



Surveillance  
Device Warrants

Annual Report  
**2019/2020**

Queensland Police Service



This is the Fourteenth annual report under section 358 of the *Police Powers and Responsibilities Act 2000* (the Act). Section 358(4) of the Act requires the Commissioner to provide a report that includes specified information, detailed in subsection (1), concerning the use of warrants issued under Chapter 13 of the Act for each financial year.

Chapter 13 of the Act, which commenced on 30 June 2006, contains the sections relating to surveillance device warrants. This report contains information from 1 July 2019 up until 30 June 2020.

The report must not contain information that discloses or may lead to the disclosure of the identity of any person who has been or is being investigated. Further, the report must not indicate that a particular investigation has been, is being or is to be conducted. The report is to be provided to the Minister.

Section 358(1) of the Act requires the following information to be included in the report:

- (a) The number of applications for warrants by and the number of warrants issued to law enforcement officers of the agency during that year;
- (b) The number of applications for emergency authorisations by, and the number of emergency authorisations given, to law enforcement officers of the agency during that year;
- (c) The number of remote applications for warrants by law enforcement officers of the agency during that year;
- (d) The number of applications for warrants or emergency authorisations by law enforcement officers of the agency that were refused during that year, and the reason for refusal, if known;
- (e) The number of applications for variations or extensions of warrants by law enforcement officers of the agency during that year, the number of variations or extensions granted or refused and, if refused, the reasons for refusal, if known;
- (f) The number of arrests made by law enforcement officers of the agency during that year on the basis, entirely or partly, of information obtained by the use of a surveillance device under a warrant or emergency authorisation; and
- (g) The number of prosecutions that were started in this jurisdiction during that year in which information obtained by the use of a surveillance device under a warrant or emergency authorisation was given in evidence and the number of those prosecutions in which a person was found guilty; and
- (h) the number of tracking device authorisations given to police officers during that year, the number of tracking device authorisations for which the authorisation period was extended during that year; and for each tracking device authorisation given during that year, a statement about whether or not the use of the tracking device helped in minimising the risk mentioned in *section 348A (1) (b) (i)* of the Act.



### Applications for Warrants

Chapter 13 of the Act authorises police officers to apply for two different types of warrants, namely, surveillance device warrants and retrieval warrants.

#### Surveillance Device Warrants

Surveillance device warrants authorise the installation, use and removal of surveillance devices for the period specified in the warrant.

Only senior officers (police officers of the rank of inspector or above) are authorised to make an application for a surveillance device warrant.

Applications for surveillance device warrants can be made in relation to relevant offences (indictable offences punishable by at least 7 years imprisonment or an indictable offence included in schedule 2 of the Act). Also, surveillance device warrants which only authorise the use of a tracking device, without covert entry to a building, can be applied for in relation to indictable offences punishable by at least 3 years imprisonment or an indictable offence included in schedule 2 of the Act.

	<i>Type of Surveillance Device</i>					<i>Total<sup>3</sup></i>
	<i>Listening Devices</i>	<i>Optical Devices</i>	<i>Tracking Devices<sup>1</sup></i>	<i>Data Devices</i>	<i>Combination Devices<sup>2</sup></i>	
<i>Number of applications for surveillance device warrants</i>	28	7	36	0	9	56
<i>Number of surveillance device warrants issued</i>	28	7	36	0	9	56

<sup>1</sup>Of the 36 surveillance device warrants authorising the use of tracking devices, 13 applications were made to a magistrate. A magistrate is only permitted to issue a surveillance device warrant which authorises the installation of a tracking device without covert entry to a building. The remainder of the surveillance device warrants were issued by a Supreme Court judge.

<sup>2</sup>The combination devices in these records related to devices which combined a listening device with an optical surveillance device and a tracking device with a listening device.

<sup>3</sup>The sum total of each type of surveillance device exceeds the total number of surveillance device warrants applied for/issued as some warrants authorise more than one type of surveillance device.

#### Retrieval Warrants

In circumstances where the surveillance device is not able to be removed from the place/object it has been installed in prior to the expiration of the surveillance warrant, police have to apply for a retrieval warrant to lawfully remove the surveillance device from the place/object.

