

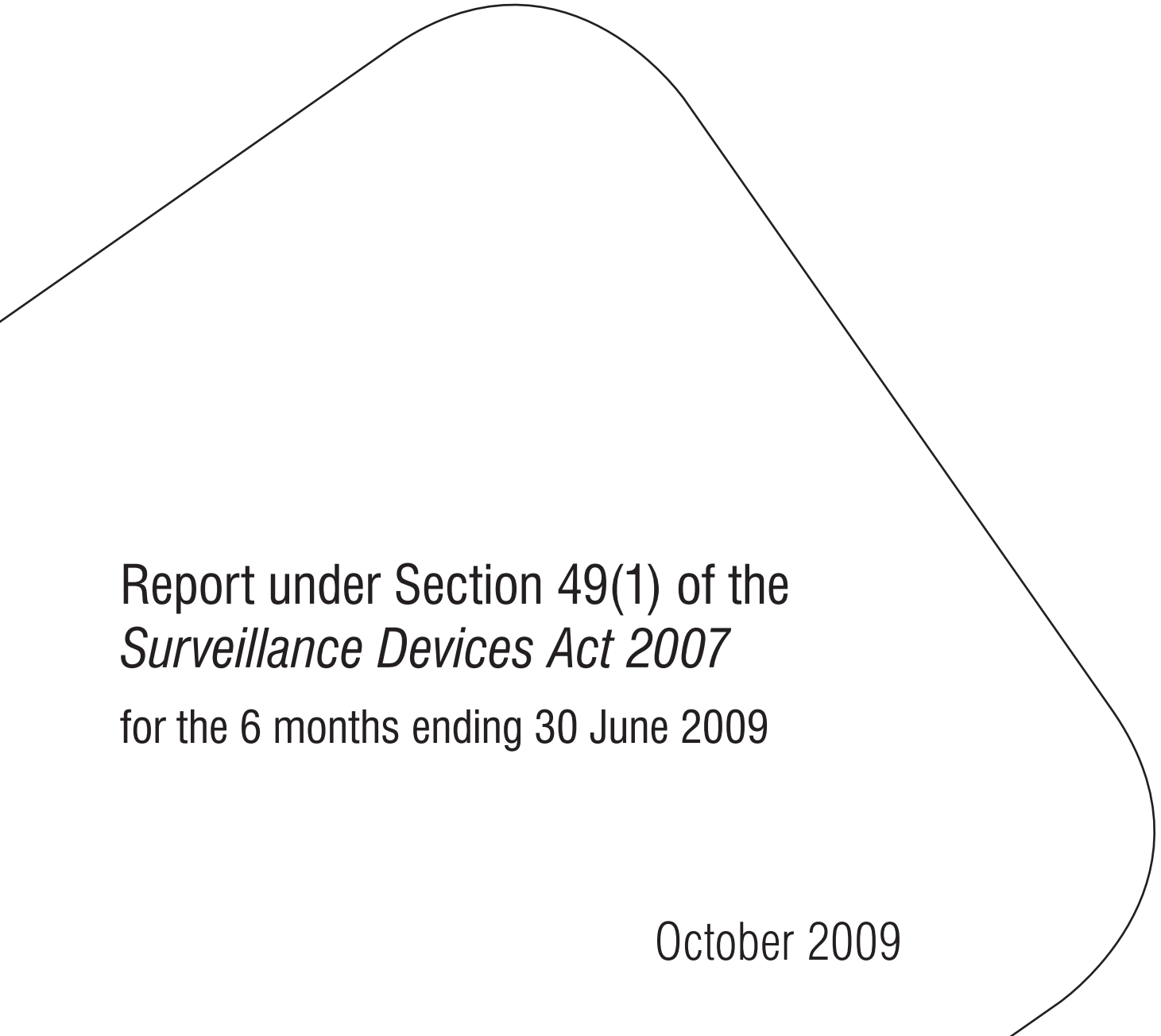


NSW Ombudsman

Report under Section 49(1) of the  
*Surveillance Devices Act 2007*

for the 6 months ending 30 June 2009

October 2009



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*Surveillance Devices Act 2007*  
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NSW Ombudsman

Our logo has two visual graphic elements; the 'blurry square' and the 'magnifying glass' which represents our objectives. As we look at the facts with a magnifying glass, the blurry square becomes sharply defined, and a new colour of clarity is created.

