

Report No. 77

A report advising of the Parliamentary Crime and Misconduct Commissioner's report on his inspection, pursuant to Section 362 of the *Police Powers and Responsibilities Act 2000*, of the CMC's records regarding surveillance device warrants for the period 1 March 2007 to 30 November 2007



LEGISLATIVE ASSEMBLY OF QUEENSLAND

PARLIAMENTARY CRIME AND MISCONDUCT COMMITTEE

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April 2008

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CHAIRMAN'S FOREWORD

The passage of the *Cross-Border Law Enforcement Legislation Amendment Act 2005* saw extensive changes to legislative provisions governing surveillance device warrants issued to Queensland law enforcement agencies, including the Crime and Misconduct Commission (the CMC or the Commission).

Those changes included the creation of a legislative regime of inspection and reporting regarding the use of surveillance devices. So far as the CMC is concerned, there is now a requirement that the Parliamentary Crime and Misconduct Commissioner (Parliamentary Commissioner) inspect the records of the Commission at six monthly intervals, to decide the extent of compliance by the CMC with the relevant statutory provisions in its use of surveillance warrants.

The Parliamentary Commissioner must provide a report on his inspection to the Parliamentary Crime and Misconduct Committee (the PCMC). In turn, that report must be tabled by the Chairperson of that Committee in the Legislative Assembly.

The first report under this statutory regime covered the period 1 July 2006 to 30 April 2007. That report was in generally favourable terms. However, in that report, the Parliamentary Commissioner, Mr Alan MacSporran SC, identified a number of instances of non-compliance by the Commission with the statutory provisions. The Committee wrote to the CMC Chairperson, Mr Robert Needham, expressing its concerns with the Parliamentary Commissioner's findings and seeking Mr Needham's advice regarding actions taken by the CMC to address the identified deficiencies. Relevant extracts from Mr Needham's response were included in the Committee's Report No.75.¹ That report attached the Parliamentary Commissioner's report and was tabled in the Legislative Assembly on 17 October 2007.

This report of the Committee attaches the second such report of the Parliamentary Commissioner, covering the period from 1 March 2007 to 30 November 2007. Full details of the Parliamentary Commissioner's inspection and findings are set out in his report. The Committee is pleased to note that, upon his latest inspection, the Commissioner found that there was full compliance by the CMC (and its officers) with the statutory obligations imposed under the *Police Powers and Responsibilities Act 2000*.

Paul Hoolihan MP
Chairman

April 2008

¹ A report on the Parliamentary Crime and Misconduct Commissioner's report on his inspection, pursuant to Section 362 of the *Police Powers and Responsibilities Act 2000*, of the CMC's records regarding surveillance device warrants for the period 1 July 2006 to 30 April 2007.

1. INTRODUCTION

The passage of the *Cross-Border Law Enforcement Legislation Amendment Act 2005* saw extensive changes to legislative provisions governing surveillance device warrants issued to Queensland law enforcement agencies, including the Crime and Misconduct Commission (the CMC or the Commission).

Those changes included the creation of a legislative regime of inspection and reporting regarding the use of surveillance devices. That regime requires the Parliamentary Crime and Misconduct Commissioner (the Parliamentary Commissioner) to inspect the records of the Commission at six monthly intervals, to determine the extent of the Commission's compliance with the relevant statutory provisions in its use of surveillance warrants. The Parliamentary Commissioner had previously undertaken similar inspection and reporting functions when acting under a series of periodic references from the Parliamentary Crime and Misconduct Committee (the PCMC) to audit the CMC's records related to its use of its coercive powers.

The Parliamentary Commissioner must provide a report on his inspection to the Committee. In turn, that report must be tabled by the Chairperson of the Committee in the Legislative Assembly.

The first report of the Parliamentary Commissioner, Mr Alan MacSporran SC, under this statutory regime, was in generally favourable terms but did disclose a number of instances of non-compliance by the Commission with the statutory provisions. The Committee wrote to the CMC Chairperson, Mr Robert Needham, expressing its concerns with the Parliamentary Commissioner's findings and seeking Mr Needham's advice regarding actions taken by the CMC to address the identified deficiencies. Relevant extracts from Mr Needham's response were included in the Committee's Report No.75², tabled in the Legislative Assembly on 17 October 2007.

