or the provision of photographic evidence of that identity. An amendment needs to be sought to provide that the judge is not to record, copy or retain any information or photographic evidence of the operative's real identity. This is essential to ensure the operative's true identity is not disclosed to other persons. For example, if the operative's real identity was recorded it may be uncovered in a subsequent search of court records.

Section 15KW (Disclosure offences)

This section creates offences for the unlawful disclosure of an operative's true identity. Subsection (1)(d) provides the offence occurs where the person's conduct results in the disclosure of the operative's identity or where the operative lives. Section 13(1)(c) (Disclosure offences) of the model laws for Witness Identity Protection of the Joint Working Group's Report on Cross-Border Investigative Powers for Law Enforcement provides an offence occurs if the person's conduct results in the disclosure or is likely to lead to the disclosure of the operative's identity or where the operative lives. An amendment needs to be sought to section 15KW(1)(d) to provide that the offence also occurs where the person's conduct is likely to lead to the disclosure of the operative's true identity or where the operative lives.

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The Service's contact officer for this matter is Acting Senior Sergeant Robert Utz, Legislation Development Unit, telephone 30155983, facsimile 30155950 or email Utz.RobertD@police.qld.gov.au.

Thank you for the opportunity to comment on the Bill.

Yours sincerely



**R P CONDER
DEPUTY COMMISSIONER
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