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21 October 2009

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The Honourable John Hatzistergos MLC  
NSW Attorney-General  
Level 33, Governor Macquarie Tower  
1 Farrer Place  
Sydney NSW 2000

Dear Attorney-General

**Report under section 49(1) of the *Surveillance Devices Act 2007* for the six months ending 30 June 2009**

The *Surveillance Devices Act 2007* requires the Ombudsman to inspect the records of each law enforcement agency authorised to use surveillance devices to determine the extent of compliance with the Act by the agency and the law enforcement officers of the agency.

The Act also requires me to report to you at six monthly intervals on the results of these inspections.

I am pleased to present you with the second report under section 49(1) of the *Surveillance Devices Act 2007* which covers our inspection of records relating to surveillance devices up to 30 June 2009.

Pursuant to section 49(2) of the Act, you are required to lay the report (or cause it to be laid) before both Houses of Parliament within 15 days.

Once tabled, it is my intention to publish the report on the Ombudsman's website [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

I would therefore appreciate your earliest advice as to the tabling of the report.

Yours sincerely

Bruce Barbour  
**Ombudsman**



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# 1. Introduction

The *Surveillance Devices Act 2007 (NSW)* (SD Act) began operation on 1 August 2008 and repealed the *Listening Devices Act 1984 (NSW)* (LD Act). The SD Act allows for the use of surveillance devices to investigate crime and to enable evidence to be obtained of the commission of such crime or the identity or location of the offender(s). The SD Act covers the installation, use and maintenance of listening, optical, tracking, and data surveillance devices and restricts the communication and publication of private conversations, surveillance activities, and information obtained from their use.

The Act also establishes an accountability regime. Reporting and record keeping obligations are imposed on the law enforcement agencies eligible to use surveillance devices as are provisions for the safe keeping and destruction of information obtained from the use of surveillance devices.

The Act also requires the NSW Ombudsman to conduct inspections of the surveillance device records of law enforcement agencies to determine the extent of compliance by law enforcement agencies and law enforcement officers with the Act.

Four law enforcement agencies are currently the subject of these inspections:

- NSW Police Force
- NSW Crime Commission
- The Police Integrity Commission
- The Independent Commission Against Corruption.<sup>1</sup>

The Ombudsman is required by section 49(1) of the Act to report to the Minister at 6-monthly intervals on the result of inspections. The Minister is required by section 49(2) to lay the report or cause the report to be laid before both Houses of Parliament within 15 days after receiving the report.

The previous report included the period from 1 August 2008 when the Act came into effect until 31 December 2008. This report is for the period 1 January 2009 until 30 June 2009 and as such is the first full six-monthly report.

## Scope of the Inspection

The aim of the legislation is to enable law enforcement agencies to utilise surveillance devices to assist in the successful investigation and prosecution of certain offences. Such use is, of course, subject to meeting certain procedural and record keeping requirements. The inspection and monitoring by the Ombudsman aims to foster agencies compliance with the Act and to provide public accountability through regular reporting to the Minister and Parliament. The approach taken in the inspection conducted by the Ombudsman was to inspect the records of each agency for compliance with the record and document keeping requirements while at the same time considering such other aspects of compliance as it was possible to determine from those records and from questions asked of relevant law enforcement officers.

