



REPORT

COMPLIANCE BY NORTHERN TERRITORY POLICE
FORCE WITH PART 2 OF THE *POLICE (SPECIAL
INVESTIGATIVE AND OTHER POWERS) ACT*

2016/17

Report issued: August 2017

INTRODUCTION

The *Police (Special Investigative and Other Powers) Act* (the Act) came into force on 1 July 2015. Part 2 of the Act deals with controlled operations.

A controlled operation is an undercover law enforcement operation that may involve a law enforcement officer or other person engaging in what would otherwise be unlawful conduct for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious offence.

The objects of Part 2 of the Act are:

- (a) *to provide for the authorisation, conduct and monitoring of controlled operations; and*
- (b) *to facilitate mutual recognition of things done in relation to controlled operations conducted within, or partially within, the Territory and authorised under corresponding laws of other jurisdictions; and*
- (c) *to provide, for the conduct of the authorised operations:*
 - (i) *indemnity for participants against civil liability arising out of the operations; and*
 - (ii) *protection for participants from criminal responsibility for conduct engaged in as part of the operations which would otherwise be an offence.*

The statutory definition of a **controlled operation** is an operation that:

- (a) *is conducted, or intended to be conducted, for the purpose of obtaining evidence that may lead to the prosecution of a person for a relevant offence; and*
- (b) *involves, or may involve, controlled conduct.*

Controlled conduct means conduct for which a person would, apart from section 20 or 27, be criminally responsible.

RECORDING, REPORTING AND MONITORING OBLIGATIONS

The Commissioner of Police must cause to be kept a General Register of applications, authorities and variations relating to controlled operations (section 33).

The Commissioner is also required to keep a range of documents relating to applications, authorities and variations (section 32).

Within 2 months after the completion of an authorised operation, the principal law enforcement officer for an operation must give a report to the Commissioner (section 29).

The Commissioner must submit a report to the Ombudsman as soon as practicable after 31 March and 30 September each year, in relation to authorised operations conducted during the previous six months (section 30).

The Ombudsman must inspect the records of NT Police at least once every 12 months, to determine the extent of compliance with Part 2 by NT Police and its law enforcement officers (section 34).

The Ombudsman must, as soon as practicable after 30 June each year, report on the work and activities of NT Police under this Part for the preceding 12 months (section 31).

A copy of each Ombudsman report must be given to the Minister and the Commissioner of Police, and the Minister must, within 15 sitting days after receiving a report, table it in the Legislative Assembly (section 31).

INSPECTION

In 2016/17, there were two inspections. They took place on 6 December 2016 and 22 June 2017 and covered the period from 16 June 2016 to 21 June 2017.

Reports received from the Commissioner of Police in line with section 30 and advice from NT Police at the time of the inspections confirm that no applications had been made or controlled operations undertaken under Part 2 since commencement of the Act.

This report is therefore limited in scope.

REPORT

Section 30 – Six monthly report to Ombudsman

The Commissioner of Police has given the Ombudsman two reports in compliance with this provision.

Section 33 – General Register

A General Register has been created but as yet has no entries. The template Register was provided by NT Police to show how details will be recorded when required.

FINDING

On the basis of the records inspected, NT Police and its law enforcement officers have during the reporting period complied with the requirements of Part 2 of the *Police (Special Investigative and Other Powers) Act*.



Peter Shoyer
Ombudsman
August 2017