



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

Report No. 1 for 2014-2015

20 February 2015

Contents

| | |
|--|-----------|
| INTRODUCTION..... | 1 |
| FEATURES OF THE LEGISLATION | 1 |
| OBJECTIVES OF THE SD ACT | 1 |
| AGENCIES PERMITTED TO USE SURVEILLANCE DEVICES | 2 |
| TYPES OF SURVEILLANCE DEVICES | 2 |
| WARRANTS AND EMERGENCY AUTHORISATIONS..... | 3 |
| RECORDS, DOCUMENTS AND REPORTS REQUIRED BY THE SD ACT..... | 3 |
| SECURITY AND DESTRUCTION OF INFORMATION OBTAINED | 3 |
| PROTECTED INFORMATION REGISTERS | 3 |
| THE VICTORIAN INSPECTORATE..... | 5 |
| ROLE OF THE VI | 5 |
| THE POWERS OF THE VI UNDER THE SD ACT | 5 |
| INSPECTION OF AGENCY RECORDS | 5 |
| METHODOLOGY | 5 |
| ASSESSING COMPLIANCE | 6 |
| INSPECTION RESULTS | 6 |
| DEPARTMENT OF ENVIRONMENT AND PRIMARY INDUSTRIES | 7 |
| COMPLIANCE SUPPORT GROUP | 7 |
| FISHERIES VICTORIA..... | 8 |
| DEPI REPORT TO THE MINISTER | 8 |
| INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION..... | 9 |
| INSPECTION RESULTS..... | 9 |
| <i>Warrant file records</i> | <i>9</i> |
| <i>Section 30K – Report to judge or magistrate</i> | <i>10</i> |
| <i>Destruction of PI.....</i> | <i>10</i> |
| <i>Annual report to the Minister.....</i> | <i>10</i> |
| SUMMARY | 10 |
| VICTORIA POLICE | 11 |
| INSPECTIONS CONDUCTED | 11 |
| INSPECTION RESULTS..... | 11 |
| <i>Warrant file records</i> | <i>11</i> |
| <i>Section 30K – Report to judge or magistrate</i> | <i>12</i> |
| <i>Investigator Records (PI Registers)</i> | <i>13</i> |
| <i>Annual report to the Minister.....</i> | <i>14</i> |
| SUMMARY | 14 |
| NEXT REPORT ON ALL AGENCIES | 15 |

List of Abbreviations

| | |
|-------------|--|
| CSG | Compliance Support Group (within DEPI) |
| DEPI | Department of Environment and Primary Industries |
| GMA | Game Management Authority |
| IBAC | Independent Broad-based Anti-corruption Commission |
| PI | Protected information |
| PIM | Public Interest Monitor |
| PI register | Protected information register |
| PSC | Professional Standards Command (Victoria Police) |
| SD Act | <i>Surveillance Devices Act</i> 1999 (Vic) |
| SPU | Special Projects Unit (within Intelligence and Covert Operations Support at Victoria Police) |
| TPU | Technical Projects Unit (within Professional Standards Command at Victoria Police) |
| VI | Victorian Inspectorate |

INTRODUCTION

The *Surveillance Devices Act* 1999 (SD Act) regulates the use of surveillance devices in the State of Victoria. The SD Act makes provision for warrants and emergency authorisations permitting the installation, use, maintenance and retrieval of surveillance devices by four State law enforcement agencies.¹ Use of surveillance devices in relation to private activity and private conversations is otherwise generally unlawful in Victoria.²

The SD Act imposes a regime of strict controls relating to the use of surveillance devices, including a requirement for agencies to make and keep records and documents and to destroy certain material when it is not likely to be further required for an authorised purpose. It also provides for the independent inspection of agency records and documents by the Victorian Inspectorate (VI). The VI inspects agency records, assessing statutory compliance and reporting compliance results to Parliament bi-annually. The Public Interest Monitor³ (PIM) involvement in the warrant application process has added another level of scrutiny to the control and oversight regimes.