There are three main areas of compliance that are the focus of the inspection process carried out under the Act. Part 3 of the Act deals with warrants and emergency authorisations and Part 5 deals with compliance and monitoring and includes dealing with records obtained by use of surveillance devices, the use, communication or publication of protected information and reporting and record keeping. Part 6 requires the particulars of warrants sought under Part 3 to be notified to the Attorney-General and requires the person to whom a warrant was issued to inform the subject of the surveillance if directed by the eligible Judge.

Surveillance device warrants are issued by eligible Judges of the Supreme Court or eligible Magistrates in the case of a surveillance device warrant that authorises the use of a tracking device only or a retrieval warrant in respect of a tracking device. The Act requires that applications must include certain information and generally must be accompanied by an affidavit setting out the grounds on which the warrant is sought. While the inspection of the records includes an examination of the matters required to be specified it does not examine the sufficiency or otherwise of the information in support of the application. That is a matter for the relevant judicial officer to determine.

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<sup>1</sup> The Act also empowers the use of surveillance devices by the Australian Crime Commission but the inspection and reporting of that agency's use of surveillance devices is carried out by the Commonwealth Ombudsman.



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## Inspection detail

The records in relation to the applications, warrants, register and reporting requirements are centralised within the smaller agencies. The Independent Commission against Corruption, NSW Crime Commission and Police Integrity Commission records were inspected in February 2009 and again in August 2009.

In the case of the NSW Police Force most records are located at the Special Applications section, located at the Sydney Police Centre, Surry Hills and were inspected in April and July 2009. Protected information, which is information obtained from the use of a surveillance device under a warrant or an emergency authorisation, is located with the individual investigators and requires inspection at particular locations throughout the State. To this end, a sample of protected information records resulting from surveillance device warrants used by the NSW Police Force were inspected at Lachlan LAC and Chifley LAC, Lake Illawarra LAC and Monaro LAC.

I am pleased to report that each agency was helpful and co-operative in facilitating our inspection. I acknowledge the co-operation given by all agencies and the assistance from the Commissioner of Police through his staff in facilitating field visits.

---

## 2. NSW Police Force

During the reporting period 295 surveillance device files were inspected, SD08/201 to SD09/304. 259 warrants were issued, one of which was a retrieval warrant and two applications were refused, three Emergency Authorisations were granted and 32 applications were cancelled or not yet proceeded with as at 30 June 2009.

We were satisfied that the NSW Police Force had generally complied with its obligations under the Act. The exceptions are detailed below.

### **Compliance with obligations relating to the keeping of documents connected with warrants and emergency authorisations**

#### Warrants

##### **Section 17 Applications for a surveillance device warrant**

All 261 applications were made to eligible Judges. No applications were made to eligible Magistrates in the case of applications for a surveillance device authorising the use of a tracking device only.

During the reporting period it was discovered that five warrants had been issued by a judge who believed that she was an eligible Judge under the Act. It was subsequently discovered that the judge was not in fact eligible at the time of the issue of these warrants as a declaration required under section 5(3) of the Act had not been made at the time of issue of these warrants and consequently the validity of the warrants issued by the judge between 3 March and 7 March was questionable. The NSW Parliament introduced the Surveillance Devices Amendment (Validation) Bill 2009 to provide certainty on this issue and the Bill was assented to on 7 April 2009.

##### **Section 18 Remote application**

There were seven remote applications made.

A problem was identified in that section 51 notices were not sent to the Attorney-General for remote applications SD09/082 and SD09/155. However, in the case of SD09/082 no notification under section 51 of the Act was completed and as such the warrant ought not to have been granted as per section 51(2) of the Act. This error was identified by staff and the warrant was revoked and a new warrant was issued. In the case of SD09/155 the warrant expired before the error was identified. A template has been developed for future remote applications and staff educated in relation to correct procedure for remote applications. The most recent section 18 remote applications were notified to the Attorney-General as per section 51 of the Act.

##### **Section 22 Extension and variation of surveillance device warrant**

54 warrants were varied and several warrants were varied multiple times. One variation was refused on the basis that a new warrant was more appropriate and a new application was made and a new warrant was granted.

