



## **Telecommunications (Interception) Act 1979**

**Report for the year ending 30 June 2001**

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## ABBREVIATIONS

AFP	Australian Federal Police
ASIO	Australian Security Intelligence Organisation
ICAC	New South Wales Independent Commission Against Corruption
NCA	National Crime Authority
NSW CC	New South Wales Crime Commission
PIC	Police Integrity Commission
QLD CC	Queensland Crime Commission
QLD CJC	Queensland Criminal Justice Commission
TID	Telecommunications Interception Division of the Australian Federal Police
TIRAC	Telecommunications Interception Remote Authority Connection
The Interception Act	The <i>Telecommunications (Interception) Act 1979</i>
WA ACC	Western Australian Anti-Corruption Commission



## **CHAPTER 1 - INTRODUCTION**

1.1 This Annual Report has been prepared in accordance with Division 2 of Part IX of the *Telecommunications (Interception) Act 1979* (the Interception Act), which requires that the Attorney-General, as Minister administering the Interception Act, have prepared each year a report giving details of telecommunications interceptions for law enforcement purposes. This is the thirteenth Annual Report prepared in accordance with the requirements of that Division, and relates to the year ending 30 June 2001.

1.2 Chapter 2 outlines the objectives and the structure of the Interception Act. Chapter 3 records relevant developments that have occurred during the year under review. Chapter 4 presents the information collected in compliance with the statutory requirements of Division 2 of Part IX of the Interception Act.



## **CHAPTER 2 - OVERVIEW OF THE INTERCEPTION ACT**

2.1 This chapter provides an overview of the Interception Act, including an outline of its objects, and a description of the provisions that are most relevant to the contents of this report. In addition, the chapter includes a section relating to the accountability provisions of the Interception Act, describing the means by which the various agencies are made accountable for their actions under the legislation. A brief history of the Interception Act is contained in previous annual reports.

### **Objectives of the legislation**

2.2 The Interception Act has two key purposes. Its primary object is to protect the privacy of individuals who use the Australian telecommunications system by making it an offence to intercept communications passing over that system other than in accordance with the provisions of the Interception Act. The Interception Act specifies the circumstances in which it is lawful for an interception to take place. A telecommunications service may be intercepted in connection with the operation or maintenance of the telecommunications system, or under the authority of a warrant – by law enforcement agencies for the investigation of serious offences, or by ASIO for national security purposes.

### **Provisions relevant to this report**

2.3 The linchpin of the Interception Act is subsection 7(1), which, subject to certain exceptions, prohibits a person from intercepting a communication passing over the telecommunications system. For these purposes, intercepting includes permitting or enabling another person to intercept a communication. In the context of this report, the most significant of the exceptions is that contained in paragraph 7(2)(b), which provides that subsection (1) does not apply in relation to ‘the interception of a communication under a warrant’.

2.4 The Interception Act contains numerous provisions controlling the issue and revocation of warrants, the scope of the authority conferred by warrants, the execution of warrants and the use of information obtained under warrants. The reporting obligations under the Interception Act relate principally to Part VI warrants; that is, those warrants issued to law enforcement agencies under Part VI of the Interception Act.

#### *Part VI warrants – relevant offences*

2.5 Part VI of the Interception Act provides for the issue of warrants to the Australian Federal Police, the National Crime Authority and to participating State law enforcement agencies. The warrants authorise the interception of telecommunications in connection with the investigation of class 1 or class 2 offences.

2.6 Class 1 and 2 offences are defined in subsection 5(1) and section 5D of the Interception Act. Essentially, their meaning is as follows:

- a **class 1 offence** includes murder, kidnapping and equivalent offences; narcotics offences punishable as provided by section 235 of the *Customs Act 1901*; and offences in relation to which the National Crime Authority is conducting a special investigation within the meaning of the *National Crime Authority Act 1984* (but only in relation to warrants sought by the NCA). It also includes ancillary offences (such as aiding, abetting and conspiring) in relation to the other class 1 offences.
- a **class 2 offence** is defined in section 5D of the Interception Act and covers several categories of offences:
  - serious offences involving loss of life or serious personal injury, or serious risk of such loss or injury; serious damage to property in circumstances endangering a person’s safety; trafficking in prescribed substances; serious fraud; serious loss to the revenue of the Commonwealth or a State or the Australian Capital Territory; and bribery or corruption of or by an officer of the Commonwealth, State or Territory;
  - offences involving planning and organisation;
  - money laundering offences; and
  - computer related offences under Part VIA of the *Crimes Act 1914*.

In most cases it is a requirement that the offence be punishable by imprisonment for life or for a period of at least 7 years. Offences ancillary to these principal offences are also class 2 offences.

### *Applying for Part VI warrants*

2.7 Applications for warrants for law enforcement purposes may only be made by the Australian Federal Police, the National Crime Authority, or an ‘eligible authority’ of a State or the Northern Territory in relation to which a declaration under section 34 of the Interception Act is in force. The Interception Act defines eligible authorities to be the police forces of each of the States and of the Northern Territory. At the commencement of the reporting year, eligible authorities also included the Independent Commission Against Corruption, the New South Wales Crime Commission, the Police Integrity Commission, the Queensland Criminal Justice Commission, the Western Australian Anti-Corruption Commission, the Queensland Crime Commission and the Inspector of the Police Integrity Commission.

2.8 Below are the eligible authorities which may apply for interception warrants and the date on which their declarations under section 34 of the Interception Act came into effect:

Victoria Police	28 October 1988
New South Wales Crime Commission	30 January 1989
New South Wales Police Service	30 January 1989
Independent Commission Against Corruption	6 June 1990
South Australia Police	10 July 1991
Western Australia Police Service	15 July 1997
New South Wales Police Integrity Commission	14 July 1998

2.9 Eligible authorities that have not been the subject of a declaration under section 34 of the Interception Act may have access to intercepted information obtained by other intercepting agencies that is relevant to their investigations.

### *Eligible Judges and nominated AAT members*

2.10 Part VI of the Interception Act provides that an eligible judge may, on application by an agency, issue a warrant authorising interceptions of communications. An ‘eligible Judge’ refers to a Judge of a court created by the Parliament who has consented in writing to being nominated by the Attorney-General, and who has been declared by the Attorney-General to be an eligible Judge. In the reporting year eligible Judges were members of the Federal Court of Australia and the Family Court of Australia.

2.11 In 1997 the Interception Act was amended by the *Telecommunications (Interception) and Listening Device Amendment Act 1997* (Amendment Act 1997) to enable the Attorney-General to nominate members of the Administrative Appeals Tribunal (AAT) to issue warrants authorising telecommunications interception for law enforcement purposes. The amendments were in large part a response to the decision of the High Court in *Grollo v Commissioner of the Australian Federal Police and Ors* (1995) 131 ALR 225, in which the High Court indicated that the use of judges as designated officials to perform certain administrative functions may be incompatible with their judicial function.

2.12 Under the Amendment Act 1997, the provisions allowing the Attorney-General to nominate members of the AAT to issue warrants ceased to have effect at the end of 1999. The Telecommunications Interception Policy Review 1999 found that the regime for issuing warrants by nominated AAT members worked well and recommended that AAT members continue to issue warrants after the end of 1999. The *Telecommunications (Interception) Amendment Act 1999* repealed section 3 of the Amendment Act 1997 to enable the power of nominated AAT members to issue warrants to continue, and, as a result, telecommunications interception warrants may be issued by eligible Judges or nominated AAT members.

### *Form of applications*

2.13 In the normal course of events, the Interception Act requires that an application for a warrant be in writing. However, in urgent circumstances applications may be made by telephone. In either case, the warrant takes effect only when completed and signed by the Judge or nominated AAT member. The information required for a written application must also be provided to a Judge or nominated AAT member at the time of a telephone application and the applicant must supply the relevant supporting affidavits to the Judge or nominated AAT member within one day after the warrant is issued. Specific provision is made for the revocation of a warrant where this condition is not complied with.

