

Surveillance Devices Act 2004

Annual Report 2017–18



ISSN: 1833-4490 (Print) ISSN: 2652-1660 (Online)

© Commonwealth of Australia 2019

With the exception of the Commonwealth Coat of Arms, all material presented in this publication is provided under a Creative Commons Attribution 4.0 International license at https://creativecommons.org/licenses/by/4.0/legalcode.

This means this license only applies to material as set out in this document.



The details of the relevant license conditions are available on the Creative Commons website at https://creativecommons.org/ as is the full legal code for the CC BY 4.0 license at https://creativecommons.org/licenses/by/4.0/legalcode

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are detailed at the Department of Prime Minister and Cabinet website—
https://www.pmc.gov.au/government/commonwealth-coat-arms.

Contact us

Enquiries regarding the licence and any use of this document are welcome at:

National Security Policy Branch Department of Home Affairs PO Box 25 BELCONNEN ACT 2616

Surveillance Devices Act 2004

Annual Report 2017–18

THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK

Table of Contents

EXECUTIVE SUMMARY	1
Key Findings	2
CHAPTER ONE – OVERVIEW OF THE SURVEILLANCE DEVICES ACT	3
Objects of the Act	3
Use of surveillance devices	3
Surveillance Device Warrants	5
Form of warrant	6
Use of surveillance devices without warrant – emergency circumstances	6
Use of surveillance devices without a warrant – investigation purposes	7
Use of surveillance devices outside Australia	7
Use of the information obtained	7
Accountability provisions	8
Inspections and reports by the Ombudsman	8
CHAPTER TWO – INFORMATION REQUIRED UNDER THE ACT	9
The information required	9
Surveillance device warrants	9
Applications for surveillance device warrants	9
Applications for surveillance device warrants made for a mutual assistance investigation	11
Remote applications for surveillance device warrants	12
Extension applications for surveillance device warrants	12
Emergency Authorisations	14
Tracking device authorisations	14
Effectiveness of surveillance devices	15
Interpretive note	16
Other information relating to the administration of the Act	17
Key judicial decisions	17
CHAPTER THREE – FURTHER INFORMATION	18
APPENDIX A – LIST OF TABLES	19
APPENDIX B - ABBREVIATIONS	20

THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK

EXECUTIVE SUMMARY

The Surveillance Devices Act 2004 (the Act) requires that each year the Minister for Home Affairs table in Parliament a report setting out the information required by section 50 of the Act. The Annual Report for 2017–18 describes the extent and circumstances in which eligible Commonwealth, State, and Territory government agencies have used the powers available under the Act between 1 July 2017 and 30 June 2018.

The Act includes powers which support Commonwealth investigations in a limited range of offences. The Act also allows state and territory law enforcement agencies to use surveillance devices to investigate certain Commonwealth and state offences with a federal aspect. This strengthens cross-border investigations and information sharing arrangements.

Key findings

In 2017–18, law enforcement agencies applied for 805 warrants, a decrease of 308 applications from 1,113 in 2016–17. Three applications for warrants were refused by issuing authorities due to insufficient supporting evidence. The number of tracking device authorisations increased from 51 to 54, and the number of tracking device retrievals increased from 0 to 1 during the reporting period.

The number of applications made to extend surveillance device warrants has decreased from 225 to 187. Applications to extend warrants are often due to the prolonged nature of investigations for complex and serious crime (where evidence gathering may not have been completed within the prescribed period of 90 days).

Table 1 illustrates the role information obtained under the Act has played in leading to arrests, safe recoveries, prosecutions, and convictions. In 2017–18, surveillance devices contributed to 173 arrests, 109 prosecutions, and 37 convictions.

