

Joint Media Release
Traditional protections under threat by new police powers

The President of the ACT Bar Association, Ken Archer, and the President of the ACT Law Society, Sarah Avery, today expressed dismay at the expansive new crime scene powers conferred on police under the *Crimes (Police Powers and Firearms Offence) Amendment Bill 2017*.

The Bill was passed by the Legislative Assembly yesterday.

The ACT Government argued that the expansive crime scene powers were needed by police to investigate drive-by shootings and the activities of criminal gangs. In reality, the new powers go well beyond such situations.

Police can use these new powers to enter private premises at any time of the day or night, and without a warrant. Most concerning, the Bill's language is so broad that police can use these warrantless entry powers to investigate relatively trivial crimes, including shoplifting, bike theft, possession of stolen property, and cultivation of a sufficient number of cannabis plants.

Under current ACT laws, police can enter premises only under certain conditions: to prevent the commission or repetition of an offence, by consent, or if there is an imminent danger of someone suffering physical injury; under a warrant; or without a warrant in circumstances of seriousness and urgency. Commonwealth law substantially duplicates these powers, in the *Crimes Act 1914*.

Even in the field of preventing and fighting terrorism, the Commonwealth has not sought powers granting police the right of entry without a warrant.

To the extent that other jurisdictions have introduced crime scene powers, none have done so as expansively as will now apply in the ACT — a supposedly human rights compliant jurisdiction. Legislation in other jurisdictions typically contain a range of protections (such as higher offence thresholds and the requirements to obtain a warrant as soon as practicable after establishing a crime scene), that are lacking in the ACT legislation.

By giving police warrantless entry to private premises to investigate such a broad range of offences, the ACT Government has effectively abandoned the long-standing protections currently provided by the requirement for police to obtain search warrants.

If drive-by shootings are the reason for the introduction of this power, then the crime scene powers should be strictly confined to offences involving the discharge of firearms, causing harm or attempts to cause harm, or endangering health or safety.

The police should have sufficient power to properly investigate those who engage in violent and dangerous conduct, such as shooting at people's houses. It is disappointing that in attempting to deal with that specific issue, the ACT Government has permitted an indiscriminate and unjustified compromise of traditional freedoms and protections.

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