

GENERAL

**Rights charter could help criminals: police**

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WA Police Commissioner Karl OCallaghan has warned that criminals could use a Human Rights Act such as the one being considered by the State Government to evade powerful laws aimed at fighting crime and breaking organised gangs.

Mr OCallaghan conceded yesterday that a rights Act could affect the proceeds of crime laws that put the onus on accused criminals to prove they derived their earnings legitimately or face losing their assets.

Under Part 2, Section 24 of the proposed Act, any person would have the right to be presumed innocent until proved guilty - a right that once enshrined in legislation may conflict with the property confiscation laws.

"Having spoken to some of my colleagues in other countries that have a Charter of Rights, they have had some difficulties and some concerns with their powers when the Charter of Rights has been introduced," Mr OCallaghan said.

"I would certainly hope that we would be consulted in the construction of any Charter of Rights so we can put forward the impact that a Charter of Rights would have on specific police investigative powers."

On May 3, the State Government announced it had formed a committee to review its plan to develop a Human Rights Act. Chaired by former Native Title Tribunal deputy president Fred Chaney, the committee is due to hand its recommendations to Attorney-General Jim McGinty by mid-November.

Mr Chaney, who has previously discussed the issue with the WA Police Union, yesterday met senior police to discuss the proposed laws. He said the proposed Act did not override any existing law, and the laws could be used as a guide to interpret other laws which could be open to interpretation.

"Of course the police are a very important body to be considered with any such a proposal," Mr Chaney said.

"My anticipation is that we will get very clear advice from the police force about their views on this, and we are certainly hoping to get their views on this.

"When a similar process occurred in Victoria, at the end of the process there was strong support from police, and it was indeed the Police Commissioner who joined with the Premier in announcing the proposal. I wouldn't want to leave the public with any doubt that police views will be considered very seriously, the legislation is not drafted to overturn existing legislation and the legislation specifically preserves the supremacy of Parliament."

Constitutional law expert Professor Greg Craven said the proposed Human Rights Act could have a very significant impact on law enforcement, particularly property confiscation laws, and that the proposed laws could be used by a mixture of people, ranging from people from disadvantaged backgrounds to WAs biggest drug kingpins.

"It will be used by people seeking to evade the operation of the law," he said. "Its a bit like saying who will the nuclear bomb kill - people, cockroaches or both?"

"I think its very important that people like the police are consulted, its no use just consulting lawyers and academics, you have to consult the people who actually apply the law."

Mr McGinty said human rights should be protected by government, and public consultation overseen by Mr Chaney would best determine how to achieve that end.