



PARLIAMENTARY CRIME AND CORRUPTION COMMISSIONER

BI-MONTHLY REPORT TO THE PARLIAMENTARY CRIME AND CORRUPTION COMMITTEE

1 JUNE 2015

1. OPERATIONAL REPORT

1.1 Progressive work program

Attached, as Appendix 1, is the progressive work program of the Office of the Parliamentary Crime and Corruption Commissioner for the period 20 November 2014 to 27 May 2015.

1.2 Highlights

On 25 March 2015 I attended the Opening Ceremony for the 55th Parliament of Queensland.

On 7 May 2015, Mr Kunde and I attended a meeting in Melbourne involving the various Parliamentary Commissioners and Inspectors of the Australian State anti-corruption agencies (Overseers' Meeting). The meeting was chaired by Hon Michael Murray AM QC (Parliamentary Inspector of the Corruption and Crime Commission of W.A.) and attended by Mr David Levine AO RFD QC (Inspector of the Independent Commission Against Corruption N.S.W.), Mr Robin Brett QC (Inspector of the Independent Broad-based Anti-corruption Commission Vic.) and a staff member from each of those offices.

Among the issues discussed at the meeting were the limitations under the *Telecommunications (Interception and Access) Act 1979 (Cth)* on access to affidavits and associated materials used by overseen agencies to obtain warrants; the implications of the High Court decision in the matter of *ICAC v Cunneen*; and the scope of activities, particular legislative regimes and other matters of interest in our respective jurisdictions.

2. ADMINISTRATIVE MATTERS

I wish to advise the Committee that I will be absent from the State between 17 September and 12 October 2015. I shall be writing to the Speaker in the next week to advise of my absence from the State for that period.

Pursuant to section 308(1)(b) of the *Crime and Corruption Act 2001* the Speaker may appoint a person qualified to be appointed as Parliamentary Commissioner to act in that position during any period when the Parliamentary Commissioner is absent from the State. Pursuant to section 308(2) of the Act, that appointment may only be made with the bipartisan support of the Committee.

2.1 Key Outputs achieved during the period 20 November 2014 to 27 May 2015

Measures	Targets	
<u>Quantity</u>		
Number of complaints against the CCC finalised	2	
Number of other functions finalised	6	
Number of complaints against the CCC received	0	
Number of other functions received /arising	4	
Number of complaints against the CCC on hand	0	
Number of other functions on hand	1	
Number of audits of CCC undertaken	5	
Number of other audits undertaken	0	
Number of reports to the PCCC	6	
Number of meetings with the PCCC	1	
Number of other meetings (CCC)	3	
Number/time of hearings (in hours)	0	
<u>Timeliness</u>		
Cumulative average time taken to finalise complaints against the CCC	18.1 weeks	
Cumulative average time taken to finalise other functions	6.32 weeks	

2.2 Matters arising from outputs

Audit of Assumed Identities – November 2014

Pursuant to section 316 of the *Police Powers and Responsibilities Act 2000* (the *PPRA*) and section 146ZS of the *Crime and Corruption Act*, the Chairman of the CCC must have the records of authorities for the use of assumed identities audited by the Parliamentary Commissioner at least once every 6 months while the authority is in force and at least once in the 6 months after the cancellation or expiry of the authority. The Parliamentary Commissioner is required to give the CCC Chairman a written report on the results of the audit.

The sixteenth audit of the CCC's records of authorities for the use of assumed identities was conducted at the CCC's premises on 21 November 2014 and involved an inspection of the CCC's records of assumed identities for the period 12 March to 21 November 2014.

On 25 November 2014 I provided the Acting CCC Chairman with a written report on the results of the audit. The results of the audit were quite satisfactory. The CCC was fully complying with its responsibilities pursuant to sections 315 of the *PPRA* and 146ZR of the *Crime and Corruption Act*.

Annual Intelligence Data Review

Section 320(1) of the *Crime and Corruption Act* requires the Parliamentary Commissioner to conduct an annual review of the intelligence data in the possession of the Crime and Corruption Commission and the Queensland Police Service. The review of intelligence data was completed prior to my last meeting with the previous Committee.

Section 320(3) of the Act requires that the Parliamentary Commissioner prepare a written advice on the review containing the Parliamentary Commissioner's findings and recommendations and that the advice be provided to the CCC Chairman, the Commissioner of Police and the Parliamentary Committee. The report was completed in this reporting period and provided to the relevant parties on 15 December 2014.

