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Our Reference: AD-18-0374

4 July 2018

Ms Renee Easten  
Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane QLD 4000

Via email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Ms Easten

**Re: Police Powers and Responsibilities and Other Legislation Amendment Bill 2018**

The Crime and Corruption Commission (CCC) welcomes the opportunity to make this submission to the Legal Affairs and Community Safety Committee (the Committee) on the Police Powers and Responsibilities and Other Legislation Amendment Bill 2018 (the Bill).

The Bill was introduced to parliament on 12 June 2018 and referred to the Committee to report by 9 August 2018. The Committee has invited submissions which are due by 9 July 2018.

The CCC has particular roles to combat and reduce the incidence of major crime and to undertake research relating to the administration of criminal justice and to continuously improve integrity, and to reduce the incidence of corruption, in the public sector. The Bill proposes amendments to several Acts of relevance to the CCC. The CCC does not intend to comment on many of the proposed changes to improve efficiency in the administration and enforcement of the relevant Acts. The focus of this submission concerns certain amendments to the *Police Powers and Responsibilities Act 2000* (PPRA).

**PPRA amendments**

According to the Explanatory Notes the policy objective and reasons for the proposed amendments to the PPRA is to enhance the efficiency and quality of front line policing services to ensure that policing services remain responsive to contemporary community needs.

In this regard particular reference is made to the 2011 review of evade police provisions by the CCC (then the Crime and Misconduct Commission) and its recommendations<sup>1</sup> (the Review).

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<sup>1</sup> *An Alternative to Pursuit: A review of the evade police provisions*, Crime and Misconduct Commission, June 2011: <http://www.ccc.qld.gov.au/research-and-publications/browse-cmc-publications>.

### **Evade police provisions (Chapter 22, PPRA)**

The Bill is said to give effect to the Review recommendations set out below in **Attachment 1**. The CCC made these recommendation in the hope that the evade police provisions can meet their stated intention of improving community safety by reducing the need for police to pursue fleeing drivers and providing police with appropriate tools to identify and prosecute fleeing drivers.<sup>2</sup>

The CCC is satisfied that the Bill (clauses 35 – 42) appropriately implement these recommendations.

The Explanatory Notes acknowledge that the proposed amendments compel vehicle owners to provide information in ways adversely affecting the rights and liberties of individuals by placing a strong onus on the owner of a vehicle to cooperate with police in the investigation of evasion offences and to be accountable for the use of their vehicle in timely ways subject to judicial oversight.<sup>3</sup> The CCC considers the amendments provide an appropriate balance to reduce the danger to the community of police pursuits and promote the detection and prosecution of evasion offences consistent with the principle that everyone in the community has a social responsibility to help police officers prevent crime and discover offenders.<sup>4</sup>

### **Searching places for high risk missing persons (inserting new Chapter 7, Part 3A, PPRA)**

The CCC supports the introduction of police entry and search powers to investigate the disappearance of high risk missing persons by inserting a new Chapter 7, Part 3A into the PPRA<sup>5</sup>. These provisions include appropriate judicial oversight for establishing missing person scenes and the exercise of enter, search and seizure powers when searching for missing children under 13 years of age or other vulnerable persons who may suffer serious harm if not found as quickly as possible. While many missing person cases do not fall within the CCC's major crime function, evidence secured by using these powers may help the CCC more effectively perform certain hearing powers, for example under the Serious Crime (Vulnerable Victims) General Referral 2013.

The CCC acknowledges the Bill's proposal for the CCC to review and report on the effectiveness of these provisions in consultation with the Minister and providing a copy of the report to the Speaker for tabling in the Legislative Assembly<sup>6</sup>. The CCC welcomes this responsibility as an appropriate part of its research function.

### **Controlled activities and controlled operations**

The CCC supports the proposed amendments to include offences against sections 221 and 223 of the *Racing Integrity Act 2016* as relevant offences for controlled operations and surveillance device warrants<sup>7</sup> and an offence against section 225 of that Act as an additional controlled activity offence<sup>8</sup>. While these offences do not of themselves amount to major crime or corruption under the *Crime and Corruption Act 2001*, such offences (or similar offences) have historically been associated with organised crime and corruption and are difficult to effectively investigate and enforce without the use of extraordinary powers.

### **Access information orders to storage devices seized with a crime scene warrant**

The CCC supports the proposed amendments to allow the QPS to apply for a judicial order requiring access information to storage devices seized with a crime scene warrant<sup>9</sup>. The Bill includes appropriate

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<sup>2</sup> Ibid, p xiii.

<sup>3</sup> Explanatory Notes, pp 23 – 24; and also Clause 39 (reasonable excuse); Clause 41 (reasonable excuse, evidence not within knowledge, interests of justice); and Clause 42 (reasonable notice of intention to challenge at hearing).

<sup>4</sup> Section 8(2), *Police Powers and Responsibilities Act 2000*.

<sup>5</sup> Clause 27 of the Bill.

<sup>6</sup> Clause 44 of the Bill.

<sup>7</sup> Clause 45 of the Bill.

<sup>8</sup> Clause 46 of the Bill.

<sup>9</sup> Clause 25 of the Bill.

judicial oversight of the proposed new powers. The CCC considers that in principle the scope of the proposed new powers should be consistent with those available under PPRA, section 154, now and in future.

If you require further information or assistance please contact in the first instance, [REDACTED]  
(Assistant Director, Legal Services) on [REDACTED] or via [REDACTED]

Yours sincerely,



**A J MacSporran QC**  
**Chairperson**

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## ATTACHMENT 1

### Review Recommendations

#### Recommendation 1

That the explanatory clause for the evade police provisions (s. 746 of the PPRA) be amended to describe:

- the aim of the evade police provisions to improve community safety by reducing the need for police to pursue fleeing driver
- how the evade police provisions aim to assist police to investigate evade police offences.

#### Recommendation 2

That the QPS, in conjunction with relevant agencies, explore the feasibility of changing the short title of the evade police offence provision (s. 754 PPRA) from 'Fail to stop motor vehicle' to better reflect the offending behaviour and avoid confusion with the similar s. 60 PPRA offence.

#### Recommendation 6

That s. 747 of the PPRA be amended to include the following additional requirements for the declaration in response to an evasion offence notice — that the owner provide to the police:

- the names of all people with access to the vehicle used in the offence
- information about how frequently, and for how long, those persons use the vehicle
- whether the vehicle is used by those persons for business or private purposes
- any other information within the owner's knowledge, or that police believe is relevant, to the investigation of an evade police offence.

#### Recommendation 7

That s. 756(4) of the PPRA be amended to preclude the owner (or nominated person) from relying on the rebuttal provision to claim they were not the driver, unless they are able to demonstrate to the court that they could not reasonably have provided police with information to assist them to identify the actual driver within 14 days of the receipt of an evasion offence notice.

#### Recommendation 8

To support Recommendations 6 and 7, that s. 755 of the PPRA be amended to allow an owner or nominated person 14 days to provide a declaration in response to an evasion offence notice.

#### Recommendation 12

That s. 747 of the PPRA be amended to allow police to serve an evasion offence notice on any registered owner of the vehicle, rather than just the first registered owner.

#### Recommendation 13

That Chapter 22 of the PPRA be amended to include a provision to make the following details evidentiary in their own right:

- the formal details about the service of the evasion offence notice
- the formal details of the receipt of the declaration.