2. THE REPORT OF THE PARLIAMENTARY COMMISSIONER

The Parliamentary Commissioner's report notes that, as occurred previously, the Commissioner received full co-operation from the Chairperson and staff of the CMC in facilitating his (second) inspection. The Commissioner notes that he and his Principal Legal Officer were afforded full and unrestricted access to all records of the CMC relevant to the inspection, and that all requests for information and assistance were promptly answered.

This report of the Committee attaches the second such report of the Parliamentary Commissioner and covers the period from 1 March 2007 to 30 November 2007. Full details of the Parliamentary Commissioner's inspection and findings are set out in his report.

The Committee is also pleased to note that, upon his latest inspection, the Commissioner found that there was full compliance by the CMC (and its officers) with the statutory obligations imposed under Chapter 13 of the *Police Powers and Responsibilities Act 2000*.

² *A report on the Parliamentary Crime and Misconduct Commissioner's report on his inspection, pursuant to Section 362 of the Police Powers and Responsibilities Act 2000, of the CMC's records regarding surveillance device warrants for the period 1 July 2006 to 30 April 2007*

APPENDIX A

**REPORT ON THE RESULTS OF THE
INSPECTION OF THE RECORDS OF THE
CRIME AND MISCONDUCT COMMISSION
PURSUANT TO SECTION 362 OF THE
POLICE POWERS AND RESPONSIBILITIES ACT 2000**



**OFFICE OF THE
PARLIAMENTARY CRIME & MISCONDUCT COMMISSIONER**

NOVEMBER 2007

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BACKGROUND

The *Cross-Border Law Enforcement Legislation Amendment Act 2005* made extensive changes to the legislation governing the issue of surveillance warrants to law enforcement agencies. Under the new legislative scheme, the Crime and Misconduct Commission (“CMC”) continues to derive its power to obtain surveillance warrants in respect of misconduct investigations from the *Crime and Misconduct Act 2001* (“*C&M Act*”). However, those sections of the *C&M Act* relating to surveillance warrants sought for crime investigations have been repealed or extensively amended.

The CMC’s power to obtain surveillance warrants in the course of crime investigations now exists exclusively under new provisions in Chapter 13 of the *Police Powers and Responsibilities Act 2000* (“*PPRA*”) inserted by the cross-border amendment Act. Warrants obtained under the provisions of Chapter 13 of the *PPRA* are now called “surveillance device warrants” and they are available for criminal investigations including those extending beyond the borders of this state. The *PPRA* also sets out the procedure to be followed in order to obtain emergency authorisations for the use of surveillance devices.

A new type of warrant was also created by the cross-border amendments, namely a retrieval warrant. A retrieval warrant, as the name implies, authorises entry onto premises to retrieve devices installed pursuant to surveillance device warrants.

Essentially, Chapter 13 of the *PPRA* is a code for the use and regulation of surveillance device warrants and retrieval warrants. According to section 321 of the *PPRA*, the main purposes of Chapter 13 are –

- (a) *to establish procedures for law enforcement officers to obtain warrants or emergency authorisations for the installation, use, maintenance and retrieval of surveillance devices in criminal investigations, including criminal investigations extending beyond this jurisdiction; and*
- (b) *to recognise warrants and emergency authorisations issued in other jurisdictions; and*
- (c) *to restrict the use, communication and publication of information obtained through the use of surveillance devices or otherwise connected with surveillance device operations; and*
- (d) *to impose requirements for the secure storage and destruction of records, and the making of reports to judges, magistrates and Parliament, in connection with surveillance device operations.*

INTRODUCTION

Section 362(1) of the *PPRA* requires that:

The inspection entity for a law enforcement agency must, from time to time, inspect the records of the law enforcement agency to decide the extent of compliance with this chapter [Chapter 13] by the agency and law enforcement officers of the agency.

