



**CORRUPTION  
AND CRIME  
COMMISSION**

**CORRUPTION AND CRIME COMMISSION  
OF WESTERN AUSTRALIA**

***CRIMINAL INVESTIGATION (COVERT POWERS)  
ACT 2012 ANNUAL REPORT  
1 JULY 2014 - 30 JUNE 2015***

**AUSTRALIAN CRIME COMMISSION**

**REPORT FOR MINISTER FOR POLICE**

**30 November 2015**



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## EXECUTIVE SUMMARY

- [1] Part 2 of the *Criminal Investigation (Covert Powers) Act 2012* ("the CICIP Act") facilitates criminal investigation and intelligence-gathering in relation to criminal activity by providing for authorisation, conduct and monitoring of covert law enforcement controlled operations.
- [2] Controlled operations are law enforcement operations that involve or may involve controlled conduct to target criminal activity. Controlled conduct is conduct for which a person would be criminally responsible if the person were not protected by a controlled operation authority.
- [3] The CICIP Act permits the granting of authorities to conduct controlled operations to the Western Australian Police, Department of Fisheries (WA) and the Australian Crime Commission ("ACC"). The CICIP Act also provides civil indemnification when certain criteria are met.
- [4] The CICIP Act enables the Commissioner of Police, Chief Executive Officer or delegate of a prescribed law enforcement agency to authorise the conduct of a controlled operation for a relevant offence. This includes:
  - (a) *an offence against the law of this jurisdiction punishable by imprisonment for 3 years or more; or*
  - (b) *an offence not covered by paragraph (a) that is prescribed for the purposes of this definition, being an offence under any of the following Acts-*
    - (i) *the Classification (Publications, Films and Computer Games) Enforcement Act 1996;*
    - (ii) *The Criminal Code;*
    - (iii) *the Firearms Act 1973;*
    - (iv) *the Fish Resources Management Act 1994;*
    - (v) *the Misuse of Drugs Act 1981;*
    - (vi) *the Prostitution Act 2000;*
    - (vii) *the Weapons Act 1999.*
- [5] The Corruption and Crime Commission ("the CCC") is required to inspect the records of each agency at least once every 12 months to determine the extent of compliance with Part 2 of the CICIP Act by the agency and law enforcement officers of the agency.
- [6] This report sets out the result of those inspections for the ACC during the period 1 July 2014 to 30 June 2015.
- [7] Previous Annual Reports produced by the CCC were produced from a compliance perspective. The CCC has since widened its scope of

consideration of agency controlled operation records. The modified approach gives consideration to all aspects of Part 2 of the CICIP Act and considers if an authority to engage in controlled conduct has been exercised in conformity with statutory criteria, is reasonable, necessary, proportionate and justified. The CCC also considers whether the conduct of the controlled operation was consistent with the authorisation and in compliance with the legislation.

- [8] The ACC did not complete any controlled operations under the CICIP Act during this reporting period.

## **CHAPTER ONE ANNUAL REPORT BY THE CCC**

- [1] The CACP Act (s. 38) requires the CCC to prepare a report of the work and activities of the law enforcement agencies in respect to controlled operations for the preceding 12 months, as soon as practicable after 30 June each year.
- [2] The CCC is required to provide the Minister and the Chief Officer of each law enforcement agency with a copy of the report.
- [3] The report must include, for each law enforcement agency concerned, comments by the CCC on the comprehensiveness and adequacy of the Chief Officer reports which are required to be submitted to the CCC twice a year.
- [4] The Chief Officer of each agency must advise the Minister of any information in the CCC Annual Report that, in the Chief Officer's opinion, should be excluded before the report is laid before each House of Parliament because the information, if made public, could be reasonably expected to:
  - endanger a person's safety; or
  - prejudice an investigation or prosecution; or
  - compromise any law enforcement agency's operational activities or methodologies.
- [5] If the Minister is satisfied as to the grounds for exclusion of material from the report, the Minister must exclude the information and insert a statement to the effect that information has been excluded from the report.
- [6] The Minister is to cause a copy of the report to be laid before each House of Parliament within 15 sitting days of receipt of the report.
- [7] A copy of this report was provided to the Office of the Minister for Police on 30 November 2015.

## **CHAPTER TWO THE WORK AND ACTIVITIES OF THE ACC**

- [8] No controlled operations were authorised under WA legislation during this reporting period.
- [9] No controlled operations were refused authority under WA legislation during this reporting period.
- [10] No controlled operations were completed under WA legislation during this period.
- [11] The ACC did not apply for any retrospective authorities under WA legislation.

### **2.1 Chief Officer Reports**

- [12] Pursuant to the CICIP Act (s. 37), the Chief Officer of the ACC is required to submit a report to the CCC as soon as practicable after 30 June and 31 December each year, setting out the following details in relation to controlled operations conducted by the agency during the previous six months:
  - the number of formal and urgent authorities granted or varied by the Authorising Officer for the agency;
  - the number of formal and urgent applications for the granting or variation of authorities that have been refused by the Authorising Officer for the agency;
  - the number of authorities cancelled by the Authorising Officer for the agency, or that have expired;
  - the nature of the criminal activities against which the authorised operations were directed;
  - the nature of the controlled conduct engaged in for the purposes of the authorised operations;
  - if illicit goods were involved, the nature and quantity of the goods and the route through which the goods passed;
  - any loss or serious damage to property or any personal injuries occurring in the course of or as a direct result of the authorised operations;
  - any seizure, arrest and prosecution arising from the authorised operations; and
  - the operations must be classified into cross-border controlled operations and local controlled operations.

- [13] The Chief Officer report must not disclose any information that identifies any suspect or participant in an authorised operation or that is likely to lead to such a person being identified.
- [14] The CCC received two Chief Officer Reports on 16 January 2015 and 8 September 2015.
- [15] In accordance with the CICIP Act (s. 38(5)), the CCC must comment on the comprehensiveness and adequacy of the reports provided by the Chief Officer of each law enforcement agency pursuant to the CICIP Act (s. 37).
- [16] The Chief Officer reports for the ACC were in compliance with the CICIP Act. The ACC reported that the agency exercised powers under Commonwealth controlled operation legislation and not Western Australia legislation.



## **CHAPTER THREE OUTCOME OF INSPECTIONS**

### **3.1 Agency General Register**

- [17] Law enforcement agencies are required by the CICIP Act (s. 40(1)) to maintain a general register. The CICIP Act (s. 40(2)) specifies the details the general register is to contain in respect of each application made under Part 2 of the CICIP Act, each authority granted, and each variation of authority.
- [18] As the ACC did not complete any controlled operations during this reporting period, the CCC did not inspect any documents other than the ACC's general register.
- [19] The CCC is satisfied that the ACC general register is structured to fully cater for the legislative requirements set out in the CICIP Act.