



Australian Government
Attorney-General's Department
Criminal Justice Division

10/5994

16 November 2010

Senator Trish Crossin
Chair
Senate Standing Committee
on Legal and Constitutional Affairs
Parliament House
Canberra ACT 2600

Dear Senator Crossin

Answers to questions on notice regarding the Crimes Legislation Amendment Bill 2010

This letter provides a combined response to questions that the Attorney-General's Department and the Australian Federal Police (AFP) took on notice during the Committee's hearing into the Crimes Legislation Amendment Bill 2010 (the Bill) on 4 November 2010. It incorporates information provided by the AFP and the Australian Crime Commission.

Senator Barnett asked for details of the dismissal regimes that apply to the Australian Security Intelligence Organisation (ASIO) and State and Territory police forces, including whether they are consistent with that of the AFP and what is proposed for the Australian Crime Commission (ACC)

A table outlining the dismissal regimes that apply to ASIO and State and Territory law enforcement agencies is at **Attachment A**. ASIO and State and Territory law enforcement agencies each have their own different sets of dismissal powers. The *Fair Work Act 2009* (Cth) does not apply to employees of State and Territory public service agencies. However, each State and Territory has its own workplace relations legislation.

Given the complexity of determining each jurisdiction's workplace relations arrangements, the Department is not able to provide advice on the application of State and Territory workplace relations legislation to State and Territory law enforcement agencies in the time available. However, it appears that the *Crime and Misconduct Commission Act 2001* (Qld), which governs the operation of the Queensland Crime and Misconduct Commission, excludes the operation of the *Industrial Relations Act 1999* (Qld).

Senator Barnett asked for details of which stakeholders were consulted on which parts of the Bill and when they were consulted

The AFP and the ACC were closely consulted throughout all stages of the development of the legislation. A list of other stakeholders who were consulted on the different aspects of the Bill and

when they were first consulted is provided below. The Department engaged in further discussions with stakeholders following these initial consultations.

ACC dismissal powers (Schedule 1)

The Minister for Home Affairs and Justice, the Hon Brendan O'Connor MP, wrote to:

- the Public Service Commissioner on 14 April 2010
- the Community and Public Sector Union on 14 April 2010
- the AFP Association on 14 April 2010, and
- members of the Inter-Governmental Committee on the ACC on 15 June 2010.

The Secretary of the Attorney-General's Department, Mr Roger Wilkins AO, wrote to members of the ACC Board on 15 June 2010.

Consultation was undertaken at officer level with the Department of Education, Employment and Workplace Relations and the Australian Commission for Law Enforcement Integrity (ACLEI) on 22 March 2010.

Appointment of ACC Examiners (Schedule 2)

Consultation was undertaken at officer level with ACLEI on 22 March 2010 and with the Remuneration Tribunal on 7 May 2010.

Search Related Amendments (Schedule 3)

Consultation was undertaken at officer level with ACLEI and the Australian Customs and Border Protection Service on 22 March 2010 and with the Commonwealth Director of Public Prosecutions on 23 March 2010.

Special Payments to AFP appointees (Schedule 4)

Consultation was undertaken (by the AFP) at officer level with the Department of Finance and Deregulation in November 2009.

Senator Crossin asked for details of State and Territory search warrant legislation, in particular, whether warrants are available in relation to both premises and persons and how certain procedural aspects apply under those warrants

All States and Territories have legislation authorising police to search premises under warrant. The warrants are generally issued on the basis of reasonable grounds to suspect that evidence that has been used or will be used in an offence is to be found on the premises.

Warrants to search a person are not uniformly available across jurisdictions, although powers of search on arrest are generally available. Northern Territory and ACT legislation specifically provides for warrants to search persons. In other jurisdictions, such as NSW, Queensland and Tasmania, a person may be searched if they are at premises where a warrant is being executed. These powers are equivalent to those available under paragraph 3E(6)(b) of the *Crimes Act 1914* (Cth).