Section 322 of the *PPRA* defines the inspection entity for the CMC to be the Parliamentary Commissioner. Pursuant to section 363(1) of the *PPRA* I am required to make a written report at six-monthly intervals on the results of each inspection under section 362. This is the second such report and it covers the period from 1 March to 30 November 2007.

On 26 November 2007 I provided the Chairperson of the CMC (“the Chairperson”) with written notice pursuant to section 362(2)(a) of the *PPRA* that I intended to commence an inspection of the CMC’s records. The inspection commenced on 30 November 2007.

This report deals primarily with the inspection of the CMC’s records as required by the legislation. The CMC’s compliance or otherwise with the provisions of Chapter 13 of the *PPRA* can be ascertained largely from its records.

There are however, some compliance issues which the records are incapable of establishing; issues such as the security and control of access to information obtained by the use of surveillance devices, the physical storage of registers and information, and the destruction of records or reports. This report makes some observations in relation to those issues.

I should acknowledge at this juncture, the co-operation provided by the Chairperson and staff of the CMC in facilitating my inspection. My Principal Legal Officer and I have been afforded full and unrestricted access to all records of the CMC relevant to the inspection and all requests for information and assistance have been promptly answered.

RESULTS OF THE INSPECTION UNDER SECTION 362**THE CMC'S REGISTERS AND OTHER RECORDS****Section 361 - Register of warrants and emergency authorisations**

There are a number of statutory provisions which govern the manner in which the CMC must maintain its records. Section 361 of the *PPRA* states that the Chairperson must cause a register of warrants and emergency authorisations to be kept. The register must be, or form part of, the register of covert acts kept pursuant to section 664(1) of the *PPRA*. Section 664(1) requires that the CMC keep a register of covert acts. The *PPRA* defines "covert act" to include the making of an application under Chapter 13 and the exercise of powers under a surveillance device warrant or a retrieval warrant.

Section 664 of the *PPRA* allows the CMC to keep its register in the way the Chairperson considers appropriate. For example, the register may be kept on a computer or partly on a computer and partly written, as long as the register is kept in a secure place. The register may form part of another register whether the other register is kept under the *PPRA* or another Act.

Prior to the commencement of the provisions of Chapter 13 (on 1 July 2006) the CMC already kept registers of warrant applications as required by section 166 of the *C&M Act*. These "warrants registers" recorded search warrants, covert search warrants and surveillance warrants obtained by the CMC under the *C&M Act* and the *PPRA*.¹ Separate registers were kept for warrant applications for crime investigations and for misconduct investigations. These registers are still maintained in the same way although, since 1 July 2006, the register required by sections 361 and 664 of the *PPRA* now forms part of the warrants register for crime investigations.

The CMC manages its obligations under the *C&M Act* and the *PPRA* by maintaining the warrants registers partly in electronic format and partly in hard copy. The electronic part of the registers utilises the CMC's Recfind computer programme and contains sufficient identifying data about each warrant to enable it to be productively searched and audited.

The hard copy part of the warrants registers consists of the originating paperwork (internal approvals and authorisations, applications, affidavits etc.), the original warrants, compliance affidavits (referred to in some detail below) and other associated documentation kept together in well-ordered document wallets. A hand-written register is maintained as a back-up to the Recfind electronic information and as an easy reference source.

I am satisfied that the CMC has fully complied with its obligations pursuant to Chapter 13 of the *PPRA* in the manner in which the registers are maintained.

¹ In the 2005-2006 financial year there were also two warrants obtained under section 3E of the *Crimes Act (Cwth)*.