### *Types of warrants*

2.14 In deciding whether to issue a warrant, the Judge or nominated AAT member must be satisfied of the matters set out in sections 45 or 45A in relation to class 1 offences, or the matters set out in sections 46 or 46A in relation to class 2 offences. The principal matters that the Judge or nominated AAT member is required to consider are: the availability of alternative methods of investigating the offence; and, in the case of class 2 offences, the gravity of the conduct being investigated and the degree of interference with the privacy of any person. Where an application for a warrant includes a request that the warrant authorise entry on premises, the Judge or nominated AAT member must also be satisfied that it would be impracticable or inappropriate to intercept communications by less intrusive means.<sup>1</sup>

## **Safeguards and controls contained in the Interception Act**

2.15 The Interception Act contains a number of safeguards and controls in relation to interceptions. The Australian Federal Police and the National Crime Authority are required to maintain records relating to interceptions and the use of intercepted information, and the Interception Act requires that the Ombudsman conduct regular inspections of those records. In addition, the Australian Federal Police must submit a General Register of Warrants to the Minister every three months providing details of all warrants in force during the preceding three months. Records of intercepted information which are not required for a permitted purpose must be destroyed but only after the Minister has inspected the General Register of Warrants.<sup>2</sup> The Interception Act also ensures that the Attorney-General, as the Minister administering the Interception Act, is kept informed of the agencies' activities by means of reports from the agencies and the Ombudsman.

2.16 The imposition of parallel requirements by State legislation on a relevant eligible authority of the State is a precondition to the Attorney-General making a declaration

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<sup>1</sup> Section 48 of the Interception Act.

<sup>2</sup> Sections 79 and 81B of the Interception Act.

under the Interception Act in relation to such an authority.<sup>3</sup> If the Attorney-General is satisfied that the relevant State's legislation no longer satisfies those requirements, he or she may revoke the declaration. All law enforcement agencies capable of applying for the issue of interception warrants therefore operate under equivalent supervisory and accountability provisions, including those relating to inspection and reporting.

2.17 A central agency within the Australian Federal Police, the Telecommunications Interception Division, has supervisory control over the execution of interception warrants issued to law enforcement agencies other than the Australian Federal Police.

### **Accountability provisions**

2.18 The Interception Act contains a number of provisions designed to enhance the accountability of the agencies intercepting under warrant. The most significant of these provisions are outlined below.

#### *Minister to inspect General Register*

2.19 Section 81A of the Interception Act requires that the Commissioner of the Australian Federal Police keep a General Register showing particulars of all Part VI warrants. Relevant particulars are:

- the date of issue and period for which the warrant is to be in force;
- the agency to which the warrant was issued and the Judge or nominated AAT member who issued the warrant;
- the telecommunications service to which the warrant relates;
- the name of the person specified in the warrant as the person using or likely to use the telecommunications service; and
- each serious offence in relation to which the Judge or nominated AAT member who issued the warrant was satisfied on the application for the warrant.

2.20 The Commissioner is required under section 81B to deliver to the Minister for inspection every three months so much of the General Register as has not been previously inspected. Section 82 provides that the Register is also subject to inspection by the Ombudsman to check the accuracy of entries in the Register and, so far as is practicable, the extent of compliance with the requirements of the Interception Act.

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<sup>3</sup> Section 35 of the Interception Act.

### *Minister to inspect Special Register*

2.21 Under section 81C, the Commissioner must also maintain a Special Register recording the details of warrants which do not lead, directly or indirectly, to a prosecution. The Interception Act provides for the Minister to inspect the Special Register every three months together with the General Register.

### *Minister to be given copies of warrants and revocations and reports on outcomes*

2.22 The effect of section 94 and subsection 35(1) of the Interception Act is that a copy of each warrant issued to any agency and of each instrument revoking a warrant must be given to the Attorney-General as soon as practicable. The same provisions also require that, within 3 months of a warrant ceasing to be in force, a written report about the use made of information obtained by interception under the warrant be given to:

- in the case of warrants issued to the two Commonwealth agencies – the Attorney-General; and
- in the case of warrants issued to ‘declared’ State agencies – the relevant responsible Minister, who must give a copy of the report to the Commonwealth Attorney-General as soon as practicable.

2.23 Agencies must also provide the Minister with the information that is required to be included in the Annual Report to Parliament. Section 94 requires that the information include a statement of the total costs of interception during the reporting year (see Table 25 in Chapter 4).

### *Reports by carrier*

2.24 Section 97 requires that the Managing Director of a carrier whose service is intercepted under a warrant report to the Attorney-General within 3 months of the warrant ceasing to be in force. The report must include details on the nature and timing of acts done by the employees of the carrier to effect interceptions under the warrant, and to discontinue interceptions when the warrant expires or is revoked.

### *Reports by Ombudsman*

2.25 Under Part VIII of the Interception Act, the Commonwealth Ombudsman has the function of inspecting the records of the Australian Federal Police and the National Crime Authority and reporting to the Attorney-General.<sup>4</sup> Eligible authorities of a State may acquire ‘declared’ status only where the law of the relevant State provides for inspections and reports by an agency which is independent of the eligible authority and

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<sup>4</sup> Section 82 of the Interception Act.

which has sufficient powers to inspect the records of the authority.<sup>5</sup> In most cases, this means the Ombudsman for the jurisdiction in question, although in South Australia, the Police Complaints Authority undertakes the function. The reports of the inspections of the declared State agencies are given to the responsible State Minister who then passes a copy to the Attorney-General. The reports of the inspecting authorities to date indicate a very high level of compliance with relevant statutory requirements.

*Annual Report tabled by Attorney-General*

2.26 The Interception Act requires that the Attorney-General table each year a report complying with Division 2 of Part IX. Chapter 4 of this report presents the information required under the Interception Act.

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<sup>5</sup> Section 35 of the Interception Act.



## **CHAPTER 3 - DEVELOPMENTS IN THE REPORTING YEAR**

3.1 This chapter sets out the principal legislative and other developments, as well as judicial decisions, relating to the Interception Act which took place during the reporting year. It also outlines those comments made by the agencies in relation to the value and importance of interceptions under warrant.

### **Recent legislative and policy developments**

3.2 There were no major reviews or amendments made in relation to the Interception Act during the 2000-2001 reporting year. Throughout the year, the Attorney-General's Department continued its ongoing role of administering the Interception Act, including policy development with regard to telecommunications interception.

3.3 Amendments were made to the *Telecommunications (Interception) Regulations 1987* during the reporting year to create a new form of warrant following the entry into force on 22 June 2000 of amendments to the Interception Act to permit warrants to be issued in respect of named persons. The amendments to the Regulations were made by the *Telecommunications (Interception) Amendment Regulations 2000 (No. 1)*. The *Telecommunications (Interception) Amendment Regulations 2000 (No. 2)* made further amendments to the warrant forms to ensure that a telecommunications service warrant may be executed on behalf of another agency, and also updated the drafting style of existing warrant forms so that they were consistent with named person warrants. Later amendments to the Regulations effected by the *Telecommunications (Interception) Amendment Regulations 2001 (No. 1)* made a number of minor corrections to the regulations to ensure consistency across the forms.

### **Judicial decisions**

3.4 There was one notable judicial decision in which the Interception Act was considered during the reporting year. On the 7 May 2001, the Full Court of the Supreme Court of Western Australia delivered its decision in *Re Matthews; Ex parte MacKenzie* [2001] WASCA 358. The Court dismissed a request to quash a decision by the Commissioner of the Western Australia Police Service to dismiss an officer on the grounds that the Commissioner could not lawfully have regard to intercepted information. At the end of the reporting year, the Court had not yet handed down its reasons for the decision.