All jurisdictions, excluding Victoria, SA and the NT, have some provisions in place specifically addressing the operation of electronic equipment during the course of executing a warrant. However, the provisions differ across those jurisdictions. Provisions allowing a thing to be moved for examination are available under NSW, ACT and Tasmanian legislation. Powers to compel a person to assist with access to data held on electronic equipment are available under Queensland and WA legislation.

Further details are provided in the table at **Attachment B**.

Senator Barnett asked how many more fingerprints or photographs the AFP would expect to take per year if the amendments are passed and whether consideration was given to limiting the uses for which identifying material may be put during the period that it is held.

Statistical data on the number of persons fingerprinted under section 3ZJ of the Crimes Act is not available. It is accordingly not possible to estimate the increase in the number of arrested persons likely to have their fingerprints/photographs taken.

However, statistical data on the number of persons arrested (by offence type) during the last financial year is available. This data can be used to estimate the number of fingerprints/photographs that could be taken under the proposed new standing power.

During the last financial year (1 July 2009 to 30 June 2010) the AFP arrested 370 persons for Commonwealth offences. The proposed standing power will only apply where the person is in lawful custody in respect of an offence punishable by imprisonment for 12 months or more (a serious offence). Of 370 arrests in 2009-2010, approximately 95% (350 arrests) were in relation to serious offences.

Assuming that a similar number of persons are arrested by the AFP for serious offences in the year following the passage of the amendments, it is estimated that most arrested persons would have their fingerprints/photographs taken under the new standing power.

While the primary purpose of the proposed standing power is to provide police with an accurate record of the identity of persons in police custody, the provisions would not preclude police from using the fingerprints or photographs taken for other purposes. Such purposes may include comparing the fingerprints with those at other crime scenes, or using photographs taken to assist identifying a suspect in respect of another offence by means of a photo board in accordance with section 3ZO of the Crimes Act.

The flexibility to use fingerprints/photographs lawfully taken to assist in the investigation of criminal offences is essential for police to be able to effectively carry out their functions.

All States and Territories, excluding SA and WA, have a standing power to take fingerprints of arrested persons. Of those jurisdictions, only Victoria limits the use of those records for the purpose of identifying the arrested person.¹

Section 3ZK of the Crimes Act currently requires identification material taken under section 3ZJ to be destroyed after 12 months if proceedings in respect of an offence to which the legislation relates have not been instituted or have been discontinued. This requirement will apply to the new standing power to take fingerprints/photographs.

¹ Section 464NA *Crimes Act 1958 (Vic)*.

Senator Barnett asked for details of what the term 'lawful custody' means in the context of the proposed amendments to section 3ZJ of the Crimes Act 1914 and an example of how the process works

The Law Society of South Australia submission raises concerns that the term 'lawful custody' is not defined and could potentially include arrest, pre-charge and the period of time that a person is in remand awaiting trial. The Law Society of South Australia submission does not, however, appear to have considered the use of the term 'lawful custody' in the full context of the provision. That is, section 3ZJ of the Crimes Act refers to the phrase 'lawful custody in respect of an offence'.

The following is a description of how the AFP would use the proposed standing power to take fingerprints/photographs of persons in lawful custody.

A person is in the lawful custody of the AFP in relation to an offence where the person has been arrested for that offence. The AFP can arrest a person for a Commonwealth offence in the following circumstances:

- with a warrant
- without a warrant where the police officer has *reasonable grounds to believe* that the person has committed or is committing a Commonwealth offence and where proceedings by summons against the person would not satisfy one of the prescribed purposes (subsection 3W(1) of the Crimes Act), or
- without a warrant where there are reasonable grounds to believe that the person has escaped from custody or contravened a bail condition (subsection 3W(3) of the Crimes Act).

Once a person has been arrested for a Commonwealth offence, the person can only be held by the AFP for a limited period of time. Part 1C of the Crimes Act requires that a person, arrested for a Commonwealth offence, be:

- released (either unconditionally or on bail), or
- brought before a judicial officer (who may release the person (unconditionally or on bail) or order that the person be remanded into the custody of correctional services)

within a reasonable period with capped timeframes (generally four hours for non terrorism related offences).

