

Cc: Committee, PJCAAD (REPS), federal.secretary@amance.org.au

Subject: re: ASIO'S DETENTION AND QUESTIONING POWERS

Wednesday, March 23, 2005

The Secretary
Parliamentary Joint Committee on ASIO, ASIS and DSD
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Dear Committee members

RE: REVIEW OF ASIO'S DETENTION AND QUESTIONING POWERS

Thank you for the opportunity to make a submission to the Committee on ASIO's detention and questioning powers.

I wish to express my concerns about the amendments made in 2003 to the *Australian Security and Intelligence Organisation Act 1979*, in particular 34VAA "secrecy relating to warrants and questioning" which risks imposing limitations on the freedom of the media in Australia.

The legislation creates the possibility that journalists, for instance, could face lengthy jail terms for their disclosure of information connected to, or in relation to a warrant issued under the Act, for a full two years after the warrant's issue.

Another serious concern is the strict liability clause which applies to anyone who is the subject of a warrant issued under the legislation, or their legal representatives and advisors.

Under the Act, neither the subject of the warrant or their legal advisors can disclose any information relating to the warrant or the questioning or detention of persons in connection with the warrant, for up to 28 days.

The penalty for breaching this section is imprisonment for five years.

It is also a serious offence if the subject of the warrant or their legal advisors disclose information if that information is "operational information" for a period of up to two years after the expiry of the warrant.

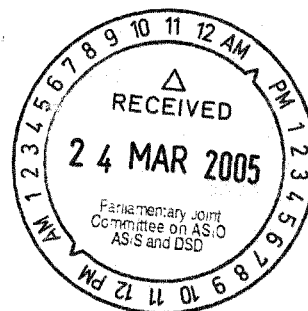
"Operational information" is loosely and broadly defined under the Act. Again, the penalty is imprisonment for up to five years.

These sections effectively gag public debate about ASIO's detention and questioning techniques and the subject matter of any operations. While I appreciate that certain security information is sensitive, I am deeply disturbed these amendments gag all discussion of ASIO operations, leaving the door open to arbitrary arrests and human rights abuses.

In a democratic and intelligent, informed society, freedom of the press is rarely attacked or censored especially by elected governments.

These amendments represent a serious compromise that will restrict freedom to

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information and freedom of expression, a basic right of everyone.

I call on the Committee to recommend that the sunset clause (34Y) of Division III of the Act be maintained so that the Division ceases to have effect after 23 July 2006.

Yours sincerely

Berwyn Lewis (Journalist)

24/03/2005