Sections 668 and 669 - Information to be included in register for surveillance device warrants, retrieval warrants and emergency authorisations

Sections 668 and 669 of the *PPRA*² specify the information that must be recorded in the register about surveillance device warrants, retrieval warrants and emergency authorisations for the use of a surveillance device.³ In relation to surveillance device warrants and retrieval warrants the CMC must record:

- (a) *the date and time of issue of the warrant;*
- (b) *the name of the judge or magistrate who issued the warrant;*
- (c) *the name of the law enforcement officer stated in the warrant as the person primarily responsible for executing it;*
- (d) *the relevant offence for which the warrant was issued;*
- (e) *the period when the warrant is in force;*
- (f) *details of any variation or extension of the warrant;*
- (g) *whether the surveillance device was used in a participating jurisdiction;*
- (h) *information prescribed under the responsibilities code about the exercise of powers under the warrant.*

Notwithstanding that this information would be available through a close inspection of the documents kept on the register (for example, the applications, the warrants and the compliance affidavits) the CMC has, for some years, specifically recorded the prescribed information on forms placed with the corresponding warrants in the registers; forms 1 and 2 for *C&M Act* warrants and forms 3 and 4 for *PPRA* warrants. The forms 3 and 4 have been re-drafted to reflect the changes brought about by the cross-border legislative amendments and to incorporate the information required to be kept with respect to retrieval warrants.

The documentation kept on the register for all surveillance device warrants and retrieval warrants sought up to the date of my inspection included a form 3 containing all the prescribed information about the warrant.

² These sections replace section 62 of the *Police Powers and Responsibilities Regulation 2000* which prescribed the information about *PPRA* surveillance warrants that was required to be recorded in the register prior to 1 July 2006. This section of the regulations was omitted by the *Police Powers and Responsibilities and Other Legislation Amendment Regulation (No.1) 2006 SL No.145*.

³ Section 10 of the *Crime and Misconduct Regulation 2005* sets out the similar information required to be kept in relation to surveillance warrants obtained under the *C&M Act*.

Section 359 - Keeping documents connected with warrants and emergency authorisations

Section 359 of the *PPRA* lists the documents that the CMC must retain in relation to surveillance device warrants, retrieval warrants and emergency authorisations, namely:

- (a) *each warrant issued to a law enforcement officer of the agency;*
- (b) *each notice given to the chief executive officer under section 334(3) of revocation of a warrant;*
- (c) *each application made by a law enforcement officer of the agency for an emergency authorisation;*
- (d) *each emergency authorisation given to a law enforcement officer of the agency;*
- (e) *each application made by a law enforcement officer of the agency for---*
 - (i) *a warrant; or*
 - (ii) *variation, extension or revocation of a warrant; or*
 - (iii) *approval of the exercise of powers under an emergency authorisation;*
- (f) *each report made under section 357;*
- (g) *each certificate issued by a senior officer of the agency under section 364.*

For the purposes of my inspection, copies of the CMC's electronic and hand-written registers were obtained as a record of all warrant applications made by the CMC during the period. (There were no applications for emergency authorisations.) The hard copy part of the registers, namely the paperwork contained in the document wallets, was then inspected to ensure that the CMC had kept the prescribed documents for each surveillance device warrant and retrieval warrant.

If a warrant is issued, the prescribed documents that should be kept for each warrant are (chronologically): the application for the warrant (subsection (e)(i)), the warrant itself (subsection (a)) and the report made under section 357 (subsection (f)).

Pursuant to section 357, the officer to whom the warrant is issued, or who is primarily responsible for executing the warrant, must provide a report to the judge or magistrate who issued the warrant or to the Public Interest Monitor ("the PIM") upon the expiry of the warrant. These reports are commonly referred to as "compliance affidavits" since they are intended to evidence compliance with the conditions imposed on the warrants, either by the legislation or by the issuing judge. Section 357 of the Act specifies the information that must be included in these reports.

If a warrant is varied, extended or revoked, further documents must be kept as specified by section 359 of the *PPRA*.

Prior to the commencement of the cross-border amendments, the CMC's Records Management section prepared a schedule or a checklist of documents required to be retained for each warrant under the *C&M Act* and the *PPRA*. These schedules were used to follow up any outstanding paperwork (including internal documentation) relating to warrants to ensure that the records were complete. The schedule for *PPRA* surveillance device warrants has since been re-drafted to include the documents prescribed under section 359 of the *PPRA*.