In relation to SD09/133 a variation was applied for in order to install two listening devices and two optical devices into premises. The variation was not signed by the judge and therefore any installation may be unlawful. This operation was still ongoing at the time of inspection and therefore no report was completed. As such, inspecting officers were unable to confirm whether the devices were in fact installed.

##### **Section 23 Revocation of surveillance device warrant**

There were 49 revocations during the reporting period.

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## **Section 24 Discontinuance of use of surveillance device under warrant**

Section 24(2)(a) requires that a surveillance device which is no longer necessary for the purpose of enabling evidence to be obtained is discontinued as soon as practicable. NSW Police Force utilise a Notification of Discontinuation form to record such action. Section 24(2)(b) further requires that following a discontinuation an application be made for the revocation of the warrant under section 23.

While the Act requires that a surveillance device be discontinued as soon as practicable after the chief officer of the law enforcement agency is satisfied that the use of the device is no longer necessary, there is no time limit required for the making of an application for revocation of the warrant. As a matter of administrative practicality, I have taken the view that where a warrant expires within five days of the formal discontinuance of the use of a surveillance device, I will not consider the failure to make application for a revocation to be unreasonable. Our inspections identified the following warrants as lacking a formal notification of discontinuance:

- Warrant SD09/084 had an expiry date of 2 May 2009. The report on the use of the device was delivered to the Attorney-General on 6 April 2009, and indicated that the device was last used on 21 March 2009. There was no revocation on the file, nor any indication that the use of the device had been discontinued.
- Warrant SD09/096 had an expiry date of 21 April 2009. The report on the use of the device was delivered to the Attorney-General on 23 March 2009 and indicated that the device was used on 24 February 2009. There was no revocation on the file, nor any indication that the use of the device had been discontinued.

In all other cases inspected where there was a revocation, there was a notice of discontinuance of the use of the surveillance device on file.

## **Section 25 Application for retrieval warrant**

One application was made for a retrieval warrant and the warrant was granted.

## **Section 26 Remote application**

No remote applications were made for retrieval warrants.

## **Section 30 Revocation of retrieval warrant**

No retrieval warrants were revoked.

## **Emergency authorisations**

### **Section 31 Emergency use of surveillance devices – threat of serious personal violence or substantial property damage**

On three occasions surveillance devices were used without a surveillance device warrant in emergency situations relating to the threat of personal violence or substantial property damage.

### **Section 32 Emergency authorisation – continued use of surveillance devices in participating jurisdiction**

There was no emergency use of surveillance device warrants in participating jurisdictions.

### **Section 33 Application for approval after use of surveillance device without warrant or under emergency authorisation**

The emergency use of the surveillance devices under section 31 were subsequently approved by an eligible Judge within the two day time frame.

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## Compliance and monitoring

### Section 40 Prohibition on use, communication or publication of protected information

During this reporting period inspections were carried out at Lachlan LAC, Chifley LAC, Lake Illawarra LAC and Monaro LAC. The protected information had not been used, communicated or published at the time of the inspection. Inspection officers were satisfied that the officers responsible were aware of their obligations and appropriate security was in place in relation to the protected information obtained by the use of surveillance devices.

### Section 41 Dealing with records obtained by use of surveillance devices

The Commissioner has established guidelines for dealing with protected information. The officers at the locations inspected had copies of these guidelines and the relevant registers which are provided when applications are made for surveillance device warrants.

There were no destructions carried out of protected information at the time of these inspections.

### Section 44 Reports to eligible Judge or eligible Magistrate and Attorney-General

Section 44 of the *Surveillance Devices Act 2007* requires a report to be furnished to the eligible Judge, or eligible Magistrate, as the case may be, and to the Attorney-General. Apart from the warrant files mentioned below, there were copies of the relevant reports required on all files.

The following warrant files contained no reports to the eligible Judge and the Attorney-General within a specified number of days following the expiry of the warrant as required.