### **Previous annual report**

3.5 The Annual Report for the year ending 30 June 2000 was tabled in both Houses of Parliament on 28 March 2001.

## **Agency comments**

3.6 Agencies have again commented favourably on the value of interceptions under warrant in assisting with the investigation and prosecution of serious criminal offences, including murder and drug trafficking offences. In some cases, agencies have reported that interceptions have been critical in the success of the relevant investigation and prosecution, particularly in circumstances where alternative evidence is unavailable or insubstantial. Agencies have also reported that prosecutions in which it is proposed to adduce intercepted information have in some cases led to guilty pleas by offenders, avoiding a lengthy and expensive trial. Telecommunications interception has also been of vital importance in progressing investigations into misconduct by police and other public officers.

3.7 Evidence obtained from the use of telecommunications interception has resulted in many arrests and the seizure of large quantities of prohibited drugs and criminal assets. Agencies have also commented that the very existence of a telecommunications interception regime serves to frustrate criminal enterprises.

## **CHAPTER 4 - INFORMATION REQUIRED UNDER THE INTERCEPTION ACT**

### **The information required**

4.1 Division 2 of Part IX of the Interception Act sets out the information which must be included in this report. Broadly, the reporting requirements may be summarised as follows.

- **Section 100** - the number of applications for warrants made and the number of warrants issued.
- **Section 101** - the duration for which warrants were specified to be in force when issued, and the period for which the warrants were actually in force.
- **Section 102** - the number of arrests, prosecutions and convictions which took place during the reporting year and which were based on intercepted information.
- **Section 102A** - the number of times an agency intercepted a communication without a warrant in an emergency situation such as a siege, kidnapping or extortion.
- **Paragraph 103(a)** - the total expenditure and the average expenditure per warrant incurred by relevant agencies in connection with the execution of warrants during the reporting year.
- **Paragraph 103(ab)** - information about the availability of Judges to issue warrants under Part VI and the extent to which nominated AAT members have been used for that purpose.
- **Paragraph 103(ac)** – the number of interceptions carried out on behalf of other agencies.
- **Paragraph 103(b)** - additional matters (if any) as have been prescribed under the Interception Act. No additional matters have been prescribed for the purpose of this section.

4.2 The Interception Act requires the information to be set out in relation to *each agency* that is entitled to be issued with warrants authorising interception (and, under section 102, in relation to all eligible authorities). In addition, the information must be set out in aggregate form, combining the details provided for *all* agencies, to indicate the overall extent and effectiveness of telecommunications interception under the Interception Act.

## **Which agencies may seek telecommunications interception warrants?**

4.3 During the reporting period, the following agencies were entitled to apply for interception warrants for law enforcement purposes:

- (i) Australian Federal Police;
- (ii) National Crime Authority;
- (iii) New South Wales Police Service;
- (iv) New South Wales Crime Commission;
- (v) New South Wales Independent Commission Against Corruption;
- (vi) New South Wales Police Integrity Commission;
- (vii) South Australia Police;
- (viii) Victoria Police; and
- (ix) Western Australia Police.

## **Applications for warrants**

4.4 Section 100 requires that the report set out the number of applications for warrants made and warrants issued under Part VI of the Interception Act during the reporting year.

### *Applications for Part VI warrants*

4.5 Paragraphs 100(1)(a) and 100(2)(a) of the Interception Act require that the report set out how many applications for Part VI warrants were made, how many applications were withdrawn or refused and the number of warrants issued during the reporting year for each agency and for all agencies in total. This information is presented in Table 1.

4.6 During the reporting year, the number of warrants issued to law enforcement agencies increased by approximately 28% in aggregate across all agencies. The increase in the number of applications made and warrants issued may be attributed to a number of factors, including:

- the availability of named person warrants, introduced by the *Telecommunications (Interception) Legislation Amendment Act 2000*, which enabled agencies to target those criminals who use multiple telephone services to avoid detection. Whilst named person warrants have reduced the number of warrants sought to the extent that one warrant can now be sought where a number of service warrants might previously have been required, they have also played a role in increasing the total number of warrants. This is because a named person warrant can be employed in circumstances where service warrants would have been ineffective and no warrant would have been sought.
- the increased capacity of interception facilities in many agencies and the decreasing costs of technology, which enabled agencies to maintain more lines through which to conduct interceptions that might not otherwise have been able to proceed; and

- the general increase in the use of telephone services, particularly mobile services, by targeted criminals and an increasing recognition of the usefulness of telecommunications interception as an investigative tool.

**Table 1 – Applications for warrants**

AGENCY	RELEVANT STATISTICS	APPLICATIONS FOR PART VI WARRANTS		
		98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	Made	377	498	602
	Refused/withdrawn	0	2	4
	Issued	377	496	598
NATIONAL CRIME AUTHORITY	Made	147	259	284
	Refused/withdrawn	0	0	0
	Issued	147	259	284
NSW POLICE	Made	234	257	391
	Refused/withdrawn	1	0	1
	Issued	233	257	390
NSW CRIME COMMISSION	Made	173	267	404
	Refused/withdrawn	0	0	0
	Issued	173	267	404
ICAC	Made	10	7	14
	Refused/withdrawn	0	0	0
	Issued	10	7	14
SOUTH AUSTRALIA POLICE	Made	46	54	50
	Refused/withdrawn	1	1	0
	Issued	45	53	50
VICTORIA POLICE	Made	194	256	295
	Refused/withdrawn	0	3	1
	Issued	194	253	294
WESTERN AUSTRALIA POLICE	Made	91	78	102
	Refused/withdrawn	0	1	1
	Issued	91	77	101
POLICE INTEGRITY COMMISSION	Made	14	20	22
	Refused/withdrawn	0	0	0
	Issued	14	20	22
<b>TOTAL [s.100(2)(a)]</b>	Made	<b>1286</b>	<b>1696</b>	<b>2164</b>
	Refused/withdrawn	<b>2</b>	<b>7</b>	<b>7</b>
	Issued	<b>1284</b>	<b>1689</b>	<b>2157</b>

*Telephone applications for warrants*

4.7 Section 40 of the Interception Act permits an application for a warrant to be made by telephone in circumstances of emergency. Paragraphs 100(1)(b) and 100(2)(b) require that the report set out the number of telephone applications for warrants made and the number of warrants issued to each agency and in aggregate.

4.8 The information required under paragraphs 100(1)(b) and 100(2)(b) is presented in Table 2. This table only includes agencies which have made telephone applications for warrants over the past three reporting years.

4.9 In the 2000-2001 reporting year, the number of applications for telecommunications interception warrants made by telephone paralleled the number reported in the 1999-2000 reporting year. NSW Police and Victoria Police have reported that the number of telephone applications is attributable to specific time-critical investigations where the types of offences and the offenders' means of evading detection necessitated rapid responses by the police.

**Table 2 – Telephone applications for warrants**

AGENCY	RELEVANT STATISTICS	TELEPHONE APPLICATIONS FOR PART VI WARRANTS		
		98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	Made	0	0	2
	Refused/withdrawn	-	-	0
	Issued	-	-	2
NSW POLICE	Made	3	21	26
	Refused/withdrawn	0	0	0
	Issued	3	21	26
SOUTH AUSTRALIA POLICE	Made	1	7	1
	Refused/withdrawn	0	0	0
	Issued	1	7	1
VICTORIA POLICE	Made	8	21	24
	Refused/withdrawn	0	0	0
	Issued	8	21	24
WESTERN AUSTRALIA POLICE	Made	2	5	1
	Refused/withdrawn	0	0	0
	Issued	2	5	1
<b>TOTAL</b> <b>[s.100(2)(b)]</b>	Made	<b>14</b>	<b>54</b>	<b>54</b>
	Refused/withdrawn	<b>0</b>	<b>0</b>	<b>0</b>
	Issued	<b>14</b>	<b>54</b>	<b>54</b>

### *Renewal applications for Part VI warrants*

4.10 Agencies may apply for the renewal of Part VI warrants that are still in force. Paragraphs 100(1)(c) and (2)(c) of the Interception Act require that the report set out the number of renewal applications made in relation to each agency and in total for all agencies. This information is presented in Table 3.