Table 1: Number of arrests, safe recovery of a child, prosecutions, and convictions – paragraphs 50(1)(g), 50(1)(h) and 50(1)(i)

Agonov	Arrests		Safe Re	covery	Prosec	utions	Convictions		
Agency	16 / 17	17 / 18	16 / 17	17 / 18	16 / 17	17 / 18	16 / 17	17 / 18	
ACIC	91	53	-	-	1	6	1	6	
ACLEI	1	1	-	-	3	2	3	1	
AFP	81	119	=	2	69	101	22	30	
NSW Police	12	-	-	-	-	-	-	-	
TOTAL	185	173	-	2	73	109	26	37	

CHAPTER ONE – OVERVIEW OF THE SURVEILLANCE DEVICES ACT

Objects of the Act

The Act is intended to facilitate cross-border investigations and information sharing between Australian law enforcement agencies, and complements state and territory surveillance devices laws. It does not place constraints on the use of surveillance devices by the general public. Rather, it authorises the use of surveillance devices by law enforcement agencies. The Act:

- provides a single legislative regime for Commonwealth agencies to use surveillance powers; and
- authorises state and territory law enforcement agencies to use surveillance devices under the Commonwealth regime in defined circumstances.

The Act also operates to restrict the use, communication, and publication of information that is obtained through the use of surveillance devices by law enforcement agencies.

Use of surveillance devices

Surveillance devices are defined in the Act as:

- data surveillance devices, including any device or program used to record or monitor the input into or out of a computer.
- listening devices, including any device capable of being used to hear, record, monitor, or listen to conversations or words spoken but does not include a hearing aid or similar device.
- optical surveillance devices, including any device used to record visually or observe activity but does not include spectacles, contact lenses, or similar devices.
- tracking devices, meaning any electronic device capable of determining or monitoring the location of a person or an object or the status of an object.

Surveillance devices may be used by officers of the following law enforcement agencies:

- Australian Federal Police (AFP)
- Australian Commission for Law Enforcement Integrity (ACLEI)
- Australian Criminal Intelligence Commission (ACIC)
- State and territory police forces
- Crime and Corruption Commission of Queensland (CCC (QLD))

- Corruption and Crime Commission of Western Australia (CCC (WA))
- Independent Broad-based Anti-corruption Commission of Victoria (IBAC)
- Independent Commission Against Corruption of New South Wales (ICAC (NSW))
- Independent Commissioner Against Corruption of South Australia (ICAC (SA))
- New South Wales Crime Commission (NSW CC)
- New South Wales Law Enforcement Conduct Commission (LECC)

A law enforcement agency may apply for a surveillance device warrant to assist in the investigation of a 'relevant offence' which is defined as including:

- a Commonwealth offence which carries a maximum penalty of at least three years imprisonment
- state offences with a federal aspect which carry a maximum penalty of at least three years imprisonment
- defined additional offences in the:
 - Anti-Money Laundering and Counter-Terrorism Financing Act 2006
 - Financial Transaction Reports Act 1988
 - Fisheries Management Act 1991
 - Torres Strait Fisheries Act 1984
- Offences against laws of the Commonwealth, states and territories arising from integrity operations which carry a maximum penalty of at least 12 months imprisonment, or
- An offence that is prescribed by the regulations.

The additional offences specified above do not carry maximum penalties of at least three years imprisonment but either:

- Carry pecuniary penalties that are the equivalent of imprisonment terms of at least three years, or
- · Are often indicative of more serious criminal conduct.

The use of surveillance devices is also available to assist in the safe recovery of a child who is the subject to an order made under section 67U of the *Family Law Act 1975*, or an order for a warrant for the apprehension or detention of a child under the *Family Law (Child Abduction Convention) Regulations 1986*.

Surveillance device warrants

The Act provides that an eligible Judge or nominated Administrative Appeals Tribunal (AAT) member may issue a surveillance device warrant. An 'eligible' judge is a Judge who has consented in writing and been declared by the Minister to be an eligible Judge. During the reporting period eligible Judges included members of the:

- Family Court of Australia,
- Federal Court of Australia, and
- Federal Circuit Court of Australia.

A 'nominated AAT member' refers to a Deputy President, senior member, or member of the AAT who has been nominated by the Minister to issue surveillance device warrants.

In the case of part-time senior members and members of the AAT, the member must have been enrolled as a legal practitioner of the High Court, Federal Court, or Supreme Court of a state or territory for no less than five years to be eligible for nomination to issue surveillance device warrants.

