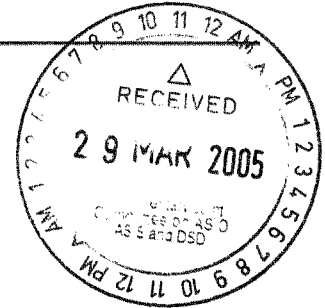


questioning powers



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The Secretary  
 Parliamentary Joint Committee on ASIO, ASIS and DSD  
 Parliament House  
 CANBERRA ACT 2600  
 Email: [Margaret.Swieringa.Reps@aph.gov.au](mailto:Margaret.Swieringa.Reps@aph.gov.au)

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

Dear Secretary,

The SEARCH Foundation is a non-profit company which promotes democracy, social justice and environmental sustainability.

We made submissions to your committee in 2002 which strenuously objected to the proposed questioning and detention powers of ASIO, because these powers were beyond the constitutional authority of the Australian parliament in that they allowed ASIO to deprive people of their freedom and force them to answer questions even though no charge was laid against them; because this power extended to 16 year olds; and because another layer of restriction on the freedom of speech was placed on lawyers, journalists and family members of people detained and/or questioned under these powers. The potential for rolling warrants under these powers could see a person detained indefinitely without charge, a gross violation of a person's basic rights.

We further argued that these powers were not justified by a state of war or national emergency, but allowed the abuse of these powers through application of prejudice against groups of people based on their religion and / or national origin and / or political opinion.

**Review of the powers**

The review of the powers by your Committee is a very important opportunity for further parliamentary and public debate about these issues, and an opportunity to recommend that these powers be withdrawn.

The information supplied by ASIO's Annual Report for 2003-04 indicates that only three people were questioned, and none detained, under these powers, up to June 30, 2004. The three were questioned in front of the one prescribed authority, and one of them required an interpreter. None of these people experienced a roll-over of the warrant.

Based on news reports, we conclude that these three cases related to people who frequent the Haldon Street Lakemba Prayer Centre, and that they were probably related to the Willy Brigitte case – the

person who was deported to France rather than detained or questioned by ASIO. While the French police may believe that Willy Brigitte is a terrorist, they have not put him on trial and proved their case. It appears that he has been denied natural justice, with the complicity of Australian authorities.

We further conclude that:

- no actual arrests on charges related to terrorism arose from these interrogations.
- these interrogations were not related to the only current conviction on a terrorism charge in Australia, where the defendant from Western Australia had not carried out a terrorist act, had informed on himself to the media and the Federal Police and then pleaded guilty during his trial.

Therefore, the use of these new powers by ASIO has been very limited and has not contributed to the security of Australian society against possible terrorist attacks.

The SEARCH Foundation calls the committee's attention to the recent decision by the British courts that the current terrorist threat in the UK does not equate to the threat posed by the Hitler regime in World War II, and that therefore indefinite detention powers for suspected terrorists are not justified. We believe the same argument applies to Australia, that Australian society is not under a threat that justifies the current detention / questioning powers of ASIO, and that these powers should be withdrawn as soon as possible.

Further, the powers have been of minimal use since they were provided to ASIO.

Third, the powers have been used against people of a specific religious persuasion, who had already been under ASIO surveillance for many years – that is, these powers were used with prejudice.

And finally, the powers *may* have been used purely to exercise them, to justify the provision of these powers at this review.

We also object strenuously to the secrecy provisions surrounding the questioning process, and we strongly object to the automatic withdrawal of a passport when a warrant for detention / questioning is issued under these powers. This is wide open to abuse.

Therefore, we urge the committee to find that these ASIO detention and questioning powers are an unjustified infringement of the liberties of people in Australia, and that they have been of no use in any anti-terrorism strategy, and recommend that these powers be withdrawn.

Yours sincerely,

Peter Murphy  
Secretary

SEARCH Foundation  
Rm 610, 3 Small St, BROADWAY NSW 2007  
Australia  
Ph: 02 9211 4164; Fax: 02 9211 1407  
ABN 63 050 096 976  
promoting democracy, social justice and environmental sustainability  
Note new email addresses:  
[admin@search.org.au](mailto:admin@search.org.au); [pmurphy@search.org.au](mailto:pmurphy@search.org.au); [mgillbank@search.org.au](mailto:mgillbank@search.org.au)