**Table 3 – Renewal applications for warrants**

AGENCY	RELEVANT STATISTICS	RENEWAL APPLICATIONS		
		98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	Made	71	99	87
	Refused/withdrawn	0	0	0
	Issued	71	99	87
NATIONAL CRIME AUTHORITY	Made	17	25	54
	Refused/withdrawn	0	0	0
	Issued	17	25	54
NSW POLICE	Made	35	19	35
	Refused/withdrawn	0	0	0
	Issued	35	19	35
NSW CRIME COMMISSION	Made	54	73	86
	Refused/withdrawn	0	0	0
	Issued	54	73	86
ICAC	Made	0	1	2
	Refused/withdrawn	-	0	0
	Issued	-	1	2
SOUTH AUSTRALIA POLICE	Made	2	0	3
	Refused/withdrawn	0	-	0
	Issued	2	-	3
VICTORIA POLICE	Made	11	37	25
	Refused/withdrawn	0	0	0
	Issued	11	37	25
WESTERN AUSTRALIA POLICE	Made	5	10	8
	Refused/withdrawn	0	0	0
	Issued	5	10	8
POLICE INTEGRITY COMMISSION	Made	3	6	9
	Refused/withdrawn	0	0	0
	Issued	3	6	9
<b>TOTAL</b> <b>[s.100(2)(c)]</b>	Made	<b>198</b>	<b>270</b>	<b>309</b>
	Refused/withdrawn	<b>0</b>	<b>0</b>	<b>0</b>
	Issued	<b>198</b>	<b>270</b>	<b>309</b>

*Applications for warrants authorising entry on premises*

4.11 Subsection 48(1) of the Interception Act provides that an application for a warrant may include a request that the warrant authorise entry on premises in order to install, maintain, use or recover equipment or a line used in intercepting communications made to or from the service. Paragraphs 100(1)(d) and (2)(d) of the Interception Act require that the report set out the number of applications for warrants that include requests for authorisation of entry onto premises.

4.12 This information is set out in Table 4 for each agency and in total for all agencies. Only agencies that have applied for warrants authorising entry on premises during the past three reporting years have been included. The number of such warrants sought and issued has, as in previous reporting years, remained small.

**Table 4 – Applications for warrants authorising entry on premises**

AGENCY	RELEVANT STATISTICS	WARRANTS AUTHORISING ENTRY ON PREMISES		
		98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	Made	2	5	0
	Refused/withdrawn	0	0	0
	Issued	2	5	0
NATIONAL CRIME AUTHORITY	Made	2	1	4
	Refused/withdrawn	0	0	0
	Issued	2	1	4
NSW POLICE	Made	0	0	1
	Refused/withdrawn	0	0	0
	Issued	0	0	1
NSW CRIME COMMISSION	Made	1	0	0
	Refused/withdrawn	0	-	0
	Issued	1	-	0
ICAC	Made	0	2	2
	Refused/withdrawn	-	0	0
	Issued	-	2	2
<b>TOTAL</b> <b>[s.100(2)(d)]</b>	Made	<b>5</b>	<b>8</b>	<b>7</b>
	Refused/withdrawn	<b>0</b>	<b>0</b>	<b>0</b>
	Issued	<b>5</b>	<b>8</b>	<b>7</b>

*Warrants issued with specific conditions or restrictions*

4.13 Subsection 49(1) of the Interception Act provides that a warrant may specify conditions and restrictions regarding the interception of communications under that warrant. Paragraphs 100(1)(e) and (2)(e) of the Act require that the number of warrants issued with specified conditions and restrictions be set out in the report. This information is set out in Table 5 for each agency and in total for all agencies.

**Table 5 – Warrants issued with specific conditions or restrictions**

AGENCY	WARRANTS ISSUED WITH CONDITIONS OR RESTRICTIONS		
	98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	12	13	12
NATIONAL CRIME AUTHORITY	1	6	14
NSW CRIME COMMISSION	0	0	21
VICTORIA POLICE	1	1	0
WESTERN AUSTRALIA POLICE	1	0	0
POLICE INTEGRITY COMMISSION	1	0	0
<b>TOTAL [s.100(2)(e)]</b>	<b>16</b>	<b>20</b>	<b>47</b>

*Categories of serious offences specified in Part VI warrants*

4.14 Paragraph 100(1)(f) requires that the report set out the categories of serious offences specified in warrants issued to each agency during the reporting year. Paragraph 100(1)(g) requires that the report set out the number of serious offences in each category that were so specified.

4.15 The information required by paragraphs 100(1)(f) and (g) is set out in Tables 6 to 14. The data for each serious offence include figures for any related ancillary offences, such as assisting in the commission of, or conspiring to commit, a principal offence. Commentary on some key trends across all agencies is provided at paragraph 4.16.

**Table 6 – Categories of serious offences specified in Part VI warrants issued to Australian Federal Police**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	10	11	0
Kidnapping	1	0	0
Narcotics offence	303	415	518
Serious personal injury	3	0	0
Trafficking in drugs	18	11	7
Serious fraud	16	6	11
Serious loss of revenue	19	32	15
Bribery or corruption	0	4	20
Organised crime offence	0	1	21
Money laundering	0	0	16
Offence against Part VIA of the Crimes Act	6	16	0

**Table 7 – Categories of serious offences specified in Part VI warrants issued to National Crime Authority**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	3	4	0
Narcotics offence	77*	163	216
Special investigation <sup>6</sup>	39*	78	39
Trafficking in drugs	8	8	27
Serious fraud	8*	0	0
Serious loss of revenue	9*	0	1
Bribery or corruption	0*	0	1
Organised crime offence	3*	3	0
Money laundering offence	2*	9	10

\* These figures were incorrectly reported in the 1998-1999 annual report.

<sup>6</sup> This category of offence includes an offence in relation to which the NCA is conducting a ‘special investigation’ as defined in section 4 of the *National Crime Authority Act 1984*: that is, an investigation authorised by a notice of reference issued by a Commonwealth or State Minister.

**Table 8 – Categories of serious offences specified in Part VI warrants issued to Independent Commission Against Corruption**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Bribery or corruption	10	7	14

**Table 9 – Categories of serious offences specified in Part VI warrants issued to New South Wales Police**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	100	84	133
Kidnapping	9	24	36
Narcotics offence	0	21	0
Loss of life	4	10	5
Serious personal injury	14	16	50
Serious damage to property	1	2	3
Trafficking in drugs	54	65	95
Serious fraud	4	6	12
Bribery or corruption	12	3	17
Organised crime offence	4	23	60
Money laundering	0	0	1
Offence against Part VIA of the Crimes Act	0	0	1

**Table 10 – Categories of serious offences specified in Part VI warrants issued to Police Integrity Commission**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Narcotics offence	0	0	2
Trafficking in drugs	3	7	10
Bribery or corruption	11	22	25
Organised crime offence	1	2	0

**Table 11 – Categories of serious offences specified in Part VI warrants issued to New South Wales Crime Commission**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	30	35	30
Kidnapping	0	0	1
Loss of life	0	0	25
Serious personal injury	15	18	50
Trafficking in drugs	166	169	273
Bribery or corruption	52	43	241
Organised crime offence	0	0	14
Money laundering offence	46	2	87

**Table 12 – Categories of serious offences specified in Part VI warrants issued to Victoria Police**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	90	110	86
Kidnapping	3	1	9
Loss of life	18	2	5
Serious personal injury	3	10	41
Trafficking in drugs	70	106	132
Serious fraud	3	0	8
Bribery or corruption	1	2	7
Organised crime offence	11	25	6
Money laundering	1	3	0

