



Crime and Corruption Commission
QUEENSLAND

Searching places for high-risk missing persons

Review of Chapter 7, Part 3A of the *Police Powers and Responsibilities Act 2000* (Qld)

October 2024



© The Crime and Corruption Commission (CCC) 2024

Licence

This publication is licensed by the Crime and Corruption Commission under a Creative Commons Attribution (CC BY) 4.0 International licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by/4.0/>.



In essence, you are free to copy, communicate and adapt this publication, as long as you attribute the work to the Crime and Corruption Commission. For further information contact: mailbox@ccc.qld.gov.au.

Attribution

Content from this publication should be attributed as: The Crime and Corruption Commission - *Searching places for high-risk missing persons: Review of Chapter 7, Part 3A of the Police Powers and Responsibilities Act 2000 (Qld)*

Disclaimer of Liability

While every effort is made to ensure that accurate information is disseminated through this medium, the Crime and Corruption Commission makes no representation about the content and suitability of this information for any purpose. The information provided is only intended to increase awareness and provide general information on the topic. It does not constitute legal advice. The Crime and Corruption Commission does not accept responsibility for any actions undertaken based on the information contained herein.

Crime and Corruption Commission

GPO Box 3123, Brisbane QLD 4001
Level 2, North Tower Green Square
515 St Pauls Terrace
Fortitude Valley QLD 4006

Phone: 07 3360 6060
(toll-free outside Brisbane: 1800 061 611)
Fax: 07 3360 6333
Email: mailbox@ccc.qld.gov.au

Note: This publication is accessible through the CCC website <www.ccc.qld.gov.au>.

GPO Box 3123
Brisbane QLD 4001

Level 2
North Tower Green Square
515 St Pauls Terrace
Fortitude Valley QLD 4006

Tel.: **07 3360 6060**
Toll-free: 1800 061 611
(in Queensland outside
Brisbane)

Fax: 07 3360 6333

mailbox@ccc.qld.gov.au
www.ccc.qld.gov.au

ABN 32 164 714 360



22 October 2024

The Hon Curtis Pitt MP
Speaker of the Legislative Assembly
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Speaker

In accordance with section 879 of the *Police Powers and Responsibilities Act 2000* (Qld), the Crime and Corruption Commission hereby furnishes to you its report – *Searching places for high-risk missing persons: Review of Chapter 7, Part 3A of the Police Powers and Responsibilities Act 2000* (Qld).

In accordance with sections 59 and 59A of the *Parliament of Queensland Act 2001* and Standing Order 31, I request that this document be tabled during the period that the Legislative Assembly is dissolved.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B A Barbour'.

Bruce Barbour
Chairperson



Searching places for high-risk missing persons

Review of Chapter 7, Part 3A of the *Police Powers and Responsibilities Act 2000* (Qld)

October 2024



Contents

Executive summary	6
Background to this review	7
About this review	8
Information sources	8
Police response to missing persons	9
Risk assessment and escalation	10
Missing person search powers	11
How the provisions have been used	15
Frequency and circumstances of use	15
Missing person searches and outcomes	16
Issues and recommendations.....	17
Commissioned officer approval	17
Urgent missing person scenes.....	19
Data availability	20



Executive summary

In 2018, Queensland provided police officers with new powers to search places for missing persons, or for information that may assist in locating them. These powers, contained in the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA), were the first of their kind in Australia, and Queensland remains the only Australian jurisdiction with these powers today.

The missing person search powers enable police officers to search a place without the consent of an occupier if the officer holds a reasonable suspicion that searching the place may locate the person or information relating to their disappearance, provided that the missing person meets the definition of a 'high-risk missing person'. To meet that definition, a person must be under the age of 13 years, or their circumstances raise concern that they may suffer serious harm if not found as quickly as possible.

In the first five years of the powers being in effect, police officers used them in 16 missing person investigations to assist in locating 22 people.

Data on the use of these powers:

- A total of 18 warrants were issued for the 16 investigations, and the searches were conducted on residences, parts of residences, or vehicles.
- Of the 18 searches, Queensland Police Service (QPS) records show that 13 resulted in an outcome of *located evidence, seized property, or person found* (multiple outcomes could be reported).
- Six of the 18 searches were discussed in depth with police, as part of this review. Interviewees reported that four of the six searches located significant evidence, and all six searches gave direction to the investigation.
- Investigations where the missing person search powers were used ultimately resulted in the safe location of 14 persons. The other eight persons were located deceased or are long-term missing.

