



**Victorian Inspectorate Report to the Parliament of Victoria pursuant
to section 30Q of the *Surveillance Devices Act 1999***

Report No. 1 for 2018-2019

Inspection Outcomes Relating to Surveillance Device Records Held by Law Enforcement Agencies during the First Half of 2018-2019

Introduction

In Victoria, five State Government law enforcement agencies are authorised to use surveillance devices under the *Surveillance Devices Act 1999* ('the Act')¹. They are:

- Department of Environment, Land, Water and Planning (DELWP)
- Game Management Authority (GMA)
- Independent Broad-based Anti-corruption Commission (IBAC)
- Victorian Fisheries Authority (VFA)
- Victoria Police.

Section 30P of the Act requires that the Victorian Inspectorate ('the VI') inspect the records of these agencies to determine the level of statutory compliance achieved by them and their law enforcement officers. To acquit its reporting obligations under s 30Q of the Act, the VI prepares a biannual report on the work and activities of the agencies that relate to the records that were inspected in the preceding six months. The report is tabled in each House of the Parliament of Victoria and a copy is provided to the Minister responsible for the SD Act.

In earlier years the VI has submitted a separate report on each agency. However section 30Q permits the submitting of a report covering more than one agency, and in the interests of minimising duplication the VI has decided to submit a combined report on this occasion.

¹ The Australian Crime Commission (now known as the Australian Criminal Intelligence Commission) is a sixth 'law enforcement agency' that is permitted to conduct surveillance activities under the Act. The Commonwealth Ombudsman (and not the VI) is responsible for inspecting and reporting on the Australian Crime Commission's records.

Inspection Outcomes

This report comments on the level of statutory compliance achieved by each agency and its law enforcement officers in the reporting period (1 July to 31 December 2018).

The outcomes of the VI's inspections are summarised below.

Department of Environment Land Water and Planning

The Intelligence and Investigations Unit of the DELWP is the area responsible for the maintenance of records, registers and reports relating to surveillance device warrants obtained by the agency. As no warrants had been issued to DELWP officers in the eligible period, an inspection was not conducted.

Game Management Authority

The GMA is yet to use any of its statutory powers under the Act. Consequently, no inspections were required.

Independent Broad-Based Anti-Corruption Commission

The administration of surveillance device warrants issued to IBAC is undertaken by the Legal Compliance Unit.

In October 2018 VI compliance officers conducted an inspection of IBAC registers, files and reports relating to five (5) warrants. No compliance errors were identified during this inspection. All records inspected were well maintained and fully compliant with statutory obligations. The VI is satisfied that IBAC has met all its reporting obligations as required under the Act. The Register of Warrants was also deemed to be fully compliant. This result highlights the excellent degree of knowledge and compliance of the Act by IBAC and its staff.

Victorian Fisheries Authority

In October 2018 the VI inspected additional entries to the register relating to one warrant that had been partially inspected in the previous period. Both the warrant file and registers for this warrant were found to be fully compliant with Part 5 of the Act. The Register of Warrants was also deemed to be fully compliant.

Victoria Police

Two units within Victoria Police administer surveillance device and retrieval warrants and emergency authorisations issued under the Act. The Special Projects Unit (SPU) manages the majority of warrants for Victoria Police, while a small number of warrants are administered by the Technical Projects Unit (TPU) within Professional Standards Command (PSC), mainly for PSC investigations. These units operate independently of each other.

In addition to these units, officers of the Technical Surveillance Unit (TSU) of Victoria Police are responsible for the installation, maintenance and retrieval of surveillance devices under the authority of warrants or emergency authorisations.

Special Project Unit

VI compliance officers conducted an inspection at SPU in September 2018. Seventy (70) warrant files and associated registers were inspected. One compliance related error was identified, involving the omission of details of the use of a surveillance device from the warrant report as required by s 30K of the Act. A supplementary report to the Judge who issued the warrant has now been filed by SPU to correct the error.

The VI is satisfied that SPU has now met all its record keeping and reporting obligations as required under the Act. This low error rate demonstrates the degree of knowledge of the Act by SPU staff and highlights that the processes that it has in place to ensure compliance with the legislation are working.

Technical Project Unit

An inspection conducted of three (3) warrant files, reports and registers at the TPU in October 2018 identified no errors.

The VI is satisfied that the TPU has met its record keeping and reporting obligations in full. This result demonstrates that the efforts by the TPU to improve their processes, including the development and implementation of new checklists, have been successful.

Technical Surveillance Unit

Related records held by the TSU were also inspected in November 2018. VI compliance officers inspected records relating to:

- the installation, maintenance and retrieval of surveillance devices; and
- the destruction of 'protected information' obtained by the use of surveillance devices.

These records were cross-checked against the details obtained from the inspections of the other units administering warrants during the inspection period. The inspection identified no errors or discrepancies, which demonstrates the high quality of record-keeping maintained by the TSU.

Acknowledgement

The VI acknowledges the total cooperation of the chief officers and staff of the agencies with all aspects of the VI role in the inspection of their records.

Reporting

The VI's next report dealing with the work and activities of each of the five agencies is due as soon as practicable after 1 July 2019.



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Inspector