The total number of eligible Judges and nominated AAT members available in the reporting period is presented in Table 2.

Table 2: Availability of Federal Court Judges, Family Court Judges, Federal Circuit Court Judges, and nominated AAT members to issue warrants.

Issuer	Number eligible							
issuer	15 / 16	16 / 17	17 / 18					
Nominated AAT Members	35	31	39					
Family Court Judges	5	5	7					
Federal Circuit Court Judges	33	33	30					
Federal Court Judges	15	13	14					
TOTAL	88	82	90					

Form of warrant

Generally, an application for a warrant must be in writing and be accompanied by an affidavit setting out the ground on which the warrant is sought. However, in urgent circumstances, applications may be made by telephone. In either case, the warrant takes effect only when completed and signed by the eligible Judge or nominated AAT member.

In urgent circumstances a law enforcement officer may make an application for a warrant before making or swearing the supporting affidavit. The law enforcement officer must supply the eligible Judge or nominated AAT member with as much information as the eligible Judge or nominated AAT member considers is reasonably practical in the circumstances. The law enforcement officer must then supply the eligible Judge or nominated AAT member with an affidavit within 72 hours of the application being made, irrespective of whether the eligible judge or nominated AAT member issues the warrant.

A warrant takes effect when it is issued and expires on a specified date, being no more than 90 days from the date the warrant is issued, unless the warrant is revoked earlier or extended. A warrant may be extended or varied by an eligible Judge or nominated AAT member if he or she is satisfied that the grounds on which the warrant was issued still exist.

Use of surveillance devices without warrant – emergency circumstances

In special circumstances, a member of an agency at Senior Executive Service level or above may issue an emergency authorisation enabling the use of surveillance devices without a warrant. An emergency authorisation may only be issued in urgent circumstances when:

- there is a serious risk to a person or property
- it is necessary to assist in the recovery of a child who is subject to a recovery order, or
- there is a risk of loss of evidence for certain serious offences such as drug offences, terrorism, espionage, sexual servitude, and aggravated people smuggling.

The use of a surveillance device under such an authorisation must be retrospectively approved by an eligible Judge or AAT member within 48 hours of the authorisation being issued.

Use of surveillance devices without a warrant – investigation purposes

Optical surveillance devices may be used without a warrant where the device can be installed and retrieved without either entering premises or interfering with the interior of a vehicle or thing without permission.

In limited circumstances, listening devices may be used without a warrant by a law enforcement officer who is a party to the conversation being recorded or is included in a class or group of persons whom the speaker of the words intends will, or should reasonably expect would, hear the conversation.

A tracking device authorisation may be issued by a senior member of the agency (at least Senior Executive Service level) or above where the use of that device does not involve either entering premises or interfering with the interior of a vehicle or thing without permission. A tracking device authorisation may only be issued in relation to the same purposes for which surveillance device warrants may be issued.

Use of surveillance devices outside Australia

The Act allows for the use of surveillance devices in the investigation of Commonwealth offences occurring outside Australia. With the exception of the investigation of certain offences in Australia's contiguous and fishing zones:

- the consent of an appropriate official of the foreign country must be obtained, or
- if surveillance is occurring on a vessel or aircraft, consent must be obtained from the country of registration of the vessel or aircraft.

Use of the information obtained

The Act establishes a strict regime to regulate the use, communication, and disclosure of information obtained from the use of surveillance devices. As a general rule, all information obtained under a surveillance device and all information relating to the existence of a surveillance device warrant is 'protected information' and may only be used for the purposes set out in the Act. These purposes include:

- the investigation and prosecution of relevant offences, including but not limited to the offence for which the surveillance device was originally used;
- · information sharing with national security agencies;
- disciplinary proceedings for public officers; and
- the provision of mutual assistance to other countries.

Accountability provisions

The Act includes a reporting and inspection regime which allows the Commonwealth Ombudsman, the Minister, and the Parliament to scrutinise the exercise of their powers under the Act.

