

# Annual Report 2023–24

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Office of the Inspector of the Law Enforcement Conduct  
Commission

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## Acknowledgement of Country

The Office of the Inspector of the Law Enforcement Conduct Commission acknowledges the Traditional Custodians of the lands where we work and live. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW.

We pay our respects to Elders past, present and emerging and acknowledge the Aboriginal and Torres Strait Islander people.

Annual Report 2023–24

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Office of the Inspector of the  
Law Enforcement Conduct Commission



Ref: AD03-2425/A6163225

31 October 2024

The Hon Ben Franklin, MLC  
President  
Legislative Council  
Parliament House  
Sydney NSW 2000

The Hon Greg Piper, MP  
Speaker  
Legislative Assembly  
Parliament House  
Sydney NSW 2000

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Re: Annual Report 2023–24

Dear Mr President and Mr Speaker

As required by s 141 of the *Law Enforcement Conduct Commission Act 2016* (LECC Act), I furnish to each of you my annual report as the Inspector of the Law Enforcement Conduct Commission for the year ended 30 June 2024.

Pursuant to ss 142(2) and 145(4) of the LECC Act, I recommend that the report be made public immediately.

Sincerely

A handwritten signature in blue ink that reads "B. R. McClintock".

**Bruce McClintock SC**  
Inspector, Law Enforcement Conduct Commission

# Contents

<b>Introduction to this annual report under the LECC Act.....</b>	<b>1</b>
1.1 Foreword – from the Inspector.....	2
<b>Office administration.....</b>	<b>3</b>
2.1 Premises.....	4
2.2 Our employees .....	4
2.2.1 Our organisational structure.....	4
2.3 Budget and finance.....	4
2.4 Website.....	5
<b>Role of the Inspector .....</b>	<b>6</b>
3.1 Functions of the Inspector.....	7
3.2 Powers of the Inspector.....	7
<b>Annual reports prepared under other legislation .....</b>	<b>9</b>
4.1 Government Information (Public Access) Act 2009 (NSW) .....	10
4.2 Public Interest Disclosures Act 1994 (NSW) and Public Interest Disclosures Act 2022 (NSW).....	10
4.2.1 What is a public interest disclosure?.....	10
4.2.2 Legislative changes.....	10
4.3 Telecommunications (Interception and Access) Act 1979 (Cth).....	11
4.4 Other legislation.....	11
<b>The Inspector’s inspection functions and the Secure Monitoring Unit.....</b>	<b>12</b>
5.1 Executive summary.....	13
5.1.1 Background to covert powers.....	13
5.1.2 Inspector’s inspection functions.....	13
5.1.3 Secure Monitoring Unit’s functions.....	13
5.1.4 Summary of work and findings of the Inspector and the SMU for the period 1 July 2023 to 30 June 2024.....	13
5.2 Performance of the inspection functions.....	15
5.2.1 Inspection functions .....	15
5.2.2 Audit methodology.....	16
5.2.3 Notification of outcome .....	16
5.2.4 Telecommunications (Interception and Access) (New South Wales) Act 1987.....	17
5.2.5 Surveillance Devices Act 2007 (NSW) .....	18
5.2.6 Law Enforcement (Powers and Responsibilities) Act 2002 – covert search warrants.....	18
5.2.7 Law Enforcement (Powers and Responsibilities) Act 2002 – criminal organisation search warrants.....	19
5.2.8 Law Enforcement (Controlled Operations) Act 1997 .....	20

<b>The Inspector’s principal functions and the LECC</b> .....	<b>21</b>
6.1 Preliminary observations.....	22
6.2 Liaison and communication.....	22
6.3 The complaint handling function.....	22
6.4 The remaining functions – auditing the operations of the Commission and assessing its policies and procedures.....	24
6.5 Legal developments.....	25
6.5.1 Commissioner of Police v Attorney General for New South Wales [2023] NSWCA 150.....	25
6.5.2 ICAC and LECC Legislation Amendment Act 2023 (NSW).....	25
6.5.3 Telecommunications (Interception and Access) Act 1979 (Cth).....	25
<b>Conclusion</b> .....	<b>26</b>
7.1 Conclusion.....	27
<b>Appendices</b> .....	<b>28</b>
Appendix A: Annual report on the Inspector’s obligations under the Government Information (Public Access) Act 2009.....	29
Appendix B: Annual Report on the Inspector’s obligations under the Public Interest Disclosures Act 1994 and Public Interest Disclosures Act 2002.....	34

# 1

## Introduction to this annual report under the LECC Act

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## 1.1 Foreword – from the Inspector

This is my annual report as Inspector of the Law Enforcement Conduct Commission (the Commission) for the year ended 30 June 2024 as required by s 141 of the *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act). This section requires me to prepare a report of the Inspector's operations during the year ended 30 June each year and to furnish the report to the Presiding Officer of each House of Parliament. Pursuant to ss 142(2) and 145(4) of the LECC Act, I recommend that it be made public immediately.

The LECC commenced operation on 1 July 2017. It was established to replace the Police Integrity Commission (PIC), the Police Compliance Branch of the NSW Ombudsman and the Inspector of the Crime Commission, which ceased operation on 30 June 2017. At the same time, the Office of the Inspector of the PIC also ceased to exist and the Office of the Inspector of the LECC (the Office) came into existence.

Under s 120 of the LECC Act, the Governor, on the advice of the Executive Council, appoints the Inspector. The legislation empowers the Parliamentary Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission (the Joint Committee) to veto the proposed appointment.

As well as creating the Office, s 128 of the LECC Act provides for the employment of staff who may be referred to as 'members of staff of the Inspector'. The Inspector, together with such staff, constitutes the Office.

This report relates to the second year of my term as Inspector of the Office. My 5-year term commenced on 1 July 2022 and will, therefore, end no later than 30 June 2027. It is on a part-time basis.

# 2

## Office administration



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## 2.1 Premises

The Office shares premises with the Office of the Inspector of the Independent Commission Against Corruption (OIICAC).

The contact details for the Office are:

**Postal address:** GPO Box 5341, Sydney NSW 2001

**Telephone:** (02) 9228 3023

**Email:** [oilc\\_executive@oilc.nsw.gov.au](mailto:oilc_executive@oilc.nsw.gov.au)

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## 2.2 Our employees

The Office has personnel with specialised legal and/or compliance skills. As it oversees the Law Enforcement Conduct Commission (the Commission), it has a policy of not employing serving or former sworn NSW Police Force (NSWPF) or NSW Crime Commission (NSWCC) officers.

### 2.2.1 Our organisational structure

During the reporting period, the Office's structure consisted of an Inspector, who is an independent statutory officer appointed by the Governor on the advice of the Executive.

From 1 July 2023 to 10 June 2024, the Inspector had 3 staff who worked in the Secure Monitoring Unit (SMU). The unit consisted of a full-time senior compliance officer and 2 full-time compliance officers.<sup>1</sup>

The Inspector had 4 staff in the unit from 11 June 2024 to 30 June 2024: one full-time senior compliance officer, one part-time senior compliance officer and 2 full-time compliance officers.

The Inspector also shared 2 staff with the Inspector of the Independent Commission Against Corruption (ICAC), comprising a Principal Legal Advisor and a Business Coordinator.