In accordance with statutory obligations⁴ set out in the SD Act, this report is submitted to the Parliament of Victoria with a copy provided to the Minister responsible for the SD Act, the Attorney-General. This report outlines the results of VI inspections conducted of agency records between 1 July 2014 and 31 December 2014. The report comments on the level of statutory compliance achieved by each agency and its law enforcement officers for the first half of the 2014-2015 reporting period.

FEATURES OF THE LEGISLATION

OBJECTIVES OF THE SD ACT

The primary purposes of the SD Act⁵ are to:

- regulate the installation, use, maintenance and retrieval of surveillance devices
- restrict the use, communication and publication of information obtained through the use of surveillance devices or otherwise connected with surveillance device operations
- establish procedures for law enforcement officers to obtain warrants or emergency authorisations for the installation, use, maintenance and retrieval of surveillance devices
- create offences relating to the improper installation or use of surveillance devices

¹ The *Surveillance Devices Act* 1999 (SD Act) also permits the Australian Crime Commission (ACC) to use the provisions of the Act. Inspection of ACC records and documents is conducted by the Commonwealth Ombudsman pursuant to s. 55(2) of the *Surveillance Devices Act* 2004 (Cth).

² The SD Act provides for certain exceptions at ss. 5, 6(2), 7(2), 8(2), 9(2), 9B(2)(b) and (c), 9C(2).

³ Established by the *Public Interest Monitor Act* 2011.

⁴ SD Act s. 30Q.

⁵ SD Act s. 1.

- impose requirements for the secure storage and destruction of records and for the making of reports to judges, magistrates and to Parliament in connection with surveillance device operations
- recognise (subject to the *Surveillance Devices Regulations 2006*) warrants and emergency authorisations issued in other jurisdictions authorising the installation, use and retrieval of surveillance devices.

AGENCIES PERMITTED TO USE SURVEILLANCE DEVICES

During the period under review, four state law enforcement agencies⁶ were permitted to use surveillance devices under the SD Act:

- Victoria Police
- Independent Broad-based Anti-corruption Commission (IBAC)
- Department of Environment and Primary Industries (DEPI).
- Game Management Authority (GMA)

The GMA commenced operations on 1 July 2014 in accordance with to the *Game Management Act 2014*. Section 58 of this Act amended the SD Act to include the GMA as a law enforcement agency and thus authorised the GMA to use surveillance devices. As was the case with DEPI, the GMA is permitted to use surveillance devices only under the authority of a warrant issued by a judge or magistrate; it may not use a device under an emergency authorisation.⁷

The VI wrote to the GMA in October 2014 with a view to making arrangements with appropriate GMA officers to conduct inspections under the SD Act, but the letter does not appear to have been received by the GMA. The VI wrote again in December 2014, but no response was received prior to the end of 2014. Accordingly no inspections of GMA records were conducted during the period covered by this report. The VI has since been informed by the Chief Executive Officer of the GMA that the agency did not make application for any warrant under the SD Act during the period under report.

Regular inspections of GMA records will be carried out commencing in the first half of 2015.

TYPES OF SURVEILLANCE DEVICES

The SD Act provides for the use of the following surveillance devices:⁸

- data surveillance devices
- listening devices
- optical devices

⁶ Law enforcement agency is defined in s. 3.

⁷ SD Act s. 25.

⁸ Surveillance device is defined in s. 3.

- tracking devices.

WARRANTS AND EMERGENCY AUTHORISATIONS

The SD Act provides for the issue of surveillance device warrants⁹ and retrieval warrants¹⁰ and in a limited range of circumstances for emergency authorisation¹¹ of the use of surveillance devices. A warrant must be sought from a Supreme Court Judge, except in the case of an application for a tracking device only, where the application may be made to a magistrate. An emergency authorisation may only be granted by a senior officer of Victoria Police or the IBAC.¹²

RECORDS, DOCUMENTS AND REPORTS REQUIRED BY THE SD ACT

The SD Act requires each agency to retain certain documents and to make certain records in connection with the use of surveillance devices. These requirements are set out fully in the Act.¹³

Each agency is required to report to the judge or magistrate who issued a warrant under the Act by a date specified in the warrant. The SD Act prescribes a number of matters that must be included in such reports.¹⁴ The chief officer of each agency is also required to report annually to the Minister¹⁵ in relation to the agency's use of surveillance devices.