SD09/011	SD09/016	SD09/037	SD09/047	SD09/063	SD09/097
SD09/108	SD09/112				

The reports to both the eligible Judge and the Attorney-General with respect to the following warrants were delayed beyond the time specified in the warrants.

SD09/013	SD09/025	SD09/026	SD09/030	SD09/036	SD09/055
SD09/058	SD09/062	SD09/064			

Planned modification to the surveillance devices database (see below) include a capacity to send an automatic reminder to each law enforcement officer of his/her obligation to comply with section 44. Once this action is completed, it is anticipated that the number of overdue reports will be reduced.

### Section 47 Register of warrants and emergency authorisations

The Act requires the chief officer of the law enforcement agency to keep a register of warrants and emergency authorisations. The register is required to specify certain particulars. A number of discrepancies were identified between the register and the original warrant. These included discrepancies in the period of the warrant, expiry dates, relevant offences and the identity of the principal law enforcement officer responsible for the warrant. Many of these discrepancies were able to be immediately rectified when brought to the attention of staff at Special Application Section. However, due to a fault in the database the register could not be amended in relation to warrants which had been finalised. This will be addressed in the enhancements in the database.

Emergency authorisations were listed in the register, but were not clearly defined as emergency authorisations. The relevant information required was included. Relevant staff have undertaken to examine how to better distinguish between warrants and authorisations in the future. This again appears to be a problem with the design of the database.

The Commissioner of Police has acknowledged that the purpose built NSW Police Force database continues to require modifications to enable effective operations. Instructions have been provided by Special Applications Section staff to the NSW Police Computer Systems Officer, to modify the database to enable better recording of warrants and applications. Enquires on 8 October 2009 with the NSW Police Force Business and Technology Services, indicate the enhancement to the capability of the database will be operational from 1 January 2010.

## Evidentiary certificates

### Section 50 Provision for the issue of evidentiary certificates

No evidentiary certificates were issued during this reporting period.

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## Notifications to the Attorney-General

### **Section 51 Particulars of warrants sought under Part 3 to be notified to the Attorney-General**

The notification for warrant SD/09/065 did not contain particulars of 'any other alternate means of obtaining the evidence or information sought to be obtained' as required by section 51(f).

As mentioned previously, section 51 notices had not been prepared in relation to remote applications, however, this has now been addressed.

### **Section 52 Requirement to inform subject of surveillance**

No orders were made requiring the subject of the surveillance to be informed.

## Concluding comments

For the reporting period, compliance by the NSW Police Force with the Surveillance Devices Act was found to be of a high standard.

The timely reporting of the results of the use of surveillance devices appears to be a problem which still needs to be addressed, but this has improved greatly with a dedicated person in the Special Application section now tasked with ensuring compliance in this regard.

## Recommendations

NSWPF/5. That steps are taken to ensure the NSW Police Force surveillance devices database enhancements are implemented as soon as possible.

## Action on recommendations from previous report

### **NSWPF/1. That steps be taken to ensure compliance with the requirement to make timely reports on the use of surveillance devices to eligible Judges/Magistrates and the Attorney-General**

NSW Police Force Special Applications Section now has a dedicated officer dealing with compliance issues and this has resulted in a marked improvement in the timeliness of the provision of these reports.

### **NSWPF/2. That a record be kept of the date on which section 44 reports are delivered to the eligible judicial officer and Attorney-General**

NSW Police Force now record the dates on which section 44 reports are delivered to the eligible judicial officer and Attorney-General.

### **NSWPF/3. That a record be kept of the date of discontinuance of a surveillance device**

The NSW Police Force now uses a Notification of Discontinuance form to record the date and time the use of a surveillance device was discontinued.

### **NSWPF/4. That the warrant template be redesigned so as to better facilitate the recording of variations by eligible judicial officers**

Variations to warrants are now only sought in very limited circumstances and the preferred method used by the NSW Police Force is to reapply for a fresh warrant rather than vary the original one. This enables clarity and precision with all warrants. NSW Police Force does not intend to facilitate any discussion with the Department of Justice and the Attorney-General with a view to redesigning the warrant template.

