

**REPORT OF THE WORK AND ACTIVITIES OF THE  
CRIME AND CORRUPTION COMMISSION  
UNDER CHAPTER 11 OF THE  
*POLICE POWERS AND RESPONSIBILITIES ACT 2000***

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PARLIAMENTARY CRIME AND  
CORRUPTION COMMITTEE



**OFFICE OF THE  
PARLIAMENTARY CRIME AND CORRUPTION COMMISSIONER**

**1 OCTOBER 2019**

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## INTRODUCTION

1. This is a report pursuant to s.269(1) of the *Police Powers and Responsibilities Act 2000 (PPRA)* on the controlled operations work and activities of the Crime and Corruption Commission (CCC) under Chapter 11 of the *PPRA*. This is the thirteenth such report and it covers the period from 1 July 2018 to 30 June 2019 (the reporting period).<sup>1</sup> A copy of this report is provided to the CCC Chairperson and the Chair of the Parliamentary Crime and Corruption Committee.
2. Controlled operations are operations conducted by law enforcement agencies for the purpose of obtaining evidence that may lead to the prosecution of persons for criminal offences attracting seven or more years' imprisonment or for other criminal offences specified in Schedule 2 of the *PPRA*. Controlled operations may involve conduct on the part of authorised persons for which the authorised person would otherwise be criminally responsible ("controlled conduct").<sup>2</sup> The authorised person is not criminally responsible for the conduct if the conduct comes within the protections provided by s.258 or s.265 of the *PPRA*.
3. Essentially, Chapter 11 of the *PPRA* is a code for the regulation of controlled operations conducted by law enforcement agencies. The CCC is a law enforcement agency for the purposes of Chapter 11.<sup>3</sup>
4. According to s.228 of the *PPRA*, the main purposes of Chapter 11 are:
  - (a) *to provide for the authorisation, conduct and monitoring of controlled operations, including operations conducted in this and 1 or more other jurisdictions, for the purpose of obtaining evidence that may lead to the prosecution of persons for particular offences and that involve or may involve conduct for which participants in the operation would, apart from this chapter, be criminally responsible; and*
  - (b) *to facilitate the recognition of things done in relation to controlled operations authorised under laws of other jurisdictions corresponding to this chapter; and*
  - (c) *to ensure, as far as practicable, only appropriately trained persons may act as participants in authorised operations; and*
  - (d) *to ensure a person who may act as a participant in an authorised operation engages in otherwise unlawful activities only as part of the authorised operation; and*
  - (e) *to provide appropriate protection from civil and criminal liability for persons acting under this chapter; and*
  - (f) *to clarify the status of evidence obtained by participants in authorised operations.*

<sup>1</sup> Pursuant to s.138(2) of the *Crime and Corruption Act*, the Controlled Operations Committee is required to provide the Chair of the Parliamentary Crime and Corruption Committee with an equivalent annual report in respect of controlled operations conducted by the CCC in the course of investigations of corruption offences.

<sup>2</sup> S.229 of the *PPRA* defines "controlled conduct" as conduct for which a person would, apart from s.258 or s.265, be criminally responsible. Ss.258 and 265 absolve from criminal responsibility authorised participants who, in the course of, and for the purposes of, authorised operations engage in conduct that would otherwise constitute criminal offences.

<sup>3</sup> See Schedule 6 of the *PPRA* definition of *law enforcement agency* subs.(a) for Chapter 11.

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5. The controlled operations provisions in Chapter 11 of the *PPRA* apply to the CCC's major crime investigations only. They do not relate to corruption investigations. Provisions dealing with controlled operations for the investigation of corruption offences are contained in Chapter 3 Part 6A of the *Crime and Corruption Act 2001*.<sup>4</sup>

6. S.269(1) of the *PPRA* requires that:

*The report entity for a law enforcement agency must, as soon as practicable after 30 June in each year, prepare a report of the work and activities of the law enforcement agency under this chapter [Chapter 11] for the preceding 12 months.*

S.229 of the *PPRA* defines the report entity for the CCC to be the Parliamentary Crime and Corruption Commissioner.