**Table 13 – Categories of serious offences specified in Part VI warrants issued to South Australia Police**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	23	29	9
Loss of life	0	4	0
Serious personal injury	2	0	11
Trafficking in drugs	12	10	22
Serious fraud	1	0	0
Serious damage to property	0	0	1
Bribery or corruption	4	1	4
Organised crime offence	1	9	3

**Table 14 – Categories of serious offences specified in Part VI warrants issued to Western Australia Police**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	44	9	12
Kidnapping	1	0	3
Narcotics offence	3	0	1
Serious personal injury	7	1	0
Serious damage to property	1	0	0
Trafficking in drugs	24	66	81
Bribery or corruption	2	0	0
Organised crime offence	7	0	4
Money laundering offence	0	1	0

*Categories of serious offences specified in Part VI warrants - all agencies*

4.16 Paragraphs 100(2)(f) and (g) require that the categories of serious offences specified in Part VI warrants for all agencies be set out in aggregated form. This information is set out in Table 15. As in previous years, telecommunications interception was employed predominantly in relation to investigations into drug-related offences. The 2000-2001 reporting year also saw a marked increase in the use of telecommunications interception in the investigation of bribery and corruption offences, partly in response to a heightened government focus on such investigations.

**Table 15 – Categories of serious offences specified in Part VI warrants in relation to all agencies**

CATEGORIES OF SERIOUS OFFENCES	NUMBERS OF SERIOUS OFFENCES SPECIFIED IN EACH CATEGORY		
	98/99	99/00	00/01
Murder	300	282	270
Kidnapping	14	25	49
Narcotics offence	383*	599	737
Special investigation <sup>7</sup>	139*	78	39
Loss of life	26	16	35
Serious personal injury	51	45	152
Serious damage to property	3	2	4
Trafficking in drugs	355	442	647
Serious fraud	48*	12	31
Serious loss of revenue	28*	32	16
Bribery or corruption	91*	82	329
Organised crime offence	27*	63	108
Money laundering offence	95*	15	114
Offence against Part VIA of the Crimes Act	6	16	1

### Duration of warrants

4.17 Section 49 of the Interception Act requires that a warrant specify the period for which it is to be in force, up to a maximum of 90 days. Warrants may be revoked before the specified period lapses. Sections 56 and 57 of the Interception Act require the chief officer of an agency to revoke a warrant where he or she is satisfied that the grounds on which the warrant was issued have ceased to exist.

4.18 Section 101 of the Interception Act requires that the annual report set out details of the duration of Part VI warrants. In particular, the report must set out the average periods for which warrants were issued and the periods for which warrants were actually in force in relation to each agency and in aggregate across all agencies.

\* These figures were incorrectly reported in the 1998-1999 annual report due to an error in the figures for offences specified in warrants issued to the NCA. Refer also Table 7.

<sup>7</sup> Applies only to the NCA (see Table 7).

4.19 The average specified duration of both original and renewal warrants has remained close to the 1999-2000 levels, whilst the average duration that original and renewal warrants are actually in force has increased slightly from the previous reporting year. These figures continue to reflect the change in work practices whereby a number of agencies seek warrants for shorter periods in order to optimise their use of resources and better meet law enforcement objectives. This approach has allowed more warrants to be executed with the same resources through more efficient allocation of available lines to meet the range of law enforcement needs.

#### *Duration of original warrants under Part VI*

4.20 Paragraph 101(1)(a) requires that the report set out the average period specified in original warrants in relation to each agency. Paragraph 101(1)(b) requires that the report set out the average of the periods for which those warrants were actually in force. Paragraphs 101(2)(a) and (b) require the same information to be set out in aggregate across agencies. This information is set out in Table 16.

**Table 16 – Duration of original warrants**

AGENCY	AVERAGE PERIOD SPECIFIED IN WARRANTS (DAYS)			AVERAGE PERIOD WARRANTS IN FORCE (DAYS)		
	98/99	99/00	00/01	98/99	99/00	00/01
AFP	78.34	81.5	80.4	42	44	72
NCA	80.48	78.7	83.5	45.96	32.01	42.1
NSW POLICE	41.04	40.4	42.2	27	26.4	26.8
NSW CC	63.94	78.9	77.7	42.34	44.2	44.3
ICAC	90	82.5	67	38	62	27
SA POLICE	61.81	55.5	58.7	39.51	33.6	38.7
VIC POLICE	80.38	62.6	65.7	36.62	30.1	29.3
WA POLICE	59.48	59.1	52	42.79	38.5	32.7
PIC	90	90	90	86.5	57.8	85
<b>AGGREGATE [s.101(2)(a) &amp; (b)]</b>	<b>68.64</b>	<b>69.52</b>	<b>68.82</b>	<b>39.25</b>	<b>37.09</b>	<b>48.18</b>

*Duration of renewals warrants under Part VI*

4.21 Paragraph 101(1)(c) requires that the report set out corresponding information in relation to renewal warrants. This information is set out in Table 17.

**Table 17 – Duration of renewal warrants**

AGENCY	AVERAGE PERIOD SPECIFIED IN WARRANTS (DAYS)			AVERAGE PERIOD WARRANTS IN FORCE (DAYS)		
	98/99	99/00	00/01	98/99	99/00	00/01
AFP	86.62	89.4	89	48.51	57.2	79.9
NCA	73.88	82.8	89	49.47	46.52	75
NSW POLICE	45	44.5	44.2	34.63	35.3	31
NSW CC	74.57	83.3	84.2	64.17	63.2	57.2
ICAC	-	45	90	-	25	-
SA POLICE	90	-	42.3	20	-	32.5
VIC POLICE	65.45	66.5	64.6	51.82	42.6	34.8
WA POLICE	54	57	41.3	54	51.3	26.6
PIC	90	90	90	75.67	22.5	90
<b>AGGREGATE [s.101(2)(c) &amp; (d)]</b>	<b>72.97</b>	<b>78.88</b>	<b>79.23</b>	<b>50.85</b>	<b>53.18</b>	<b>60.44</b>

*Number of final renewals of warrants under Part VI*

4.22 Paragraph 101(1)(e) provides that the report must record the number of final renewals that ceased to be in force during the reporting year. A final renewal refers to a warrant that is the last renewal of an original warrant, and is recorded in terms of the number of days after the date of issue of the original warrant that the final renewal ceases to be in force. The categories of final renewals are as follows:

- (i) 90 day final renewal – a last renewal that ceases to be in force more than 90 days but not more than 150 days after the date of issue of the original warrant;
- (ii) 150 day final renewal – a last renewal that ceases to be in force more than 150 days but not more than 180 days after the date of issue of the original warrant; and
- (iii) 180 day final renewal – a last renewal that ceases to be in force more than 180 days after the date of issue of the original warrant.

4.23 This information gives some indication of the overall duration of warrants that have been renewed. Paragraph 101(2)(e) requires that the same information be set out in aggregated form to cover all agencies. This information is set out in Table 18.