Identification material would only be taken by the AFP under section 3ZJ *after* arrest and *before* the person is released or brought before a judicial officer.

Senator Crossin asked for the criteria used for the appointment of ACC examiners. The Department undertook to provide the selection criteria used for the most recent process.

The criteria used for the most recent selection process for ACC examiners were as follows.

Selection criteria

1. Demonstrated knowledge of, and experience in, advanced investigative and interview techniques.
2. Demonstrated ability to exercise statutory investigative powers.

3. Exhibits integrity and accountability, including an ability to comply with legal and public policy requirements, and an ability to operate within the boundaries of organisational processes.
4. Exhibits innovation and courage, including the ability to focus strategically, harness information and opportunities, and demonstrate sound judgement, intelligence and common sense in the discharge of duties.
5. Exhibits the ability to cultivate productive relationships with law enforcement partners and work collaboratively with other Examiners and members of staff within the ACC operational environment.

Eligibility requirements

1. To be enrolled as a legal practitioner and be so enrolled for at least 5 years.
2. To receive and maintain a satisfactory security clearance.
3. To disclose all interests, pecuniary or otherwise, that may conflict with the performance of duties.
4. A willingness and capacity to work within the ACC operational environment, and undertake interstate travel, including, on occasion, to remote locations.
5. Applies and promotes the ACC values.

Further information about issues raised in submissions and at the hearing

Part time examiners

The Bill would allow the ACC to appoint examiners on a part-time basis. Currently, examiners can only be appointed on a full-time basis.

The purpose of this amendment is to allow for greater flexibility in the appointment of ACC examiners. ACC investigations can vary in scope and length, and are carried out across all jurisdictions. It is therefore difficult to predict how many examiners will be needed in a particular place at a particular time. The ACC is not currently able to respond effectively to such fluctuations in the need for examiners in particular locations.

The ACC regularly conducts investigations into specific criminal activity such as complex fraud matters and that examiners with specific expertise and experience in the particular field can add significant value to these examinations. The amendments would allow the ACC to draw on such expertise when and where it is required.

The appointment of part-time examiners with fixed weekly hours would not assist the ACC to meet its operational requirements. For example, in WA, two examiners may be required for a certain period, but this could be followed by a period where there are no examinations taking place and therefore no demand for examiners.

The Bill includes appropriate safeguards to ensure the independence of part-time examiners. A part-time examiner would be prohibited from engaging in any paid employment that may conflict with the proper performance of his or her duties. A part-time examiner would be required to provide details of all interests he or she holds or acquires that could conflict with the performance of his or her duties, and the ACC Chief Executive Officer (CEO) may require a part-time examiner to provide further information about any employment that the examiner proposes to engage in

alongside his or her duties as an examiner. These details will allow the CEO to determine whether any conflicts exist between an examiner's interests and his or her duties as an examiner. If the CEO is of the opinion that any conflict exists between a person's duty as an examiner and the person's interests or other employment the person proposes to engage in, the Governor-General will be required to terminate the person's appointment as an examiner.

There are also a number of safeguards built into the examination process that prevent examiners misusing their powers. The power to require a person to attend an examination or produce documents or information may only be exercised for special investigations or special operations, and a person who gives evidence at an examination is entitled to legal representation. If a person gives evidence at an examination that might prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been, or may be, charged with an offence, the examiner must direct that the evidence or information not be published or only be published on certain conditions. If a person is required to give evidence at a summons that may incriminate him or herself, the person may claim a use immunity which prevents the evidence from being used in a prosecution of that person. Finally, if a person is charged with failing to comply with a notice to produce, failing to attend a summons or contempt of the ACC, a court will determine whether the person is guilty.