7. Pursuant to s.268(1) of the *PPRA*:

*As soon as practicable after 31 March and 30 September in each year, the chief executive officer<sup>5</sup> of each law enforcement agency must give a report to the report entity for the agency stating the details required by subsection (2) for authorised operations conducted on behalf of the agency during the preceding 6 months.*

8. On 31 October 2018 the CCC Chairperson, Mr Alan MacSporran QC, provided his report pursuant to s.268 addressing the controlled operations activity undertaken by the CCC pursuant to its major crime function during the period from 1 April to 30 September 2018.

9. On 3 May 2019 Mr MacSporran QC provided his report addressing the controlled operations activity undertaken by the CCC pursuant to its major crime function during the period from 1 October 2018 to 31 March 2019.

10. I have used information provided in these reports and information obtained during an inspection of the CCC's records to prepare this report.

11. By virtue of s.272 of the *PPRA*, the Parliamentary Crime and Corruption Commissioner must inspect the CCC's records, at least annually, to ascertain the extent of the CCC's compliance with the controlled operations provisions and the requirements relating to registers. There is no requirement that a report be prepared of the results of this inspection. In conducting the inspection, I am able to ascertain the details of the work and activities of the CCC under Chapter 11 for the period up to 30 June. This enables me to complete my report of the work and activities of the CCC under Chapter 11 of the *PPRA* for the entire preceding 12 months.

12. On 20 August 2019 I provided the CCC with notification of my inspection of the Controlled Operations records pursuant to s.272(2)(a) of the *PPRA*. The inspection was conducted on 20 August 2019.

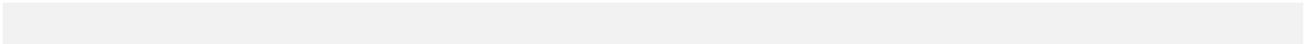
13. I acknowledge the co-operation provided by the Chairperson and staff of the CCC in facilitating the inspection. Full and unrestricted access has been provided to all records of the CCC relevant to the inspection and all requests for information and assistance have been promptly answered.

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<sup>4</sup> See Chapter 3, Part 6A, ss.132 to 146N of the *Crime and Corruption Act 2001*.

<sup>5</sup> Schedule 6 of the *PPRA* defines the chief executive officer of the CCC to be the CCC Chairperson.

**OVERVIEW OF AUTHORITIES IN THE REPORTING PERIOD**

14. No authorities for Controlled Operations were operational in reporting period.
  15. The last active authority to conduct a Controlled Operation was Operation Endemic V. That authority was varied on 27 February 2018 to extend the period of validity of the authority for a further period of approximately four months. The authority expired on 30 June 2018 - the last day of the previous reporting period. No other authorities for Controlled Operations were operational at that time.
  16. No formal authorities for Controlled Operations were granted in the reporting period.
  17. No formal applications for authorities or variation of authorities were made in the reporting period.
  18. No urgent applications for authorities or variation of authorities were made in the reporting period.
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**WORK AND ACTIVITIES OF THE CCC UNDER CHAPTER 11 *PPRA***

19. The CCC's only activity under Chapter 11 in the 2018-19 financial year was the preparation of Principal Law Enforcement Officer's Reports for Operation Endemic V and Operation Tabloid.
20. The Controlled Operations authority for Operation Tabloid expired on 19 June 2018. The authority for Operation Endemic V expired on 30 June 2018.
21. The Principal Law Enforcement Officer's report for Operation Tabloid was provided to the CCC Chairperson on 26 July 2018. The Principal Law Enforcement Officer's report for Operation Endemic V was provided to the CCC Chairperson on 23 August 2018. Both of those reports were inspected during the previous inspection on 5 and 6 December 2018 and checked again during this year's inspection on 20 August 2019.

## CONCLUSIONS

34. As stated above, on 31 October 2018 the CCC Chairperson, Mr MacSporran QC, provided his report pursuant to s.268 of the *PPRA* addressing the controlled operations activity undertaken by the CCC pursuant to its major crime function during the period from 1 April to 30 September 2018. The report was comprehensive and adequate.
35. On 3 May 2018 Mr MacSporran QC provided his report addressing the controlled operations activity undertaken by the CCC pursuant to its major crime function during the period from 1 October 2018 to 31 March 2019. This report was brief but adequate since no controlled operations activity occurred during that period.
36. The inspection of the CCC's controlled operations records conducted on 20 August 2019 verified the information provided in the Chairperson's reports concerning the CCC's controlled operations work and activities for the reporting period.
37. I am satisfied that the CCC has complied with the controlled operations provisions of the *PPRA* and the requirements relating to registers.