

Controlled Operations Inspection Report

Report by Integrity Oversight Victoria on its inspections of controlled operations records and reports for the period
1 July 2023 to 30 June 2024

Level 8, 565 Bourke Street
Melbourne VIC 3000

Telephone: 1800 518 197
integrityoversight.vic.gov.au

Acknowledgement

Integrity Oversight Victoria acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of Country. We respectfully acknowledge all First Peoples of Victoria and celebrate their enduring connection to land, skies and waters. We thank First Peoples for their care of Country and contributions to Victorian communities. We honour and pay our respects to First Peoples' Elders past and present.

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Overview

This report presents Integrity Oversight Victoria’s findings on the work and activities of Victorian agencies authorised to conduct controlled operations during the 1 July 2023 to 30 June 2024 period – the ‘reporting period’. A controlled operation relates to conduct undertaken for the purpose of obtaining evidence that may lead to the prosecution of a person for an offence — conduct that would otherwise constitute a criminal offence.

Since our biannual inspections deal with authorities for controlled operations that ceased during the preceding 6-month period, this report gives findings for inspections conducted during 2024. It includes the results of these inspections and our assessment of the comprehensiveness and adequacy of their 6-monthly reports to us.

We inspected all records available for inspection.

The following 5 agencies were authorised to exercise controlled operations powers during the reporting period:

- Department of Energy, Environment and Climate Action (DEECA)
- Game Management Authority (GMA)
- Independent Broad-based Anti-corruption Commission (IBAC)
- Victorian Fisheries Authority (VFA)
- Victoria Police.

Victoria Police was the only agency to exercise its controlled operations powers during the reporting period. In the case of the VFA, updated procedures and templates were inspected – the results of which are included in this report. For the other 3 agencies, we received confirmation that they had no ceased authorities or other controlled operations records during this period. We therefore did not conduct inspections of these agencies.

We inspected a total 65 controlled operations files at Victoria Police. These represent all authorised operations undertaken by Victoria Police that expired or were cancelled during the reporting period. While this report details some compliance errors and suggestions to Victoria Police in relation to these, we did not make any recommendations from our inspections during the period.

In our previous inspection report, we reported on 2 compliance issues self-disclosed by Victoria Police; whereby on each occasion a Victoria Police officer engaged in unauthorised conduct. We further reported on 2 recommendations and other suggestions we made in response to the errors and the actions taken by Victoria Police to address these. While one recommendation was subsequently closed, the other remained open to track Victoria Police’s progress in establishing additional processes.

In the reporting period, Victoria Police provided us with updates regarding its actions to address the outstanding recommendation. Our engagement with Victoria Police in this matter remains ongoing; a brief account of which is provided on page 18 of this report.

The following Acts authorise the 5 agencies to conduct controlled operations for the purpose of obtaining evidence that may lead to the prosecution of persons for offences (with the applicable agencies listed in parentheses):

- *Crimes (Controlled Operations) Act 2004* (the CCO Act) (Victoria Police and IBAC)
- *Wildlife Act 1975* (the Wildlife Act) (DEECA and GMA)
- *Fisheries Act 1995* (the Fisheries Act) (VFA).

The provisions of these Acts are similar; however, the Wildlife Act and Fisheries Act limit the types of offences that may be investigated and the operational scope of a controlled operation. Only Victoria Police and IBAC have the power to conduct an urgent controlled operation, and only in limited circumstances. Additionally, controlled operations undertaken by Victoria Police and IBAC are classified into cross-border, local major and local minor operations.

Law enforcement officers of these agencies may apply to the chief officer of the agency for authority to conduct a controlled operation. In the case of Victoria Police, the power to grant an authority may be delegated by the Chief Commissioner to specific senior officers.

Our role is established by the CCO Act, the Wildlife Act and the Fisheries Act. We provide independent oversight of agencies' compliance with these Acts. We are required to inspect from time to time, and at least once every 12 months, the records of agencies that have exercised their powers to conduct controlled operations to determine the level of compliance achieved by the agency and its law enforcement officers. We report annually on the work and activities of each agency to each House of Parliament and give a copy of the report to each agency and relevant Minister.

Since controlled operations related records were only inspected at Victoria Police and the VFA during the reporting period, our findings for all other agencies authorised to exercise these powers was limited to an assessment of the 6-monthly reports they made to us in 2024.

