

Response by the  
NSW Police

To the Cth Senate Legal and Constitutional Committee  
involving  
The Crimes Legislation Amendment (Telecommunications  
Interception and Other Measures) Bill 2005 (TI Bill)

**Part 1 – Emergency Services**

The proposed Bill primarily intends to proclaim emergency 000 facilities exempt for the purposes of amending subsection 7, (3) Telecommunications (Interceptions) Act 1979. (TI Act). This agency supports the proposed amendments in their entirety. The emergency services facility must be by a written instrument, declared by the Attorney General. What this means is that this agency's "000" emergency operations and call centres will be allowed to monitor and record communications made to that particular call centre without a warrant and without fear of breaching the Telecommunications (Interception) Act.

This agency would like to include within the meaning of "*emergency service facility*" temporary emergency service facilities such as mobile communications platforms or mobile radio and/or command facilities, including Emergency Co-ordination Centres which are not operated on a full time basis but activated in the time of an emergency, disaster, major criminal and/or terrorist incident.

**Part 3 - Ancillary Offences**

The Bill also proposes to amend ancillary offences subsection 5(1) paragraph (d) of a Class 1 offence with the capability to investigate offences involving "accessory after the fact" pursuant to Sect 349 Crimes Act 1900 (NSW). This capability has been a historical issue for this agency as it has prevented the effective investigation of countless homicides using telephone interception services. It is often a common factor that criminally involved persons harbour, aid, abet and assist the principal offender of a particular serious crime or organised criminal activity. This agency is unable to investigate such criminal activity as the TI Act has not recognised "accessory after the fact to a crime" as an interceptible offence

This agency would also like to include "accessory after the fact" in its application to Class 2 offences which would enhance this agency's operational capability to investigate offences involving firearms, home invasions, serious sex crimes and other organised criminal activity.

#### **Part 4 – Ombudsman and Statistical Reporting of Named Person Warrants**

These proposals are necessary for the effective record keeping requirements under the Ombudsman's statutory regulatory function. The statistical information and distinction between warrants issued and services connected involving Named Person Warrants are necessary for inclusion within the Commonwealth Annual Report tabled to the Federal Parliament.

No comment is offered in relation to the other proposed amendments within the Bill as they do not operationally impact on this agency. Although it is noted that the amendments to the civil forfeiture proceedings involving the NSW Crime Commission would be beneficial for the exercise of its statutory function..



A Kopsias  
Commander  
Telecommunications Interception Branch  
27<sup>th</sup> May 2005

27.May. 2005 16:10

NSW POLICE - TIB44

**Issue**

Inquiry into the Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Bill 2005. (TI Bill)

**Background**

The Commonwealth Senate Legal and Constitutional Legislation Committee is currently seeking public comment on the TI Bill.

**Comment**

The proposed Bill primarily intends to proclaim emergency 000 service facilities exempt for the purposes of the Telecommunications (Interceptions) Act 1979. This agency supports the proposed amendments in their entirety. The emergency services facility must be by a written instrument, declared by the Attorney General. What this means is that this agency's "000" emergency operations and call centres will be allowed to monitor and record communications made to that particular call centre without a warrant and without fear of breaching the Telecommunications (Interception) Act.

The proposed Bill also proposes to amend ancillary offences subsection 5(1) paragraph (d) of a Class 1 offence the capability to investigate offences involving accessory after the fact. This capability has been a historical issue for this agency as it has prevented the effective investigation of countless homicides using telephone interception services. It is often a common factor that criminally involved persons harbour, aid, abet and assist the principal offender of a particular serious crime or organised criminal activity. This agency is unable to investigate such criminal activity as the TI Act has not recognised "accessory after the fact to a crime" under the Crimes Act (Sect 349), as an interceptible offence

The Sydney Communications Group and Legal Services were duly consulted and provided feedback as to the impact of the Bill.

**Recommendation**

Attached response of the NSW Police be forwarded to the Senate Legal and Constitutional Legislation Committee.



A Kopsias  
Commander  
Telecommunications Interception Branch  
27<sup>th</sup> May 2005

Assistant Commissioner M Goodwin, Special Services Group  
Supported. Forwarded for info of Ministry. Attached submission in. *ALC 27/5/05*  
A/g Deputy Commissioner Support

Cc Ministry for NSW Police