All law enforcement agencies using the Act are required to maintain record relating to the use of surveillance devices and the use of information obtained through the use of surveillance devices. All law enforcement agencies must maintain a register of warrants recording details of all warrants and must provide a report on each warrant or authorisation issued under the Act to the Minister.

Inspections and reports by the Ombudsman

The Commonwealth Ombudsman is required to inspect the records of law enforcement agencies to ensure compliance with the Act. The Ombudsman must make a written report to the Minister at six monthly intervals on the results of each inspection. The Minister is required to table this report in Parliament.

The Ombudsman's inspection report for the period 1 July 2017 – 31 December 2017 was tabled in Parliament on 21 June 2018 (House of Representatives) and 25 June 2018 (Senate). The Ombudsman's inspection report for the period 1 January to 30 June 2018 was tabled on 15 October 2018.

These reports are available at <www.ombudsman.gov.au>

CHAPTER TWO – INFORMATION REQUIRED UNDER THE ACT

The information required

The annual reporting requirements are set out in section 50 of the Act. The Act requires the chief officer of each law enforcement agency to submit an annual report to the Minister as soon as possible after the end of each financial year and in any event within three months after the end of the financial year. These reports are compiled into this single report.

Surveillance device warrants

Applications for surveillance device warrants

Paragraph 50(1)(a) and paragraph 50(1)(e) of the Act provides that this report must set out the number of applications for warrants made, issued, and refused (including reasons for any refusal) during the reporting period. Subsection 50(2) further requires that the report set out a breakdown of these numbers in respect of each different kind of surveillance device.

This information is presented in Table 3. In 2017–18 law enforcement agencies applied for 805 warrants. Three applications for warrants were refused by issuing authorities. In two cases involving the ACLEI, there was insufficient evidence to suggest the person of interest was involved in abuse of office. In one case involving the AFP, there was insufficient justification given to issue a warrant for multiple surveillance devices.

Table 3: Number of warrants issued – paragraphs 50(1)(a) and 50(1)(e)

A		Compos	site Multip	ole	Opt	Optical			Listening			D	ata		Trac	king		Retrie	val	TOTAL		
Age	ency	15/16	16/17	17/18	15/16	16/17	17/18	15/16	16/17	17/18	15/16	16/17	17/18	15/16	16/17	17/18	15/16	16/17	17/18	15/16	16/17	17/18
	Made	266	287	174	-	-	-	1	4	5	1	-	2	-	2	2	2	4	4	270	297	187
ACIC	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	Issued	266	287	174	-	-	-	1	4	5	1	-	2	-	2	2	2	4	4	270	297	187
	Made	4	26	13	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	26	13
ACLEI	Refused	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		-	2
	Issued	4	26	11	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	26	11
	Made	846	732	580	1	1	-	3	4	-	6	2	-	3	3	-	30	39	16	889	781	596
AFP	Refused	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-		-	-	-	-	1
	Issued	846	732	579	1	1	-	3	4	-	6	2	-	3	3	-	30	39	16	889	781	595
	Made	2	4	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	4	1
NSW Police	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			-
1 Olice	Issued	2	4	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	4	1
	Made	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-
SA Police	Refused	-	-	-		-	-	-	-	-	-	-			-		-	-	-			
ronce	Issued	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	-
	Made	-	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-
VIC Police	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
Police	Issued	-	3		-	-			-			-	-	-	-	-	-	-			3	
	Made	4	1	-	-	-	-	-	-	1	-	-	7	-	-	-	-	-	-	4	1	8
WA	Refused	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
Police	Issued	4	1	-	-	-	-	-	-	1	-	-	7	-	-	-	-	-	-	4	1	8
	Made	1,123	1,054	768	1	1		4	8	6	7	2	9	3	5	2	32	43	20	1,170	1,113	805
TOTAL	Refused	-		3		_		_				_		_	_	_						3
-	Issued	1,123	1,054	765	1	1		4	8	6	7	2	9	3	5	2	32	43	20	1,170	1,113	802
	133464	1,120	1,00-	700		'				•			•	,	v		02	70	20	1,170	1,110	002