The review identified that while these powers are rarely needed, they are a useful and valuable tool to progress missing person investigations. After considering various information sources about the operation and effectiveness of the missing person search powers, the review recommends that the requirement to obtain commissioned officer approval to use the powers is examined, and recommends that recordkeeping about the use of the powers is expanded.

Recommendation 1

That the Queensland Government consider whether the requirement to obtain commissioned officer approval should be removed from the PPRA.

Recommendation 2

That the QPS amend their OPM to expand the recordkeeping relating to the missing person search warrant provisions.



Background to this review

Every year across Australia, more than 38,000 people are reported missing.¹ Research shows that, in most cases, persons reported missing are located alive, and within 48 hours. Less than one percent are found deceased, and two percent of reports relate to people who have not been located.²

In 2018, Queensland was the first Australian jurisdiction to provide police with new powers to conduct searches where a person is missing, and at high risk of harm if not found as quickly as possible. These provisions are contained in Chapter 7, Part 3A of the PPRA.

These *missing person search powers* were introduced to address a small but significant legislative gap in police powers. When investigating a missing person report, police had no power to search premises where there was insufficient information to suspect the commission of an offence, and the occupier of those premises did not, or could not, give consent for the search.

These powers are available in respect of ‘high-risk missing persons’. A high-risk missing person is someone who is under the age of 13 years, or may suffer serious harm if not found as quickly as possible.³

At the time the powers were being considered by a parliamentary committee, the QPS cited two recent murders where the proposed powers would have assisted police to expedite the investigations.⁴ In Parliament, the government described the function of the powers in the following terms:

These powers will now give police the power that they need to better assess the risk of each missing person case and potentially commence an investigation immediately upon determining that the person is high risk. Delays which further endangered a missing person can now be addressed.⁵

In 2024, Queensland remains the only Australian jurisdiction with these powers.

The provisions were referred to the Legal Affairs and Community Safety Committee (the Committee) in June 2018, and in August 2018, the Committee recommended that the Police Powers and Responsibilities and other Legislation Amendment Bill 2018 (Qld) (the Bill) be passed.⁶

¹ Australian Institute of Criminology 2016, *Statistical bulletin 01: missing persons in Australia, 2008-2015*, p. 2.

² Australian Institute of Criminology 2017, *Missing persons: who is at risk?*, p. 11.

³ Section 179C, PPRA.

⁴ Legal Affairs and Community Safety Committee 2018, *Transcript of proceedings on the public briefing — inquiry into the Police Powers and Responsibilities and Other Legislation Amendment Bill 2018*, p. 5-6.

⁵ Queensland Legislative Assembly, *Parliamentary debates*, Legislative Assembly, 18 September 2018, Hon. M. McMahon, p. 2507.

⁶ Legal Affairs and Community Safety Committee, Parliament of Queensland, *Police Powers and Responsibilities and Other Legislation Amendment Bill 2018* (Report No. 17, August 2018), p. vi.



About this review

The Crime and Corruption Commission (CCC) is required to conduct this review, as set out in section 879 of the PPRA. The CCC commenced this review in September 2023. It explored:

- how the relevant provisions operate,
- if the provisions achieved their stated purpose, and
- what changes, if any, may help the provisions to better achieve their stated purpose?

As required by section 879(3), the CCC has consulted with the Minister for Police and Community Safety.⁷

Information sources

The review examined information from the following sources:

- **11 interviews with QPS officers.** The review team conducted 15 hours of semi-structured research interviews with investigators with experience applying for missing person warrants, Regional Crime Coordinators, and the Missing Persons Unit (MPU).
- **Three submissions to the review's targeted consultation.** The review team invited submissions from 25 entities⁸ and received submissions from the QPS, Legal Aid Queensland (LAQ), and The Missed Foundation.
- **QPS data about missing persons and missing persons warrants.** The QPS provided the review team with data on all missing person reports received in the five years spanning September 2018 and September 2023, including detailed data on occurrences where the missing person search powers were used.
- **QPS training, operational, and policy materials.** The QPS provided the review team with their OPM for Chapter 12, the missing persons training material for operational officers, recruits, and detectives, and relevant forms referred to in policy and training.
- **Six Queensland Coroner's Court Inquests that considered the conduct of missing person investigations.** The review team identified six Queensland Coroner's Court Inquests reports published between January 2018 and April 2024 that contained substantive reference to a missing person investigation and where an area for improvement was identified for the conduct of missing person investigations.

Limitations

Some information that the review would have liked to access was not available. The findings and recommendations are based on the information that was available to the review. This is explored in more detail below at *Data availability* (page 20) and any further limitations, where known, are noted throughout this report.