Fingerprints and photographs

Currently, section 3ZJ of the Crimes Act allows identification material (hand, finger, feet and toe prints, voice recordings, handwriting samples, and photographs (including video recordings)) to be taken from a person in lawful custody in respect of an offence where certain preconditions are met. Schedule 3, Part 3 of the Bill would amend section 3ZJ of the Crimes Act by inserting a standing power for police to take fingerprints and/or photographs of arrested persons.

The proposed standing power is limited to the taking of fingerprints and/or photographs (including video recordings) and would only operate in the following circumstances:

- the constable taking the fingerprints/photographs is at the rank of sergeant or higher or in charge of the police station
- the person (from whom the fingerprints/photographs are taken) is in lawful custody in relation to an offence, and
- the offence is punishable by imprisonment of 12 months or more.

Fingerprints and photographs are important tools for police to accurately and promptly identify a person who has been arrested. As identity is a key element of many criminal proceedings, it is also important that police are provided with appropriate powers to establish and prove matters relating to identity in court. The taking of fingerprints/photographs provides a record of the identity of the person in custody. Accurate record keeping is essential for the proper management of the investigation and criminal proceedings.

The amendments would improve processes for establishing and maintaining identifying records of arrest and will ensure the accuracy of any subsequent criminal records. The enactment of this provision would ensure that offenders could not successfully avoid charges solely on the basis of the absence of an identifying record connecting them with the commission of the offence. It would also protect innocent members of the community from having their identities used by criminals in an attempt to avoid liability. The following examples highlight the need for a standing power to take fingerprints/photographs of arrested persons.

- In one jurisdiction there were twin siblings, both with extensive criminal histories and who used each other's names when arrested by police. At sentencing, one of the siblings successfully contested their criminal history on the basis that the other twin had committed the crimes. In the absence of fingerprints confirming the identity of the individual to whom each charge and conviction related the Court did not take into consideration much of the criminal history at sentencing.
- During the course of a Commonwealth fraud investigation a suspect was identified as using a false identity to claim Centrelink benefits. The suspect had fraudulently obtained genuine proof of identity documents to support his false identity. The suspect also had extensive criminal history in the false identity. If the false identity had not been uncovered, the suspect could have been convicted in his true name, and his prior convictions would not have been taken into account at sentencing.

A standing power to take fingerprints/photographs of persons arrested for serious offences would address the problems illustrated by the examples provided above.

The Bill has been drafted to ensure that the expanded police powers are exercised in a way that is minimally invasive on the rights of arrested persons. The power in the Bill will only apply to the taking of fingerprints and photographs (including video recordings). These forms of identification material have been deliberately selected to provide police with a reliable way to confirm identity without resorting to more invasive or lengthy procedures such as the taking of DNA, handwriting samples or voice recordings.

The proposed amendments would bring the Commonwealth's legislation into line with legislation in most States and Territories, by providing a standing power to take fingerprints and photographs of arrested persons. However, the power at the Commonwealth level will only apply in relation to offences punishable by imprisonment for 12 months or more. This will ensure that fingerprints and photographs can only be taken in relation to offences which are generally considered to be serious or indictable offences, and not in relation to minor offences.

A range of other existing safeguards in the Crimes Act relating to the taking of identification material would also apply. Section 3ZK of the Crimes Act requires police to destroy identification material taken under this section after 12 months if proceedings have not been instituted or have been discontinued. The identification material must also be destroyed as soon as possible if a person is acquitted or is found to have committed an offence but no conviction is recorded. This provision protects defendants by ensuring that any identification material taken at the time of arrest is not kept indefinitely and is destroyed if a person is not charged with an offence.

