

## **Appendix 3**

### **Special investigative powers of Australia's dedicated corruption-in-government investigation agencies**

Source: ACLEI (based on *Office of Police Integrity Annual Report 2006-07, Appendix Four*)

## Special investigative powers of Australia's dedicated corruption-in-government investigation agencies

	Agency [Relevant legislation]	Investigation of Complaints/ Allegations	'Own Motion' Investigations	Require person to give evidence	Require person to produce documents	Arrest warrants to ensure attendance	Hearings/ Examination Public & Private	Compel giving of evidence on oath or by affirmation	Compel self- incriminatory evidence from witness	Non Publication of Evidence	Telecommunications Interception (Commonwealth law)		Power to enter and search public authorities premises and seize or take copies of documents	Apply for and execute search warrants	Recommend criminal proceedings or disciplinary action in misconduct matters
											Eligible authority to receive TI product	Able to intercept services			
Federal	Australian Commission for Law Enforcement Integrity (ACLEI) <i>Law Enforcement Integrity Commissioner Act 2006 (Cwth)</i>	Yes – in relation to prescribed law enforcement agencies s23, s26	Yes s38	Yes s83 (summons) s75, s76 (written requests)	Yes s83 (summons) s75, s76 (written requests)	Yes s99 s93	Yes s82(3)	Yes s87 s93(2)	Yes s96 (summons) s80 (written requests)	Yes s90 s92	Yes s68(db)	Yes s39	Yes s105	Yes s109	s54 (Power to make any recommendation in final report, specifically includes disciplinary action)
	Commonwealth Ombudsman <i>Ombudsman Act 1976 (Cwth)</i>	Yes s5(1)(a) (no jurisdiction over significant corruption issues; discretion over corruption issues –s6(16)&(17))	Yes s5(1)(b)	Yes s9(2) (notice)	Yes s9(1) (notice)	No s11A(2) (May apply to Federal Court for an order to comply)	Yes s8(2) (Only private)	Yes s13 s36(1)(b)	Yes s9(4)(aa) s36(1)	Yes s(8(2)) (All investigations in private)	Yes s(8(2)) (All investigations in private)	No	No	Yes s14 (No power to take copies, only to enter and inspect)	No
New South Wales	Police Integrity Commission (NSW) <i>Police Integrity Commission Act 1996 (NSW)</i>	Yes – in relation to NSW Police Service s23(1)	Yes s23(1)	Yes s38	Yes s26(1) (notice) s25(1) s38 (1) (summons)	Yes s39(1) (Commissioner may issue warrant)	Yes s32 s33	Yes s38(3) s40(1)(a)	Yes s28 s40(2)	Yes s52(1) s53 s54 (confidentiality of summons)	Yes s68(fa)	Yes s34	Yes s29 (except ICAC and NSW Ombudsman offices)	Yes s45 s46 (Office of Commissioner/ Commissioner may issue)	Yes s16(1) s15(1)
	Independent Commission against Corruption (NSW) <i>Independent Commission Against Corruption Act 1988 (NSW)</i>	Yes s20	Yes s20	Yes s35	Yes s22 (notice) s35 (summons)	Yes s36 Commissioner may issue warrant)	Yes s30 s31	Yes s35(3) s37(1)	Yes s26 s37(2)	Yes s112(1) s114(1)	Yes s68(ea) & (eb)	Yes s34	Yes s23	Yes s40 s41 (Office of Commissioner/ Commissioner may issue)	Yes s14