From 1 July 2023, the Inspector's staff were employed by the Premier's Department due to machinery of Government changes.

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## 2.3 Budget and finance

During the reporting period, the Office was a cost centre within the NSW Premier's Department.

Its budgeted expenditure for the financial year from 1 July 2023 to 30 June 2024 was \$997,000.00. Its actual expenditure for that period was \$764,810.00, compared to an actual expenditure of \$679,769.00 in the previous financial year.

Inspector McClintock SC is paid in accordance with the Attorney-General's daily rates for senior counsel, which is currently \$5,217.74. The annual salary cap is calculated at 60% of the annual remuneration of the Chief Commissioner of the Commission.

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<sup>1</sup> One of the compliance officers commenced in the unit in February 2024.

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## 2.4 Website

The Office manages its own website (<https://www.oilecc.nsw.gov.au/>) with the support of the Premier's Department.

The website is reviewed and updated on a continuing basis and contains the Inspector's reports tabled in Parliament, the Office's policies, information about the Inspector's functions and powers, and contact information for the Office.

# 3

## Role of the Inspector

## 3.1 Functions of the Inspector

Section 122(2) of the LECC Act sets out the principal functions of the Inspector, which are to:

- audit the operations of the Commission for the purpose of monitoring compliance with the law of the State
- deal with (by reports and recommendations) conduct amounting to agency maladministration on the part of the Commission and conduct amounting to officer misconduct or officer maladministration on the part of officers of the Commission, whether or not the subject of a complaint (this function also extends to former officers)
- assess the effectiveness and appropriateness of the policies and procedures of the Commission relating to the legality or propriety of its activities.

Section 123(1) of the LECC Act permits the functions of the Inspector to be exercised on the Inspector's own initiative, at the request of the Minister, in response to a complaint made to the Inspector or misconduct information of which the Inspector becomes aware, or in response to a reference by the Joint Committee or by the Ombudsman, the ICAC, the Crime Commission, or any other government agency or member of a government agency. The Inspector is not subject to the Commission in any respect (s 123(2) of the LECC Act).

Section 122(1) of the LECC Act provides that the Inspector has the functions conferred or imposed on the Inspector by or under the LECC Act or any other Act. Various items of NSW legislation that deal with the use of covert investigative powers that are exercised by certain investigative and law enforcement agencies also confer functions on the Inspector, including the:

- *Telecommunications (Interception and Access) (New South Wales) Act 1987* (NSW) (NSW TIA Act)
- *Surveillance Devices Act 2007* (NSW) (SD Act)
- *Law Enforcement (Controlled Operations) Act 1997* (NSW) (LECO Act)
- *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) (LEPRA) (limited to criminal organisation search warrants and covert search warrants issued under Part 5).

The Inspector performs the functions of an inspecting officer under the above legislation. The performance of these functions during the reporting period is dealt with in section 5 of this report.

## 3.2 Powers of the Inspector

Section 124(1) of the LECC Act empowers the Inspector to:

- investigate any aspect of the Commission's operations or any conduct of its officers
- require officers of the Commission to supply information or produce documents or other things about any matter, or any kind of matter relating to its operations, or any conduct of its officers
- require officers of the Commission to attend before the Inspector to answer questions or produce documents or other things relating to the Commission's operations or any conduct of its officers
- investigate and assess Commission misconduct matters
- refer matters relating to the Commission or its officers to other agencies for consideration or action
- recommend disciplinary action or criminal prosecution against officers of the Commission.

The Inspector is entitled to full access to Commission records and to take or have copies made of them (s 124(2) of the LECC Act).

The Inspector has the power to make a special report to the Presiding Officer of each House of Parliament on any matters affecting the Commission, including, for example, its operational

effectiveness or needs, any administrative or general policy matter relating to the functions of the Inspector, any other matter relating to the exercise of a function to audit, deal with or assess any matter under s 122 (Functions of Inspector) that the Inspector considers warrants the making, in the public interest, of a special report (s 140 Part 11 of the LECC Act).

Section 124(4) provides that without affecting the power of the Inspector to make a report under Part 11, the Inspector may at any time:

- make a recommendation or report concerning any matter relating to the functions of the Inspector under this section that the Inspector considers may effectively be dealt with by recommendation or report under this section
- provide the report or recommendation (or any relevant part of it) to the Commission or an officer of the Commission, a person who made a complaint or any other affected person.

Sections 124(5)- (6) grant further powers to the Inspector in respect of such reports and recommendations, including the power to require the Commission to provide to the Inspector, within a reasonable timeframe specified by the Inspector, advice as to whether it intends to implement the recommendation and, if not, the reasons for not doing so.

Section 126(1) of the LECC Act empowers the Inspector to make or hold inquiries. Section 126(2) confers the Inspector with the same powers, authorities, protections and immunities as are conferred on a Commissioner by the *Royal Commissions Act 1923* (NSW) (Royal Commissions Act). Any witness summoned by or appearing before the Inspector also has the benefit of protection and immunities in the same way as under the Royal Commissions Act.

The Inspector has incidental powers under s 127 of the LECC Act to do all things necessary to be done, in connection with, or reasonably incidental to, the exercise of the Inspector's functions.

4

Annual reports prepared  
under other legislation

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## 4.1 Government Information (Public Access) Act 2009 (NSW)

The object of the *Government Information (Public Access) Act 2009* (NSW) (GIPA Act), as set out in s 3, is in general terms to:

- authorise and encourage the proactive public release of government information by agencies
- give members of the public an enforceable right to access government information
- provide that access to government information is restricted only when there is an overriding public interest against disclosure.

The GIPA Act provides that an agency must make government information that is open access information publicly available unless there is an overriding public interest against disclosure of the information. The Office's open access information is available on its [website](#).

As required by s 20 of the GIPA Act, the Office has an [Agency Information Guide](#) available on its website. It provides information about the Inspector's functions and the Office's structure.

The GIPA Act entitles members of the public to make access applications for information held by an agency. However, in respect of information held by the Inspector, it provides that a valid access application cannot be made for 'excluded information' of the Inspector relating to operational auditing, handling of misconduct matters (within the meaning of the LECC Act), and investigative and reporting functions. It also provides that there is a conclusive presumption that there is an overriding public interest against the disclosure of information held, the disclosure of which is prohibited by the LECC Act (unless the Inspector has consented to the disclosure).

Section 125 of the GIPA Act requires each agency, including the Inspector, to prepare an annual report on the performance of its obligations under the Act. The Inspector's report is set out in Appendix A.

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## 4.2 Public Interest Disclosures Act 1994 (NSW) and Public Interest Disclosures Act 2022 (NSW)

### 4.2.1 What is a public interest disclosure?

Section 13 of the *Public Interest Disclosures Act 2022* (NSW) (2022 PID Act) provides certain protections to public officials who report serious wrongdoing in the public sector. It encourages and facilitates the disclosure of:

- corrupt conduct
- serious maladministration
- privacy contraventions
- a serious and substantial waste of public money
- government information contraventions
- local government pecuniary interest contraventions.