⁷ The CCC corresponded with the Minister near the commencement of the review (October 2023), during targeted consultation (April 2024), and during the drafting of this report (September 2024).

⁸ In April and May of 2024, the CCC invited 25 entities to make a submission to this review. This included the Minister for Police and Community Safety, relevant public sector criminal justice entities, entities that made submissions to the Committee in 2018, and other entities that could provide relevant legal perspectives, that support the search for missing persons, or provide support services to persons who may be defined as 'high risk' or the families of missing persons. Some relevant academic experts were also approached.



Police response to missing persons

When a person is reported as missing,⁹ police have structured procedures to progress initial inquiries. Upon receipt of the report, it is entered into the police information system,¹⁰ police gather general information about the person (including personal information, when and where they were last seen, what they were wearing and any other critical information) and conduct an initial risk assessment.¹¹ They will also commence inquiries to locate the person. This includes a wide variety of activities that will vary depending on the circumstances of the persons disappearance.¹² Where the missing person is a child who attends school, or is in out of home care, initial inquiries require additional steps.¹³

Investigators in QPS Regions have the responsibility of investigating missing persons, including long-term missing persons. Regions are supported by several specialist units, most commonly the Criminal Investigations Branch, Child Protection Investigation Unit, Homicide Investigations Unit, and Search and Rescue Units. In addition, the QPS has a specialist unit dedicated to overseeing all missing person investigations – the MPU.

The MPU is part of the Homicide Group and functions as a governance and quality assurance unit. It is composed of 10 personnel and assists investigators by:

- facilitating access to information (including under the *Privacy (Persons Reported as Missing) Rule 2014* (Cth)),
- liaising with other organisations (e.g. Australian Federal Police or other State and Territory Police), and
- providing advice on investigative methods such as the application of the high-risk missing persons warrants.

The MPU regularly audit missing person reports in Queensland to ensure they are actively and correctly investigated and referred to the coroner where necessary. They also manage and maintain data entry into the National Missing Person and Victims System.¹⁴

⁹ There are three ways a member of the public can report someone as missing, including in person by attending a police station, or by contacting PoliceLink or Crime Stoppers.

¹⁰ Queensland Police Records Information Management Exchange (QPRIME).

¹¹ Section 12.4.1, QPS 2024, *Chapter 12 – Missing Persons*, OPM, p. 3-6.

¹² Where required, police may co-ordinate with volunteer search and rescue organisations (e.g. State Emergency Service, Marine Rescue Queensland Australian Volunteer Coast Guard, Volunteer Marine Rescue, and Rural Fire Authority) (See 'Chapter 17 – Major Incidents' of the OPM). Facilitated by MPU, police may request information under the *Privacy (Persons Reported as Missing) Rule 2014* (Cth) and *Telecommunications (Interception and Access) Act 1979* (Cth).

¹³ Additional activities include contacting their school or, where it is a state school and a representative of the school cannot be contacted, the Child Safety Director, Department of Education. Where the child is in out-of-home care, police contact the Department of Child Safety, Seniors and Disability Services and complete the requirements set out in their guidelines. See section 12.4.1 in QPS 2024, *Chapter 12 – Missing Persons*, OPM, p. 3-6.

¹⁴ The National Missing Person and Victims System is hosted by the Australian Criminal Intelligence Commission (ACIC) and provides a searchable database of ante-mortem and post-mortem data to assist police in cross-jurisdictional identification of people and human remains. See ACIC 2020, *National DNA Program for Unidentified and Missing Persons*.



Risk assessment and escalation

An initial risk assessment is conducted at, or as soon as practicable after, the time a person is reported missing.¹⁵ It is structured to consider a range of factors including age, mental health concerns, recent life events, and other suspicious circumstances. This is conducted by a police officer, and a shift supervisor reviews the risk assessment. Risk assessment occurs throughout an investigation and will change over time as more information becomes available to police.¹⁶ Ongoing risk assessments use an unstructured approach (i.e. not conducted according to any form) and are based on the officer's professional judgement.

Risk assessment is used to inform the scale and speed of police response, including the need to escalate.¹⁷ Where a person is assessed as high-risk,¹⁸ the matter is escalated to investigators in the Criminal Investigations Branch (for missing adults) or the Child Protection Investigation Unit (for missing children).

The OPM sets out the workflow for missing person investigations, including escalations as necessary. Figure 1 presents the workflow and escalations in condensed form. The MPU audits run parallel to this workflow and ensure investigations are conducted appropriately. Investigators may contact the MPU at any time for further assistance.

