

FORMER SFO DIRECTOR SAYS KING WRONG ABOUT AGENCY POWERS

By Maggie Tait of NZPA

Wellington, July 23 NZPA - Police Minister Annette King says the new Organised and Financial Crime Agency will have the same powers as the Serious Fraud Office it replaces, but judicial approval will be needed to use them.

The Government announced last September that it was establishing the new agency within police.

Former SFO director David Bradshaw told Parliament's law and order committee today that the powers were not the same and court proceedings would delay cases by years -- or see cases ditched -- while costs would skyrocket.

"The process could take at least two or three years just to get some answers to questions and what will happen is very quickly people won't go down that route."

Mr Bradshaw provided the committee an analysis of changes to powers in the Serious Fraud Office (Abolition and Transitional Provisions) Bill.

At present the SFO director can issue a production notice to get documents. Under the bill the agency has to establish grounds for such a notice in court.

Another power the SFO director has is to make people front up for interviews as part of an investigation and they have to answer questions even if they are self-incriminating -- but there are restrictions on how the SFO can use the answers.

Under the changes the agency will again have to establish several things in court and there are rules around who can apply to the court and what approval they need first.

Mr Bradshaw said before the judge could order a compulsory interview he had to be satisfied other ways of getting the information had been tried. The court order had to state the nature of questions to be asked and who would do the interview.

Also the privilege against self-incrimination was reinstated and interviewees could have a lawyer present who could advise them not to answer questions.

"The examination powers are totally different. After possibly weeks or even months of trying for an examination order the agency may obtain the order only to have the person refuse to answer any of the meaningful questions on grounds of privilege."

The other key power the SFO has is to issue search warrants.

Under the bill ordinary search warrant provisions under the Summary Proceedings Act would apply.

Under the changes it would be easier to get a search warrant than a production order, Mr Bradshaw said.

Mr Bradshaw said the changes offered "greatly increased opportunities" for court challenges.

He said the agency had to meet tight criteria and any breach could render a court order invalid and put all the information gathered at risk.

Staff time would be taken up on orders. If there were about 1000 court applications a year that would take between 5000 and 10,000 hours of non-productive staff time.

On top of that was time spent in court.

"The additional cost will be enormous."

National Party law and order spokesman Simon Power asked Ms King about the changes in Parliament this afternoon.

She said she was "staggered" that Mr Bradshaw did not think the powers had been carried over and said the only difference was the need to get judicial approval to exercise them.

"What is wrong with that? To have someone else say that they will have an oversight. It happens every day in the issuing of search warrants and other orders that are given. It's a protection for the people of New Zealand that they are being appropriately applied."

Ms King said the new agency had not been formally launched but was already looking at its first case.

Staff to establish the agency had been appointed. The establishment director was John Beaglehole, appointed last December, and his team included a detective superintendent, a superintendent and detective inspector.

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