	Agency [Relevant legislation]	Investigation of Complaints/ Allegations	'Own Motion' Investigations	Require person to give evidence	Require person to produce documents	Arrest warrants to ensure attendance	Hearings/ Examination s Public & Private	Compel giving of evidence on oath or by affirmation	Compel self- incriminatory evidence from witness	Non Publication of Evidence	Telecommunications Interception (Commonwealth law)		Power to enter and search public authorities premises and seize or take copies of documents	Apply for and execute search warrants	Recommend criminal proceedings or disciplinary action in misconduct matters
											Eligible authority to receive TI product	Able to intercept services			
Victoria	Office of Police Integrity <i>Police Regulation Act 1958 (Vic) [PRA]; Evidence Act 1958 (Vic) [EA]</i>	Yes s86L(1)(b) s86N(4) [PRA]	Yes s86NA(1) [PRA]	Yes s17 [EA] s86PA [PRA]	Yes s17 [EA] s86PA [PRA]	Yes s86PD [PRA] (Director may apply for a warrant)	Yes s86P(1)(a) [PRA] s19B(1) [EA]	Yes s18 [EA] s86PA [PRA]	Yes s86PA(4) s86Q [PRA]	Yes s19B(2) [EA] (hearing) s86KA(2) [PRA] (confidentiality of summons)	Yes s68(ec)	Yes s34	Yes s86VB s86VC [PRA]	Yes s86W [PRA]	Yes s86QA; s86P(5)(b) [PRA]
Queensland	Crime and Misconduct Commission (Qld) (misconduct function only) <i>Crime and Misconduct Act 2001 (Qld)</i>	Yes s46	Yes s35(f)	Yes s82 (notice)	Yes s 82 s75(2)	Yes s167 Supreme Court issues warrant)	Yes s177	Yes s183	Yes s188(3) s192	Yes s180(3) s84	Yes s68(h)	No ( <i>Telecom municatio ns Intercepti on Bill introduce d into Parliame nt 10/02/09</i> )	Yes s73 (in misconduct inquiries)	Yes s86	Yes s49
Western Australia	Corruption and Crime Commission (WA) (misconduct function only) <i>Corruption and Crime Commission Act 2003 (WA)</i>	Yes s18(2)(a) s24	Yes s18(2)(e)	Yes s96(3) (summons)	Yes s96 (summons) s94, s95 (notice)	Yes s148(1) Commissioner issues warrant)	Yes s137 s139 s140	Yes s141; 160(1)	Yes s160(2)	Yes s99(2) s151	Yes s68(j) & (k)	Yes s34	Yes s100(1) (in misconduct inquiries)	Yes s101	Yes s43

## Other State-based agencies with an anti-corruption investigation role

	Agency [Relevant legislation]	Investigation of Complaints/ Allegations	'Own Motion' Investigations	Require person to give evidence	Require person to produce documents	Arrest warrants to ensure attendance	Hearings/ Examinations Public & Private	Compel giving of evidence on oath or by affirmatio n	Compel self- incriminat ory evidence from witness	Non Publicatio n of Evidence	Telecommunications Interception (Commonwealth law)		Power to enter and search public authorities premises and seize or take copies of documents	Apply for and execute search warrants	Recommend criminal proceedings or disciplinary action in misconduct matters
South Australia	Police Complaints Authority (SA) <i>Police (Complaints &amp; Disciplinary Procedures) Act 1985 (SA)</i>	Yes – in relation to SA Police Force s23	Yes s22A [Only with Support of Police Commissione r and Minister]	Yes s28(7)	Yes s28(6)	No s28(10)	Yes s28(1) (Only private)	No	No s28(13) (Exceptio n police officers)	Yes s28(1) (All investigat ion in private)	No	No	Yes s28(16) (No power to take copies, only to enter and inspect)	s28(17) (Must apply for warrant to enter in some circumstan ces)	Yes s32(1)(b)(i)(A)
Tasmania	Ombudsman Tasmania (Tas) <i>Ombudsman Act 1978 (Tas) [OA]; Commissions of Inquiry Act 1995 (Tas) [CIA]</i>	Yes s12 [OA]	Yes s13 [OA]	Yes s24 [OA] s22 [CIA]	Yes s24 [OA] s22 [CIA]	Yes s27 [CIA]	Yes s13 [CIA]	Yes s25 [CIA]	Yes s26 [CIA]	Yes s14 [CIA]	No	No	Yes s25 [OA] (No power to take copies, only to enter and inspect)	Yes s24 [CIA]	s28 [OA] (General recommend ation powers only)
Northern Territory	Northern Territory Ombudsman (NT) <i>Ombudsman (Northern Territory) Act 1978 [OA] Inquiries Act 2007 (NT) [IA]</i>	Yes s14 [OA]	No s14(2) [OA] [Only for Public Sector]	Yes s20 [OA] s9 [IA]	Yes s20 [OA] s9 [IA]	No s25(1) [OA] (Pecuniary penalty for failure to comply with summons)	Yes s19(2) [OA] (Only private investigation )	Yes s10 [IA] s25(3) [OA]	No s20(5) [OA]	Yes s23 [OA]	No	No	Yes s21 [OA] (No power to take copies, only to enter and inspect) s8 [IA] (power to copy)	No	No s26 [OA] (General recommend ation powers only)