Figure 1. Escalation process as outlined in police interviews and Chapter 12 of the OPM



¹⁵ When the initial risk assessment is conducted largely depends on who takes the report – whether it is a police officer taking the report from a walk-in to a police station, for example, or a PoliceLink or Triple Zero operator who takes the report, which is tasked to a police officer.

¹⁶ However, only the initial risk assessment is stored on QPRIME.

¹⁷ The QPRIME Risk Assessment Guideline instructs that for high-risk scores, an “immediate deployment of police responses” is required, a medium-risk score instructs police to take an “active and measured response”, and a low-risk score instructs police to “initiate inquiries to locate the missing person and keep under review.”

¹⁸ Please note that this risk assessment outcome of ‘high risk’ differs from the definition of ‘high-risk missing person’ set out in section 179C of the PPRA.



Missing person search powers

The missing person search powers are one of many tools available to police conducting a missing person investigation. These powers fill the gap where a person is missing, there are concerns for that person's safety that requires investigation, yet there is no or insufficient evidence to suspect an offence has occurred.

Specifically, the powers are designed for situations where the following three criteria are met:¹⁹

1. the missing person meets the definition of a 'high-risk missing person' because they are either under the age of 13 years or are at risk of serious harm if not found as quickly as possible,²⁰
2. the officer holds a reasonable suspicion²¹ that searching the place may locate the person or information relating to their disappearance,²² and
3. the occupier of the place cannot or will not give consent for the search to occur.²³

Police are not compelled to use these powers; they are one of several options available and police should use those best suited to the situation (see some examples in Text box 1).

Police officers who had used these powers reported that they were easy to use. This was supported by clear guidance in the OPM. The interviewed police officers had each used the provisions once only, and they spoke of a learning process where they would familiarise themselves with the legislation and refer to the OPM.

[A]s a detective I hadn't used it before, so I had to learn it. I had to research it, which isn't hard like we've got pretty good OPM's, which sort of walk you through the process.

Additionally, police officers were confident using the powers due to the similarity with crime scene powers. The missing persons legislation is modelled on crime scene powers, with minor differences.²⁴ The police officers using these powers are detectives, most commonly within the Criminal Investigation Branch,²⁵ where crime scene powers are the "bread and butter" of their daily work.

¹⁹ Sections 179E and 179K, PPRA.

²⁰ Section 179C(2), PPRA.

²¹ Sections 179K(3)(b)(i) and 179E(3)(b)(i), PPRA.

²² Where the place to be search is not the persons residence, place of employment, or vehicle, the officer must hold a reasonable belief that the person is at the place or an inspection of the place may provide information relevant to their disappearance (see sections 179K(3)(b)(ii) and 179E(3)(b)(ii), PPRA).

²³ Section 12.8, QPS 2024, *Chapter 12 – Missing Persons*, OPM, p. 14.

²⁴ For instance, a crime scene can be established for a maximum of seven days, whereas a missing person scene can be established for a maximum of 48 hours, and police do not need to seek commissioned officer approval to establish a crime scene in urgent or non-urgent circumstances.

²⁵ They may also be used by detectives in Child Protection Investigation Unit or Homicide Investigations Unit.



Text box 1. Other strategies, powers, and tools police can use to locate a missing person.

Other tools police can employ – which can be used instead of, or to complement, the missing person search powers – include:

- Searching public places without a warrant at any time, or, where opening hours apply, during the ordinary opening hours of the public place.²⁶
- Conducting ‘proof of life’ checks via requests for personal information under the *Privacy (Persons Reported as Missing) Rule 2014* (Cth).²⁷
- Distributing identifying information to the public via a media release.²⁸
- Collecting telecommunications data including location information and call history from a missing person’s phone.²⁹
- Searching a private location with the consent of the occupier of that place.

If police suspect that an offence has occurred, however, more invasive powers are available to police, such as search warrant provisions and crime scene powers. Where police do suspect an offence, crime scene powers provide them with greater powers to investigate. These powers include, but are not limited to:

- crime scene warrants allowing police to search a place for up to 7 days,³⁰ and
- powers to search a person.³¹

Urgent and non-urgent avenues

There are two avenues police can take to use the missing person search powers, depending on the urgency of the situation.

- The **non-urgent** warrant applications require police officers to first seek commissioned officer approval,³² and second, apply and obtain the warrant from a magistrate or Supreme Court judge, before establishing a missing persons scene.³³
- The **urgent** missing person scene powers allow police officers to establish a missing person scene and conduct the search with the approval of a commissioned officer.³⁴ A police officer must be satisfied that it is necessary, as a matter of urgency, to establish the scene prior to obtaining the warrant. The legislation does not provide guidance of what circumstances may constitute a

²⁶ Section 179F(3), PPRA.