### 4.2.2 Legislative changes

On 13 April 2022, the 2022 PID Act received assent and came into effect on 1 October 2023. It replaced the *Public Interest Disclosures Act 1994* (NSW) (1994 PID Act).

This meant there were 2 reporting periods in the last financial year:

- 1 July 2023 to 30 September 2023, by way of a report, handled in accordance with the 1994 PID Act
- 1 October 2023 to 30 June 2024, handled in accordance with the 2022 PID Act.

This new legislation introduces significant reforms as to how public interest disclosures (PIDs) are made, received and handled. It also provides a greater level of protection for the disclosure makers in comparison to the 1994 PID Act.

There are a number of obligations that are imposed on the agencies by the 2022 PID Act, including:

- training obligations by the head of the agency, disclosure officers, managers and staff
- providing an annual return to the NSW Ombudsman containing information about voluntary PIDs received for the return period
- provision of protections under the Act for disclosure makers, including:
  - making it a criminal offence to take detrimental action against a person because they have made a PID or will make a PID
  - the right to seek compensation for injury, damage or loss suffered as a result of detrimental action being taken against them
  - the ability to seek an injunction to prevent, stop or remedy a detrimental action offence.

The 2022 PID Act classifies certain agencies as ‘integrity agencies’. The Inspector is an integrity agency pursuant to s 19. This means that the Inspector is authorised under the legislation to investigate a report by the disclosure maker.

Under s 125 of the LECC Act, a public official may make a disclosure to the Inspector. Protections are available to the disclosure maker under Part 3 of the 2022 PID Act.

Section 78 of the 2022 PID Act requires each public authority, including the Inspector, to prepare an annual return on its obligations under the Act. The Inspector’s report is set out in Appendix B.

## 4.3 Telecommunications (Interception and Access) Act 1979 (Cth)

The Inspector is an ‘eligible authority’ for the purposes of the *Telecommunications (Interception and Access) Act 1979 (Cth)* (Commonwealth TIA Act). The Office provided an annual report to the Attorney-General under s 96 of the Commonwealth TIA Act, which indicated that the Inspector did not carry out any relevant activity and, therefore, had no information to disclose.

## 4.4 Other legislation

The Inspector is also required to provide annual reports with respect to inspection functions, the details of which are set out in section 5 of this annual report.



# 5

## The Inspector's inspection functions and the Secure Monitoring Unit

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## 5.1 Executive summary

### 5.1.1 Background to covert powers

It is generally well known that law enforcement agencies in Australia are constantly dealing with new criminal groups and criminal activities involving emerging technologies. Consequently, the NSW Government has passed legislation that allows certain law enforcement agencies to use covert powers to assist them to maintain order, detect and reduce crime, and improve public safety. However, controlled operations, criminal organisation search warrants, covert search warrants, surveillance devices and telecommunications interceptions can authorise steps that involve significant intrusions into the privacy of individuals. For example, a telephone interception warrant grants the power to a law enforcement agency to record and listen to a private telephone conversation between 2 individuals. A covert search warrant will allow a law enforcement officer to enter and search a premises without the occupier of the premises being aware of the search until months, and potentially years, later.

Given the intrusion into individual privacy, legislation authorising covert activities clearly specifies the requirements needed to obtain such warrants/authorisations. The legislation also imposes detailed reporting and recording obligations on law enforcement agencies that use these powers. There are also provisions pertaining to the safekeeping and destruction of any material obtained after it is no longer required for permitted purposes.

### 5.1.2 Inspector's inspection functions

The Inspector plays a significant role in the oversight of the proper use of these intrusive powers by NSW law enforcement agencies. The Inspector is tasked with regularly inspecting the records and recordkeeping of law enforcement agencies and reporting the results to Parliament or the Minister.

By allocating the Inspector inspection and reporting functions, the community is provided with assurance that the law enforcement agencies are using their intrusive powers in compliance with the terms of the legislation.

### 5.1.3 Secure Monitoring Unit's functions

Given the significant volume of work involved,<sup>2</sup> the Inspector has delegated certain inspection functions to compliance officers based in the Secure Monitoring Unit (SMU). These officers are employed by the Premier's Department and are independent from law enforcement agencies. They undertake the inspections required of the Inspector under the legislation and will, where necessary, undertake any additional inspections required for specific issues identified.

The members of the SMU assist the Inspector in preparing feedback correspondence to the agencies as to the results of those inspections. They also assist the Inspector by providing the information required for the mandatory statutory reports to Parliament or the relevant Minister and work on special projects, when required.

### 5.1.4 Summary of work and findings of the Inspector and the SMU for the period 1 July 2023 to 30 June 2024

In the period from 1 July 2023 to 30 June 2024, the members of the SMU conducted 28 inspections over 52 days with respect to the use of controlled operations, criminal organisation search warrants, covert search warrants, surveillance devices and telecommunications interceptions by certain investigative agencies in NSW.

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<sup>2</sup> For example, at the request of the NSWPF, 1,859 telephone interception warrants were issued between 1 July 2022 and 30 June 2023 (as per Table 4 of the *Attorney General's Department's (Cth) 2022 - 23 Annual Report* under the *Telecommunications (Interception and Access) Act 1979* and Part 15 of the *Telecommunications Act 1997*).

An overview of those inspections is provided in the following tables.

It should be noted that, while some particulars of the inspections are provided later in this report, more specific details as to the inspection process and results will be found in the Inspector's statutory reports referable to each covert activity. The statutory reports tabled in Parliament can be found on the Office's [website](#).

Table 1: Number of inspections conducted by the SMU in 2023–24

Agency	Telephone interception warrants	Surveillance device warrants	Covert search warrants	Criminal organisation warrants	Controlled operation authorisations	Total
NSWPF	5	5	2	2	4	18
LECC	2	2	Nil sought by agency	Not applicable	Nil sought by agency	4
NSWCC	2	Nil warrants sought by agency	Nil sought by agency	Not applicable	Nil sought by agency	2
ICAC	2	2	Not applicable	Not applicable	Nil sought by agency	4
Australian Federal Police	Not applicable	Not applicable	Not applicable	Not applicable	Nil sought by agency	0
ACC	Not applicable	Not applicable	Not applicable	Not applicable	Nil sought by agency	0
Department of Home Affairs	Not applicable	Not applicable	Not applicable	Not applicable	Nil sought by agency	0
<b>Total</b>	<b>11</b>	<b>9</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>28</b>

Table 2: Number of files checked by the SMU in 2023–2024<sup>3</sup>

Agency	Telephone interception warrant files	Surveillance device warrant files	Covert search warrant files	Criminal organisation warrant files	Controlled operation authorisation files	Total
NSWPF	1,333	982	26	80	430	2,851
LECC	32	20	Not applicable	Not applicable	Not applicable	52
NSWCC	17	Nil warrants sought	Not applicable	Not applicable	Not applicable	17
ICAC	Nil warrants sought	Nil warrants sought	Not applicable	Not applicable	Not applicable	0
<b>Total</b>	<b>1,382</b>	<b>1,002</b>	<b>26</b>	<b>80</b>	<b>430</b>	<b>2,920</b>

<sup>3</sup> These figures do not reflect the number of warrants/authorisations issued during the period, as the SMU may inspect files on multiple occasions; for example, because a post-execution report was outstanding when a file was first inspected or to ensure a compliance issue (an exception to an Act) identified at the first inspection has been rectified.