SECURITY AND DESTRUCTION OF INFORMATION OBTAINED

The SD Act prescribes agency obligations to keep information obtained by means of a surveillance device secure¹⁶ and to undertake the destruction of such information¹⁷ when it is unlikely to be required for a permitted purpose.¹⁸

PROTECTED INFORMATION REGISTERS

For the purpose of this report, the term 'protected information' (PI) will (unless otherwise specified) be used to refer only to information obtained by means of a surveillance device, although the SD Act gives the term a wider definition.¹⁹ The SD Act limits and regulates the use, communication and publication of PI.²⁰

⁹ SD Act ss. 15 to 20.

¹⁰ Ibid ss. 20C to 20G.

¹¹ Ibid ss. 25 to 30.

¹² Ibid ss. 25 and 26.

¹³ Ibid ss. 30M, 30N and 30O.

¹⁴ Ibid s. 30K.

¹⁵ Ibid s. 30L.

¹⁶ Ibid s. 30H(1)(a).

¹⁷ Ibid s. 30H(1)(b).

¹⁸ Defined in SD Act ss. 30F and 30G.

¹⁹ SD Act s. 30D.

²⁰ Ibid s. 30E.

Section 30N of the SD Act requires records to be kept of a number of matters relating to the use and communication of PI. Somewhat confusingly, the term 'register' is used by all agencies for the records (PI registers) kept by them for the purpose of s. 30N(c) - (e), although that section does not itself require a 'register'. The agency PI registers referred to in this report should not be confused with the required register of warrants and emergency authorisations maintained by each agency pursuant to s. 30O. The two are quite different documents.

THE VICTORIAN INSPECTORATE

ROLE OF THE VI

The VI must, from time to time, inspect the records of Victorian law enforcement agencies with authority to use surveillance devices under a warrant or emergency authorisation to determine the extent of compliance with the Act.²¹ The SD Act requires the VI report to Parliament at six-monthly intervals (after 1 January and 1 July each year) on the results of each inspection under s. 30P and to give a copy of each report to the Minister at the same time as it is transmitted to the Parliament.²²

THE POWERS OF THE VI UNDER THE SD ACT

For the purpose of an inspection pursuant to the SD Act the VI is provided with certain powers²³ to access agency premises, records and information and to require members of staff of the agency to provide information in their possession that the VI considers necessary and relevant to the inspection.

INSPECTION OF AGENCY RECORDS

METHODOLOGY

This report addresses the results of inspections undertaken by the VI from 1 July 2014 to 31 December 2014. Each inspection included examination of the various documents,²⁴ records,²⁵ reports,²⁶ registers²⁷ and other relevant material held by Victoria Police, the IBAC and DEPI. All records relating to all warrants were inspected; there was no sampling of records. As explained above, during this period no inspections were conducted at the GMA.

The VI has an established process for inspections whereby a warrant file relating to Victoria Police or the IBAC is not inspected until reporting requirements under s. 30K of the SD Act for the warrant have been completed. This practice negates the need for VI officers to return to warrant files on multiple occasions and enables a better assessment to be made of the level of statutory compliance achieved in respect of each warrant. DEPI records, on the other hand, are inspected even if the warrant remains extant or reports have not been completed, as DEPI makes only occasional use of the provisions of the SD Act. It is anticipated that GMA records will be inspected in future on the same basis as DEPI records, and for the same reason.

²¹ Ibid s. 30P(1).

²² Ibid s. 30Q.

²³ Ibid s. 30P(2).

²⁴ Ibid s. 30M.

²⁵ Ibid s. 30N.

²⁶ Ibid s. 30K.

²⁷ Ibid ss. 30N and 30O.