²⁷ Information requests may be to banks, Australian Border Force, Medicare, Queensland Health, Births, Deaths and Marriages, Centrelink, interstate and national police, and other external agencies as required.

²⁸ Section 12.3.3, QPS 2024, *Chapter 12 – Missing Persons*, OPM, p. 3.

²⁹ Section 178A, Telecommunications (Interception and Access) Act 1979 (Cth).

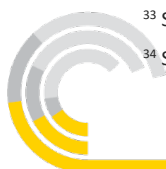
³⁰ Section 172, PPRA.

³¹ Section 29, PPRA.

³² Section 179J(2); A commissioned officer is a police officer of at least the rank of inspector (section 179A, PPRA).

³³ Section 179D(1), PPRA.

³⁴ Section 179E, PPRA.



matter of urgency.³⁵ After the scene is established, the police officer must then seek a warrant from a magistrate or Supreme Court judge as soon as reasonably practicable.³⁶

The two avenues the missing person search provisions offer (i.e. urgent missing person scenes and non-urgent warrant applications) were viewed positively by police officers. Police officers felt that the power to establish an urgent missing person scene was necessary to account for the different circumstances which may arise. In missing person investigations, it may be inappropriate or dangerous to leave a situation without searching. The powers to establish urgent missing person scenes allow police officers to complete these searches should a commissioned officer approve.

Something definitely felt weird about the place and [we] just need[ed] to get it done, rather than leave and [...] and come back.

Another police officer said:

It's a necessary power to have. [...] They need the confidence from the legislative point of view that they can commence an investigation.

Comparatively, the non-urgent warrant applications were used in circumstances where police felt they had time. Non-urgent warrant applications were also noted by police to be timely and efficient. Well-established processes between the QPS and the judicial system meant that warrants were often issued and executed on the same day.

Safeguards against misuse

A range of safeguards exist to prevent the misuse of the missing person search powers. These include:

- Commissioned officer approval is required in both the urgent and non-urgent avenues.³⁷
- Judicial oversight is sought in addition to commissioner officer approval.³⁸
- Notice to the occupier of the place must be provided where an application for a missing person warrant is to be made,³⁹ unless doing so would likely frustrate or hinder the investigation.^{40,41}
- Review of a missing person warrant may be sought by the occupier and can result in the revocation of the warrant.⁴²
- The definition of a high-risk missing person restricts when the powers can be used.⁴³

³⁵ The explanatory notes to the Bill states that “[u]rgent circumstances might include the destruction of information about the disappearance of the missing person or the risk that the missing person will suffer serious harm should the powers not immediately be exercised” (see *Explanatory notes*, Police Powers and Responsibilities and other Legislation Amendment Bill 2018 (Qld), p. 2).

³⁶ Sections 179F(2) and 179J(1)(b), PPRA.

³⁷ Sections 179E(3) and 179J(2), PPRA.

³⁸ Section 179K, PPRA.

³⁹ Section 179J(4), PPRA.

⁴⁰ Section 179J(5), PPRA.

⁴¹ The application for a Missing Persons Warrant must state whether an occupier has been given notice and, where notice was not given, the application must explain the reason(s) for this. This is also required for applications to extend warrants (*Police Powers and Responsibilities Regulation 2012* (Qld), Sch 9, Part 2A, sections 11B(c) and 11C(c)).

⁴² Section 179N, PPRA.

⁴³ Section 179C, PPRA.



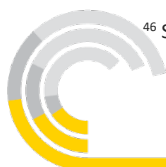
- Electronic recording is to be taken, where practicable when exercising the missing person search powers.⁴⁴
- The missing person search powers will be evaluated five years after their commencement (this review).⁴⁵

The *Human Rights Act 2019* (Qld) was not in effect when these provisions were introduced and enacted. The introduction of the Human Rights Act codified a right not to be arbitrarily deprived of property, a right not to have privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and a right for a person not to have their reputation unlawfully attacked.⁴⁶

⁴⁴ Section 179R, PPRA.

⁴⁵ Section 879, PPRA.

⁴⁶ Sections 24(2), 25(a) and 25(b), *Human Rights Act 2019* (Qld). Note that rights that the *Human Rights Act 2019* (Qld) provides can be limited with justification.



