



New South Wales
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[REDACTED]
Parliamentary Joint Committee on Intelligence and Security
Department of House of Representatives
Parliament House
CANBERRA ACT 2600

By email: pjcis@aph.gov.au

[REDACTED]

Review of the Mandatory Data Retention Regime

I thank you for the opportunity to provide a submission to the review of the mandatory data retention regime per your email request of 9 April 2019.

Please find enclosed a consolidated summary of the records the NSW Crime Commission is required to keep pursuant to section 187N(3) of the Telecommunications (Interception and Access) Act 1976.

The criteria established under section 186 of the Act is answered in the form of seven tables and provided for the benefit of your review.

Yours sincerely,

[REDACTED]
Peter Cotter APM
Commissioner

A1500659



Parliamentary Joint Committee on Intelligence and Security – Review of Data Retention regime

To assist with its review, the Committee requests that each enforcement agency provide a consolidated summary of the records it is required to keep under subsection 187N(3). This should include figures on the total number of authorisations made each year since the introduction of the regime, as well as each of the other items that are required to be reported on annually under paragraphs 186(1)(e) to (k).

Tables:

1. Total number of authorisations (made under sections 178 and 180) – items 186 (1)(a) and (1)(c)
2. Offence categories for authorisations (made under sections 178 and 180) – item 186 (1)(e)
3. Age of data sought for authorisations (made under section 178) – item 186 (1)(f)
4. Authorisations relating to item 1 of the dataset - item 186 (1)(g)
5. Authorisations relating to items 2-6 of the dataset - item 186 (1)(h)
6. Number of journalist information warrants - item 186 (1)(j)
7. Number of authorisations made under journalist information warrants - item 186 (1)(i)

Table 1: Total number of authorisations (made under sections 178 and 180)

| | Total number of authorisations s178 | Total number of authorisations s180 |
|---------------------------------|-------------------------------------|-------------------------------------|
| 13/10/2015 - 30/06/2016 | 1695 | 521 |
| 2016 – 2017 | 2322 | 796 |
| 2017 – 2018 | 2893 | 1149 |
| Total since commencement | 6910 | 2466 |

Note: Regime came into effect 13/10/2015.

Table 2: Offence categories for authorisations (made under sections 178 and 180)

| Offence category | | s178 13/10/15 – 30/06/16 | s178 2016– 2017 | s178 2017– 2018 | Total s178 since commencement | s180 13/10/15 – 30/06/16 | s180 2016-2017 | s180 2017–2018 | Total s180 since commencement |
|------------------|--|-----------------------------------|-----------------------|-----------------------|----------------------------------|--------------------------------|-------------------|-------------------|----------------------------------|
| 4.1 | Abduction, harassment and other offences against the person | 2 | 0 | 0 | 2 | 2 | 1 | 0 | 3 |
| 4.2 | ACC investigation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.3 | Acts intended to cause injury | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.4 | Bribery or corruption | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 0 |
| 4.5 | Cartel offences | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.6 | Conspire/aid/abet serious offence | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.7 | Cybercrime and telecommunications offences | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.8 | Dangerous or negligent acts and endangering a person | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 |
| 4.9 | Fraud, deception and related offences | 601 | 840 | 925 | 2366 | 195 | 252 | 587 | 1034 |
| 4.10 | Homicide and related offences | 358 | 376 | 726 | 1460 | 39 | 105 | 57 | 201 |
| 4.11 | Illicit drug offences | 545 | 755 | 786 | 2086 | 158 | 216 | 293 | 667 |
| 4.12 | Loss of life | 0 | 0 | 17 | 17 | 0 | 0 | 8 | 8 |
| 4.13 | Miscellaneous offences | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.14 | Offences against justice procedures, government security and government operations | 0 | 1 | 3 | 4 | 0 | 0 | 1 | 1 |
| 4.15 | Organised offences and/or criminal organisations | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 |

| Offence category | | s178 13/10/15 – 30/06/16 | s178 2016– 2017 | s178 2017– 2018 | Total s178 since commencement | s180 13/10/15 – 30/06/16 | s180 2016–2017 | s180 2017–2018 | Total s180 since commencement |
|------------------|---|-----------------------------------|-----------------------|-----------------------|----------------------------------|--------------------------------|-------------------|-------------------|----------------------------------|
| 4.16 | Other offences relating to the enforcement of a law imposing a pecuniary penalty | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.17 | Other offences relating to the enforcement of a law protecting the public revenue | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.18 | People smuggling and related | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.19 | Prohibited and regulated weapons and explosive offences | 1 | 5 | 0 | 6 | 0 | 8 | 2 | 10 |
| 4.20 | Property damage and environment pollution | 0 | 4 | 0 | 4 | 0 | 0 | 0 | 0 |
| 4.21 | Public order offences | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.22 | Robbery, extortion and related offences | 2 | 5 | 11 | 18 | 1 | 0 | 3 | 4 |
| 4.23 | Serious damage to property | 11 | 94 | 1 | 106 | 0 | 24 | 0 | 24 |
| 4.24 | Sexual Assault and related offences | 1 | 1 | 1 | 3 | 0 | 0 | 0 | 0 |
| 4.25 | Terrorism offences | 171 | 240 | 415 | 826 | 126 | 190 | 196 | 512 |
| 4.26 | Theft and related offences | 1 | 1 | 6 | 8 | 0 | 0 | 0 | 0 |
| 4.27 | Traffic and vehicle regulatory offences | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4.28 | Unlawful entry with intent/burglary, break and enter | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 |
| TOTALS | | 1695 | 2322 | 2893 | 6910 | 521 | 796 | 1149 | 2466 |

Table 3: Age of data sought for authorisations (made under section 178)

| Age of data sought | 13/10/15 - 30/6/16 | 2016-2017 | 2017-2018 | Total since commencement |
|--------------------|--------------------|---------------|-------------|--------------------------|
| Undated data | Not available | Not available | 1402 | 1402 |
| 0-3 months | 1296 | 1624 | 687 | 3607 |
| 3-6 months | 87 | 145 | 131 | 363 |
| 6-9 months | 33 | 67 | 60 | 160 |
| 9-12 months | 28 | 85 | 118 | 231 |
| 12-15 months | 33 | 28 | 109 | 170 |
| 15-18 months | 13 | 59 | 73 | 145 |
| 18-21 months | 20 | 33 | 107 | 160 |
| 21-24 months | 29 | 66 | 77 | 172 |
| 24+ months | 156 | 215 | 129 | 500 |
| Total | 1695 | 2322 | 2893 | 6910 |

Table 4 /5: Authorisations relating to item 1 of the dataset and Authorisations relating to items 2-6 of the dataset

| Dataset | 13/10/15 - 30/6/16 | 2016-2017 | 2017-2018 | Total since commencement |
|---------------|--------------------|-----------|-----------|--------------------------|
| Item 1 | 1197 | 1539 | 1867 | 4603 |
| Items 2-6 | 702 | 1070 | 1300 | 3072 |
| All items 1-6 | 1695 | 2322 | 2893 | 6910 |

Table 6: Number of journalist information warrants

| | Number of journalist information warrants |
|---------------------------------|---|
| 13/10/2015 - 30/06/2016 | 0 |
| 2016 – 2017 | 0 |
| 2017 – 2018 | 0 |
| Total since commencement | 0 |

Table 7: Number of authorisations made under journalist information warrants

| | Number of authorisations made under journalist information warrants |
|--------------------------|---|
| 13/10/2015 - 30/06/2016 | 0 |
| 2016 – 2017 | 0 |
| 2017 – 2018 | 0 |
| Total since commencement | 0 |