

# Legislative Council Legal and Social Issues Committee

## Inquiry into Firearms Prohibition Legislation



VICTORIA POLICE

### Victoria Police's response to information requested on 11 September 2019

**1. How many FPOs have been issued in relation to a person who did not have a criminal history or recorded conviction at the time of making?**

Effective to 20 September 2019, two (2) FPO applications had been made that did not rely on s112E (a) – criminal history.

**2. In respect of question no. 2 in my letter of 22 August 2019 relating to applications awaiting review at VCAT, the answer provided by VicPol was (in part) that "several additional VCAT matters have been finalised and are no longer under review". Can you provide further details on the 'several additional VCAT matters'?**

Seven (7) VCAT matters have been finalised. The outcomes of these matters vary, and are noted in the table below:

| VCAT Lodgement | FPO Status as at 12-Sep-2019 |
|----------------|------------------------------|
| 21-Jun-2018    | Active                       |
| 16-Aug-2018    | Revoked                      |
| 30-Aug-2018    | Revoked                      |
| 18-Oct-2018    | Active                       |
| 10-Jan-2019    | Active                       |
| 17-Sep-2018    | Revoked                      |
| 11-Jun-2019    | Active                       |

**3. In relation to searches conducted under s112Q which resulted in the laying of charge/s, what is the breakdown of offences for which charges were laid?**

Searches have been conducted under s112Q (search of premises, vehicles, vessels or aircraft without warrant or consent) and s112R (search of individual to whom firearm prohibition order applies without warrant or consent).

It is not possible to distinguish offences under s112Q or s112R because charges laid on a FPO subject are recorded and compiled manually.

This is in part because both sections of the *Firearms Act 1996* (the Act) rely upon the same reasonableness test, and both kinds of search relate to and are recorded against the FPO subject's personal record. A body of work is currently being undertaken to review options to assist with future reporting, part of which will seek to differentiate between these searches.

The following charges have been laid against FPO subjects following searches under either of these sections. This information is effective to 31-Aug-2019:

| <b><i>Firearms Act 1996 Charges:</i></b>                             | <b>Number of Charges Laid</b> |
|--|-------------------------------|
| Carry cartridge ammunition in unsecured/dangerous manner             | 1                             |
| Fail to surrender a firearm related item – prohibition order subject | 6                             |
| Fail to surrender firearm upon service of prohibition order          | 6                             |
| Prohibited person possess/carry/use a silencer                       | 2                             |
| Possess two or more unregistered firearms (trafficable quantity)     | 1                             |
| Possess cartridge ammunition without licence                         | 15                            |
| Possess unregistered general category handgun                        | 1                             |
| Possess firearm – Contravene prohibition order                       | 2                             |
| Possess firearm related item – contravene prohibition order          | 6                             |
| Possess loaded firearm in a public place                             | 1                             |
| Prohibited person possess a firearm                                  | 13                            |
| <b>Total Charges Laid</b>  | <b>54</b>                     |

| <b><i>Control of Weapons Act 1990 Charges:</i></b>   | <b>Number of Charges Laid</b> |
|--|-------------------------------|
| Possess controlled weapon without excuse             | 2                             |
| Possess imitation firearm without exemption/approval | 3                             |
| Possess prohibited weapon without exemption/approval | 17                            |
| <b>Total Charges Laid</b>                            | <b>22</b>                     |

| <b><i>All Other Charges:</i></b>         | <b>Number of Charges Laid</b> |
|--|-------------------------------|
| Commit indictable offence whilst on bail | 9                             |
| Contravene a conduct condition of bail   | 4                             |
| Cultivate narcotic plant – Cannabis      | 1                             |
| Deal property suspected proceed of crime | 11                            |
| Drive whilst disqualified                | 2                             |