How the provisions have been used

Frequency and circumstances of use

In the five years since the missing persons search powers commenced, they have been used for 16 missing person investigations. To put this in context, in the same five-year period, 41,293 reports⁴⁷ were made to police that involved 43,098 missing persons.

In those 16 cases, 18 searches were conducted,⁴⁸ relating to 22 missing persons.⁴⁹

Of the 18 searches conducted:

- 10 had a warrant before the search was conducted (non-urgent warrant applications, section 179J),
- 4 sought warrants after the search was conducted (urgent missing person scenes, section 179E), and
- 4 warrants were not provided to the review, so whether they were non-urgent warrant applications or urgent missing persons scenes is unknown (see page 20).

With so few uses, the data is too limited to identify trends or patterns. Despite that, their use appears to be well distributed by the features of the missing person(s), over time and across the state.⁵⁰

Police acknowledged that these powers are rarely required.⁵¹ They describe it as an uncommon occurrence to have a high-risk missing person who is not found quickly, where there is not a suspicion of an offence, and even rarer where occupier consent to conduct a search is not provided.⁵² Where occupier consent was not forthcoming, police officers advised that the missing person search powers allowed police to efficiently conduct inquiries.

⁴⁷ Most missing person reports relate to children (65% are aged 0 to 17 years), and 28% of missing person reports related to persons recorded by police as Aboriginal, Torres Strait Islander, or Pacific Islander persons. The 41,293 reports involved 43,098 missing persons. Because it is common for missing persons to be missing on many different occasions, these 43,098 missing persons represented 23,784 unique individuals.

⁴⁸ Multiple warrants may be used throughout the same missing person investigation.

⁴⁹ A missing person investigation may focus on a single missing person, or multiple missing persons (such as several members of the same family).

⁵⁰ Specifically, they have been used for children as well as adults, females as well as males, First Nations persons and non-First Nations persons, multiple missing persons and single missing persons. The powers have been used in every year since 2019 (noting that they came into effect in September 2018), and in all Queensland police regions.

⁵¹ A low volume of uses was contemplated when the provisions were being considered by Parliamentary Committee. Specifically, the QPS anticipated a usage of 10 occasions per year, in their brief to the parliamentary committee. See QPS 2018, *Queensland Police Service Brief on the Police Powers and Responsibilities and Other Legislation Amendment Bill 2018 to the Legal Affairs and Community Safety Committee*, p. 2.

⁵² The review was not able to determine the number of searches conducted by consent as this is not discoverable via QPRIME.



Missing person searches and outcomes

QPS records show that the duration of searches spanned from 4 minutes to 27 hours.⁵³ Locations searched included eight residences (or parts of residences)⁵⁴ and four vehicles. Where the review could build a timeline of events,⁵⁵ a missing persons scene was established between one and 11 days after the person was reported as missing. Of the 18 searches, QPS records show that 13 resulted in an outcome of *located evidence, seized property, or person found* (multiple outcomes could be reported).⁵⁶ Six of the 18 searches were discussed in depth during interviews with police. Interviewees reported that four of these six searches located significant evidence and all six searches gave direction to the investigation by ruling in or out possible scenarios.

The missing person investigations for which these powers were used related to 22 high-risk missing persons. Those investigations ultimately resulted in the safe location of 14 persons. The other eight persons were located deceased or are long-term missing persons.⁵⁷

Police officers recognised the unique contribution of these powers to missing person investigations. Interviewees easily identified the gap in their powers which previously prevented or slowed investigations of missing persons. Investigators indicated that these provisions were effective in allowing police to conduct relevant initial inquiries without first having a reasonable suspicion of an offence.

[W]ithout that missing person warrant power, I would never have gained a lawful access to that property, and I never would have recovered the evidence that I recovered.

⁵³ The median search time was 1 hour and 5 minutes.

⁵⁴ The review was unable to determine whether the locations searched were the residence of the missing person or some other persons.

This is relevant to the state of mind thresholds under sections 179E(3) and 179K(3), PPRA.

⁵⁵ A timeline was not possible where a copy of the warrant was not provided.

⁵⁶ The review was unable to determine whether the evidence located was directly related to the missing person investigation, or whether the searches located evidence of an unrelated offence.

⁵⁷ To maintain confidentiality, the review does not present specific numbers of persons in each category.



Issues and recommendations

The review identified three issues and made two recommendations.

Commissioned officer approval

When an investigating police officer intends to use the missing person search powers, the PPRA requires them to first seek authorisation from the QPS commissioned officer. This is a requirement for both non-urgent warrant applications,⁵⁸ and urgent missing person scenes⁵⁹ (described on page 12).