Table 3: Number of exceptions identified in 2023–2024<sup>4</sup>

Agency	Telephone interception warrants	Surveillance device warrants	Covert search warrants	Criminal organisation warrants	Controlled operation authorisations	Total
NSWPF	17	24	4	0	TBD <sup>5</sup>	45
LECC	11	2	Not applicable	Not applicable	Not applicable	13
NSWCC	0	Not applicable	Not applicable	Not applicable	Not applicable	0
ICAC	0	Not applicable	Not applicable	Not applicable	Not applicable	0
<b>Total</b>	<b>28</b>	<b>26</b>	<b>4</b>	<b>0</b>	<b>TBD</b>	<b>58</b>

## 5.2 Performance of the inspection functions

### 5.2.1 Inspection functions

Under the following Acts, the Inspector must inspect the records of certain law enforcement agencies (and where appropriate, those of the law enforcement officers of the agencies) to determine the extent of their compliance with the Acts (or the relevant parts thereof):

- NSW TIA Act – telephone interception warrants
- SD Act – surveillance device warrants
- LEPR Act – covert search warrants and criminal organisation search warrants
- LECO Act – controlled operation authorisations.

Section 128A of the LECC Act provides that subject to any other Act, the Inspector may delegate to a member of staff of the Inspector, any of the Inspector’s functions under this or any other Act other than the power of delegation and the Inspector’s reporting functions.

The Inspector and the SMU actively encourage agencies to pre-disclose any exceptions (instances of non-compliance with the legislation) shortly after the agency identifies such issues. In most instances, early detection of non-compliance, and the rectification of exceptions, such as the immediate quarantine of material inadvertently captured by a malfunctioning device, can minimise flow-on effects. Early reporting also provides opportunities for contemporaneous examination of the reasons for the non-compliance and where needed, for administrative changes to be made, and/or further training given, to avoid ongoing systemic problems.

Aside from their auditing functions, which are described below, where time permits and where appropriate, the Inspector and the SMU will further support compliance by providing feedback to agencies about agency procedures, template documents and best practices. For example, in the 2023–24 reporting period, the Inspector and the SMU have provided feedback about:

- NSWPF Controlled Operation forms
- NSWPF TI affidavit templates
- NSWPF TI s 94B reports.

<sup>4</sup> These figures reflect the number of exceptions or breaches of the legislation reported in annual reports. Occasionally, minor exceptions, such as a post-inspection report being provided one day late, might not be included in an annual report.

<sup>5</sup> The review of the data from the 2023–24 Controlled Operations inspections was still taking place at the time of finalisation of this report and is to be determined (TBD).

In addition, the SMU has provided each law enforcement agency with questions for consideration in relation to their document retention, dissemination and destruction practices.

## 5.2.2 Audit methodology

The SMU aims to inspect every warrant/authorisation file at each agency that applied for such warrants/authorisations.

To ensure that all agencies have complied with their legislative requirements, each inspection involves checking the details recorded in the electronic or hard copy files (with reference to the pertinent section of the relevant Act and/or the form prescribed in the relevant Regulation).

A common set of inspection criteria is used across all agencies. The criteria used are regularly reviewed and updated for legislative changes, process variations and/or areas of focus. Given the expectation of compliance with all aspects of the legislation, the SMU does not provide details of their inspection criteria to the agencies prior to inspections.

The SMU does not assess the merits of a decision by an issuing authority to issue a warrant or authorisation that is the role of the issuing authority. However, the SMU will review agencies' applications for warrants or authorisations and accompanying affidavits to assess whether agency processes comply with legislative requirements. When needed, the SMU will also return to the previously inspected file to review any new documentation placed in the file that was outstanding from a previous inspection.

In addition to checking the documentation in the warrant/authorisation files, the officers of the SMU will, at inspections, ensure that each agency is:

- maintaining the requisite registers of warrants issued
- maintaining records of warrant material disseminated to, or received from, other law enforcement agencies
- delivering all obligatory annual reports to the Attorney-General
- attending to the destruction of covert material that is no longer required, and that has not been made public at a trial or hearing
- maintaining records of the destruction of covert material.

## 5.2.3 Notification of outcome

Most of the larger law enforcement agencies inspected have compliance officers in-house to assist their investigators in observing the legislative requirements.

After conducting each inspection, the SMU will hold an exit interview with, or send an email to, the manager of the relevant unit or senior compliance officer responsible for warrant/authorisation administration at the relevant agency about any identified compliance issues. Subsequently, the SMU officers will correspond with the manager/officer to address and, if possible, resolve any exceptions discovered during the inspection.

A short time later, the Inspector will send a formal post-inspection feedback letter to the relevant chief officer of the agency, reporting on the inspection's outcomes and highlighting any matters of concern that may have arisen during the inspection. If appropriate, the feedback letter will also alert the agency head to the fact that an identified breach or breaches will be referred to in the Inspector's future statutory report.

If there are questions or concerns regarding the information given by an agency, the feedback letter might also include a formal request that further information be provided to the Inspector. Depending on the security classification of the technology or the sensitivity of the investigation, an explanation could be requested by way of a verbal briefing or a formal written response.

Once the Inspector is satisfied with an agency's information and/or the steps it will take, or has taken, to rectify a compliance issue, the SMU will follow up during future inspections to determine if the proposed steps have been implemented.

In the circumstance that the Inspector remains dissatisfied with the additional information provided and/or actions taken by an agency or its officers as to a breach, the Inspector may refer the breach/concerns to an appropriate body or individual for further investigation and/or action.

## 5.2.4 Telecommunications (Interception and Access) (New South Wales) Act 1987

The Commonwealth Government assumed responsibility for postal, telegraphic and telephonic services in Australia upon Federation in 1901. The government regulation of telecommunications interception in Australia is governed by the Commonwealth TIA Act.

The Commonwealth TIA Act permits authorised State law enforcement agencies to apply for warrants to intercept telecommunications to assist in the investigation of prescribed offences. The NSW TIA Act lays out the administrative procedures that are to be followed by authorised NSW agencies.

Section 10 of the NSW TIA Act provides that the Inspector must inspect the records of an 'eligible authority' at least twice during each financial year.

Between 1 July 2023 and 30 June 2024, the SMU conducted inspections of the TI warrants files of the NSWPF, the NSWCC, the ICAC and the Commission to ascertain their compliance with the requirements of the Commonwealth and NSW TIA Acts.

As indicated in Table 4, the NSWPF consistently applies for the highest volume of TI warrants in NSW, while the NSWCC and the Commission make comparatively fewer applications for such warrants. In recent years, the ICAC has not submitted any TI warrant applications as it has received relevant telecommunications interception data from other law enforcement agencies. However, as the TI legislation contains requirements for the maintenance of certain registers of disseminated interception material, and appropriate destruction of interception material, SMU officers continue to conduct routine TI inspections of those registers at the ICAC.