The action officer for this matter is Cat Barker who can be contacted or _____ or at _____

Yours sincerely

Sarah Chidgey
Assistant Secretary
Criminal Law and Law Enforcement Branch

Telephone:
E-mail:

Dismissal powers available to the Australian Secret Intelligence Service and State and Territory police services and crime commissions

Agency	Employment status	Dismissal powers				
Australian Security Intelligence Organisation	All staff are employed under the <i>Australian Security Intelligence Organisation Act 1979</i> .	ASIO staff members' conduct is governed by the terms and conditions of their employment rather than the <i>Public Service Act 1999</i> . An ASIO staff member's employment may be terminated for a breach of a term or condition of his or her employment.				
New South Wales Crime Commission	All staff employed under the <i>Public Sector Employment and Management Act 2002</i> .	Part 2.7 of the Act generally allows for dismissal of staff for unsatisfactory performance or misconduct. There is no distinction made between different members of staff. It appears that the <i>Industrial Relations Act 1996</i> (NSW) applies to decisions to terminate staff made under the Public Sector Employment and Management Act.				
New South Wales Police Force	Police officers employed under <i>Police Act 1990</i> . Administrative staff employed under <i>Public Sector Employment and Management Act 2002</i> .	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; vertical-align: middle;"><i>Police officers</i></td> <td style="width: 50%; text-align: center; vertical-align: middle;"><i>Administrative staff</i></td> </tr> <tr> <td style="vertical-align: top;">An officer can be dismissed if the Commissioner does not have confidence in the police officer's suitability to continue as a police officer, having regard to the police officer's competence, integrity, performance or conduct.</td> <td style="vertical-align: top;">Part 2.7 of the Act generally allows for dismissal of staff for unsatisfactory performance or misconduct.</td> </tr> </table>	<i>Police officers</i>	<i>Administrative staff</i>	An officer can be dismissed if the Commissioner does not have confidence in the police officer's suitability to continue as a police officer, having regard to the police officer's competence, integrity, performance or conduct.	Part 2.7 of the Act generally allows for dismissal of staff for unsatisfactory performance or misconduct.
<i>Police officers</i>	<i>Administrative staff</i>					
An officer can be dismissed if the Commissioner does not have confidence in the police officer's suitability to continue as a police officer, having regard to the police officer's competence, integrity, performance or conduct.	Part 2.7 of the Act generally allows for dismissal of staff for unsatisfactory performance or misconduct.					
Victorian Police	Police officers are employed under the <i>Police Regulations Act 1958</i> . Administrative staff are employed under the <i>Public Administration Act 2004</i> .	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; vertical-align: middle;"><i>Police officers</i></td> <td style="width: 50%; text-align: center; vertical-align: middle;"><i>Administrative staff</i></td> </tr> <tr> <td style="vertical-align: top;">The Commissioner may dismiss a member of the police force if satisfied that the member is unsuitable to continue as a member of the force, having regard to the member's integrity and the potential loss of community confidence in the force were the member to continue as a member of the force.</td> <td style="vertical-align: top;">A member of staff can be dismissed on the basis of a number of grounds including serious misconduct or if the public service body Head is satisfied that the employee is inefficient or incompetent in the discharge of his or her duties.</td> </tr> </table>	<i>Police officers</i>	<i>Administrative staff</i>	The Commissioner may dismiss a member of the police force if satisfied that the member is unsuitable to continue as a member of the force, having regard to the member's integrity and the potential loss of community confidence in the force were the member to continue as a member of the force.	A member of staff can be dismissed on the basis of a number of grounds including serious misconduct or if the public service body Head is satisfied that the employee is inefficient or incompetent in the discharge of his or her duties.
<i>Police officers</i>	<i>Administrative staff</i>					
The Commissioner may dismiss a member of the police force if satisfied that the member is unsuitable to continue as a member of the force, having regard to the member's integrity and the potential loss of community confidence in the force were the member to continue as a member of the force.	A member of staff can be dismissed on the basis of a number of grounds including serious misconduct or if the public service body Head is satisfied that the employee is inefficient or incompetent in the discharge of his or her duties.					

