

Queensland Community Safety Bill 2024

Submission No: 2
Submitted by: Office of the Information Commissioner
Publication:
Attachments:
Submitter Comments:

Our ref: 1810075

9 May 2024

Ms Mary Westcott
Committee Secretary
Community Safety and Legal Affairs Committee
Queensland Parliament

By email: CSLAC@parliament.qld.gov.au

Dear Ms Westcott

Inquiry into the Queensland Community Safety Bill 2024

The Office of the Information Commissioner (**OIC**) welcomes the opportunity to make a submission to the Community Safety and Legal Affairs Committee's (**Committee**) inquiry into the Queensland Community Safety Bill 2024 (**Bill**).

OIC is an independent statutory body that reports to the Queensland Parliament. The Information Commissioner is an Officer of Parliament and is charged with functions under the *Right to Information Act 2009 (RTI Act)* and the *Information Privacy Act 2009 (IP Act)* to, respectively, facilitate greater access to government-held information and oversee safeguarding of personal information collected, used and held by public sector agencies.

Clause 125—Amendment of s 263A (Recordings in detention centres and use of body-worn cameras)

Clause 125(3) of the Bill proposes to amend section 263A(4) of the *Youth Justice Act 1992* to enable the recording of phone calls between a child detainee and another person for a purpose, and in accordance with requirements prescribed by regulation. The Act currently prohibits the recording of a detainee's telephone conversations but allows their call to be monitored and terminated in certain circumstances.¹

OIC understands the new regulation-making power is intended to prevent serious crime in youth detention centres.² The Explanatory Notes state intelligence officers in youth detention centres have identified circumstances where offences are being committed, such as breaches of domestic violence orders or intimidating witnesses, that risk the good order and safety of youth detention centres.³ Instances may involve a recipient of a telephone call forwarding the call or facilitating a conference call.⁴

The recording of a detainee's telephone calls also poses privacy risks to any third party involved in the telephone call. Further, the information generated through the recording of telephone calls, will include personal information and the privacy obligations in the IP Act, and rights of access and amendment under the IP Act and RTI Act may apply.

OIC recommends that any agency considering the use of surveillance devices, conduct a [Privacy Impact Assessment \(PIA\)](#) before implementing these technologies. While the collection of personal information in these circumstances may be considered necessary to prevent serious crime, it should be appropriately balanced so as not to intrude unreasonably into the personal affairs of child

¹ Explanatory Notes, page 14.

² Statement of Compatibility, page 82.

³ Explanatory Notes, page 14.

⁴ Explanatory Notes, page 14.

detainees and their families. A PIA will assist in identifying any privacy risks and formulating appropriate mitigation strategies.

OIC considers appropriate safeguards include robust operational policies and procedures, training for youth detention centre staff and auditing to prevent unauthorised access to or misuse of personal information collected through the recordings. The PIA should be updated at key phases throughout the lifecycle of the implementation and use of these recording technologies.

The Explanatory Notes indicate work will be undertaken in the near future to develop a framework under the *Youth Justice Regulation 2015* to allow the recording of a detainee's telephone calls in certain circumstances with appropriate thresholds and safeguards.⁵ OIC would welcome the opportunity to be further consulted in the development of the regulations.

Clause 42—Insertion of new section 43A

Clause 42 will insert a new section 43A into the *Explosives Act 1999*, which will make an offence for a seller to sell small arms ammunition to a buyer unless the seller has seen the buyer's licence or authority and verified the authority through a verification system, if available. A verification system is defined as an electronic system for verifying the validity of a licence or authority.⁶ If prescribed, this may include the online Queensland Weapons Licence Card Status Check.⁷

As the Statement of Compatibility acknowledges, potential buyers would need to reveal their personal information when presenting the relevant licence or authority.⁸ OIC notes this personal information may include their residential address.

While there are significant benefits to ensuring buyers have a valid licence or authority, and noting sellers may already require buyers to present their licence or authority to comply with section 42 of the *Explosives Act 1992*,⁹ this new requirement should nonetheless be appropriately balanced so as not to intrude unreasonably into buyers' personal affairs.

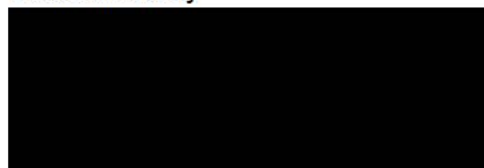
It is reassuring to see that the proposed amendment to the *Explosives Act* only requires the authority to be seen and not copied.

OIC also encourages a communication program be implemented by the responsible agency which includes education about new requirements in the Act, should they be passed, to reduce the likelihood of over collection of personal information by businesses. For instance, sellers should not be viewing a buyer's residential address or taking a copy of identifying information.

Should you require further information regarding the above matters, please contact me at

██████████ or on ██████████.

Yours sincerely



Joanne Kummrow
Information Commissioner

⁵ Explanatory Notes, page 14.

⁶ Clause 42, new section 43A(4). Explanatory Notes, page 21.

⁷ Explanatory Notes, pages 21 and 65.

⁸ Statement of Compatibility, page 40.

⁹ Statement of Compatibility, page 40.