Table 4: Number of issued TI warrants in 2021 – 22 and 2022–23<sup>6</sup>

Agency	Telephone interception warrants	Telephone interception warrants
	2021–22	2022–23
NSWPF	1,803	1,859
LECC	17	16
NSWCC	59	18

Pursuant to s 11(1) of the NSW TIA Act, the Inspector is required to provide a written report to the Attorney-General (NSW) about those inspections as soon as practicable, and no later than 3 months after the end of the financial year. The TI annual report for the period 1 July 2024 to 30 June 2024 was provided to the Attorney-General in September 2024. As this report is not tabled in Parliament, a copy of the report is not placed on the Office's website. However, the Commonwealth Attorney-General publishes a report as to the use of TI devices in Australia, which is available on the Attorney-General's Department's website at [here](#).

## 5.2.5 Surveillance Devices Act 2007 (NSW)

The SD Act regulates the installation, use and maintenance of the following devices in NSW:

<sup>6</sup> As per Table 4 of the *Attorney General's Department's (Cth) 2022 – 23 Annual Report* under the *Telecommunications (Interception and Access) Act 1979* and Part 15 of the *Telecommunications Act 1997*).

- listening devices
- optical devices
- tracking devices
- data surveillance devices.

It establishes an accountability regime that includes reporting and recordkeeping obligations for law enforcement agencies and confers on the Inspector a compliance inspection function.

According to the recent reports of the Attorney-General of NSW, the number of surveillance device (SD) warrants issued in NSW between 2020 and 2022 was as follows.

Table 5: Number of SD warrants issued by NSW law enforcement agencies between June 2020 and June 2022

2020	2021	2022
929 <sup>7</sup>	861 <sup>8</sup>	810 <sup>9</sup>

The number of SD warrants issued by each law enforcement agency differs considerably. The NSWPF applies for the largest number of warrants. The Commission and the ICAC only apply for a small number of warrants. The NSWCC rarely applies for such warrants as the members of the NSWPF Organised Crime Squad will work with the Commission's investigators and perform that function.

Under the SD Act, the Inspector must, from time to time, inspect the records of certain NSW law enforcement agencies to determine the extent of compliance with the Act by the agency and the law enforcement officers of the agency.

Under the SD Act, the Inspector must also make a written report to the Minister (the Attorney-General (NSW)) at 6-monthly intervals on the results of the inspections. The Minister must, within 15 days after receipt of the report, lay the report (or cause it to be laid) before both Houses of Parliament. If a House of Parliament is not sitting when the Minister seeks to lay a report before it, the Minister may present a copy of the report to the Clerk of the House of Parliament.

The biannual report for the period 1 July 2023 to 31 December 2023 was provided to the Attorney-General in April 2024. The biannual report for the period 31 December 2024 to 30 June 2024 was provided to the Attorney-General in October 2024. Copies of these reports are available on the Office's [website](#).

## 5.2.6 Law Enforcement (Powers and Responsibilities) Act 2002 – covert search warrants

In NSW, the issue of search warrants is authorised and regulated by LEPR and the Law Enforcement (Powers and Responsibilities) Regulation 2005.

Under the authority of a covert search warrant, police officers and certain members of the staff of the NSWCC and the Commission may enter the subject's premises and search without the occupier's knowledge; that is, the search is undertaken in secret with the ability for the occupier to be provided with notice of the search months, and possibly years, later. In comparison, under a standard search

<sup>7</sup> Page 7 of the *Report by the Attorney-General of New South Wales pursuant to section 45 of the Surveillance Devices Act 2008 for the period ended 30 June 2020*.

<sup>8</sup> Page 8 of the *Report by the Attorney-General of New South Wales pursuant to section 45 of the Surveillance Devices Act 2008 for the period ended 30 June 2021*.

<sup>9</sup> Page 8 of the *Report by the Attorney-General of New South Wales pursuant to section 45 of the Surveillance Devices Act 2008 for the period ended 30 June 2022*.

warrant, the occupier of the premises is given an occupier's notice by the executing law enforcement officer at the time of entry to the premises or as soon as practicable thereafter.

Given the initial secrecy associated with such warrants, there are much greater legal requirements for covert search warrants than for general search warrants. For example, only eligible Supreme Court Judges can issue covert search warrants, whereas a standard search warrant can be issued not only by eligible Supreme Court Judges but also by Magistrates or other authorised persons.

The execution of covert search warrants is considerably resource-intensive and logistically difficult. Surveillance teams are required to ensure that the occupiers of the premises are elsewhere at the time of the search. A covert entry to the house must be made and the area needs to be monitored to ensure that the occupiers do not return. Given the logistical requirements involved, covert search warrants expire 10 days after the date on which they are issued unless the warrant specifies an earlier expiry date. In contrast, a standard search warrant will expire 72 hours after issue.

Section 242(1) of LEPR requires the Inspector to inspect the records of certain NSW law enforcement agencies authorised to apply for covert search warrants to ascertain their compliance with Part 5 of the Act (in so far as it relates to covert search warrants). According to LEPR, the Inspector must inspect the covert search warrant records of the NSWPF, the NSWCC and the Commission every 12 months.

Between 1 July 2023 and 30 June 2024, the SMU solely inspected the covert search warrant files of the NSWPF. Neither the NSWCC nor the Commission made an application for the issuance of a covert search warrant during that period or in 2022–23.

Under subs 242(1) of LEPR, the Inspector must, as soon as practicable after 28 May of each subsequent year, prepare a report of the Inspector's work and activities with respect to covert search warrants and furnish a copy of the report to the NSW Attorney-General and the Minister for Police and Counter-terrorism. The Attorney-General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after receiving the report. The Inspector's Annual Report for the period 29 May 2023 to 28 May 2024 was provided to the Attorney-General and the Minister for Police in June 2024. It can be found on the Office's [website](#).

## **5.2.7 Law Enforcement (Powers and Responsibilities) Act 2002 – criminal organisation search warrants**

Criminal organisation search warrants are necessary to combat the highly sophisticated and organised criminal activity perpetuated by criminal gang networks.

Under LEPR, the NSWPF is currently the only NSW law enforcement agency authorised to use criminal organisation search warrants.

Criminal organisation search warrants expire 7 days after the date on which they are issued unless the warrant specifies an earlier expiry date. The longer expiry time is provided because the NSWPF often executes such search warrants in a coordinated manner on the premises of all members of a criminal organisation at the same time. With criminal organisation search warrants, an occupier's notice is provided at the time of entry to the premises or as soon as practicable thereafter.

Pursuant to s 242(4) of LEPR, the Inspector must inspect the records of the NSWPF in relation to criminal organisation search warrants every 2 years. The purpose of the inspections is to ascertain whether the requirements of Part 5 of the Act (in so far as they relate to criminal organisation search warrants) are being complied with.

LEPR also provides that the Inspector must prepare a report of the Inspector's work and activities with respect to criminal organisation search warrants. Under subs 242(6) of LEPR, the report is due to be provided every 2 years and a copy of the report is to be furnished to the Attorney-General and the Minister for Police. The Attorney-General is to lay (or cause to be laid) a copy of the report before both Houses of Parliament as soon as practicable after the Attorney-General receives the report.

The Criminal Organisation Search Warrant Report for the period 7 August 2021 to 6 August 2023 was provided to the Attorney-General and the Minister for Police in October 2023. The report can be found



on the Office's [website](#). The next report is due to be provided to the Attorney-General and Minister for Police after 7 August 2025.