The QPS, in their submission to this review, sought the removal of commissioned officer approval. The QPS stated:

The PPRA places a requirement for a police officer to obtain the authorisation of a commissioned officer to exercise HRMP powers prior to obtaining a missing persons warrant. Commissioned officer authorisation and considerations are outlined in Section 179E PPRA, 'Authorisation if, as a matter of urgency, it is necessary to establish missing person scene before obtaining missing person warrant'. The QPS is of the view this does not align with similar PPRA entry and search provisions including:

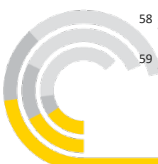
- Section 160 Search to prevent loss of evidence; and
- Section 165 Initial establishment of crime scene.

In these cases, judicial oversight is maintained through the obtaining of a post search approval order from a Magistrate or Supreme Court Judge. In the case of section 179E powers, as soon as reasonably practicable after establishing a missing person scene, a police officer is required to apply to a Supreme Court judge or magistrate for a missing person warrant. Section 179(2) PPRA provides that a police officer may only apply for a warrant to establish a missing person scene if authorised to do so by a commissioned officer.

It is submitted the requirement to seek permission from a commissioned officer prior to establishing a missing person scene before obtaining a missing person warrant or to apply for a missing person warrant is not required, to align with other PPRA warrant provisions.

⁵⁸ Section 179J(2), PPRA.

⁵⁹ Section 179E, PPRA.



The review notes that while the missing person search powers are not directly comparable to sections 160 and 165 of the PPRA, there is some merit to the QPS submission. Generally, as in the case of section 160 and 165, the exercise of overt powers by police do not require prior approval of a commissioned officer either in urgent or non-urgent circumstances. Conversely, the PPRA reserves commissioned officer approval for the exercise of powers (such as the use of surveillance devices⁶⁰ and covert search warrants)⁶¹ that are exercised covertly, and involve significant privacy issues of potentially multiple individuals over lengthy periods up to months at a time.

One consideration for retaining the current approach is that the missing person search powers involve the substantial invasion of privacy of an occupier in circumstances where there is no suspicion (or insufficient evidence to form a suspicion) that a crime has occurred. However, this needs to be balanced against the risk that a missing person ‘may suffer serious harm if not found as quickly as possible’,⁶² which is for example, by way of comparison to section 160 of the Act, demonstrably more important than the risk that evidence of a crime, however serious, may be lost.

Another consideration for retaining the current approach is that interviewed police officers reported no difficulties or delays in seeking commissioned officer authorisation. As one officer explained,

I've no problem [with seeking commissioned officer approval], you are invading privacy and you may happen across criminal offences while you're in there. So you need to act lawfully. I've got no problems ringing a boss and [saying,] "Hey boss, this is what I got. This is what I need to do. Are you OK with this?" And if he or she says no, you're not there.

However, as the only information about the use of the missing search warrant powers since 2018 is limited to those circumstances which resulted in their actual use, it is not possible to make any observations as to the extent to which the requirement for prior commissioned officer approval has deterred the use of the powers in other cases. It is also difficult to form any conclusions about the actual value of the requirement as an additional safeguard, beyond the observation that there is no instance of a missing person warrant having been refused where commissioned officer approval was given.

While the requirement for commissioned officer approval as an additional safeguard is appropriate for the introduction of a new and intrusive police power, having regard to the above considerations, there is merit in reviewing whether the requirement is still necessary.

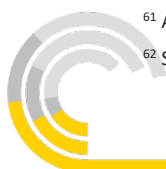
Recommendation 1

That the Queensland Government consider whether the requirement to obtain commissioned officer approval should be removed from the PPRA.

⁶⁰ A senior officer, being a police officer of at least the rank of inspector, may apply for a Surveillance Device Warrant (sections 322 and 328, PPRA).

⁶¹ A police officer of at least the rank of inspector may apply to a Supreme Court judge for a covert search warrant (section 212, PPRA).

⁶² Section 179C(2)(b), PPRA.



Urgent missing person scenes

The missing person search powers allow police to establish urgent missing person scenes prior to court consideration of a warrant, in particular circumstances (see page 12).

In their submission to this review, the LAQ sought the removal of the power to establish urgent missing persons scenes:

In particular, LAQ endorses the view that given the significant intrusions into the privacy of owners and occupiers, the power to establish a missing person scene ought only to be provided after a warrant is obtained.

Th CCC's letter suggests that the powers supplied by Part 3A have been "deployed on few occasions" in the five years since commencement. That operational policing rarely requires use of the powers suggests there is no quantitative reason a warrant ought not to be required before they are exercised.