Agency	Employment status	Dismissal powers	
<p>Queensland Police</p>	<p>Police officers are employed under the <i>Police Service Administration Act 2001</i>. Administrative staff members are employed under the <i>Public Service Act 2008</i>.</p>	<p><i>Police officers</i></p> <p>An officer may be stood down or suspended if it appears on reasonable grounds to the Commissioner that the officer is liable to be dealt with for official misconduct or disciplinary action, or if the officer is charged with an indictable offence.</p>	<p><i>Administrative staff</i></p> <p>The CEO of an agency may dismiss an administrative staff member immediately if the CEO is reasonably satisfied that the staff member has one of a range of disciplinary issues.</p>
<p>Queensland Crime and Misconduct Commission</p>	<p>Staff are employed under the <i>Crime and Misconduct Act 2001</i>.</p>	<p>The <i>Industrial Relations Act 1999</i> (Qld) does not apply to the Queensland Crime and Misconduct Commission (section 219E and subsection 254(5)).</p> <p>It is not clear from the Crime and Misconduct Act how the processes for dismissing staff for misconduct operate. The legislation provides that staff are subject to the direction and control of the Chairperson of the Crime and Misconduct Commission.</p>	

Agency	Employment status	Dismissal powers	
<p>South Australia Police</p>	<p>Officers are employed under the <i>Police Act 1998</i>. It is not clear how administrative are employed but it is most likely under the <i>Public Sector Act 2009</i>.</p>	<p><i>Police officers</i></p> <p>A member of the police force may be removed if he or she is found guilty of an offence, admits to a breach of the Code of Conduct or is found guilty of a breach of the Code of conduct.</p> <p>A member of the police force may also be removed if the Commissioner is satisfied that the person is not performing his or her duties satisfactorily and it is not practicable to transfer the person to another position with the same rank or a lower rank.</p>	<p><i>Administrative staff</i></p> <p>A person employed under the Public Sector Act can be removed from employment for unsatisfactory performance of duties or for misconduct.</p>
<p>Western Australia Police</p>	<p>Officers employed under the <i>Police Act 1892</i>. It is not clear how administrative staff are employed but it is most likely under the <i>Public Sector Management Act 1994</i>.</p>	<p><i>Police officers</i></p> <p>A member of the police force may be removed if the Commissioner does not have confidence in a member's suitability to continue as a member, having regard to the member's integrity, honesty, competence, performance or conduct.</p>	<p><i>Administrative staff</i></p> <p>Where an employee's performance is substandard in the opinion of an employing authority, the authority may terminate the employment in the Public Sector of that employee.</p> <p>An employing authority may also dismiss an employee for a breach of discipline.</p>

Agency	Employment status	Dismissal powers
<p>Western Australia Corruption and Crime Commission</p>	<p>All staff are employed under the <i>Corruption and Crime Commission Act 2003</i>.</p>	<p>It is not clear how powers of dismissal operate. The Act provides that the power to appoint staff includes, among other things, the power to terminate the employment of staff, but no further guidance is provided.</p> <p>It appears that the <i>Industrial Relations Act 1979</i> may operate in conjunction with the Corruption and Crime Commission Act.</p>
<p>Tasmania Police Force</p>	<p>Officers are employed under the <i>Police Service Act 2003</i>.</p> <p>It is not clear how administrative staff are employed but it is most likely under the <i>State Service Act 2000</i>.</p>	<p><i>Police officers</i></p> <p>The employment of a non-commissioned officer may be terminated if the Commissioner does not have confidence in the officer's suitability to continue as an officer, having regard to the officer's integrity, honesty, competence, performance or conduct, or the loss of community confidence in the police service if the officer were to continue as a police officer at his or her rank.</p> <p>In the case of commissioned officers, the Commissioner may recommend to the Minister that an officer's employment be terminated for the same reasons as above.</p> <p><i>Administrative staff</i></p> <p>An administrative staff member's employment may be terminated if he or she is found to have breached the Code of Conduct or if he or she is unable to efficiently and effectively perform his or her duties.</p>
<p>Northern Territory Police</p>	<p>Officers are employed under the <i>Police Administration Act</i>.</p> <p>It is not clear how administrative staff are employed but it is most likely under the <i>State Service Act</i></p>	<p><i>Police officers</i></p> <p>A police officer may be dismissed immediately if the Commissioner is of the opinion that the officer has</p> <p><i>Administrative staff</i></p> <p>An administrative staff member's employment may be terminated if the CEO of the person's agency is of the</p>