### 5.2.8 Law Enforcement (Controlled Operations) Act 1997

The LECO Act enables a 'controlled operation' to be authorised in certain circumstances. A controlled operation allows authorised participants, including law enforcement officers, to engage in an unlawful activity, or activity that may be unlawful, to obtain evidence that may lead to the prosecution of a person for a criminal offence. For example, an authorisation could permit an undercover operative to purchase and possess illicit drugs to obtain evidence of the illegal supply of drugs.

Section 21 of the LECO Act provides that the Inspector must be notified of each controlled operation authority that is granted under the Act as well as any variations thereto. The requirements as to the content of those notices are set out in the Law Enforcement (Controlled Operation) Regulation 2017. The notices are to be provided to the Inspector within 21 days of the granting or variation of an authorisation.

The LECO Act provides that within 2 months of completing an authorised operation, the principal law enforcement officer for the operation must cause a report on the operation to be given to the Chief Executive Officer (or their delegate, if a delegate authorised the operation).<sup>10</sup> Notice of these reports must be provided to the Inspector within 21 days after the Chief Executive Officer or delegate receives the report.

In addition to reviewing the notices referred to above, s 22(1) of the LECO Act requires the Inspector to conduct inspections of the records of each of the law enforcement agencies to assess whether the requirements of the Act are being complied with. Inspections of the law enforcement agencies' records must be conducted at least once every 12 months, though they may be inspected at any time. Furthermore, the Inspector is required, pursuant to s 23(1) of the LECO Act, to report to Parliament on the Inspector's work and activities under the Act for the 12-month period ending on 30 June each year and to do so as soon as practicable after that date.

As the reports on the outcome of controlled operations can be provided up to 2 months after the completion of the operations, the Inspector's annual report with respect to controlled operation inspections will be finalised after 30 September each year.

In December 2023, an annual report was furnished to the Presiding Officer of each House of Parliament detailing the results of inspections conducted of agency records for the period 1 July 2022 to 30 June 2023. This report is available on the Office's [website](#).

A report will be furnished to the Presiding Officer of each House of Parliament by 31 December 2024 detailing the results of controlled operation inspections conducted on the records of the NSWPF for the period 1 July 2023 to 30 June 2024. Once tabled, it will be published on the Office's [website](#).

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<sup>10</sup> Section 15 of the LECO Act.

# 6

## The Inspector's principal functions and the LECC

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## 6.1 Preliminary observations

The Inspector performs an oversight role in relation to the Commission. The principal functions, as stated above, are set out in s 122(2) of the LECC Act. It is important for effective performance of the oversight functions set out in that provision that there be an appropriate cooperative working relationship between the Inspector's Office and the Commission.

The MOU entered into on 27 September 2022 continued to be in effect during the financial year. This MOU sets out arrangements for communication and information exchange between the Inspector and the Commission concerning issues such as the referral of complaints, access to information and points of contact between both agencies. A copy of the current MOU appears on the Commission's website.

The primary point of contact is between the Inspector and the Chief Commissioner. Such contact includes the exchange of correspondence as well as meetings at which issues concerning the Inspector's functions and the conduct, operations and governance of the Commission may be discussed.

In addition to maintaining contact with members of the executive team, the Office, at times, meets or corresponds with other members of staff who occupy significant leadership roles at the Commission. There is also contact between key members of the Commission's operational staff and members of the Office's staff.

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## 6.2 Liaison and communication

The Inspector was involved in various stakeholder meetings throughout the year, including:

- attending 2 inspections at a law enforcement agency with the SMU in October 2023
- meeting with the Surveillance Devices Commissioner on 17 October 2023 and 21 March 2024 to, among other compliance issues, discuss the future of the SMU
- meeting with officers of the NSWPF on 23 October 2023 and 20 March 2024 relating to the Inspector's oversight of their surveillance functions
- attending the National Inspectors, Parliamentary Commissioners and Reviews in Sydney with the Principal Legal Advisor on 14 November 2023
- attending a meeting with the NSWCC on 22 November 2023 relating to their surveillance technology
- meeting with the LECC Commissioners as part of regular meetings under the MOU on 14 December 2023 and 26 March 2024
- appearing before the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crome Commission for the review of their previous annual report on 22 February 2024.

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## 6.3 The complaint handling function

The Inspector's powers in respect of complaint handling under the LECC Act are very specific. They are confined by s 122(2)(b) to dealing, by way of reports or recommendations, with conduct amounting to agency maladministration on the part of the Commission and conduct amounting to officer misconduct or maladministration on the part of officers of the Commission, whether or not the subject of a complaint.

The Inspector is not empowered to deal with complaints about any persons or agencies other than the Commission and/or its officers. So far as the Commission itself is concerned, the Inspector does not have the power to direct its activities or operations. The Inspector cannot, for example, compel the Commission to either investigate or not investigate a particular complaint. Equally, there is no power

to direct the Commission as to the manner in which an investigation is to be conducted. Nor does the Inspector have the power to alter or reverse a decision made by the Commission. Finally, the Office does not exercise a quasi-appellate function in which it engages in a 'merits review' of a Commission decision made.

Each complaint about the Commission and/or its officers that is received is initially assessed to determine whether it is capable of enlivening the Inspector's jurisdiction. If it is so capable, then a decision is made whether there is any basis upon which further investigation of the complaint is warranted.

What follows is a summary of complaints received during the reporting period:

- 12 complaints were carried over from the previous reporting period 1 July 2022 to 30 June 2023. Those 12 complaints were finalised in this reporting period 1 July 2023 to 30 June 2024.
- 72 enquiries were received by the Office and of those matters, 8 resulted in complaints.
- 76 new complaints (including the 8 referred to above) were received, compared to 107 new complaints during the previous reporting period.
- Of the 76 new complaints received:
  - 71 were finalised during the reporting period from 1 July 2023 to 30 June 2024
  - 5 remained open at the end of the period. The then open complaints have all since been finalised and will be reported on in the 2024–25 Annual Report
  - the average time taken to finalise complaints was 24 days
  - the median time taken to finalise complaints was 15 days
  - 32 were outside the Inspector's jurisdiction because they were not about the Commission or its officers. Of those, 27 were about the NSWPF
  - the remaining 44 complaints are grouped as follows:
    - the Commission's decision not to investigate or dissatisfaction with the outcome of the Commission's assessment: 26
    - Commission staff management of complaints; for example, delays in correspondence or staff conduct: 14
    - management of Commission, HR and other miscellaneous issues: 4
- A total of 83 complaints were finalised during this period, including those 12 that had been received during the previous reporting period.

The following observations may be made about the 83 complaints the Inspector finalised during the reporting period:

- Many were outside the Inspector's jurisdiction; for example, because the complaint concerned agencies other than the Commission. In those instances, the complainant was, where possible, provided with the contact details of the appropriate complaint handling body.
- In respect of several complaints, a substantial volume of correspondence was exchanged with the complainant in order to clarify the specific conduct complained of and obtain information from the Commission. In some instances, the complaint lapsed or was not proceeded with where the complainant failed to provide material in support of their complaint.
- Several complaints were dismissed because, upon close analysis, they expressed mere dissatisfaction with the Commission's decision and in respect of which the complainant was seeking a review of the same material. Those complaints were assessed to determine whether the alleged conduct fell within the terms of s 122(2)(b) of the LECC Act.
- Some matters resulted in extensive post-closure correspondence, where the complainant had expressed dissatisfaction with the Inspector's decision.