The schedules or checklists appear to be operating most effectively since all the documentation prescribed by section 359 of the *PPRA* for each surveillance device warrant and retrieval warrant was located on the registers.

Section 360 - Other records to be kept

Section 360 of the *PPRA* lists other information and records that must be kept in relation to surveillance device warrants, retrieval warrants and emergency authorisations, namely:

- (a) *a statement as to whether each application made by a law enforcement officer of the agency for a warrant, or variation, extension or revocation of a warrant, was granted, refused or withdrawn;*
- (b) *a statement as to whether each application made by a law enforcement officer of the agency for an emergency authorisation, or for approval of powers exercised under an emergency authorisation, was granted, refused or withdrawn;*
- (c) *details of each use by the agency, or by a law enforcement officer of the agency, of information obtained by the use of a surveillance device by a law enforcement officer of the agency;*
- (d) *details of each communication by a law enforcement officer of the agency to a person other than a law enforcement officer of the agency of information obtained by the use of a surveillance device by a law enforcement officer of the agency;*
- (e) *details of each occasion when, to the knowledge of a law enforcement officer of the agency, information obtained by the use of a surveillance device by a law enforcement officer of the agency was given in evidence in a relevant proceeding as defined in section 351;*
- (f) *details of the destruction of records or reports under section 354(1)(b).*

The information about applications for warrants and variations mentioned in subsection (a) was recorded in the CMC's warrants registers. No extensions or revocations were sought by the CMC in the period covered by this inspection. No emergency authorisations for the use of surveillance devices, referred to in subsection (b), were sought during the period covered by the inspection.

The details required to be kept pursuant to subsections (c), (d) and (e) are maintained on a schedule entitled "Records to be Kept of Listening Device Product".⁴ The CMC retained a copy of these schedules for each operation, updated for each surveillance device warrant, in compliance with section 360 of the Act. The schedules are either retained by the Principal Legal Officer involved with the operation or kept with the other documents on the hard copy part of the warrants register.

⁴ In fact, during the period covered by this inspection the CMC obtained only limited information by the use of surveillance devices.

Section 354 - Dealing with records obtained by use of surveillance devices

Pursuant to section 354(1)(a) of the *PPRA* the Chairperson must ensure that every record or report obtained by the use of surveillance device warrants is kept in a secure place that is not accessible to persons not entitled to deal with the record or report.

The CMC's Records Management section is a secure environment with effective access procedures in place to protect the security of the surveillance device records. The records themselves are stored in locked cabinets, the key to which is kept within another locked receptacle accessible only by the manager of the section.

Section 354(1)(b) deals with the destruction of records or reports obtained by the use of surveillance device warrants once they are no longer required by the CMC. As at the time of my inspection the CMC had no such records or reports ready for destruction. All are still, or may be, needed for the purposes of prosecutions arising from the operations.

OVERVIEW OF WARRANTS OBTAINED

During the period covered by this inspection the CMC sought eight surveillance device warrants pursuant to section 328 and a variation to one of those warrants pursuant to section 333 of the *PPRA*. In my view, sufficient grounds existed to justify the CMC's decision to seek the warrants in each case. None of the CMC's applications for surveillance device warrants or for the variation was refused.

All the surveillance device warrants were obtained by the CMC in the context of two closely related crime investigations conducted pursuant to the CMC's Freshnet reference targeting established criminal networks engaged in the trafficking, production and possession of dangerous drugs.

Two of the surveillance device warrants related to the dwellings and three to the motor vehicles of targets of the operations. Due to operational and other considerations, two of these warrants were not able to be executed. The CMC also obtained three warrants in respect of stated persons.

Four of the surveillance device warrants were discontinued in accordance with section 335 of the *PPRA* after the arrest of targets. Another was discontinued after the surveillance device malfunctioned. The remaining three warrants were still operational at the time of my inspection.

The CMC also sought and obtained three retrieval warrants pursuant to section 336 of the *PPRA*. These related to devices installed pursuant to surveillance device warrants obtained during the period covered by my previous inspection.