In regard to the LAQ's submission, the review notes:

- While the missing person search powers have not been used often (18 occasions over five years), urgent missing person scenes were deemed necessary on almost 30 per cent of those occasions.⁶³ This highlights that – when the circumstances arise to use missing person search powers – the situation is commonly urgent.
- It is normative for warrant legislation to provide for an urgent pathway,⁶⁴ and there is no identified reason for missing person search provisions to differ. It is relevant that these provisions are targeted at situations where a missing person 'may suffer serious harm if not found as quickly as possible'.⁶⁵ There is an inherent risk, seriousness, and urgency to these missing persons matters.

The review recognises the value and role of urgent searches in missing person investigations.

⁶³ Of the 14 search warrants provided to the review, four of these were obtained after an urgent search had already been conducted (29%). The remaining four warrants not provided to the review cannot be identified as either "urgent" or "non-urgent".

⁶⁴ A police officer may, without a warrant, establish a crime scene (section 165(1), PPRA), search a place to prevent the loss of evidence (section 160, PPRA), stop, detain, and search a person and their possessions in prescribed circumstances (sections 29 and 30, PPRA), stop, detain, and search a vehicle for evidence relevant to the circumstances for which the vehicle and its occupants were detained (section 31, PPRA).

⁶⁵ Section 179C(2)(b), PPRA.



Data availability

The review faced some challenges with data availability.

- Some challenges related to retrieval or discoverability of data that the QPS holds.⁶⁶ A noteworthy example is that the QPS could not locate 4 of the 18 warrants.
- A further challenge was that the QPS does not hold the data. Specifically, two key records sought by the review are not held by the QPS: applications for missing person search warrants,⁶⁷ which are held by the authorising justice;⁶⁸ and notices to occupiers, which are held by the occupier.

The review encourages the QPS to amend their current recordkeeping practice so that the final versions of key documents such as the above are saved into a suitable electronic records management system (such as QPRIME). Expanded recordkeeping will assist the MPU in conducting their auditing role, and otherwise assist in oversight, reporting, evaluation, and other scrutiny of decision-making.

Recommendation 2

That the QPS amend their OPM to expand the recordkeeping relating to the missing person search warrant provisions.

These data limitations are likely a product of a more general challenge facing the QPS. Data quality and data management has been a recurring theme in previous reviews involving QPS data across various policy areas, including youth justice,⁶⁹ child protection,⁷⁰ domestic and family violence,^{71,72} and data management.⁷³

The review also observes that, where a statutory requirement for review exists, the data owner should ensure the collection of suitable data for the purposes of the future review.

⁶⁶ For instance, the QPS had difficulty locating data on the use of the powers, because it is a specific power (investigative warrant) used in a small set of occurrences, from within a comparatively large population (missing person occurrences). Inconsistently named documents also caused challenges in discovering relevant records for this review.

⁶⁷ And any applications for extensions, as permitted by section 179M of the PPRA.

⁶⁸ The review notes that historically, search warrant applications were drafted, and the final version is sworn in front of a Magistrate or Justice of the Peace when making the application. In consequence, police don't retain a final version of the application.

⁶⁹ See Queensland Family and Child Commission 2023, *Who's responsible: understanding why young people are held longer in Queensland watch houses*, p. 15.

⁷⁰ See CCC 2023, *Protecting the lives and sexual safety of children: Review into the operation of the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* (Qld), p. 40-41 and 63-64.

⁷¹ See Commission of Inquiry into Queensland Police Service responses to domestic and family violence 2022, *A call for change*, p. 303.

⁷² See Queensland Audit Office 2022, *Keeping people safe from domestic and family violence*, for example p. 14.

⁷³ See Chapter 2. *Recording and reporting criminal justice data* in Queensland Audit Office 2017, *Criminal justice system—reliability and integration of data*.



[This page has been left blank intentionally]





Crime and Corruption Commission

QUEENSLAND

Contact details



Crime and Corruption Commission
GPO Box 3123, Brisbane QLD 4001



Level 2, North Tower Green Square
515 St Pauls Terrace,
Fortitude Valley QLD 4006



07 3360 6060 or
Toll-free 1800 061 611
(in Queensland outside Brisbane)



mailbox@ccc.qld.gov.au



07 3360 6333

More information



www.ccc.qld.gov.au



www.ccc.qld.gov.au/subscribe



@CCC_QLD



CrimeandCorruptionCommission



@CCC_QLD



/crime-and-corruption-commission-queensland