Inspection of Surveillance Device Warrants records - December 2014

Section 362(1) of the *PPRA* requires that the Parliamentary Commissioner must inspect the CCC's surveillance device warrant records to decide the extent of compliance with chapter 13 of the *PPRA* by the CCC and law enforcement officers of the CCC. Pursuant to section 363(1) of the *PPRA*, the Parliamentary Commissioner is required to make written reports at six-monthly intervals on the results of each inspection under section 362.

By letter dated 25 November 2014 I provided the Acting CCC Chairperson with written notice pursuant to section 362(2)(a) of the *PPRA* that I intended to commence an inspection of the CCC's surveillance device warrants records on 2 December 2014.

A schedule listing all retrieval warrants and surveillance device warrants operational in the relevant period was obtained from the CCC's Property Control Section and the inspection of the surveillance device warrants records was conducted on 2 December 2014. Some further information was gathered on 5 December 2014.

In accordance with section 363 of the *PPRA*, I provided my written report on the results of the inspection to the Committee on 15 December 2014.

The most significant finding mentioned in the report related to the compliance affidavit for a surveillance device warrant which was not provided within the time stated in the warrant – in breach of section 357(3)(a) of the *PPRA*. I referred in my report to the remedial action taken and proposed by the CCC in relation to that matter.

I note that the Acting Chair of the Committee tabled the report in the House on 6 May 2015.

Investigation of Complaints

During the previous reporting period, the Committee referred matters for my investigation or supervision and report. I completed and provided my report to the Committee in respect of one such matter during the previous reporting period. My investigation and supervision of the remaining matters progressed through this reporting period. The investigations and supervision were finalised and reports provided to the Committee in February and March 2015.

Inspection of the CCC's Telecommunications Interception Records – February 2015

The Parliamentary Commissioner has a number of responsibilities under the *Telecommunications Interception Act 2009* (the *TI Act*). Pursuant to section 23(2) of the *TI Act*, the Parliamentary Commissioner must inspect the CCC's telecommunications interception records at least twice during each financial year to find out the extent to which CCC officers have complied with sections 14 to 16 and 18 to 20 of the Act.

On 16 February 2015 I provided formal notice to the Acting CCC Chairman that I intended to commence the second inspection of the CCC's telecommunications interception records for the 2014-2015 financial year on 23 February 2015. The inspection was finalised on 2 March 2015. The inspection established that CCC officers had fully complied with sections 14, 15 and 16 of the *TI Act*.

The CCC's obligations pursuant to sections 18, 19 and 20 are pending the resolution of issues relating to the perpetual retention of particulars of "*the name of the person who carried out each interception*" pursuant to section 15(1)(c)(iv) of the *TI Act*. This is a matter I have been monitoring over the course of my last few inspections of the CCC's telecommunications interception records. I have requested that the CCC keep me apprised of developments in relation to those issues.

Audit of Assumed Identities – March 2015

The seventeenth audit of the CCC's records of authorities for the use of assumed identities was conducted at the CCC's premises on 27 March 2015 and involved an inspection of the CCC's records of assumed identities for the period 22 November 2014 to 27 March 2015.

On 2 April 2015 I provided the Acting CCC Chairman with a written report on the results of the audit. The results of the audit were quite satisfactory. The CCC continues to fully comply with its responsibilities pursuant to sections 315 of the *PPRA* and 146ZR of the *Crime and Corruption Act*.

Inspection of Surveillance Device Warrants records - May 2015

By letter dated 10 April 2015 I provided the Acting CCC Chairman with written notice pursuant to section 362(2)(a) of the *PPRA* that I intended to commence an inspection of the CCC's surveillance device warrants records on 4 May 2015.

A schedule listing all surveillance device warrants operational in the period 3 December 2014 to 4 May 2015 was obtained from the CCC's Property Control Section and the inspection of the surveillance device warrants records was commenced on 4 May 2015 with some further information gathered on 6 and 19 May 2015.

A draft report on the results of my inspection has been prepared.

Other matters

Submission to the Legal Affairs and Community Safety Committee

On 2 December 2014 the then Chair of the Legal Affairs and Community Safety Committee, Mr Ian Berry MP (as he then was), wrote to invite me to make a written submission in relation to the *Justice and Other Legislation Amendment Bill 2014*.