Applications for surveillance device warrants made for a mutual assistance investigation

Section 14(3A) of the Act provides that a law enforcement officer (or another person on the officer's behalf) may apply for a warrant when they are acting under the authority of a mutual assistance authorisation. The Attorney-General may issue mutual assistance authorisations under section 15(CA) of the *Mutual Assistance in Criminal Matters Act* 1987 if satisfied of the following:

- a foreign country has requested that the Attorney-General arrange for the use of a surveillance device
- there is an investigation underway in the requesting foreign country into a criminal matter involving an offence against the law of that foreign country that is punishable by a maximum penalty of imprisonment for 3 years or more
- the requesting foreign country has given undertakings regarding:
 - the information obtained via the use of surveillance devices only being used for the purposes for which it is communicated to the foreign country
 - the destruction of the information obtained by the surveillance device, and
 - any other matter the Attorney-General considers appropriate.

Paragraph 50(1)(aa) and paragraph 50(1)(ea) of the Act provides that this report must set out the number of warrants pursuant to a mutual assistance application made, issued, and refused (including the reasons for any refusal) during the reporting period.

Where a surveillance device warrant was issued as a result of a mutual assistance application, paragraph 50(1)(ia) of the Act requires that this report list the offence (if any) under a law of the Commonwealth, states, or territories that is of the same or substantially similar nature as the foreign offence being investigated under that same surveillance device warrant.

In 2017–18, no law enforcement agencies applied for a surveillance device warrant as a result of a mutual assistance application.

Remote applications for surveillance device warrants

Section 15 of the Act permits an application for a warrant to be made by telephone, fax, email, or other means of communication if the law enforcement officer believes that it is impracticable to make the application in person. Paragraph 50(1)(d) of the Act provides that this report must set out the number of remote applications during the reporting period.

In 2017–18, nine remote applications for a surveillance device warrant were made and issued by the AFP.

Extension applications for surveillance device warrants

Section 19 of the Act provides that the law enforcement officer to whom a warrant was issued (or another person on the officer's behalf) may apply for an extension of the warrant for a period not exceeding 90 days after the warrant's original expiry date. This application may be made at any time before the warrant expires.

Paragraph 50(1)(f) of the Act provides that the annual report must set out the number of applications for the extension of a warrant that were made, granted, and refused (including reasons why applications were granted or refused) during the reporting period. This information is presented in Table 4.

Table 4: Number of applications for extension of a warrant – paragraph 50(1)(f)

A			Applications	
Ager	icy -	15/16	16/17	17/18
ACIC	Made	44	66	24
	Refused	-	-	-
	Granted	44	66	24
ACLEI	Made	-	25	15
	Refused	-	-	-
	Granted	-	25	15
AFP	Made	162	131	147
	Refused	-	-	-
	Granted	162	131	147
NSW Police	Made	1	1	1
	Refused	-	-	-
	Granted	1	1	1
SA Police	Made	-	2	-
	Refused	-	-	-
	Granted	-	2	-
WA Police	Made	4	-	-
	Refused	-	-	-
	Granted	4	-	-
TOTAL	Made	211	225	187
	Refused	0	0	0
	Granted	211	225	187

Agencies reported that extensions to warrants were granted in order to continue the use of surveillance devices for complex investigations of significant serious and organised crime. These types of investigations involve the collection of evidence over an extended period of time. The devices are necessary to obtain relevant evidence that identified the offender and their location.

Emergency authorisations

Law enforcement officers may apply to an appropriate authorising officer for an emergency authorisation to use a surveillance device in cases of serious risk to person or property (section 28), urgent circumstances relating to a child recovery order (section 29) or where there is a risk of loss of evidence (section 30). Within 48 hours of giving an emergency authorisation, the authorising officer (or another person on the officer's behalf) must apply for approval of the giving of the emergency authorisation from an eligible Judge or nominated AAT member.

Paragraph 50(1)(b) and paragraph 50(1)(e) provides that this report must set out the number of applications for emergency authorisations made, given, and refused (including the reasons for any refusal) during the reporting period). Subsection 50(2) further requires that the report set out a breakdown of these numbers in respect of each different kind of surveillance device.