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## 3. NSW Crime Commission

During the reporting period 55 surveillance device files 09/001 to 09/055 were inspected. Two applications were refused.

We were satisfied that the NSW Crime Commission had generally complied with its obligations under the Act. The exceptions are detailed below.

### **Compliance with obligations relating to the keeping documents connected with warrants and emergency authorisations**

#### Warrants

##### **Section 17 Applications for a surveillance device warrant**

All 55 applications were made to eligible Judges. No applications were made to eligible Magistrates in the case of applications for a surveillance device authorising the use of a tracking device only.

##### **Section 18 Remote application**

There were no remote applications made.

##### **Section 22 Extension and variation of surveillance device warrant**

Four warrants were varied.

##### **Section 23 Revocation of surveillance device warrant**

There were 20 revocations during the reporting period.

##### **Section 24 Discontinuance of use of surveillance device under warrant**

Section 24 of the *Surveillance Devices Act 2008* ('the Act') requires the use of a surveillance device to be discontinued as soon as practicable after the chief officer of the law enforcement agency is satisfied that the use of the device is no longer necessary.

All warrants which had been used were discontinued in a timely manner. Some warrants were never used and were subsequently revoked.

##### **Section 25 Application for retrieval warrant**

No applications were made for retrieval warrants.

##### **Section 26 Remote application**

No remote applications were made for retrieval warrants.

##### **Section 30 Revocation of retrieval warrant**

No retrieval warrants were issued and consequently none were revoked.

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## Emergency authorisations

### **Section 31 Emergency use of surveillance devices – threat of serious personal violence or substantial property damage**

There were no emergency uses of surveillance devices.

### **Section 32 Emergency authorisation – continued use of surveillance devices in participating jurisdiction**

There was no emergency use of surveillance device warrants in participating jurisdictions.

### **Section 33 Application for approval after use of surveillance device without warrant or under emergency authorisation**

There were no uses of surveillance devices without a warrant.

## Compliance and monitoring

### **Section 40 Prohibition on use, communication or publication of protected information**

While protected information was obtained through the use of surveillance devices, the information will be used in future briefs of evidence and the records of each use, communication and publication will be inspected in the future.

### **Section 41 Dealing with records obtained by use of surveillance devices**

The Commission has established guidelines for dealing with protected information.

There were no destructions carried out of protected information at the time of these inspections.

### **Section 44 Reports to eligible Judge or eligible Magistrate and Attorney-General**

All reports were provided to the eligible Judge and Attorney-General within the time specified in the warrant and the reports contained all the required information.

### **Section 47 Register of warrants and emergency authorisations**

The Act requires the chief officer of the law enforcement agency to keep a register of warrants and emergency authorisations. The register is required to specify certain particulars.

The register of warrants contained all the particulars required and was accurate.

## Evidentiary certificates

### **Section 50 Provision for the issue of evidentiary certificates**

No evidentiary certificates were issued during this reporting period.

## Notifications to the Attorney-General

### **Section 51 Particulars of warrants sought under Part 3 to be notified to the Attorney-General**

Section 51 notifications were provided in relation to all warrant applications.

### **Section 52 Requirement to inform subject of surveillance**

No orders were made requiring the subject of the surveillance to be informed.

## Concluding comments

For the reporting period the overall compliance by NSW Crime Commission with the Surveillance Devices Act was found to be of a high standard.

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## Recommendations

No recommendations.

### Action on recommendations from previous report

**NSWCC/1. That section 51 notices and section 44 reports are individually prepared for each warrant to avoid any confusion**

NSW Crime Commission now prepares individual section 51 notices and section 44 reports.

