



# Media release

From Rob Hudson MP, Chair

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## **“WARRANT REFORMS REQUIRED” - LAW REFORM COMMITTEE**

The Chair of Parliamentary Law Reform Committee, Mr Rob Hudson, today announced the Committee has made wide ranging recommendations to reform warrant powers and procedures in Victoria in a 750 page report tabled in the Victorian Parliament today.

Mr Hudson said the Committee was asked to consider Victoria’s existing warrant powers and procedures, including arrest warrants, warrants to seize property and search warrants and to recommend reforms which would promote fairness, efficiency and consistency.

“Over 80 Victorian Acts authorise the issue of more than 20,000 search and arrest warrants and 600,000 penalty enforcement warrants each year,” Mr. Hudson said.

“They touch many areas of society, from the investigation and prevention of crime, the enforcement of fines and the collection of debts, to the protection of young people and the assessment of individuals believed to have a mental illness.

It is therefore important that warrant powers strike a proper balance between the need for effective law enforcement and the protection of individual rights which the community expects to be protected,” Mr. Hudson said.

Mr. Hudson emphasised that the report sought to promote consistency and put in place legislation which promotes best practice across all kinds of warrants.

“In many cases some of these provisions already exist in some Acts authorising warrant powers, but not others.”

One of the key recommendations of the Committee is the consolidation of Victorian search warrant powers and procedures into a single *Search Warrants Act*, modelled on the NSW *Search Warrants Act 1985* (Rec 82) and the introduction of uniform penalty infringement notices legislation to provide better coordination and oversight of the fines system (Recs 121 – 123).

The Committee also recommends that the Government amend legislation to:

### **Warrants – General**

- apply an expiry period of seven days to all warrants, with the possibility of an extension to a maximum of 30 days where this can be justified (Rec 39)
- provide police with clear powers to establish and control crime scenes (Rec 78)

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## **Search Warrants**

- require each agency with warrant powers to create and maintain a search warrants register and provide reports on the execution of warrants (Recs 18, 23, 24, 29, 71)
- require the videotaping of drug related searches (Recs 57, 58)
- allow material to be seized in a search not included in a warrant if it is likely to provide relevant evidence (Rec 61)
- shift the onus of proof for admitting illegally obtained evidence to the prosecution, consistent with other jurisdictions and the proposed uniform Evidence Act for Victoria (Rec 74)
- include vehicles within the definition of premises subject to a search warrant by police (Rec 79)

## **Covert Warrants**

- regulate covert search warrants for offences outside of the *Terrorism (Community Protection) Act*, restricting their availability to exceptional circumstances and the most serious offences (Rec 76)

## **Surveillance Device Warrants**

- restrict surveillance device warrants to offences that are punishable by 3 years imprisonment or more, or life, or an offence prescribed in regulations (Rec 85)
- amend the *Surveillance Devices Act* to specifically make inadmissible evidence illegally collected by a surveillance device without a properly authorised warrant, in line with the Commonwealth's *Telecommunications (Interception) Act* (Rec 88)

## **Penalty Infringement Notice (PERIN) Warrants**

- encourage agencies issuing infringement notices to vulnerable people, (eg those with an intellectual disability) in the first instance to issue a warning or caution (Rec 89)
- require issuing agencies and the PERIN Court to reduce penalty infringement amounts on application by individuals experiencing financial hardship on a Centrelink Health Care Card, (eg pensioners and unemployed people Rec 96)
- require agencies to develop policies to accept penalty payments in instalments or grant extensions of time to pay in cases where individuals can demonstrate financial hardship, such as those on Centrelink Health Care Cards (Rec 98)

## **Civil Warrants**

- introduce uniform civil procedures legislation, to provide for a single warrant to seize property under a single Act, regardless of the issuing court (Rec 131)
- include a power of forced entry for the Sherrif to satisfy a judgement debt, after a proper examination of the judgement debtor's assets and financial circumstances, subject to a range of safeguards (Recs 134-143)

“The Committee has sought to establish the fundamentals of a fair and consistent legislative regime which will ensure that both law enforcement needs and civil liberties will be appropriately considered and protected,” Mr. Hudson said.

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