As stated above, no emergency authorisations for the use of surveillance devices were sought by the CMC during the period covered by the inspection.

To assist in my task of deciding the extent of the CMC's compliance with the provisions of Chapter 13 of the *PPRA*, checklists have been formulated against which the records for each warrant are assessed. The checklists for surveillance device warrants extend to more than 100 questions over 13 pages covering all relevant sections of Chapter 13 and section 668 of the *PPRA*.

Amongst the records that were inspected were the section 357 reports ("compliance affidavits") prepared for each surveillance device warrant and retrieval warrant obtained by the CMC. The CMC's compliance affidavits use bold headings which correspond with the information that must

be contained in the report to the PIM pursuant to section 357 subsections (4) and (5) of the *PPRA*. I have found the information set out under these headings in the compliance affidavits to be of great assistance in the performance of the task of deciding the extent of compliance with Chapter 13 of the Act.

Section 328 - Application for surveillance device warrant

Section 336 - Application for retrieval warrant

These sections state the preconditions for an application for a warrant, to whom an application may be made and the form and content of an application. Both sections require that the applicant notify the Public Interest Monitor of the application. Section 328 also imposes a requirement that the application fully disclose all matters of which the applicant is aware, both favourable and adverse to the issuing of the surveillance device warrant.

All applications for surveillance device warrants complied with the provisions of section 328 of the *PPRA* in all respects. Similarly, all applications for retrieval warrants complied with the provisions of section 336 of the *PPRA* in all respects.

Section 331 - What must a surveillance device warrant contain

Section 339 - What must a retrieval warrant contain

These sections set out in some detail the form of, and the particular information that must be stated in, surveillance device and retrieval warrants. Draft copies of the warrants are prepared by the CMC and presented to the court at the application so the responsibility to fully comply with the detailed provisions of these sections rests with the CMC.

In my previous inspection, typographical errors were noted in four surveillance device warrants and I observed in my report that more care needed to be taken in the drafting of these warrants - which should be entirely without defects.

I can report that the eight surveillance device warrants and the three retrieval warrants obtained in the period covered by this inspection complied with the provisions of sections 331 and 339 of the *PPRA* (respectively) in all respects.

Section 333 - Extension and variation of surveillance device warrant

Section 333 states to whom an application for variation of a surveillance device warrant may be made and the form and content of an application. Effectively, the form and content of an application for variation is the same as that of the initial application for the warrant.

Only one application for variation of a surveillance device warrant was made by the CMC in the period covered by this inspection. The variation was sought in an effort to facilitate the execution of the previously issued surveillance device warrant. Ultimately, the warrant could not be executed even with the approved variation and was subsequently discontinued.

The application for variation of the surveillance device warrant complied with the provisions of section 333 of the *PPRA* in all respects.

Section 335 - Discontinuance of use of surveillance device under warrant

Section 335 of the *PPRA* sets out the procedures to be adopted for the discontinuance of the use of surveillance devices under warrants. According to section 335:

- (2) *If the senior officer to whom the warrant is issued, or the law enforcement officer who is primarily responsible for executing the warrant, believes that the use of a surveillance device under the warrant is no longer necessary for the purpose of enabling evidence to be obtained of the commission of the relevant offence or the identity or location of the offender, the officer must inform the chief executive officer of the law enforcement agency immediately.*
- (3) *If the chief executive officer of the law enforcement agency is satisfied, whether because of subsection (2) or otherwise, that the use of a surveillance device under the warrant is no longer necessary for the purpose of enabling evidence to be obtained of the commission of the relevant offence or the identity or location of the offender, the chief executive officer—*
 - (a) *must take the steps necessary to ensure that the use of the surveillance device authorised by the warrant is discontinued as soon as practicable; and*
 - (b) *must give written notice of that fact to the public interest monitor.*