Agency	Employment status	Dismissal powers
	2000.	<p>committed a breach of discipline and it is in the public interest to dismiss the officer immediately. Before making such a decision, the Commissioner must serve a notice on the officer and allow the officer a chance to make written responses to the notice.</p> <p>opinion that the staff member has committed a breach of discipline and it is in the public interest to immediately dismiss the staff member.</p>

Attachment B

Commonwealth, State and Territory search warrant legislation, including provisions for dealing with electronic equipment

Jurisdiction	Legislation	Can a warrant be issued for a search of premises? What is the threshold?	Can a warrant be issued for a search of a person? What is the threshold?	Can equipment be operated at premises?	Can things be moved for examination or processing from: 1. a premises? 2. a person?	Can orders be made for assistance with access to data held on equipment located under a warrant to search: 1. a premises? 2. a person?
Cth	<i>Crimes Act 1914</i>	Yes reasonable grounds to suspect ss3E(1)	Yes reasonable grounds to suspect ss3E(2)	Yes 3L	1. Yes ss3K(2) 2. Proposed under CLA Bill ss3K(2)	1. Yes s3LA 2. Proposed under CLA Bill s3LA
NSW	<i>Law Enforcement (Powers and Responsibilities) Act 2002</i>	Yes reasonable grounds to suspect ss47(1)	No N/A	Yes s75A	1. Yes ss75A(1)(c) 2. N/A	1. No 2. N/A
VIC	<i>Crimes Act 1958</i>	Yes reasonable grounds to suspect s341	No N/A	No explicit provisions	1. No 2. N/A	1. No 2. N/A

Jurisdiction	Legislation	Can a warrant be issued for a search of premises? What is the threshold?	Can a warrant be issued for a search of a person? What is the threshold?	Can equipment be operated at premises?	Can things be moved for examination or processing from: 1. a premises? 2. a person?	Can orders be made for assistance with access to data held on equipment located under a warrant to search: 1. a premises? 2. a person?
SA	<i>Summary Offences Act 1953</i>	Yes reasonable cause to suspect s67	No	No explicit provisions	1. No 2. N/A	1. No 2. N/A
Qld	<i>Police Powers and Responsibilities Act 2000</i>	Yes reasonable grounds to suspect s151	No N/A	Yes ss154(1)	1. No 2. N/A	1. Yes s154 2. N/A
NT	<i>Police Administration Act</i>	Yes reasonable grounds to believe ss117(2)	Yes reasonable grounds to believe ss117(1)	No explicit provisions	1. No 2. No	1. No 2. No
ACT	<i>Crimes Act 1900</i>	Yes reasonable grounds to suspect ss194(1)	Yes reasonable grounds to suspect ss194(2)	Yes s200	1. Yes ss199(2) 2. No	1. No 2. No
WA	<i>Criminal Investigation Act 2006</i>	Yes reasonable grounds	No N/A	Yes ss44(2)(d)	1. No 2. N/A	1. Yes ss44(2)(d)(ii) ss44(2)(e)

Jurisdiction	Legislation	Can a warrant be issued for a search of premises? What is the threshold?	Can a warrant be issued for a search of a person? What is the threshold?	Can equipment be operated at premises?	Can things be moved for examination or processing from: 1. a premises? 2. a person?	Can orders be made for assistance with access to data held on equipment located under a warrant to search: 1. a premises? 2. a person?
		to suspect 42				ss149(2) 2. N/A
Tas	<i>Search Warrants Act 1997</i>	Yes reasonable grounds to suspect s5	No N/A	Yes 11(1)	1. Yes ss10(2) 2. N/A	1. No 2. N/A