



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CrimJFErg1046074

31 August 2015

Professor John McMillan
Acting Ombudsman
FPO Search Powers Review
Level 24
580 George Street
Sydney NSW 2000

Dear Professor McMillan,

Review of police use of Firearms Prohibition Order search powers

I write to you on behalf of the Criminal Law Committee of the Law Society of NSW ("the Committee"). The Committee represents the Law Society on criminal law issues as they relate to the legal needs of people in NSW and includes experts drawn from the ranks of the Law Society's membership.

The Committee has reviewed the Issues Paper and queries the necessity of the new Firearms Prohibition Order (FPO) search powers.

The new search powers are contained in section 74A of the *Firearms Act 1996* and came into effect on 1 November 2013. The new search powers permit police to search, without a warrant, any person subject to an FPO and any premises or vehicle that the person occupies, controls or manages. Police can conduct an FPO search at any time, so long as the search is 'reasonably required' to determine whether the person has committed an offence by using a firearm, or acquiring or possessing a firearm, a firearm part or ammunition (section 74(1)).

The Government made it clear when introducing the legislation that the new search powers were introduced to combat gun crime in New South Wales.

As detailed in the Issues Paper, in the first ten months of the review 642 FPO searches were conducted on people and vehicles. However, none of the searches resulted in police finding a firearm. Of the total of 48 charges laid against 11 people there was only one firearms related charge of unlawful possession of ammunition.

The Committee considers that in light of these findings, these extraordinary new powers to search without a warrant cannot be justified. The Committee submits that police have adequate search powers, with appropriate safeguards, under existing legislation to search a person subject to an FPO. The Committee submits that section 74A should be removed from the *Firearms Act 1996*.

I trust these comments are of assistance. The Law Society looks forward to reviewing the Report once finalised.

Yours sincerely,

John F. Eades
President

A handwritten signature in black ink, appearing to read "John F. Eades". The signature is written in a cursive style with a large, sweeping initial "J" that loops back under the rest of the name.