

Surveillance information continues to be retained after authorised for destruction

The Commonwealth Ombudsman Report to the Attorney-General on agencies' compliance with the *Surveillance Devices Act 2004* (Cth) has been tabled in Parliament, highlighting concerns that information gathered using a surveillance device is not being destroyed in a timely manner as required by legislation.

The report highlights 1 recommendation and 9 suggestions made by the Ombudsman after reviewing how law enforcement agencies used surveillance devices, computer access and data disruption warrants to covertly gather evidence between 1 July and 31 December 2024.

Commonwealth Ombudsman, Mr Iain Anderson said,

'I am concerned to see the Australian Federal Police (AFP) is holding on to information which has been authorised for destruction well in excess of what could be considered a reasonable timeframe.'

'Our view is that material must be destroyed within 28 days of being authorised for destruction. At the AFP we observed instances where material remained intact for over 200 days after the AFP had decided the material did not need to be retained.'

The report identified instances where information gathered through a surveillance device or by accessing a computer and authorised for destruction was not disposed of as soon as practical; the privacy impacts of using a surveillance device on third parties were not adequately considered; unexecuted surveillance device warrants were not reviewed or revoked; agencies disposed of material before making it available for our inspection; and failing to notify the Ombudsman of activity undertaken under a Data Disruption Warrant.

The report also highlighted examples of good practice across the agencies inspected.

OFFICIAL

'I am pleased with the engagement agencies are having with each other and my Office to ensure they comply with the law' added Mr Anderson.

Under the Act, 17 law enforcement agencies can apply for and use powers to covertly gather evidence of a relevant offence. The Commonwealth Ombudsman inspects each agency's use of the surveillance powers every 6 months.

The full report is available to read on the [Commonwealth Ombudsman website](#).

For more information visit ombudsman.gov.au or for media enquiries email media@ombudsman.gov.au