**NSWCC/2. That the warrant file contains an indication of the date and time the use of the surveillance devices are discontinued when in the opinion of the chief officer the use of the device is no longer required as per section 24 of the Act**

NSW Crime Commission now indicates in the warrant files when the use of a surveillance device has been discontinued.

**NSWCC/3. That the warrant template be redesigned so as to better facilitate the recording of variations by eligible judicial officers**

The law enforcement agencies are discussing this issue with the Department of Justice and Attorney-General.





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## 4. Independent Commission Against Corruption

During the reporting period seven surveillance device files were inspected, 1/2009 to 7/2009. All warrants were granted.

We were satisfied that the Independent Commission Against Corruption had generally complied with its obligations under the Act.

### **Compliance with obligations relating to the keeping documents connected with warrants and emergency authorisations**

#### Warrants

##### **Section 17 Applications for a surveillance device warrant**

All seven applications were made to eligible Judges. No applications were made to eligible Magistrates in the case of applications for a surveillance device authorising the use of a tracking device only.

##### **Section 18 Remote application**

There were no remote applications made.

##### **Section 22 Extension and variation of surveillance device warrant**

There were no variations or extensions to the warrants issued.

##### **Section 23 Revocation of surveillance device warrant**

There were four revocations during the reporting period.

##### **Section 24 Discontinuance of use of surveillance device under warrant**

No surveillance devices were discontinued.

##### **Section 25 Application for retrieval warrant**

No applications were made for retrieval warrants.

##### **Section 26 Remote application**

No remote applications were made for retrieval warrants.

##### **Section 30 Revocation of retrieval warrant**

No retrieval warrants were issued and consequently none were revoked.

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## Emergency authorisations

### **Section 31 Emergency use of surveillance devices – threat of serious personal violence or substantial property damage**

There were no emergency uses of surveillance devices.

### **Section 32 Emergency authorisation – continued use of surveillance devices in participating jurisdiction**

There was no emergency use of surveillance device warrants in participating jurisdictions.

### **Section 33 Application for approval after use of surveillance device without warrant or under emergency authorisation**

There were no emergency uses of surveillance devices.

## Compliance and monitoring

### **Section 40 Prohibition on use, communication or publication of protected information**

While protected information was obtained through the use of surveillance devices, the information will be used in future briefs of evidence and the records of each use, communication and publication will be inspected in the future.

### **Section 41 Dealing with records obtained by use of surveillance devices**

The Commissioner has established guidelines for dealing with protected information.

There were no destructions carried out of protected information at the time of these inspections.

### **Section 44 Reports to eligible Judge or eligible Magistrate and Attorney-General**

All reports were provided to the eligible Judge and Attorney-General within the required time frame and all reports contained the required information.

### **Section 47 Register of warrants and emergency authorisations**

The Act requires the chief officer of the law enforcement agency to keep a register of warrants and emergency authorisations. The register is required to specify certain particulars.

The register of warrants contained all the particulars required and was accurate.

## Evidentiary certificates

### **Section 50 Provision for the issue of evidentiary certificates**

No evidentiary certificates were issued during this reporting period.

## Notifications to the Attorney-General

### **Section 51 Particulars of warrants sought under Part 3 to be notified to the Attorney-General**

All notifications were provided to the Attorney-General in relation to each application and contained all the required particulars.

### **Section 52 Requirement to inform subject of surveillance**

No orders were made requiring the subject of the surveillance to be informed.

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## Concluding comments

For the reporting period the overall compliance by the Independent Commission Against Corruption with the Surveillance Devices Act was found to be of a high standard.

### **Recommendations**

No recommendations.

## Action on recommendations from previous report

**ICAC/1. That section 51 notices and section 44 reports are individually prepared for each warrant to avoid any confusion**

The Independent Commission Against Corruption now prepares individual section 51 notices and section 44 reports.



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## 5. Police Integrity Commission

During the reporting period no new surveillance device files warrants were applied for.

We were satisfied that the Police Integrity Commission had generally complied with its obligations under the Act.