- The Inspector asked the Commission to provide a response to 18 complaints. In all instances, the Commission provided a satisfactory response.
- The Inspector did not make any finding that the Commission had engaged in conduct amounting to agency maladministration or that any of its officers had engaged in conduct amounting to officer misconduct or officer maladministration.

The Inspector also did not make any Special Reports to Parliament pursuant to s 140 of the LECC Act in respect of a complaint.

## 6.4 The remaining functions – auditing the operations of the Commission and assessing its policies and procedures

There is considerable overlap between the 2 functions that are contained in s 122(2)(a) and (c) of the LECC Act. Therefore, it is convenient to deal with them at the same time. Furthermore, material derived from complaints about the conduct of the Commission and/or its officers, which the Inspector receives pursuant to their complaint handling function, also provides useful background information so far as the performance of those 2 functions is concerned.

Section 122(2)(a) requires the Inspector to audit the operations of the Commission for the purpose of monitoring compliance with the law of the State. Section 122(2)(c) requires the Inspector to assess the ‘effectiveness and appropriateness’ of the Commission’s policies and procedures ‘relating to the legality or propriety of its activities’. To assist the Inspector in performing those tasks, the Commission regularly provided the Inspector with updated copies of its policies and procedures concerning all areas of its activities. The Commission also consulted with the Inspector as to updates relating to changes in its procedures and restructuring of its Assessments and Intake Team.

The Inspector also received the agenda, the background papers and the minutes from each of the meetings of the Commission’s most important committees. These committees and the frequency with which they are scheduled to meet are set out below:

- Strategic Operations Committee – monthly
- Executive Committee – fortnightly
- Audit and Risk Committee – quarterly
- Complaints Action Panel – weekly.

That material was routinely read by the Inspector and, occasionally, additional information and/or clarification was sought about matters arising from it.

The Commission’s CEO also routinely forwards to the Inspector’s Office a weekly update email that she sends to Commission staff about operational and staffing matters. That material gives insight into the Commission’s workplace culture.

The Inspector also receives the minutes of the Misconduct Themes Committee (which serves as a forum for staff across the Commission to participate in the identification of and response to systemic issues, emerging trends or themes that may benefit from a coordinated, proactive or strategic response). Receipt of these minutes provides a further opportunity for the Inspector to gain a different perspective on aspects of the Commission’s activities.

The Commission also has important audit functions of its own. For example, it is required by legislation to conduct internal audits of some of its own activities, such as its use of assumed identities. Furthermore, the Audit and Risk Committee (ARC) of the Commission, which includes several external members, performs a critical audit function and is required to oversee the Commission’s risk management. On other occasions, outside bodies, such as Centium (the Commission’s internal auditor that operates as an adjunct to the ARC) or staff of the Auditor-General, review particular aspects of the Commission’s activities. The Inspector is particularly mindful of the audit functions performed by those different bodies when determining how the Office will perform its own audit functions and seeks

to avoid unnecessary duplication of effort. The Inspector received all papers presented to each of the Commission's quarterly ARC meetings.

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## 6.5 Legal developments

The Inspector was not a party to any litigation during the reporting period.

Litigation and proposed legislative changes relating to the Inspector's functions are set out below.

### 6.5.1 Commissioner of Police v Attorney General for New South Wales [2023] NSWCA 150

The Commission was subject to Court of Appeal proceedings in this reporting period. While the Inspector monitored the proceedings, including attending the hearing, and was regularly updated on their progress and ultimate resolution (following the filing of an application for special leave to the High Court) by the Commission, they are of principal concern to the Commission and the details need not be stated in this report.

### 6.5.2 ICAC and LECC Legislation Amendment Act 2023 (NSW)

On 25 August 2023, the *ICAC and LECC Legislation Amendment Act 2023* (NSW) received assent. It involved changes to Schedule 1 of the LECC Act relating to members of the Commission, Assistant Commissioners and alternate Commissioners.

It also made changes to Schedule 1, clause 1(5), where the Minister may appoint a person to act in the office of the Chief Commissioner, Commissioner or Assistant Commissioner during illness if they believe that illness will not exceed 30 days.

Schedule 1, clause 1A was inserted to allow the Chief Commissioner to appoint a Commissioner to act as the Chief Commissioner during the Chief Commissioner's absence for a period of not more than 30 days or to appoint an officer of the Commission (subject to special legal qualifications) to act as a Commissioner for a period of not more than 30 days.

Schedule 2, clause 5(2) of the LECC Act now provides that a person may not hold the office of Inspector for terms totalling more than 10 years.

### 6.5.3 Telecommunications (Interception and Access) Act 1979 (Cth)

The Commonwealth TIA Act currently limits the ability of the Inspector to receive interception warrant information and interception information from integrity agencies within their respective jurisdictions.

A Bill is currently before the Australian Parliament to amend the TIA Act to enhance the ability of the Inspector and other oversight bodies to receive intercepted information and interception warrant information under the TIA Act (Crimes and other Legislation Amendment (Omnibus No.1) Bill 2024).

The Bill, if passed in its current form, will expand the scope of purposes for which the Inspector, integrity agencies and oversight bodies are able to share interception information and interception warrant information under s 68 of the TIA Act to include sharing for the purposes of their oversight functions.

# 7

## Conclusion


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## 7.1 Conclusion

As mentioned above, s 122 of the LECC Act confers on the Inspector the functions of auditing the operations of the Commission to monitor compliance with the law of NSW, dealing with conduct amounting to agency maladministration on the part of the Commission and officer misconduct or maladministration on the part of Commission officers, and to assess the effectiveness and appropriateness of the policies and procedures of the Commission relating to the legality or propriety of its activities. As required by the Act, and based on the performance of my complaint handling and audit functions, I assess the effectiveness and appropriateness of the policies and procedures of the Commission relating to both the legality and the propriety of its activities as satisfactory.

In relation to the actions of the Secure Monitoring Unit, I'm extremely satisfied with the Unit's conduct of the extremely significant function of ensuring the law enforcement agencies of NSW that deploy the covert warrants referred to above do so lawfully. The unit's operations require deep knowledge of the requirements of several different legislative schemes whose interpretation is not always obvious, as well as meticulous attention to detail, which each member has continued to display during this reporting period.

I extend my thanks to each of the 6 members of my staff but shall not name them because of the obvious security requirements of the nature of the work in which they are involved.



B. R. McClintock

Bruce McClintock SC

Inspector, Law Enforcement Conduct Commission

31 October 2024





# Appendices

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## Appendix A: Annual report on the Inspector's obligations under the Government Information (Public Access) Act 2009

Section 125 of the GIPA Act requires an agency to prepare an annual report on its functions under the Act. Clause 8 of the Government Information (Public Access) Regulation 2018 (the Regulation) outlines what must be included in the report. The Inspector's report is set out in this appendix.