**Table 18 – Number of 'final renewals'**

AGENCY	90 DAYS			150 DAYS			180 DAYS		
	98/99	99/00	00/01	98/99	99/00	00/01	98/99	99/00	00/01
AFP	13	15	13	21	34	16	4	14	16
NCA	9	5	22	4	1	0	2	4	10
NSW POLICE	5	17	16	1	2	9	1	0	0
NSW CC	29	14	25	1	11	15	1	1	7
ICAC	0	1	0	-	0	0	0	0	0
SA POLICE	2	0	0	0	0	0	0	0	0
VIC POLICE	3	11	10	1	4	2	1	0	2
WA POLICE	0	6	7	0	2	1	0	0	0
PIC	0	2	2	1	0	0	1	0	0
<b>TOTAL [s.101(2)(e)]</b>	<b>61</b>	<b>71</b>	<b>95</b>	<b>29</b>	<b>54</b>	<b>43</b>	<b>10</b>	<b>19</b>	<b>35</b>

### Effectiveness of warrants

4.24 Section 102 of the Interception Act requires that the report contain information about the effectiveness of warrants issued under the Interception Act. Specifically, the report must state how many arrests were made on the basis of information obtained by intercepting a communication under a Part VI warrant. The report must also include information about prosecutions for 'prescribed offences' in which lawfully obtained information was given in evidence, and the number of those in respect of which convictions were recorded. The term 'prescribed offence' is defined in subsection 5(1) to mean:

- (a) a serious offence; that is, a class 1 or class 2 offence (see paragraph 2.6);
- (b) an offence against subsection 7(1), which prohibits, subject to exceptions, the interception of telecommunications;
- (c) an offence against section 63, which prohibits, subject to exceptions, the communication, recording, or use of intercepted information;
- (d) an offence against a provision of Part VIIB of the *Crimes Act 1914*, which deals with the protection of the telecommunications network and installations;
- (e) any other offence punishable by imprisonment for life or for a period, or maximum period, of at least 3 years; or
- (f) an ancillary offence relating to an offence of a kind referred to above.

4.25 Figures for the number of arrests and prosecutions for prescribed offences in which lawfully obtained information was given in evidence are provided in respect of all eligible authorities. While only eligible authorities that are agencies may obtain warrants, information obtained under such warrants may in some circumstances be communicated to another agency. The communication of that information may later result in further investigation and possibly arrest and prosecution by an authority on the basis of lawfully obtained information notwithstanding that the authority is itself unable to obtain a warrant. An example of such a situation might be the interception under warrant by a Commonwealth agency of information pointing to the commission of a State offence where the police force of that State has not been declared an agency for the purposes of the Interception Act. In these circumstances, it may be possible for the Commonwealth agency to communicate the information to the State police service in accordance with Part VII of the Interception Act for further investigation.

4.26 Eligible authorities that are not agencies for the purposes of the Interception Act are the Northern Territory Police, the Queensland Police, the Tasmania Police, the Queensland Criminal Justice Commission, the Queensland Crime Commission, the Inspector of the Police Integrity Commission, and the Western Australian Anti-Corruption Commission.

#### *Arrests on the basis of lawfully obtained information*

4.27 Paragraph 102(1)(a) of the Interception Act requires that the report set out, in relation to each Commonwealth agency and eligible authority of a State how many arrests were made during the year:

- (i) in connection with the performance by the agency or authority of its functions; and
- (ii) on the basis of information that was or included lawfully obtained information.

4.28 Paragraph 102(2)(a) requires that the total number of arrests across eligible authorities be reported. This information is set out in Table 19. The number of arrests made during the 2000-2001 reporting year remains close to the high figures reported during 1999-2000.

**Table 19 – Arrests on the basis of lawfully obtained information**

AGENCY	NUMBER OF ARRESTS		
	98/99	99/00	00/01
AFP	104	157	141
NCA	69 <sup>8</sup>	229	102
NSW POLICE	81	162	172
NSW CC	94	158	155
ICAC	0	0	0
SA POLICE	32	82	45
VICTORIA POLICE	152	229	340
PIC	0	0	5
WA POLICE	94	90	71
NT POLICE	0	0	0
QLD CJC	0	0	0
QLD POLICE	7	0	2
TAS POLICE	0	2	0
WA ACC	-	0	0
QLD CC	-	0	0
INSPECTOR PIC	-	0	0
<b>TOTAL [para 102(2)(a)]</b>	<b>633</b>	<b>1109</b>	<b>1033</b>

*Prosecutions in which lawfully obtained information was given in evidence*

4.29 Paragraphs 102(1)(b) and (c) of the Interception Act provide that the report must set out for each Commonwealth agency and for each eligible authority of a State:

- (a) the categories of prescribed offences prosecuted in which lawfully obtained information was given in evidence, according to records of the agency or authority<sup>9</sup>; and
- (b) in relation to each of those categories:
  - (i) the number of offences in that category; and

<sup>8</sup> The National Crime Authority recorded 42 arrests effected by Joint Task Forces established for the purpose of investigating matters relating to criminal activities under section 11(1)(c) of the *National Crime Authority Act 1984*.

<sup>9</sup> In Tables 20 and 21, the category ‘other offences’ refers to any other offence punishable by imprisonment for life or for a period of at least 3 years, or to any related ancillary offences.

- (ii) the number of offences in that category in respect of which convictions were recorded.

4.30 Paragraphs 102(2)(b) and (c) further require that this information be set out in aggregate for all agencies and eligible authorities.

4.31 The information required by paragraphs 102(1)(b) and (c) and (2)(b) and (c) is set out in Tables 20, 21 and 22. It should be noted that the statistics do not necessarily relate to lawfully obtained information obtained under warrants issued in the current reporting year. Further interpretive information is provided at paragraph 4.32.

**Table 20 – Prosecutions in which lawfully obtained information given in evidence**

<b>CATEGORIES OF PRESCRIBED OFFENCES</b>	<b>AFP</b>	<b>NCA</b>	<b>NSW POL</b>	<b>NSW CC</b>	<b>ICAC</b>	<b>SA POL</b>	<b>VIC POL</b>	<b>WA POL</b>	<b>PIC</b>	<b>QLD POL</b>	<b>TOTAL</b>
Murder	0	0	14	0	0	12	11	0	0	0	<b>37</b>
Kidnapping	0	0	5	0	0	1	1	0	0	0	<b>7</b>
Narcotics offence	49	12	1	0	0	0	0	89	0	0	<b>151</b>
Loss of life	0	0	5	0	0	0	7	0	0	0	<b>12</b>
Serious personal injury	0	3	4	0	0	5	20	0	0	0	<b>32</b>
Serious damage to property	0	0	0	0	0	0	1	0	0	0	<b>1</b>
Trafficking in drugs	20	4	82	26	0	37	118	28	0	0	<b>315</b>
Serious fraud	0	5	0	0	0	0	6	0	0	0	<b>11</b>
Serious loss of revenue	0	1	0	0	0	0	0	0	0	0	<b>1</b>
Bribery or corruption	0	0	7	0	0	0	1	0	0	0	<b>8</b>
Organised crime offence	0	4	0	0	0	0	1	8	0	0	<b>13</b>
Money laundering	0	3	0	0	0	0	2	1	0	0	<b>6</b>
Offence against Part VIA of the Crimes Act	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Other offences	0	81	54	0	0	15	144	2	0	0	<b>296</b>
<b>TOTAL</b>	<b>69</b>	<b>113</b>	<b>172</b>	<b>26</b>	<b>0</b>	<b>70</b>	<b>312</b>	<b>128</b>	<b>0</b>	<b>0</b>	<b>890</b>

**Table 21 – Convictions in which lawfully obtained information given in evidence**

<b>CATEGORIES OF PRESCRIBED OFFENCES</b>	<b>AFP</b>	<b>NCA</b>	<b>NSW POL</b>	<b>NSW CC</b>	<b>ICAC</b>	<b>SA POL</b>	<b>VIC POL</b>	<b>WA POL</b>	<b>PIC</b>	<b>QLD POL</b>	<b>TOTAL</b>
Murder	0	0	0	0	0	8	7	0	0	0	<b>15</b>
Kidnapping	0	0	5	0	0	1	0	0	0	0	<b>6</b>
Narcotics offence	17	10	0	0	0	0	0	6	0	0	<b>33</b>
Loss of life	0	0	4	0	0	0	7	0	0	0	<b>11</b>
Serious personal injury	0	3	4	0	0	1	20	0	0	0	<b>28</b>
Serious damage to property	0	0	0	0	0	0	1	0	0	0	<b>1</b>
Trafficking in drugs	16	4	76	26	0	16	103	1	0	0	<b>242</b>
Serious fraud	0	4	0	0	0	0	6	0	0	0	<b>10</b>
Serious loss of revenue	0	1	0	0	0	0	0	0	0	0	<b>1</b>
Bribery or corruption	0	0	0	0	0	0	1	0	0	0	<b>1</b>
Organised crime offence	0	4	0	0	0	0	1	0	0	0	<b>5</b>
Money laundering	0	2	0	0	0	0	2	0	0	0	<b>4</b>
Offence against Part VIA of the Crimes Act	0	0	0	0	0	0	0	0	0	0	<b>0</b>
Other offences	0	72	54	0	0	8	132	0	0	0	<b>266</b>
<b>TOTAL</b>	<b>33</b>	<b>100</b>	<b>143</b>	<b>26</b>	<b>0</b>	<b>34</b>	<b>280</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>623</b>