Introduction

The legislative framework that enables Victorian law enforcement agencies to conduct controlled operations imposes strict controls on the authorisation and conduct of controlled operations. It also imposes reporting and record-keeping obligations, including the requirement to keep a general register with information about each controlled operation.

Our role

Integrity Oversight Victoria provides independent oversight by inspecting records to determine the extent of compliance achieved by each agency authorised to conduct controlled operations and its law enforcement officers.

To fulfil our requirement to report to Parliament annually on each agency, we conduct biannual inspections of controlled operations files completed during the preceding 6-month period.

How we assess compliance

We inspect hard copy documents, including printouts of electronic registers, to confirm agencies make and keep proper records connected with authorities to conduct a controlled operation and meet their prescribed reporting obligations. We assess compliance based on the records made available to us at the time of inspection, our discussions with the agency, and the action they take in response to any issues we raise.

We also assess the reports received from the chief officer of each agency which give specific details about the authorised operations conducted by the agency against statutory criteria. For the 1 July 2023 to 30 June 2024 period, each agency was required to make two reports to us in accordance with the following timeframes:

- First report – due no later than 28 February 2024
- Second report – due no later than 31 August 2024

These reports cover any controlled operations conducted from 1 July to 31 December 2023 and 1 January to 30 June 2024, respectively.

How we report on compliance

To ensure procedural fairness, each agency is given an opportunity to comment on inspection findings and to furnish additional records that may assist our assessment. The relevant extracts of our draft report are provided to each agency for comment. Following this process, the inspection results are considered finalised.

The report provides detail where there is a finding of non-compliance. We may, at our discretion, not report on administrative issues (such as typographical or transposition errors) or instances of non-compliance where the consequences are negligible.

In accordance with the CCO Act, Fisheries Act and Wildlife Act, we must provide a copy of this report to each agency to facilitate the redaction of information where, in the opinion of the agency, to include that information could reasonably be expected to do any of the following:

- (a) endanger a person's safety
- (b) prejudice an investigation or prosecution
- (c) compromise operational activities or methodologies of the agency.

Our consultation with Victoria Police – the only agency with operational records for the period - resulted in no information been excluded from the report to be tabled in Parliament.

The following sections of this report provide the results of our inspection of controlled operations records that were cancelled or expired during the period 1 July 2023 to 30 June 2024 as well as our inspection of procedural documents. It also includes comments on the comprehensiveness and adequacy of the reports each agency provided us. Inspection results are separately reported for each relevant Victorian law enforcement agency.

Department of Energy, Environment and Climate Action

DEECA's Strategic Operations and Intelligence Unit administers authorities to conduct controlled operations that can be made under the Wildlife Act. DEECA did not conduct a controlled operation during the period 1 July 2023 to 30 June 2024 and as a result there are no work and activities to report on.

We did not inspect any DEECA files as DEECA did not make an application for an authority to conduct a controlled operation during the period covered by this report. No controlled operations have been undertaken by DEECA for at least the past 10 years.

In this report, our assessment of the extent of DEECA's compliance with the Wildlife Act is limited to whether the reporting requirements of section 74O of the Act were met.

Comprehensiveness and adequacy of the Secretary's reports

Section 74O(1) of the Wildlife Act requires DEECA to report to Integrity Oversight Victoria, as soon as practicable (and no more than 2 months) after 30 June and 31 December on the details of its authorised operations conducted during the preceding 6 months.

Each report was received within the required timeframe and met all reporting criteria under section 74O of the Act. The reports stated that no controlled operations were undertaken by DEECA during the relevant 6-monthly periods.

Game Management Authority

GMA may conduct controlled operations pursuant to Part IX of the Wildlife Act. GMA did not conduct a controlled operation during the period 1 July 2023 to 30 June 2024 and as a result there are no work and activities for us to report.

GMA has yet to exercise its powers under Part IX of the Wildlife Act to make an application to conduct a controlled operation. Therefore, we did not inspect any GMA files during the period covered by this report.

Our assessment of the extent of GMA's compliance with the Wildlife Act is limited to whether the reporting requirements of section 74OA of the Act were met.