In 2017–18, no law enforcement agencies made an emergency authorisation.

Tracking device authorisations

In limited circumstances, the Act permits a law enforcement officer to use a tracking device without a warrant in the investigation of a relevant offence or to assist in the location and safe recovery of a child to whom a recovery order relates where the officer has the written permission of an appropriate authorising officer.

An authorisation made under this provision is subject to subsection 39(8) of the Act which states that a tracking device cannot be used, installed, or retrieved if it involves entry onto premises or an interference with the interior of a vehicle without permission. The permission may come from the owner, occupier, or under a surveillance device warrant. Where such use requires a greater level of intrusion (such as entry onto premises without permission), a surveillance device warrant is required.

Paragraph 50(1)(c) and paragraph 50(1)(e) provide that this report must set out the number of applications for tracking device authorisations made, given, and refused (including reasons for any refusal) during the reporting period. This includes the number of tracking device retrievals, which may be authorised without a warrant in accordance with subsection 39(6) of the Act.

The required information is presented in Table 5.

Table 5: Number of applications for tracking device – paragraphs 50(1)(c) and 50(1)(e)

A ==	Agency		vice Authoris	sations	Tracking Device Retrievals			
Ago			16/17	17/18	15/16	16/17	17/18	
ACIC	Made	26	20	29	-	-	-	
	Refused	-	=	-	=	=	=	
	Issued	26	20	29	-	-	-	
AFP	Made	53	29	25	4	-	1	
	Refused	-	-	-	-	-	-	
	Issued	53	29	25	4	-	1	
SA Police	Made	-	1	-	-	-	-	
	Refused	-	-	-	-	-	-	
	Issued	-	1	-	-	-	-	
TOTAL	Made	79	50	54	4	0	1	
	Refused	0	0	0	0	0	0	
	Issued	79	50	54	4	0	1	

Effectiveness of surveillance devices

Paragraph 50(1)(g) provides that this report must set out the number of arrests made, wholly or partly, on the basis of information obtained under a warrant, emergency authorisation, or tracking device authorisation. Paragraph 50(1)(i) requires that this report set out the number of prosecutions commenced in which information obtained under a warrant, emergency authorisation, or tracking device authorisation was given in evidence and the number of prosecutions in which a person was found guilty (convictions). Paragraph 50(1)(h) provides that this report must set out the number of instances in which the location and safe recovery of a child, to whom a recovery order related, was assisted, wholly or partly, on the basis of information obtained under a warrant, emergency authorisation, or tracking device authorisation.

Collectively, this information provides an indication of the effectiveness of the use of surveillance devices as a law enforcement investigative tool.

This information is presented in Table 6.

Table 6: Number of arrests, safe recovery, prosecutions, and convictions – paragraphs 50(1)(g), 50(1)(h) and 50(1)(i)

Anonous	Arrests		Safe Recovery		Prosec	utions	Convictions	
Agency -	16/17	17/18	16/17	17/18	16/17	17/18	16/17	17/18
ACIC	91	53	-	-	1	6	1	6
ACLEI	1	1	-	-	3	2	3	1
AFP	81	119	-	2	69	101	22	30
NSW Police	12	-	-	-	-	-	-	-
TOTAL	185	173	-	2	73	109	26	37

Interpretive note

The information presented in Table 6 should be interpreted with caution, particularly presuming a relationship between the number of arrests, prosecutions (which include committal proceedings), and convictions in a reporting period. An arrest recorded in one reporting period may not result in a prosecution or committal (if at all) until a later reporting period. Moreover, the number of arrests may not equate to the number of charges laid (some or all of which may be prosecuted at a later time) as an arrested person may be prosecuted and convicted for a number of offences.

Further, the table may understate the effectiveness of the use of surveillance devices as, in some cases, prosecutions may be initiated and convictions recorded without the need to give information obtained through the use of a surveillance device in evidence. In particular, agencies report that the use of surveillance devices effectively enables investigators to identify persons involved in, and the infrastructure of, organised criminal activities. In many cases, the weight of evidence obtained through the use of a surveillance device results in defendants entering guilty pleas, thereby removing the need for the information to be introduced into evidence.