I did not make a detailed written submission in relation to the Bill, however I wrote to Mr Berry on 8 December 2014 concerning the proposed amendments to section 14 of the *Telecommunications Interception Act 2009* (TIA) set out in clause 134 of the Bill. The proposed amendments reflected recommendations that I had made previously and were wholly in accordance with my recommendations and had my full support. I note that the Bill has subsequently lapsed but, in my view, the proposed amendments to the TIA still need to be made.

Letter to Attorney-General re Crime and Corruption Regulation 2005

By letter dated 10 May 2015, the Attorney-General and Minister for Justice, Hon Yvette D'Ath MP, invited me to comment on the current provisions of the *Crime and Corruption Regulation 2005* which the Attorney-General proposed to remake under the *Statutory Instruments Act 1992*. On 26 May 2015 I provided a written response to the Attorney-General.

Section 329 Notifications

Pursuant to the section 314(4) of the *Crime and Corruption Act* the Parliamentary Commissioner has the function to investigate on his or her own initiative a matter mentioned in section 314(2)(b) or (c) (namely (b) complaints made against, or concerns expressed about, the conduct or activities of the CCC or a CCC officer and (c) allegations of possible unauthorised disclosure of information or other material that is confidential under the *Crime and Corruption Act*) or a matter notified to the Parliamentary Commissioner under section 329, subject to certain conditions set out section 314(4)(a) and (b).

Notifications were provided to me pursuant to section 329 during the reporting period.

Pursuant to the section 314(5) of the Act, the Parliamentary Commissioner is permitted to undertake a preliminary assessment of a matter to decide whether the conditions set out in section 314(4)(a) and (b) are satisfied for the matter. During the reporting period I conducted preliminary assessments of section 329 notifications.

If the Parliamentary Commissioner decides to conduct a preliminary assessment under section 314(5) of the Act, then pursuant to section 314(7), the Parliamentary Commissioner must notify the Parliamentary Committee of the decision. Timely notifications have been provided to the Committee in respect of each assessment conducted during the reporting period.

As stated in my reports to the previous Committee, the impact that the conferral of the “own initiative” investigative function will have on the workload of the office will be monitored and the Committee kept informed.

Invitation to Deliver an Address to Commission Officers

On 13 May 2015, the Acting CEO of the CCC, Ms Dianne McFarlane, telephoned my office to ask whether I might consider delivering an address to Commission officers concerning the functions of the Parliamentary Commissioner and, in particular, the types of issues that I look at in my various inspections and any problems that I commonly encounter. I consider that I should inform the Committee of Ms McFarlane's request before agreeing to deliver this address. I can see some real benefit in speaking to Commission officers about these issues.

3. CERTIFICATION

I submit that the above information demonstrates

- a) satisfactory progress in the efficient, effective and economical achievement of the goals of the Office of the Commissioner;
- b) resources are being allocated to produce best value for money; and
- c) outputs are being provided at the standards stated in the Parliamentary Service Plan.

I also submit that the above information confirms -

- 1. the appropriateness of the goal, and strategies to achieve the goal, as outlined in the Parliamentary Service Management Plan;
- 2. the suitability of the performance indicators in measuring the achievement of the goal;
- 3. options to improve the efficiency, effectiveness and economy of operations are being pursued.