**Table 22 – Prosecutions and convictions in which lawfully obtained information given in evidence**

AGENCY	Categories of Offences Prosecuted	Number of Offences Prosecuted for each Category			Number of Convictions Recorded for each Category		
		98/99	99/00	00/01	98/99	99/00	00/01
AFP	Class 1	43	35	49	18	14	17
	Class 2	51	36	20	49	3	16
	Other	0	0	0	0	0	0
	Agency Total	94	71	69	67	17	33
NCA	Class 1	9	16	12	7	16	10
	Class 2	8	24	20	8	22	18
	Other	56	53	81	52	53	72
	Agency Total	73	93	113	67	89	100
NSW POLICE	Class 1	9	18	20	7	17	5
	Class 2	178	156	98	177	149	84
	Other	53	31	54	49	17	54
	Agency Total	240	205	172	233	183	143
VIC POLICE	Class 1	15	10	12	12	10	7
	Class 2	113	118	156	99	102	141
	Other	89	214	144	81	206	132
	Agency Total	217	342	312	192	318	280
SA POLICE	Class 1	3	16	13	2	0	9
	Class 2	28	38	42	28	21	17
	Other	0	1	15	0	4	8
	Agency Total	31	55	70	30	25	34
QLD POLICE	Class 1	0	2	0	0	1	0
	Class 2	0	0	0	0	0	0
	Other	0	9	0	0	2	0
	Agency Total	0	11	0	0	3	0
NSW CC	Class 2	128	48	26	124	47	26
	Other	0	2	0	0	0	0
	Agency Total	128	50	26	124	47	26
WA POLICE	Class 1	0	0	89	0	0	6
	Class 2	0	7	37	0	7	1
	Other	0	2	2	0	0	0
	Agency Total	0	9	128	0	7	7
TOTAL	Class 1	79	97	195	46	58	54
	Class 2	506	427	399	485	351	303
	Other	198	312	296	182	282	266
<b>Grand Total</b>		<b>783</b>	<b>836</b>	<b>890</b>	<b>713</b>	<b>691</b>	<b>623</b>

## Interpretive note

4.32 The statistics presented in Tables 19, 20, 21 and 22 should be interpreted with some caution, particularly in presuming a relationship between the number of arrests, prosecutions (which include committal proceedings) and convictions in a reporting year. An arrest recorded in one reporting year may not result in a prosecution/committal (if at all) until a later reporting year and any resultant conviction may be recorded in that or an even later reporting period. Moreover, the number of arrests may not equate to the number of charges laid (some or all of which may be later prosecuted) as an arrested person may be prosecuted and convicted for a number of offences. Further, the tables may understate the effectiveness of interception in so far as, in some cases, prosecutions may be initiated, and convictions recorded, without the need to give intercepted information in evidence. In particular, agencies report that telecommunications interception effectively enables investigators to identify persons involved in, and the infrastructure of, organised criminal activities, particularly drug trafficking syndicates. In many cases, the weight of evidence obtained through telecommunication interception results in defendants entering guilty pleas, thereby obviating the need for the information to be introduced into evidence.

### *Percentage of eligible warrants*

4.33 Subsections 102(3) and (4) of the Interception Act require that the report include information that provides a general indication of the proportion of warrants yielding information used in the prosecution of an offence.

4.34 Subsection 102(3) requires that the report set out the number of eligible warrants issued to each agency during the reporting year. An “eligible warrant” is defined in subsection 102(3) as:

- a warrant that was in force during the reporting year; and,
- a prosecution was instituted or was likely to be instituted on the basis of information obtained by interceptions under the warrant.<sup>10</sup>

4.35 Under subsection 102(4), the report must set out the percentage of an agency’s total warrants in force during the reporting year that were eligible warrants. These figures are set out in Table 23, and indicate a slight increase in the percentage of eligible warrants compared to the 82.61% recorded in the 1999-2000 reporting year.

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<sup>10</sup> If the warrant was a renewal, this includes information obtained under the original or any renewal of the original warrant; or, if the warrant was an original warrant this includes information obtained under any renewal of that original warrant.

**Table 23 – Percentage of ‘eligible warrants’**

<b>AGENCY</b>	<b>ELIGIBLE WARRANTS (No.)</b>	<b>TOTAL WARRANTS (No.)</b>	<b>ELIGIBLE WARRANTS (%)</b>
AUSTRALIAN FEDERAL POLICE	597	598	99.8
NATIONAL CRIME AUTHORITY	199	284	70.1
NSW POLICE	345	390	88.5
NSW CRIME COMMISSION	292	377	77.5
ICAC	6	14	42.9
SOUTH AUSTRALIA POLICE	41	56	73.2
VICTORIA POLICE	239	330	72.4
WESTERN AUSTRALIA POLICE	66	101	65.3
POLICE INTEGRITY COMMISSION	13	22	59.1
<b>ALL AGENCIES</b>	<b>1798</b>	<b>2172</b>	<b>82.8</b>

### Emergency interceptions

4.36 Section 102A requires that the report set out the number of occasions on which an officer or staff member of the agency intercepted a communication in reliance on subsections 7(4) or (5). These provisions permit the Australian Federal Police and the police forces of New South Wales, Victoria, South Australia and Western Australia to intercept calls in emergencies such as sieges and, with appropriate consent, in kidnapping and extortion cases.

4.37 An interception in reliance on subsection 7(4) may be carried out by an agency whose officer is a party to the communication, and:

- (a) there are reasonable grounds for suspecting that the other party to the communication has:
  - (i) done an act that has resulted or may result in loss of life or the infliction of serious personal injury; or
  - (ii) threatened to kill or seriously injure another person or to cause serious damage to property; or
  - (iii) threatened to take his or her own life or to do an act that would or may endanger his or her own life or create a serious threat to his or her health or safety; and
- (b) because of the urgency of the need for the act to be done, it is not reasonably practicable for an application for a Part VI warrant to be made.

4.38 This information is set out in Table 24. Only those agencies which have conducted interceptions in reliance on this subsection in the past three reporting years are listed.

**Table 24 – Interceptions made in reliance on subsection 7(4)**

SUSPICION OF	VIC POLICE			NSW POLICE			SA POLICE		
	98/99	99/00	00/01	98/99	99/00	00/01	98/99	99/00	00/01
An act that may result in loss of life or serious injury	0	1	0	5	0	0	0	0	0
Threat to kill or seriously injure	1	0	0	0	6	0	0	0	0
Threat to cause serious damage to property	0	0	0	0	0	0	0	0	0
Threat to take own life	0	1	1	0	0	0	0	2	0
<b>TOTAL</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>5</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>

4.39 Interceptions of communications carried out pursuant to subsection 7(5) must be consented to by the person to whom the communication is directed and satisfy the same conditions specified for subsection 7(4). In the reporting year no interceptions were carried out in reliance on subsection 7(5).