My previous inspection of the CMC's records pursuant to section 362 of the *PPRA* identified eight instances where there was less than full compliance with these procedures for the formal discontinuance of the use of surveillance devices authorised by the warrants. In these eight instances, the surveillance devices were removed from the various premises soon after it became apparent that the use of the devices was no longer necessary for the purpose of obtaining evidence. Thus, in effect, all necessary steps were taken to ensure that the use of the surveillance devices authorised by the warrants was discontinued, but there was less than full compliance with the formal procedures in section 335 of the *PPRA*. The Chairperson therefore instructed CMC legal officers involved in applications under Chapter 13 of the *PPRA* to adopt the section 335 procedures when applicable, even if all devices installed at the relevant premises have already been removed.

In this inspection I noted that the Chairperson's instruction appears to have been most effective. There were five instances where the use of surveillance devices under surveillance device warrants was no longer necessary for the purpose of enabling evidence to be obtained of the commission of relevant offences or the identity or location of the offenders. In each case, the CMC officer to whom the warrant was issued or the officer primarily responsible for executing the warrant immediately notified the Chairperson that the use of a surveillance device under the warrant was no longer necessary. Written directions from the Chairperson to the Operations Coordinator and the Team Leaders pursuant to section 335(3)(a) and copies of the Chairperson's written notices to the PIM pursuant to section 335(3)(b) of the *PPRA* were located on the register. In short, there was full compliance with the provisions of section 335 of the *PPRA*.

Section 357 - Report to judge or magistrate

Section 357 of the *PPRA* states that:

- (1) *A law enforcement officer to whom a warrant is issued, or who is primarily responsible for executing a warrant issued, under this chapter must make a report as required under this section*
- (2) *The report must be made to the judge or magistrate who issued the warrant or to the public interest monitor as stated in the warrant.*

(3) *The report must be made—*

(a) *within the time stated in the warrant; or*

(b) *if the warrant is revoked before the end of the time stated in the warrant – as soon as practicable after the warrant is revoked and within the time stated in the warrant.*

Subsections (4) and (5) set out the detailed information that must be contained in the reports about surveillance device warrants and retrieval warrants respectively. These reports are mandatory, and invariably, the terms of surveillance device warrants and retrieval warrants issued to the CMC state that the reports are to be supplied to the PIM in the form of a sworn affidavit, commonly known as a “compliance affidavit”.

The compliance affidavits for all surveillance device and retrieval warrants obtained by the CMC and finalised in the period covered by this inspection were examined to decide the extent of compliance with the provisions of section 357. All section 357 reports (compliance affidavits) were provided to the PIM within the correct time and contained the required information.

CONCLUSIONS

The CMC has fully complied with its obligations pursuant to Chapter 13 of the *PPRA* in the manner in which the registers are maintained.

The registers recorded all the information prescribed by section 668 of the *PPRA* in respect of all surveillance device warrants sought up to the date of my inspection.

All the documentation prescribed by section 359 of the *PPRA* for each surveillance device warrant and retrieval warrant was located on the registers.

The information about applications for warrants and variations mentioned in section 360(a) was recorded in the CMC's warrants registers. The CMC maintained schedules of the other information required by section 360 of the Act for each operation, updated for each surveillance device warrant.

The CMC's records and reports obtained by use of surveillance devices are kept in a secure environment with effective access procedures in place. The records are not accessible to people who are not entitled to deal with them.

All applications for surveillance device warrants complied with the provisions of section 328 of the *PPRA* in all respects. Similarly, all applications for retrieval warrants complied with the provisions of section 336 of the *PPRA* in all respects.

The eight surveillance device warrants and the three retrieval warrants obtained in the period covered by this inspection complied with the provisions of sections 331 and 339 of the *PPRA* (respectively) in all respects.

The sole application for variation of a surveillance device warrant complied with the provisions of section 333 of the *PPRA* in all respects.

There was full compliance with the procedures pursuant to section 335 of the *PPRA* for the formal discontinuance of the use of surveillance devices authorised by surveillance device warrants.

All section 357 reports (compliance affidavits) were provided to the PIM within the correct time and contained the required information.