Comprehensiveness and adequacy of the Secretary's reports

Section 74OA(1) of the Wildlife Act requires GMA to report to Integrity Oversight Victoria, as soon as practicable (and no more than 2 months) after 30 June and 31 December on the details of its authorised operations conducted during the preceding 6 months.

These reports were received within the required timeframes. Each report made pursuant to section 74OA of the Act stated that no controlled operations were undertaken by GMA during the 6-month period covered by the report.

Independent Broad-based Anti-corruption Commission

IBAC's Legal Operations & Internal Compliance Unit administers authorities to conduct controlled operations made under the CCO Act. IBAC did not conduct an authorised operation during the period 1 July 2023 to 30 June 2024 and as a result there are no work and activities for us to report on.

We did not inspect any IBAC controlled operations files as IBAC did not make an application for an authority to conduct a controlled operation during the period covered by this report. The last controlled operation conducted by IBAC was in 2018.

In this report, our assessment of the extent of IBAC's compliance with the CCO Act is limited to whether the reporting requirements of section 38 of the CCO Act were met.

Comprehensiveness and adequacy of the chief officer's reports

Section 38(1) of the CCO Act requires IBAC to report to Integrity Oversight Victoria, as soon as practicable (and no more than 2 months) after 30 June and 31 December, on the details of its authorised operations conducted during the preceding 6 months.

Each report was received within the required timeframe and met all reporting criteria under section 38 of the Act. The reports stated that no controlled operations were undertaken by IBAC during the respective 6-monthly periods.

Victorian Fisheries Authority

The VFA can conduct controlled operations pursuant to Part 7A of the Fisheries Act. The VFA did not conduct a controlled operation during the period 1 July 2023 to 30 June 2024 and as a result there are no work and activities for us to report.

Although the VFA did not have any controlled operations during the reporting period, at an inspection conducted on 27 March 2024, we reviewed and provided feedback on updated procedures and templates the VFA made in response to our earlier feedback.

We confirmed the revised controlled operations policy documents incorporated feedback we provided at an inspection completed during the previous reporting period. This included:

- an authority template that more clearly identifies the nature of the controlled conduct
- a section 131R report template that identifies each law enforcement officer who engages in controlled conduct and
- procedures that ensure any extension to an authority will take effect from when it was approved or at a specified time before expiry.

Further, the VFA proactively added quality assurance checks that need to be completed on signed documentation prior to conducting any controlled conduct.

Our assessment of VFA controlled operations records in the period is otherwise limited to whether the VFA complied with the reporting requirements of section 131S of the Fisheries Act.

Comprehensiveness and adequacy of the CEO's reports

Section 131S of the Fisheries Act requires the VFA to report to Integrity Oversight Victoria, as soon as practicable (and no more than 2 months) after 30 June and 31 December, on the details of its authorised operations conducted during the preceding 6 months. This section also specifies the details that must be included in the reports.

We received each report within the required timeframe. While the reports addressed the reporting criteria under section 131S of the Act, the report covering the July to December 2023 period incorrectly stated that a controlled operation expired during this period. This reporting error relates to an error with an extension to an authority self-disclosed by the VFA and reported on in our previous controlled operations report.

Victoria Police

There are 2 units within Victoria Police that administer controlled operations authorities pursuant to the CCO Act:

- the Controlled Operations Registry (COR), within the Crime Department, is the primary unit responsible for the administration of controlled operations authorities
- the Technical Projects Unit (TPU), within Professional Standards Command.

Integrity Oversight Victoria inspected 65 controlled operations files at Victoria Police during the reporting period. This includes all authorities that expired or were cancelled in the period, plus one other authority that, whilst cancelled outside the period, was inspected because it related to a self-disclosed compliance error.

All applications by Victoria Police for an authority to conduct a controlled operation were made based on formal applications. No applications for an authority were refused by a delegate of the Chief Commissioner.

Integrity Oversight Victoria conducted an inspection of controlled operations records at Victoria Police on 17-18 and 20 June 2024, and 25-27 November 2024.

At these inspections we identified errors with the general register entries for 3 authorities and with the form of 2 applications and one authority. We also identified errors in 2 reports made under section 37 of the CCO Act. Following these findings, Victoria Police was responsive to a suggested process change and made corrections to the general register and the affected reports.