## Expenditure

### *Total expenditure incurred by an agency*

4.40 Paragraph 103(a) of the Interception Act requires that the report include details of the total expenditure (including expenditure of a capital nature) incurred by agencies in connection with the execution of warrants for law enforcement purposes. The information required by this subsection is set out in Table 25.

4.41 Total expenditure incurred by agencies in connection with the execution of telecommunications interception rose by approximately 28%. This increase in total expenditure mirrors the 28% increase in warrants issued to agencies during the reporting year. Accordingly, although total expenditure has increased, expenditure across all agencies on a per warrant basis has remained largely the same as the 1999-2000 reporting year (see Table 26).

**Table 25 – Total expenditure incurred by an agency in connection with the execution of warrants**

AGENCY	TOTAL EXPENDITURE (\$)		
	98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	2,243,989	2,134,064	2,952,865
NATIONAL CRIME AUTHORITY	1,957,848	2,297,787	3,262,352
NSW POLICE	2,047,789	2,517,585	2,233,497
NSW CRIME COMMISSION	1,026,444	1,078,903*	2,883,738
ICAC	205,964	140,692	116,349
SOUTH AUSTRALIA POLICE	943,527	927,749	1,136,873
VICTORIA POLICE	3,084,471	2,769,083	2,825,885
WESTERN AUSTRALIA POLICE	1,470,777	1,185,838	1,444,898
POLICE INTEGRITY COMMISSION	592,780	414,090	421,400
<b>TOTAL</b>	<b>\$13,573,589</b>	<b>\$13,465,791*</b>	<b>\$17,277,857</b>

*Average expenditure per warrant*

4.42 Under subsection 103(aa), the report must set out for each agency the average amount spent on each warrant worked out using the formula:

$$\frac{\text{Total warrant expenditure}}{\text{Number of warrants}}$$

where:

“Total warrant expenditure” is the total expenditure incurred by the agency in connection with the execution of warrants during the year to which the report relates; and

“Number of warrants” means the number of warrants to which the total warrant expenditure relates.

4.43 The average expenditure incurred by agencies per warrant over the reporting year is presented in Table 26. Those agencies that have experienced an increased average expenditure per warrant report that this is due in part to the costs of executing named person warrants, which require a number of telecommunications services to be monitored under each warrant, thereby increasing the total cost of the warrant.

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\* These figures were incorrectly reported in the 1999-2000 annual report.

**Table 26 – Average expenditure per warrant**

AGENCY	AVERAGE EXPENDITURE (\$)		
	98/99	99/00	00/01
AUSTRALIAN FEDERAL POLICE	6,217	4,302	4,938
NATIONAL CRIME AUTHORITY	13,319	8,872	11,487
NSW POLICE	8,788	9,796	5,727
NSW CRIME COMMISSION	5,933	4,041	7,138
ICAC	20,596	20,099	8,310
SOUTH AUSTRALIA POLICE	20,967	17,505	22,738
VICTORIA POLICE	15,899	10,945	9,612
WESTERN AUSTRALIA POLICE	15,815	15,400	14,305
POLICE INTEGRITY COMMISSION	42,341	20,704	19,154

*Availability of eligible judges and nominated AAT members*

4.44 Subsection 103(ab) requires that the report set out information about the availability of Judges to issue warrants and the extent to which nominated AAT members have been used for that purpose. This information is set out in Tables 27 and 28.

4.45 Table 27 may not provide a true indication of the actual numbers of eligible Judges who are prepared to issue warrants. Since 7 February 1998, a number of Family Court and Federal Court Judges have ceased issuing warrants, although many of these eligible Judges have not taken the step of formally withdrawing their consent to issue warrants.

**Table 27 – Availability of Federal Court Judges, Family Court Judges and nominated AAT Members to issue warrants**

ISSUER	NUMBER ELIGIBLE
NOMINATED AAT MEMBERS	20
FAMILY COURT JUDGES	25
FEDERAL COURT JUDGES	10

4.46 During the 2000-2001 reporting year, approximately 94% of telecommunications interception warrants were issued by AAT members, 5% by Family Court Judges, and 1% by Federal Court Judges.

**Table 28 – Number of warrants issued in 2000-2001 reporting year by Federal Court Judges, Family Court Judges and nominated AAT Members.**

AGENCY	CATEGORY		
	FAMILY COURT JUDGES	FEDERAL COURT JUDGES	AAT MEMBERS
AUSTRALIAN FEDERAL POLICE	19	0	579
NATIONAL CRIME ASSOCIATION	0	9	275
NSW POLICE	0	0	390
NSW CRIME COMMISSION	0	0	404
ICAC	0	0	14
SOUTH AUSTRALIA POLICE	0	4	46
VICTORIA POLICE	0	0	294
WESTERN AUSTRALIA POLICE	88	0	13
POLICE INTEGRITY COMMISSION	0	0	22
<b>TOTAL</b>	<b>107</b>	<b>13</b>	<b>2037</b>

*Interceptions on behalf of other agencies*

4.47 Subsection 103(ac) of the Interception Act requires that the report set out the number (if any) of interceptions carried out by each agency on behalf of each other agency or eligible authority. This requirement follows the amendment in 2000 to subsection 55(3) of the Interception Act to permit the chief officer of an agency to authorise officers or staff of another agency to execute the authority conferred by a warrant issued to the agency. Table 29 sets out the number of interceptions executed by one agency on behalf of another.

**Table 29 – Number of interceptions carried out on behalf of other agencies in 2000-2001 reporting year.**

AGENCY CARRYING OUT INTERCEPTION	AGENCY ON WHOSE BEHALF INTERCEPTION CARRIED OUT				TOTAL
	AFP	NCA	NSW POLICE	SA POLICE	
NCA	0	-	0	1	<b>1</b>
NSW POLICE	0	4	-	0	<b>4</b>
NSW CRIME COMMISSION	94	88	7	0	<b>189</b>

### Other information

4.48 Subsection 103(b) of the Interception Act requires that the report set out such other information (if any) as is prescribed. There was no other information prescribed during the reporting year.

### Resources devoted to telecommunications interception

4.49 In addition to the total expenditure figures provided in Table 25, the figures in Table 30 below were supplied by each agency and provide a breakdown of the total recurrent costs of interception over the reporting year. However, as agencies do not necessarily treat particular items of expenditure in the same way, caution should be exercised in comparing costs incurred by individual agencies.

**Table 30 – Recurrent Costs of Interceptions in 2000-2001: User Agencies**

<b>Agency</b>	<b>Salaries</b>	<b>Administrative Support</b>	<b>Capital Expenditure</b>	<b>Interception Costs<sup>11</sup></b>	<b>TOTAL (\$)</b>
AFP	2,653,405	428,002	0	189,325	<b>3,270,732<sup>12</sup></b>
NCA	1,663,518	362,825	796,837	439,172	<b>3,262,352</b>
NSW POLICE	1,608,676	218,033	0	406,788	<b>2,233,497</b>
NSW CC	1,363,000	30,000	805,742	761,558	<b>2,960,300<sup>13</sup></b>
ICAC	82,687	10,549	0	23,113	<b>116,349</b>
SA POLICE	920,910	73,493	5,790	136,680	<b>1,136,873</b>
VIC POLICE	2,246,416	191,291	324,219	63,959	<b>2,825,885</b>
WA POLICE	809,138	38,268	424,888	172,604	<b>1,444,898</b>
PIC	260,000	- <sup>14</sup>	151,800	9,600	<b>421,400</b>

<sup>11</sup> This item includes expenditures such as line rental, other carrier charges, maintenance contracts and, except for the AFP, contributions to TID operating costs.

<sup>12</sup> This figure includes \$317,867 recouped from other agencies.

<sup>13</sup> This figure includes \$76,562 recouped from other agencies.

<sup>14</sup> Administrative support for the Police Integrity Commission is provided by staff in the TI Unit and is therefore included as a proportion of salaries.