In 2014-2015 each agency will have their warrant files and related investigator records inspected on a bi-annual basis.

ASSESSING COMPLIANCE

Section 30P(1) of the SD Act requires the VI to inspect the records of each law enforcement agency to determine the extent of the agency's compliance with the Act. Where appropriate, further information may be sought from relevant law enforcement officers. The records and documents inspected for each warrant are considered against all of the agency's statutory obligations to the extent relevant to the particular warrant.

Compliance obligations include requirements relating to:

- the process for obtaining warrants
- the use of authorised surveillance devices
- the keeping of required records and documents
- restrictions on the use, communication and publication of PI
- restrictions on reporting information obtained by a surveillance device warrant
- the reports that must be made
- the security and destruction of PI obtained by means of a surveillance device.

In reporting the results of each inspection in the following sections of this report, it is not practicable to include comment on every compliance requirement under the SD Act. Comment is made, however, when a compliance issue has been identified or when there is some other particular reason to include it.

INSPECTION RESULTS

The following sections of this report cover the results of the inspections carried out by the VI. Each agency is reported on separately.

DEPARTMENT OF ENVIRONMENT AND PRIMARY INDUSTRIES

During the period under report there were two divisions within DEPI that could use the provisions of the SD Act to assist in their investigation of offences, those being the Compliance Support Group (CSG) and Fisheries Victoria. The two divisions operated independently of each other, conducting separate investigations under different legislation and separately maintaining the records and registers that were required under the SD Act. CSG and Fisheries Victoria were therefore inspected separately and the results are reported separately.

The first of two VI inspections planned for the 2014-2015 year for each division was conducted in November 2014. The VI acknowledges the full cooperation of DEPI staff from both divisions both in making records available and in relation to compliance and other issues that were identified.

On 1 January 2015, following the change of government, two new departments were created and took over the functions of DEPI, which ceased to exist under that name. Fisheries Victoria now forms part of the Department of Economic Development, Jobs, Transport and Resources; while CSG comes within the Department of Environment, Land, Water and Planning. Because the relevant inspections were carried out before the reorganisation, in this report the old department name (DEPI) is used.

COMPLIANCE SUPPORT GROUP

During the period under report one completed warrant file was inspected at the CSG. This was the second inspection of the file as the warrant was issued shortly before the VI's previous inspection and had not been executed at that time. At the time of inspection, the Report to the Magistrate pursuant to s. 30K of the SD Act had not yet been completed, which means that a further inspection of the warrant file will be required in the second half of the 2014-2015 year.

It was noted by the VI that at the time of the second inspection there were no formal written notifications made to CSG regarding the execution of the warrant by technical surveillance operatives. While this is not a compliance matter, information regarding the execution of the warrant must be included in the s. 30K report. It is therefore advisable that written notifications be retained on the warrant file. This matter was discussed with CSG staff who undertook to ensure that such notifications were obtained and available for inspection by the VI later in the year.

The CSG has implemented a new electronic record keeping system with the creation of two online Registers. The first is a Register for the purposes of recording the use and communication of PI²⁸ and the second is a general Register of Warrants.²⁹ The VI notes that both Registers contained entries pertaining to the single surveillance device warrant file inspected.

No strict compliance or other practice issues were identified during the inspection. The second inspection of CSG records for the 2014-2015 year will be undertaken in the first half of 2015.

²⁸ As required by s. 30N of the SD Act.

²⁹ As required by s. 30O of the SD Act.

FISHERIES VICTORIA

During the period under report two completed warrant files were inspected at Fisheries Victoria. As both of these warrants ceased to be in force only shortly before the inspection, the Reports to the Judge pursuant to s. 30K of the SD Act had not yet been completed. These two files will therefore be re-examined during the second inspection for the 2014-2015 year.

The Registers kept for the purpose of recording use and communication of Protected Information³⁰ in respect of both warrants were inspected as was the general Register of Warrants.³¹

No strict compliance or other practice issues were identified during the inspection. The second inspection of Fisheries Victoria records for the 2014-2015 year will be undertaken in the first half of 2015.

