



Premier of Queensland

For reply please quote: *SocPol/JS – TF/15/6934 – DOC/15/62199*

29 APR 2015

The Honourable Roger Gyles AO QC
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Dear Mr Gyles

Thank you for your letter dated 25 March 2015 regarding your inquiry into section 35P of the *Australian Security Intelligence Organisation Act 1979* (ASIO Act) and your request for information.

I have sought advice from the Queensland Police Service (QPS) and will respond to each of your questions in turn.

Please be advised that the data provided in response to questions 1–3 relates to the period of the last six years (2009–2015). The QPS database (QPrime) does not record specific offence codes for the offences listed below. As such, ascertaining definitive data for these offences prior to 2009 would require a lengthier and more thorough investigative process.

Question 1: enforcement of disclosure offences applying to controlled operations, assumed identities and witness protection schemes

- (1) **Have any offences under the following provisions been prosecuted, or referred for prosecution?**
 - (a) **Section 266, *Police Powers and Responsibilities Act 2000* (Qld) (disclosure offences with respect to controlled operations).**
 - (b) **Section 313, *Police Powers and Responsibilities Act 2000* (Qld) (disclosure offence with respect to a person's assumed identity).**
 - (c) **Section 21KD, *Evidence Act 1977* (Qld) (disclosure offences with respect to the identity or residence of a protected witness).**

Response:

I am advised that there is no record of any person being charged with an offence under sections 266 or 313 of the *Police Powers and Responsibilities Act 2000* (Qld) (the PPRA). I am also informed that no person has been charged with an offence under section 21KD of the *Evidence Act 1977* (Qld).

Questions 2–3: experience in the conduct of controlled operations and the use of assumed identities – identification of conduct outside the limits of authority.

- (2) Have any reports made to under the following provisions identified any instances of wrongdoing, or conduct in excess of the relevant authority? If yes, please provide details:
- (a) *Controlled operations – Police Powers and Responsibilities Act 2000 (Qld):* sections 267–269 (operational reports by principal and chief law enforcement officers, and annual reporting requirements).
 - (b) *Assumed identities – Police Powers and Responsibilities Act 2000 (Qld):* section 314 (annual reporting on the use of assumed identities including any unlawful activities etc identified in mandatory audit conducted under section 316).

Response:

I am advised that a review of the annual reports (going back to 2000) under sections 267–269 of the PPRA does not identify any instance of wrongdoing or conduct in excess of the relevant authority.

Similarly, there have been no reports made in relation to assumed identities under section 314 of the PPRA.

- (3) Separately to the abovementioned reporting requirements, have there been any prosecutions or matters referred for prosecution with respect to the conduct of a participant in a controlled operation that is:
- (a) of a kind specified in paragraph 244(1)(g) of the *Police Powers and Responsibilities Act 2000 (Qld)* certain matters that cannot be authorised);
or
 - (b) otherwise in excess of a participant's authority in respect of an operation.

Response:

There have been no prosecutions, nor have there been any matters referred for prosecution, regarding the conduct of a participant in a controlled operation that is of a kind referred to in section 244(1)(g) of the PPRA.

Question 4: Media liaison arrangements

- (4) Please describe your Police media liaison arrangements with respect to journalists or other media professionals who may make contact with respect to either national security operations, or with respect to matters relating to controlled operations. I am particularly interested in any details of the following matters you are able to provide:
- (a) The approach to the handling of inquiries from journalists who may contact the Police media liaison unit in relation to a potential news report or editorial piece because they are uncertain whether it may disclose operationally sensitive information (and may further be concerned about exposure to criminal liability – for example under the controlled operations disclosure offences – if the relevant report was published and, in fact, disclosed such information).

- (b) Any practices implemented to manage the risk of confirming or denying the existence of a covert or otherwise sensitive operation, in the event a journalist contacted the Police media liaison unit in the circumstances described at (a) above.**

Response:

With respect to both questions 4(a) and (b), upon receipt of any inquiry from a media organisation, liaison occurs between the partners of the Queensland Joint Counter Terrorism Team. The normal approach would be for these inquiries to be referred to both the Australian Federal Police and the Australian Security Intelligence Organisation at the same time and a consolidated response would then be provided.

Response to 4(a):

Any response by QPS to an approach from journalists would be dependent on the individual circumstances of each case.

In general terms, the Public Safety Business Agency (PSBA) Media would liaise with the appropriate contact within QPS to determine if publication would negatively impact on an operational matter. This determination would then be conveyed to the journalist.

If publication would negatively impact on an investigation or operation, or if it risked the safety of an officer or someone in the community, PSBA Media would attempt to negotiate either a delayed publication of the information or the suppression of certain details.

PSBA Media would not provide legal advice to journalists. The only advice provided to journalists or media professionals would be restricted to any potential operational or safety implications.

Response to 4(b):

PSBA Media would consider giving a background briefing to the journalist if necessary to make arrangements for additional information to be provided at the appropriate time if the media organisation agrees to delay or modify publication details.

In this circumstance, QPS operational managers would be briefed and involved in any process to ensure officer safety and the integrity of investigations is maintained.

Please be advised that the information provided in this letter is neither sensitive nor confidential.

I trust this information is of assistance and I wish you all the best with the rest of your inquiry into this important matter.

Yours sincerely

**ANNASTACIA PALASZCZUK MP
PREMIER OF QUEENSLAND
MINISTER FOR THE ARTS**