Other information relating to the administration of the Surveillance Devices Act 2004

Paragraph 50(1)(j) provides that the Minister may include information in the annual report on the administration of this Act, that he or she considers appropriate.

Legislative reforms

National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018

The National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018 made consequential amendments to the Surveillance Devices Act 2004 to ensure that emergency authorisation powers are available to an extended range of espionage offences in cases where urgent deployment of a surveillance device is necessary to prevent loss of evidence.

Investigation and Prosecution Measures Act 2018

The Investigation and Prosecution Measures Act 2018 made minor amendments to the SD Act to reflect the restructuring of the Independent Commission against Corruption of New South Wales (ICAC NSW) by the Independent Commission Against Corruption Amendment Act 2016 (NSW). The Act made no substantive changes to ICAC NSW's powers under the Surveillance Devices Act 2004.

Home Affairs and Integrity Agencies Legislation Amendment Act 2018

The Home Affairs and Integrity Agencies Legislation Amendment Act 2018 amended 36 Acts including the Surveillance Devices Act 2004, to make Ministerial and Departmental functions and powers clear on the face of legislation as a result of the Machinery of Government changes to establish the Home Affairs portfolio, and made changes strengthening the Attorney-General's oversight of intelligence, security, and law enforcement agencies.

Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018

The Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018 amended the Surveillance Devices Act 2004 to ensure Australia can effectively respond to requests from the International Criminal Court (ICC) and international war crimes tribunals (IWCT). The amendments allow Australia to provide lawfully obtained information under the Surveillance Devices Act 2004 to, and receive requests from, the ICC and IWCT for investigating and prosecuting offences within their jurisdiction.

Key judicial decisions

No significant judicial decisions relevant to the SD Act occurred during the reporting period.

CHAPTER THREE – FURTHER INFORMATION

Further information about the *Surveillance Devices Act 2004* can be obtained by contacting the Department of Home Affairs:

National Security Policy Branch

Department of Home Affairs

PO Box 25

Belconnen ACT 2616

Telephone: (02) 6264 1111

Previous *Surveillance Devices Act 2004* Annual Reports can be accessed online at: www.homeaffairs.gov.au

APPENDIX A – LIST OF TABLES

Table	Heading	Page #
TABLE 1:	Number of arrests, safe recovery, prosecutions, and convictions – paragraphs $50(1)(g)$, $50(1)(h)$ and $50(1)(i)$	2
TABLE 2:	Availability of Federal Court Judges, Family Court Judges, Federal Circuit Court Judges, and nominated AAT members to issue warrants	5
TABLE 3:	Number of warrants issued – paragraphs 50(1)(a) and 50(1)(e)	10
TABLE 4:	Number of applications for extension of a warrant – paragraph 50(1)(f)	13
TABLE 5:	Number of applications for tracking device – paragraphs 50(1)(c) and 50(1)(e)	15
TABLE 6:	Number of arrests, safe recovery, prosecutions, and convictions – paragraphs $50(1)(g)$, $50(1)(h)$ and $50(1)(i)$	16

APPENDIX B – ABBREVIATIONS

Abbreviation	Name
AAT	Administrative Appeals Tribunal
ACIC	Australian Criminal Intelligence Commission
ACLEI	Australian Commission for Law Enforcement Integrity
Act	Surveillance Devices Act 2004
AFP	Australian Federal Police
CCC (WA)	Corruption and Crime Commission (Western Australia)
CCC (QLD)	Crime and Corruption Commission (Queensland)
IBAC	Independent Broad-based Anti-corruption Commission (Victoria)
ICAC (NSW)	Independent Commission Against Corruption (New South Wales)
ICAC (SA)	Independent Commissioner Against Corruption (South Australia)
LECC	Law Enforcement Conduct Commission
NSW Police	New South Wales Police
SA Police	South Australia Police
VIC Police	Victoria Police
WA Police	Western Australia Police

NOTES



