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29 June 2004

- 1 JUL 2004

Mr Phillip Bailey
Acting Secretary
Australian Senate
Legal and Constitutional
References Committee
Parliament House
CANBERRA ACT 2600

Dear Mr Bailey

**INQUIRY INTO THE PROVISIONS OF THE TELECOMMUNICATIONS
(INTERCEPTION) AMENDMENT (STORED COMMUNICATIONS) BILL 2004**

Thank you for your correspondence dated 18 June 2004 and the opportunity to provide comment to the Senate Legal and Constitutional Legislation Committee inquiring into the abovementioned Bill.

The Tasmania Police Service is not yet a declared agency under the *Telecommunications (Interception) Act 1979* (the Act), but it is envisaged that within the next twelve months the Agency will be so declared and will, upon such declaration, seek to conduct telecommunications interceptions (TI) under the powers of the Act.

This jurisdiction notes the amendments currently before the Senate in the *Telecommunications (Interception) Amendment (Stored Communications) Bill 2004* and strongly supports the position of the Australian Federal Police in the submissions it has already put forward in seeking the amendments.

It is the understanding of this jurisdiction that the two specific areas sought to be amended relate to:

- e-mail or other electronic telecommunications media that may or may not have been opened, that have been stored in a computer, to be accessed by means not amounting to a warrant under the Act in certain circumstances; and
- the electronic scanning as well as human access to e-mail that may contain information that may damage or is prohibited by legislation or policy to be sent to a person on an agency or corporate network.

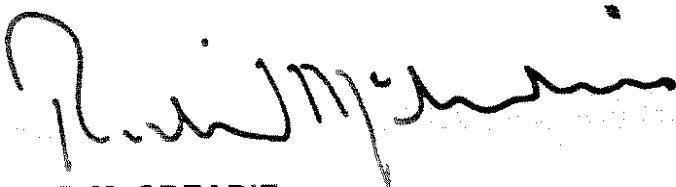
In relation to the first point, this jurisdiction relies on search and seizure powers under warrant for evidence relating to crimes and where such evidence includes e-mail on an end-user's computer, this jurisdiction would rely on the powers of the warrant to determine the evidentiary value of such e-mail. The amendment to Section 6E of the Act removes the ambiguity that currently exists as to whether or not such viewing of the stored e-mail requires a warrant under the Act. This jurisdiction has never considered that the viewing of such data would constitute a breach of the Act. Were it so considered, this jurisdiction would not be in a position to obtain such evidence as we are not yet a declared TI agency.

In relation to the second point, this jurisdiction has a duty to maintain the integrity of its computer network and to ensure that the highest professional standards are also maintained. In order to do so, electronic scanning of e-mail is required and where suspect e-mail is identified through that method, human intervention may also be necessary to maintain integrity of the system. Should such intervention be considered to be a telecommunications interception, this jurisdiction would not be able to maintain those protective measures and hence the integrity of the computer system as well as the professional standards of this jurisdiction would not be properly protected.

The amendments seek to clarify the ambiguity as it relates to the outlined issues to ensure that law enforcement, as well as professional standards, are not impeded by unnecessary complications.

This jurisdiction contends that the amendments do not change the current protections afforded by the Act and that the amendments provide appropriate clarification for law enforcement agencies.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R McCREADIE', with a stylized flourish at the end.

R McCREADIE
Commissioner of Police