



Australian Government
Department of Immigration
and Border Protection

R E P O R T

WITNESS IDENTITY PROTECTION FOR OPERATIVES

1 July 2016 - 30 June 2017

Purpose of this Report

Part IACA of the *Crimes Act 1914* (the Act) provides a statutory scheme for Commonwealth law enforcement agencies, including the Department of Immigration and Border Protection (the Department), to give witness identity protection certificates in the investigation of Commonwealth offences.

Under Part IACA – Section 15ME(1) of the Act states that:

- 1) the chief officer of a law enforcement agency may give a witness identity protection certificate if:
 - a) the operative is, or may be required, to give evidence in the proceeding; and
 - b) the chief officer is satisfied on reasonable grounds that the disclosure in the proceeding of the operative's identity or where the operative lives is likely to:
 - i. endanger the safety of the operative or another person; or
 - ii. prejudice any current or future investigation; or
 - iii. prejudice any current or future activity relating to security.

This report has been developed in accordance with the requirements of section 15MU of the Act with respect to Witness Identity Protection Certificates issued under Part IACA of the Act.

Under sub-section 15MU(1) the Department is also required to provide a report to the Minister as soon as practicable after the end of the financial year, in regards to witness identity protection certificates given by the chief officer during that year detailing:

- A. the number of witness identity protection certificates given
- B. on what basis the chief officer was satisfied about the matters mentioned in paragraph 15ME(1)(b) for each certificate
- C. if disclosure of an operative's identity to a presiding officer was required by section 15ML-details of the proceeding in relation to which disclosure was required and details of the things that the presiding officer required the operative to do under that section
- D. if leave was given or an order made under section 15MM in a proceeding in which a witness identity protection certificate for an operative was filed-details of the proceeding that relate to the leave or order
- E. if leave was given for joinder of a person as a respondent to proceedings under section 15MN-details of the person who was joined and who appeared on their behalf
- F. if leave was given for an adjournment under section 15MP-details of whether an appeal was made against the decision under that section
- G. if a witness identity protection certificate was cancelled under section 15MQ-the reasons why the certificate was cancelled
- H. if a permission was given under section 15MR-the reasons why the permission was given
- I. any other information relating to witness identity protection certificates and the administration of this Part that the Minister considers appropriate.

Department of Immigration and Border Protection Report about witness identity protection certificates section 15MU(1)

During the 2016-2017 financial year:

- A. there were no witness identity protection certificates given
- B. the chief officer was satisfied on reasonable grounds that the disclosure in the proceedings of the operative's identity did not endanger the safety of the operative or another person; did not prejudice any current or future investigation and did not prejudice any current or future activity relating to security
- C. there were no unauthorised disclosures of an operative's identity to a presiding officer
- D. there was no leave given or an order made in a proceeding in which a witness identity protection certificate for an operative was filed
- E. there was no leave given for joinder of a person as a respondent to proceedings
- F. there was no leave given for any adjournment
- G. there were no witness identity protection certificates cancelled
- H. there were no permits provided to give information that disclosed, or lead to the disclosure of, the operative's identity or where the operative lived
- I. there was no other information provided relating to witness identity protection certificates that the Minister may consider appropriate

Sub-section 15MU(4) of the Act requires the Minister to table a copy of the report to be before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.