DEPI REPORT TO THE MINISTER

The VI established that DEPI was compliant with s. 30L of the SD Act, with an annual report by the Secretary to the Minister covering the 2013-2014 year having been made within the specified time.

³⁰ As required by s. 30N of the SD Act.

³¹ As required by s. 30O of the SD Act.

INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION

The first inspection of IBAC records for the 2014-2015 year took place in October 2014. Inspection was made of warrant files for five surveillance device warrants that had ceased to be in force in the period 1 January to 30 June 2014, the Register of Warrants and Emergency Authorisations, and documentation pertaining to the destruction of five surveillance device warrants issued to the Office of Police Integrity.

INSPECTION RESULTS

WARRANT FILE RECORDS

Inspection of warrant files for the five surveillance device warrants that ceased to be in force in the period under review revealed no matters relating to compliance with the SD Act. One issue that is considered to be a practice matter arose in respect of the extension of two surveillance device warrants.

The SD Act provides that a surveillance device warrant (but not a retrieval warrant) may be extended or varied upon application at any time before the expiry of the warrant.³² Two of the warrants inspected were extended on one occasion each. To effect an extension, the original warrant must be endorsed with the new expiry date by the judge or magistrate hearing the application for the extension.³³ Each of the two warrants extended was endorsed with a notation of the fact that it had been extended; but in neither case did the endorsement include the name of the judge granting the extension or the date on which the extension was granted. While there is no explicit requirement in the SD Act for those details to be endorsed on the warrant when an extension or variation is granted, the VI considers that it is good practice to include them, for two reasons.

First, the application for an extension or variation of a surveillance device warrant is made by a law enforcement officer in the same manner as an original warrant,³⁴ and the judge or magistrate must determine the application in the same manner as an original warrant.³⁵ As the judge or magistrate granting a surveillance device warrant must include his or her name on the warrant,³⁶ it is appropriate for a judge or magistrate granting an extension or variation to do likewise. As it happened, the two warrants inspected appeared to have been extended by the judge who issued the original warrants, but this may not always be the case.

Second, as the SD Act provides that an extension or variation may only be made before the expiry of the warrant,³⁷ endorsing the warrant with the date of the extension or variation would demonstrate compliance with this requirement.

³² SD Act s. 20.

³³ Ibid s. 20(5).

³⁴ Ibid s. 20(3).

³⁵ Ibid s. 20(5).

³⁶ Ibid s. 18(3).

³⁷ Ibid s. 20(1).

The VI therefore suggests that the form of endorsement submitted to the judge or magistrate at the time of seeking an extension (or variation) could usefully include the name of the judge or magistrate and the date.

SECTION 30K - REPORT TO JUDGE OR MAGISTRATE

Section 30K requires the law enforcement officer to whom a warrant is issued or who is primarily responsible for the execution of a warrant make a report to the issuing judge or magistrate before a date specified in the warrant. The report must contain certain prescribed information; the accuracy of this information is important in providing judges and magistrates with evidence of the value of the use of surveillance devices.

Of the five reports inspected, two contained errors. Both of these errors, regarding the omission and misreporting of certain prescribed information, were self-identified by IBAC staff after the reports had been submitted to the issuing judge and an explanatory note was subsequently placed on the warrant file.

DESTRUCTION OF PI

Inspection of IBAC records concerning the destruction of five surveillance device warrants was undertaken. The material destroyed was from the records of the former Office of Police Integrity. The documentation was compliant with the SD Act in relation to the requirement to destroy³⁸ as well as recording the details of the destruction of records or reports.³⁹ The IBAC continues to review the records and reports derived by the use of surveillance device warrants both by itself and the former Office of Police Integrity.

ANNUAL REPORT TO THE MINISTER

The VI established that the IBAC was compliant with s. 30L of the SD Act, with an annual report by the Commissioner to the Minister covering the 2013-2014 year having been made within the specified time.