	<i>Listening Devices</i>	<i>Optical Devices</i>	<i>Tracking Devices</i>	<i>Data Devices</i>	<i>Combination Devices</i>	<i>Total</i>
<i>Number of applications for retrieval warrants</i>	0	0	2	0	1	3
<i>Number of retrieval warrants issued</i>	0	0	2	0	1	3



### *Applications for Emergency Authorisations*

An emergency authorisation allows police to exercise powers ordinarily available under a surveillance device warrant without first making an application to a Supreme Court judge or a magistrate. Only senior officers may give an emergency authorisation for the use of a surveillance device.

If a senior officer authorises the emergency use of a surveillance device then that officer must, within 2 business days after giving the authorisation, apply to a Supreme Court judge for approval of the exercise of powers under the emergency authorisation.

*Number of applications for emergency authorisations* 0

*Number of emergency authorisations issued* 0

### *Remote Applications for Warrants*

Remote applications for surveillance device warrants occur where a senior officer applies for a warrant by phone, fax, radio, email or another similar facility because of urgent circumstances or other special circumstances including the officer's remote location.

This provision is rarely used by the Queensland Police Service as all applications are made with the assistance of a lawyer attached to the Crime and Intelligence Legal Unit, Legal Division and the lawyer presents the application to the Supreme Court judge or magistrate in person.

*Number of remote applications for warrants* 0

### *Refusals of Warrants or Emergency Authorisations*

*Number of refusals of applications for warrants* 0

*Number of refusals for emergency authorisations* 0

### *Applications for Variations or Extensions of Warrants*

At anytime prior to the expiration of a surveillance device warrant the senior officer who applied for the warrant may apply to extend the warrant or vary any of the other terms of the warrant.

*Number of applications for variations of warrants* Granted 3

Refused 0

*Number of applications for extensions of warrants* Granted 9

Refused 0



*The number of arrests made by law enforcement officers during the year based entirely or partially upon information obtained from a surveillance device*

*Number of arrests* 53

There is often a significant time delay between the use of a surveillance device and the arrest of a person based upon information obtained from the use of the device. Many of the investigations in which surveillance devices were used in 2018/2019 financial year were still ongoing at the time of preparing this report. The use of a surveillance device in one financial year may not result in the arrest of an offender until a subsequent financial year.

*The number of prosecutions that were started in this jurisdiction in which information obtained by the use of a surveillance device was given in evidence*

	Committals	Trials
<i>Number of prosecutions*</i>	0	0
<i>Number of prosecutions in which a person was found guilty</i>		0

#### *Explanatory Notes*

\* The word prosecution is not defined in the Act. For the purposes of this report it includes the conduct of a committal hearing as well as a trial.

The figures listed in this table should be interpreted with the following qualifications:

1. There is often a delay between the time when a person is charged with an offence and that person having a committal or trial. Those statistics will often appear in the following financial year;
2. Evidence obtained from a surveillance device may prove invaluable as an investigative tool and assist in planning further overt police investigations, but may not be used by the prosecution during a committal or trial; and
3. A strong Crown case may lead to an offender entering a plea of guilty and therefore no evidence obtained from the use of the surveillance device need be given in a prosecution.

#### *Tracking Device Authorisations*

A tracking device authorisation allows senior police officers to authorise the installation, use, maintenance and retrieval of tracking devices in circumstances where taking a person into custody may pose a serious risk to the safety of any person and using the device will minimise that risk. A tracking device authorisation may not be given for a period of more than 48 hours, however may be extended by up to 48 hours on each occasion.

<i>Number of tracking device authorisations given</i>	2
<i>Number of extensions to tracking device authorisations</i>	0

*Tracking device authorisation "1"*: A tracking device was used in an attempt to identify a time and location for the subject person to be arrested where the risks to the public and police were minimised. The location of subject person was monitored, however due to the risks to safety at that location at that time, police were not in a position to safely apprehend the subject person during the period of the authorisation.



*Tracking device authorisation "2"*: Use of the tracking service enabled police to follow to movements of the subject person and perform a safe arrest. Use of the tracking device was considered crucial in determining a safe location to conduct the arrest without risk of harm to police and the community.