

6 November 2015

Crime and Public Integrity Policy Committee
Parliament House
North Terrace
ADELAIDE SA 5000

Attention: Guy Dickson
Acting Executive Officer

Dear Committee Members

Report of a Review of the Operations of the Independent Commissioner Against Corruption and the Office for Public Integrity

On 13 October 2015 a report by the Hon. Kevin Duggan AM QC entitled "Report of a review of the operations of the Independent Commissioner Against Corruption and the Office for Public Integrity: For the period 1 July 2014 to 30 June 2015" ('the report') was tabled in both Houses of Parliament.

The report made two recommendations directly relevant to the operations of my office. Both recommendations related to the execution of search warrants and the information provided to the owner or occupier of a place or vehicle the subject of the warrant.

The purpose of this letter is to advise the Committee of the action taken in respect of those recommendations. I intend to provide a copy of this letter to Mr Duggan for his information.

Provision of a Copy of Search Warrant

On page 11 of the report Mr Duggan recommends that the information sheet that is routinely provided to an owner or occupier of a place or vehicle at the time a warrant is executed should be amended to advise the owner or occupier that he or she can request to be provided with a copy of the warrant.

That recommendation arises by reason of the existence of a rule made by the Supreme Court which first appeared as Rule 9 in the *Supreme Court Independent Commissioner Against Corruption Rules 2013*. On 1 October 2014 those rules were repealed and replaced by the *Special Applications Rules 2014*. Rule 12 of the *Special Applications Rules* provides:

A person executing a search warrant issued under these Rules must, unless it is not reasonably practical to do so—

- (a) *show the warrant to the occupier of a place or to the owner or driver of a vehicle, as the case may be, to which the warrant applies; or*
- (b) *on request, provide a copy of the warrant to that person.*

As can be seen, there is no longer an absolute requirement under the Rules for an investigator to provide a copy of a warrant to a person on request. Nor can the Rule apply to a warrant that I issue under section 31(1) of the *Independent Commissioner Against Corruption Act 2012* ('ICAC Act'), because that is not a warrant that is issued under the Rules.

Notwithstanding that there is no absolute obligation to provide a copy of the warrant, I think there is merit in doing so.

Accordingly, I have directed that the Standard Operating Procedure relevant to search warrants be amended to require that, unless it is not reasonably practicable to do so, the investigator executing the search warrant must provide a copy of the warrant (which is clearly marked as a copy) to the owner or occupier of the place or vehicle to which the warrant relates.

This is a step beyond that recommended by Mr Duggan, but I think it appropriate that a copy of the warrant is provided unless it is not reasonably practicable to do so.

Reference to Section 33(1)(a) and (b) on Search Warrant Information Sheet

On page 12 of the report Mr Duggan has recommended that the information sheet that is routinely provided to an owner or occupier of a place or vehicle at the time a warrant is executed should be amended to remove reference to section 33(1)(a) and (b) of the ICAC Act, on the basis that those parts of the section are not applicable to the execution of a search warrant.

I have accepted that recommendation and have directed that the information sheet be amended accordingly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bruce Lander', with a stylized flourish at the end.

The Hon. Bruce Lander QC
INDEPENDENT COMMISSIONER AGAINST CORRUPTION