Section 7(3) of the GIPA Act provides that 'an agency must, at intervals of not more than 12 months, review its program for the release of government information under this section to identify the kinds of government information held by the agency that should in the public interest be made publicly available and that can be made publicly available without imposing unreasonable additional costs on the agency'.

During the reporting period, the Office's website content was reviewed to assess what, if any, further information could be proactively released. The Office ensures that the Inspector's reports that are tabled in the NSW Parliament are made available on its website. Other than those reports and annual reports, there is limited information held by the Office that can be proactively released due to the sensitive and confidential nature of material handled by the Office. However, during the reporting period, existing information on the Office website was updated.

The Inspector received 2 access applications during the reporting period. One application was an informal request for information and the other application was formally made but subsequently withdrawn.

The Inspector did not receive any applications during the reporting year that it refused, either wholly or partly, because the application was for the disclosure of information referred to in Schedule 1 to the Act (information for which there is a conclusive presumption of overriding public interest against disclosure).

Tables A to I over the page provide statistical information about access applications as required by clause 8(d) and Schedule 2 of the Regulation.

Table A: Number of applications by type of applicant and outcome\*

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	0	0	0	0	0	0	0	0
Members of Parliament	0	0	0	0	0	0	0	0
Private sector business	0	0	0	0	0	0	0	1
Not-for-profit organisations or community groups	0	0	0	0	0	0	0	0
Members of the public (application by legal representatives)	0	0	0	0	0	0	0	0
Members of the public (other)	0	0	0	0	0	0	0	0

\* More than one decision can be made in respect of a particular access application. If so, a recording must be made in relation to each such decision. This also applies to Table B.

Table B: Number of applications by type of application and outcome

	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with information	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	0	0	0	0	0	0	0	0
Access applications (other than personal information applications)	0	0	0	0	0	0	0	0
Access applications that are partly personal information applications and partly other	0	0	0	0	0	0	0	1

\* A *personal information application* is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual).

Table C: Invalid applications

Reason for invalidity	Number of applications
Application does not comply with formal requirements (section 41 of the Act)	0
Application is for excluded information of the agency (section 43 of the Act)	0
Application contravenes restraint order (section 110 of the Act)	0
Total number of invalid applications received	0
Invalid applications that subsequently became valid applications	0

Table D: Conclusive presumption of overriding public interest against disclosure: matters listed in Schedule 1 to Act

	Number of times consideration used*
Overriding secrecy laws	0
Cabinet information	0
Executive Council information	0
Contempt	0
Legal professional privilege	0
Excluded information	0
Documents affecting law enforcement and public safety	0
Transport safety	0
Adoption	0
Care and protection of children	0
Ministerial code of conduct	0
Aboriginal and environmental heritage	0
Information about complaints to Judicial Commission	0
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2015</i>	0
Information about authorised transaction under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i>	0

\* More than one public interest consideration may apply in relation to a particular access application and, if so, each such consideration is to be recorded (but only once per application). This also applies in relation to Table E.

Table E: Other public interest considerations against disclosure: matters listed in table to section 14 of Act

	Number of occasions when application not successful
Responsible and effective government	0
Law enforcement and security	0
Individual rights, judicial processes and natural justice	0
Business interests of agencies and other persons	0
Environment, culture, economy and general matters	0
Secrecy provisions	0
Exempt documents under interstate Freedom of Information legislation	0

Table F: Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	0
Decided after 35 days (by agreement with applicant)	0
Not decided within time (deemed refusal)	0
<b>Total</b>	<b>0</b>

Table G: Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	0	0	0
Review by Information Commissioner*	0	0	0
Internal review following recommendation under section 93 of Act	0	0	0
Review by NCAT	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker. The data in this case indicates that a recommendation to vary or uphold the original decision has been made by the Information Commissioner.

Table H: Applications for review under Part 5 of the Act (by type of applicant)

	Number of applications for review
Applications by access applicants	0
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	0

Table I: Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

	Number of applications transferred
Agency-initiated transfers	0
Applicant-initiated transfers	0

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## Appendix B: Annual Report on the Inspector's obligations under the Public Interest Disclosures Act 1994 and Public Interest Disclosures Act 2002

### Public Interest Disclosures Act 1994 (NSW) (1994 PID Act)

Section 31 of the 1994 PID Act required each public authority to prepare an annual report on its obligations under the Act for the relevant reporting period. Clause 4 of the Public Interest Disclosures Regulation 2011 (NSW) (2011 PID Regulation) outlined what must be included in the report. The Inspector's report under that superseded Act is set out in this appendix.

**Tables J and K** provide statistical information as required by the 2011 PID Regulation.

### Public Interest Disclosures Act 2022 (NSW) (2022 PID Act)

Section 78 of the 2022 PID Act requires each agency to provide an annual return to the NSW Ombudsman in relation to each period of 12 months ending on 30 June. Clause 5 of the 2022 PID Regulation outlines the information that must be included in relation to each voluntary PID received or dealt with by the agency during the return period. The Inspector's return under this Act is also set out in this appendix.

**Table L** provides statistical information as required by the 2022 PID Regulation.

### PID Policy and staff training

The Inspector has a Public Interest Disclosure Policy (PID Policy) that is published on its [website](#). The policy under the 1994 PID Act was superseded on 1 October 2023 by the Inspector's policy under the 2022 PID Act.

During the reporting period, the Inspector again provided the staff member who assists with the handling of PIDs with a copy of the legislation and PID Policy and drew their attention to its application. Further, all staff members, including the officers of the SMU, attended public interest disclosure training provided by the NSW Ombudsman.

## Report – 1994 PID Act

Table J: The number of public officials who made a PID during 1 July 2023 – 30 September 2023

Type of PID	Number of PIDs	Number of public officials	PIDs finalised
PIDs made by public officials in performing their day-to-day functions as public officials	0	0	0
PIDs made under a statutory or legal obligation (other than those made by public officials performing their day-to-day functions)	0	0	0
All other PIDs	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

Table K: Types of allegations made in PIDs during 1 July 2023 – 30 September 2023

Type of PID	Corrupt conduct	Maladministration	Serious and substantial waste	Government information contravention	Local government pecuniary interest contraventions	Total
PIDs made by public officials in performing their day-to-day functions as public officials	0	0	0	0	0	0
PIDs made under a statutory or legal obligation (other than those made by public officials performing their day-to-day functions)	0	0	0	0	0	0
All other PIDs	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



**Annual Return – 2022 PID Act**

Table L: Purported PIDs received 1 October 2023 – 30 June 2024 that were not in fact PIDs

<b>Disclosures received by the agency during the return period</b>	0
<b>Disclosures that were made by public officials</b>	0
<b>Reasons that the agency did not deal with, or ceased dealing with, each of the disclosures as a PID</b>	Not applicable

# The Office of the Inspector of the Law Enforcement Conduct Commission

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GPO Box 5341  
Sydney NSW 2001

Office hours:  
Monday to Friday  
9:00am – 5:00pm

T: 02 9228 3023  
E: [oilc\\_executive@oilc.nsw.gov.au](mailto:oilc_executive@oilc.nsw.gov.au)  
W: [oilc.nsw.gov.au](http://oilc.nsw.gov.au)

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