SUMMARY

The IBAC has a well organised regime in place to manage the use of surveillance devices and to maintain the records and documents required. All relevant compliance obligations were met. The VI acknowledges the ready assistance and cooperation given by IBAC staff during the inspection. IBAC surveillance device records will be inspected again in the first half of 2015.

³⁸ Ibid s. 30H(1)(b).

³⁹ Ibid s. 30N(f).

VICTORIA POLICE

Two units within Victoria Police administer surveillance device and retrieval warrants and emergency authorisations granted under the SD 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.

INSPECTIONS CONDUCTED

In 2014-2015 the VI is undertaking two inspections of Victoria Police surveillance device warrant files at SPU and TPU, and two field inspections of PI Registers. This report discusses statutory compliance issues identified during the warrant file inspections conducted in September 2014 and the PI Register inspections conducted in November 2014. The second inspection of warrant files and PI Registers will be conducted in the first half of 2015. The VI's final surveillance device report for the 2014-2015 year, due after 1 July 2015, will include a more detailed analysis of compliance covering the entire 2014-2015 year.

INSPECTION RESULTS

Thirty-six surveillance device warrant files, five retrieval warrant files and two emergency authorisation files were inspected during the inspections undertaken at SPU and TPU in September 2014. The files inspected relate to warrants that ceased to be in force between 1 January and 30 June 2014.

Forty-four PI Registers were inspected during the field inspections conducted in November 2014. Of the 44, 12 were PI Registers that had previously been inspected and found to contain errors; the purpose of the reinspections was primarily to check that the errors had been rectified, however any subsequent entries were also inspected. Inspections of PI Registers for warrants administered by SPU were conducted on-site at investigation unit locations throughout metropolitan Melbourne and regional Victoria. As TPU has implemented electronic PI Registers for warrants administered by that unit, inspection of the Registers took place at TPU. Compliance issues identified during warrant file inspections and PI Register inspections are reported below.

WARRANT FILE RECORDS

Inspection of warrant files for the surveillance device warrants, retrieval warrants and emergency authorisations that ceased to be in force in the period under review revealed no matters relating to compliance with the SD Act. One issue that is considered to be a practice matter arose in respect of the revocation of retrieval warrants.

All retrieval warrants inspected during this period were administered by the TPU and were issued in respect of a single investigation. Retrieval warrants are obtained in circumstances where a device or devices have been installed under the authority of a surveillance device warrant, but an opportunity did not arise during the period the surveillance device warrant was in force for the device to be removed. In general terms, a retrieval warrant authorises the retrieval of a device described in the warrant and includes access to premises and removal of objects for the purpose of retrieval.⁴⁰ The SD Act also provides that if the chief officer of an agency is satisfied that the grounds for the issue of a retrieval warrant no longer exist, he must revoke the warrant.⁴¹

In respect of the five retrieval warrants inspected, the devices referred to in the warrants were retrieved in each case shortly after the warrant was issued. Notwithstanding that the purpose for which the warrants were issued had been met, the warrants were not revoked but remained in force until the nominated date of expiry. The VI is of the view that once all devices have been retrieved under the authority of a retrieval warrant, the grounds for the issue of the warrant no longer exist and the warrant should therefore be revoked. The VI has raised this matter with Victoria Police and it is expected to be resolved shortly.

SECTION 30K - REPORT TO JUDGE OR MAGISTRATE

Section 30K requires the law enforcement officer to whom a surveillance device or retrieval warrant is issued or who is primarily responsible for the execution of a warrant to make a report to the issuing judge or magistrate before a date specified in the warrant.⁴² The report must contain certain prescribed information; the accuracy of this information is important in providing judges and magistrates with evidence of the value of the use of surveillance devices.

Forty-one reports were inspected during the warrant file inspections conducted in September 2014 with the vast majority being prepared within SPU.

Seven of the reports inspected were deficient in respect of prescribed content. Four of these reports omitted information that should have been reported including the use of PI and the name of a person whose activities were monitored by use of the device.⁴³ Another report erroneously recorded the use of PI, and in the final two reports the description of the benefit derived from the use of surveillance devices⁴⁴ was lacking in clarity and detail.