| All Other Charges:                                  | Number of Charges Laid |
|---|------------------------|
| Drive without "L" plates displayed                  | 1                      |
| Fail to provide information/assist                  | 2                      |
| Handle/receive/retention of stolen goods            | 3                      |
| Knowingly deal with proceeds of crime               | 1                      |
| Learner driver drive vehicle w/o experienced driver | 1                      |
| Negligently deal with proceeds of crime             | 1                      |
| Possess drug of dependence – prescription drug      | 3                      |
| Possess a schedule 4 poison                         | 1                      |
| Possess alprazolam                                  | 1                      |
| Possess amphetamine                                 | 1                      |
| Possess anabolic steroids                           | 2                      |
| Possess cannabis                                    | 5                      |
| Possess cocaine                                     | 3                      |
| Possess drug of dependence                          | 7                      |
| Possess ecstasy                                     | 1                      |
| Possess GHB   | 3                      |
| Possess housebreaking implements                    | 1                      |
| Possess methyl amphetamine                          | 5                      |
| Possess testosterone                                | 1                      |
| Resist police officer                               | 2                      |
| Traffick cannabis                                   | 1                      |
| Traffick cocaine                                    | 2                      |
| Traffick commercial quantity - methyl amphetamine   | 3                      |
| Traffick methyl amphetamine                         | 5                      |
| Unlicensed driving                                  | 1                      |
| Use GHB   | 1                      |
| <b>Total Charges Laid</b>                           | <b>85</b>              |

4. In relation to searches conducted under s112R which resulted in the laying of charge/s, what is the breakdown of offences for which charges were laid?

Refer to the response to question 3.

5. In relation to searches conducted under s112S which resulted in the laying of charge/s, what is the breakdown of offences for which charges were laid?

The following charges have been laid on persons searched while in the company of a FPO subject. This information is effective to 31-Aug-2019.

| <i>Firearms Act 1996 Charges:</i>   | <i>Number of Charges Laid</i> |
|-------------------------------------|-------------------------------|
| Possess a silencer without a permit | 1                             |
| Prohibited person possess a firearm | 2                             |
| <b>Total Charges Laid</b>           | <b>3</b>                      |

| <i>Control of Weapons Act 1990 Charges:</i>          | <i>Number of Charges Laid</i> |
|--|-------------------------------|
| Possess prohibited weapon without exemption/approval | 4                             |
| <b>Total Charges Laid</b>                            | <b>4</b>                      |

| <i>All other charges:</i>  | <i>Number of Charges Laid</i> |
|----------------------------|-------------------------------|
| Handle stolen goods        | 2                             |
| Possess drug of dependence | 2                             |
| Possess methyl amphetamine | 3                             |
| Possess steroids           | 1                             |
| Possess cannabis           | 1                             |
| <b>Total Charges Laid</b>  | <b>9</b>                      |

6. In respect of the prohibition to enter/remain on certain premises under s112O:

a. On how many occasions has a FPO subject been cited/charged for breaching this requirement?

To date, no FPO subjects have been cited or charged for any offences related to entering or remaining on certain premises.

b. On each occasion in relation to (a), what was the type of premises?

Not applicable. Refer to the response to a. above.

c. What guidelines/training are given to police in determining how/whether to enforce this provision?

*For example, a police station or a court house could be classed as a premises where firearms are stored under s112O(h), and also be a location where an FPO subject might reasonably be expected to attend from time-to-time. How do police exercise discretion in such circumstances?*

Investigators currently involved with applying for and serving FPOs are familiar with this provision. As it is a legislative requirement that a FPO is served in person, all investigators involved with this process are continually reminded of each power and offence under FPO provisions when explaining these conditions to the subject.

In relation to the example noted in this question, members are required to exercise discretion when applying this section of the Act. It would be unreasonable to pursue charges under s1120 when a FPO subject is required to attend a court premises or police station.

Victoria Police will progress changes to the Victoria Police Manual (VPM) to include instruction on this issue.

**7. What training and/or guidelines have been developed by police internally in relation to the making, issue and enforcement of FPOs?**

Police have access to a number of guides and documents to assist in all aspects of the FPO Scheme, from drafting an application through to enforcing an active order. This includes for example, an applicants' guide, a delegates' guide and a FAQ that addresses many of the common situations encountered by members interacting with a FPO subject.

Training is provided to work units involved with the FPO application process and to delegates. The FPO Registry supports applicants and delegates as required. Once a FPO is served, training and advice is available to police to assist with compliance and enforcement activity, including identifying appropriate situations where FPO powers may be exercised in line with the 'reasonableness' test for both FPO subjects and persons in their company.