### **Compliance with obligations relating to the keeping documents connected with warrants and emergency authorisations**

#### Warrants

##### **Section 17 Applications for a surveillance device warrant**

No applications made.

##### **Section 18 Remote application**

There were no remote applications made.

##### **Section 22 Extension and variation of surveillance device warrant**

Five warrants were extended and none were varied.

##### **Section 23 Revocation of surveillance device warrant**

There were no revocations during the reporting period.

##### **Section 24 Discontinuance of use of surveillance device under warrant**

There were no situations where the use of any surveillance device was discontinued during the reporting period and therefore no requirement to seek revocations of any warrants.

##### **Section 25 Application for retrieval warrant**

No applications were made for retrieval warrants.

##### **Section 26 Remote application**

No remote applications were made for retrieval warrants.

##### **Section 30 Revocation of retrieval warrant**

No retrieval warrants were issued and consequently none were revoked.

#### Emergency authorisations

##### **Section 31 Emergency use of surveillance devices – threat of serious personal violence or substantial property damage**

There were no emergency uses of surveillance devices.

##### **Section 32 Emergency authorisation – continued use of surveillance devices in participating jurisdiction**

There was no emergency use of surveillance device warrants in participating jurisdictions.

##### **Section 33 Application for approval after use of surveillance device without warrant or under emergency authorisation**

There were no emergency uses of surveillance devices.

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## Compliance and monitoring

### **Section 40 Prohibition on use, communication or publication of protected information**

While protected information was obtained through the use of surveillance devices, the information will be used in future briefs of evidence and the records of each use, communication and publication will be inspected in the future.

### **Section 41 Dealing with records obtained by use of surveillance devices**

The Commissioner has established guidelines for dealing with protected information.

There were no destructions carried out of protected information at the time of these inspections.

### **Section 44 Reports to eligible Judge or eligible Magistrate and Attorney-General**

All reports were provided to the Eligible Judge and Attorney-General within the required time frame and all reports contained the required information.

### **Section 47 Register of warrants and emergency authorisations**

The Act requires the chief officer of the law enforcement agency to keep a register of warrants and emergency authorisations. The register is required to specify certain particulars.

The register of warrants contained all the particulars required and was accurate.

## Evidentiary certificates

### **Section 50 Provision for the issue of evidentiary certificates**

No evidentiary certificates were issued during this reporting period.

## Notifications to the Attorney-General

### **Section 51 Particulars of warrants sought under Part 3 to be notified to the Attorney-General**

There were no fresh applications during the reporting period.

### **Section 52 Requirement to inform subject of surveillance**

No orders were made requiring the subject of the surveillance to be informed.

## Concluding comments

For the reporting period the overall compliance of the Police Integrity Commission with the Surveillance Devices Act was found to be of a high standard.

## **Recommendations**

No Recommendations.

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## Action on recommendations from previous report

### **PIC/1. That section 51 notices and section 44 reports are individually prepared for each warrant to avoid any confusion**

The Commissioner provided the following reply:

*In relation to the Notices to the Attorney-General under section 51 of the act and Reports under section 44, I note your suggestion about separate Notices and Reports. Under the Listening Devices Act 1984 the Commission's practice was to combine Notices and Reports and no complaint was ever received from the Attorney-General or the issuing Justices. The wording of the relevant provisions of the Listening Devices Act 1984 are in similar terms to the corresponding section of the SD Act. While noting the practical advantage of the course suggested by you, I believe there are also impracticalities and inefficiencies involved in that course, including duplication and waste of paper, and I am not persuaded that the Commission should amend its practice in the manner suggested.*

### **PIC/2. That the warrant file contains an indication of the date and time the use of the surveillance devices are discontinued when in the opinion of the chief officer the use of the device is no longer required as per section 24 of the Act**

As there were no occasions when the use of any surveillance device was discontinued during the reporting period, it was not possible to observe any change of practice with respect to this recommendation.





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