Each of the matters described above was advised to the relevant registries (SPU and TPU). The VI is of the view that where errors are identified in respect of reports made under s. 30K, the issuing judge or magistrate should be advised accordingly.

⁴⁰ Ibid s. 20G.

⁴¹ Ibid s. 20(3).

⁴² There is no corresponding reporting requirement for emergency authorisations.

⁴³ Ibid s. 30K(2)(b)(iv).

⁴⁴ Ibid s. 30K(2)(b)(viii).

Victoria Police continues to make improvements to the quality of the reporting under the Act. As was the case in inspections during 2013-2014, there was evidence on the warrant files of liaison between registry staff and investigators to ensure the accuracy of reports.

INVESTIGATOR RECORDS (PI REGISTERS)

The SD Act prescribes the circumstances in which PI can be used, communicated or published⁴⁵ and special circumstances in which it is not an offence to use, communicate or publish PI.⁴⁶ The details of each use and communication of PI and each occasion on which PI is given in evidence must be recorded and kept by Victoria Police pursuant to s. 30N(c)-(e). Investigators are issued with PI Registers in which all uses and communications of PI are recorded, and it is the investigator's responsibility to ensure the PI Register is updated and completed. The VI undertakes two inspections of PI Registers in each financial year to determine compliance with these requirements.

Table 1 below provides data on the first inspection of PI Registers undertaken for the 2014-2015 reporting period.

Table 1: PI Register inspection results

| | |
|---|----|
| New PI registers inspected | 32 |
| PI registers reinspected due to previous errors | 12 |
| Total number of PI registers inspected | 44 |
| Number of PI registers containing an error at this inspection | 7 |

Table 1 shows that seven registers inspected contained errors; this is an improvement on previous inspections and demonstrates the positive impact of new initiatives implemented by Victoria Police for the purpose of improving compliance with the SD Act. The errors identified are considered by the VI to be minor and include:

- omitting uses of PI in applications for search warrants and in managing covert aspects of an investigation
- entries lacking detail as to the dates of use of PI
- not recording the associated use and communication for the service of PI within a brief of evidence.

The VI continues to provide Victoria Police with a full list of inspection results soon after each inspection. These results are discussed with SPU and TPU staff so that early intervention can occur if required.

⁴⁵ Ibid ss. 30F(1) and 30G(1).

⁴⁶ Ibid s. 30E(4).

Errors detected in PI Registers are also brought to the attention of squads and investigators so that rectification action can be undertaken and also to provide advice regarding the obligations placed on Victoria Police in respect of record-keeping.

ANNUAL REPORT TO THE MINISTER

The VI established that Victoria Police was compliant with s. 30L of the SD Act, with an annual report by the Chief Commissioner of Police to the Minister covering the 2014-2015 year being made within the time allowed.

SUMMARY

Victoria Police administration and use of surveillance devices is generally compliant with the requirements of the SD Act. The issues identified by the VI were relatively few in comparison with the total number of records made by Victoria Police officers. None of the errors identified were considered to have been deliberate; all were evidently the result of inadvertence or insufficient attention to detail. All were considered to be minor.

As noted above, and in previous VI reports, the number of issues arising from inspection of Victoria Police records continues to trend downwards, largely in part due to the ongoing commitment of staff of the SPU and TPU.

Victoria Police continues to be receptive to post-inspection information provided by the VI. It is pleasing to see that there is an ongoing effort to minimise compliance failures and that a good working relationship with the VI is an integral part of this process.

The VI acknowledges the excellent cooperation given by Victoria Police staff in facilitating VI inspections. In particular, the staff at SPU and TPU are acknowledged.

NEXT REPORT ON ALL AGENCIES

As required under the SD Act the next report covering all agencies using the provisions of the SD Act will be made after 1 July 2015.

A handwritten signature in blue ink that reads "Robin Brett". The signature is written in a cursive style with a large initial 'R'.

Robin Brett QC
Inspector
Victorian Inspectorate