Paul Favell

**Parliamentary Crime and
Corruption Commissioner**

Appendix 1

Parliamentary Crime and Corruption Commissioner

Progressive Work Program

As at 27 May 2015

Meeting date: 1 June 2015

Appendix 1

Inquiry or Function	Description	Anticipated or agreed completion date	Progress last reporting period	Anticipated progress next reporting period	Resources
Audit of Assumed Identities	Pursuant to s146ZS <i>Crime and Corruption Act</i> and s316(1) <i>PPRA</i> , audit the CCC's records of authorities for assumed identities and provide a report to the CCC Chairman.	November 2014	<ul style="list-style-type: none"> Inspected registers of assumed identities, cancellations and variations. Inspected applications for authorities to acquire and/or use assumed identities, variations and formal authorities. Commenced and completed report and provided to Acting CCC Chairman. 	Finalised. Report on the results of the audit provided to Acting CCC Chairman on 25 November 2014.	Parliamentary Commissioner Legal Officer
Intelligence Data Review Report	Pursuant to section 320(3) of the <i>Crime and Corruption Act</i> prepare written advice on the annual review of intelligence data in the possession of the CCC and the QPS	December 2014	<ul style="list-style-type: none"> Updated details of QPS intelligence network Checked CCC/QPS liaison. Finalised report and provided to PCCC, QPS Commissioner and Acting CCC Chairman. 	Finalised. Report provided to Chair of PCCC, Police Commissioner and Acting CCC Chairman on 15 December 2014.	Parliamentary Commissioner Legal Officer
Inspection and report on the inspection of the CCC's records of Surveillance Device Warrants	Pursuant to section 362 of the <i>PPRA</i> inspect the CCC's records to decide extent of compliance with chapter 13 of the <i>PPRA</i> and report to the Chair of the PCCC.	December 2014	<ul style="list-style-type: none"> Formally notified Acting CCC Chairman of inspection. Inspected warrants registers and all relevant documents. Checked warrants compliance with provisions of <i>PPRA</i>. Wrote to Acting CCC Chairman about issues identified in inspection. Received and noted reply from Acting CCC Chairman. Prepared and provided report to PCCC. 	Finalised. Report provided to Chair of PCCC on 15 December 2014.	Parliamentary Commissioner Legal Officer

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Inquiry or Function	Description	Anticipated or agreed completion date	Progress last reporting period	Anticipated progress next reporting period	Resources
Investigation of complaints and supervision of CCC investigations.	Pursuant to section 295(2)(d) of the <i>Crime and Corruption Act</i> supervise the CCC investigation and give a report on the matter to the Committee. Pursuant to section 295(2)(d) of the <i>Crime and Corruption Act</i> investigate and give a report on matter to the Committee	Various	Finalised investigations and supervision and provided reports to the Committee.	Finalised. Reports provided to the Committee in February and March 2015.	Parliamentary Commissioner Legal Officer
Inspection of Telecommunications Interception Records	Pursuant to section 23(2) of the <i>Telecommunications Interception Act</i> inspect the CCC's TI records to find out the extent to which CCC officers have complied with sections 14-16 and 18-20.	March 2015	<ul style="list-style-type: none"> • Inspected files for each TI warrant obtained since last inspection and for warrants previously obtained to ensure required documents kept. • Inspected RADARS computer records for TI warrants to ensure required particulars kept. • Inspected Use and Communication register to ensure appropriate level of detail recorded. • Checked copies of evidentiary certificates maintained. • Prepared table detailing level of compliance with relevant provisions. • Met with Manager ECU to discuss RADARS system and retention of particulars of "person who carried out each interception" pursuant to section 15(1)(c)(iv) TI Act. 	Finalised. Covering letter and compliance table provided to CCC 3 March 2015.	Parliamentary Commissioner Legal Officer

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Audit of Assumed Identities	Pursuant to s146ZS <i>Crime and Corruption Act</i> and s316(1) <i>PPRA</i> , audit the CCC's records of authorities for assumed identities and provide a report to the CCC Chairman.	April 2015	<ul style="list-style-type: none"> Inspected registers of assumed identities, cancellations and variations. Inspected applications for authorities to acquire and/or use assumed identities, variations and formal authorities. Completed report and provided to Acting CCC Chairman. 	Finalised. Report on the results of the audit provided to Acting CCC Chairman on 2 April 2015.	Parliamentary Commissioner Legal Officer
Inspection and report on the inspection of the CCC's records of Surveillance Device Warrants	Pursuant to section 362 of the <i>PPRA</i> inspect the CCC's records to decide extent of compliance with chapter 13 of the <i>PPRA</i> and report to the Chair of the PCCC.	June 2015	<ul style="list-style-type: none"> Formally notified Acting CCC Chairman of inspection. Inspected warrants registers and all relevant documents. Checked warrants compliance with provisions of <i>PPRA</i>. 	<ul style="list-style-type: none"> Finalise and provide report to PCCC. 	Parliamentary Commissioner Legal Officer
Receive and assess notifications of suspected improper conduct.	Pursuant to section 314(5) of the <i>Crime and Corruption Act</i> assess notifications received from CCC of suspected improper conduct of Commission officers.	Ongoing	<ul style="list-style-type: none"> Received and assessed section 329 notifications from Acting CEO of CCC. Advised Committee and CCC of assessment decisions. 	<ul style="list-style-type: none"> Receive and assess section 329 notifications from Acting CEO of CCC. Advise Committee and CCC of assessment decisions. 	Parliamentary Commissioner Legal Officer

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