We also report on some compliance disclosures made by Victoria Police, including a disclosure that one authority failed to specify the nature of the controlled conduct and a further 2 authorities that shared investigative links with the affected authority. In relation to Victoria Police's disclosure of 2 previously reported instances of unauthorised controlled conduct, we provide an update on ongoing discussions with Victoria Police regarding its actions to address one outstanding recommendation.

Findings: authorities

Were applications for authorities (including urgent authorities) to conduct controlled operations (including extensions and variations) properly made?

Victoria Police is required to comply with the requirements of sections 12 and 14 of the CCO Act when applying to conduct controlled operations.

Specifically, each application must:

- be provided in writing and signed by the applicant (unless it is an urgent application)
- contain sufficient information to enable the Chief Commissioner (or other officer delegated by instrument under section 44 of the CCO Act) to decide whether to grant the application, including that:

- any unlawful conduct will be limited to the maximum extent consistent with conducting an effective controlled operation
- the risk of more illicit goods being held by non-law enforcement officers is minimised
- reporting requirements can be complied with
- the conduct of the operation is not likely to induce a person to commit an offence they would not otherwise commit
- any conduct will not seriously endanger the health or safety of, or cause death or serious injury to, any person, involve any sexual offence, or result in unlawful loss of or serious damage to property (other than illicit goods)
- the operation will only involve a civilian participant if the assigned role cannot be adequately performed by a law enforcement officer
- state whether the proposed operation is a cross-border, local major or local minor controlled operation (that is, state the type of operation)
- state whether any previous applications for an authority or variation have been made with respect to the same proposed operation or same criminal activity and, if so, the outcome of the previous application, as well as the type of controlled operation authorised, as applicable.

Each application must also comply with section 15, 16 or 17 of the CCO Act, depending on the type of controlled operation proposed.

With respect to these application requirements, we found 2 applications for an authority by Victoria Police did not state whether the proposed operation, or any other controlled operation with respect to the same criminal activity, was the subject of an earlier application. It is noted the subsequent use of the checklist described on page 14 of this report includes a requirement to confirm each application provides this information and should therefore ensure no recurrence of this error.

For all inspected authorities varied by Victoria Police during the period, the applications were found to have complied with sections 21 and 22 of the CCO Act.

Victoria Police did not make any urgent applications for a controlled operation authority during the period.

Were authorities (including urgent authorities and variations) in the proper form and cancellations properly made?

Authorities to conduct a controlled operation must be in writing and signed by the Chief Commissioner or other officer delegated by instrument under section 44 of the CCO Act (unless it is an urgent authority). They must specify the following matters in accordance with section 18 of the CCO Act:

- the principal law enforcement officer (PLEO) and each law enforcement officer or civilian participant who may engage in controlled conduct
- whether the application was formal or urgent
- whether it is a cross-border, local major or local minor controlled operation, and in the case of cross-border operations, the participating jurisdictions
- the identity of each person who may engage in controlled conduct

- the nature of controlled conduct law enforcement participants may engage in, and the particular controlled conduct permissible for civilian participants
- the nature of criminal activity and suspected offences targeted by the controlled conduct
- any suspect (to the extent known)
- the period of validity of the authority (in accordance with section 19) and any conditions
- the date and time the authority is granted
- the nature and quantity of any illicit goods involved in the operation, as well as the route through which they pass (to the extent known).

Although all authorities granted by Victoria Police specified these matters, we identified that an authority incorrectly stated it was granted on the basis of an urgent application.

Finding 1: error with the form of an authority to conduct a controlled operation

An authority to conduct a controlled operation must state whether the application to which it relates was a formal application or an urgent application, in accordance with section 18(3)(c) of the CCO Act. For a formal application, it is by means of a written document signed by the applicant; whereas for an urgent application, it will be made orally in person or by telephone, fax, email or any other means of communication.

In response to questions we raised from our inspection of records for one authority, Victoria Police's COR confirmed that both the authority and its supporting application incorrectly showed the application type as 'urgent'. It is noted that no controlled conduct was engaged in under this authority.

In response to feedback we provided at the inspection and a separate error disclosed by the COR shortly afterwards (refer to page 18 of this report for details), the COR advised it had implemented checklists for conducting quality assurance checks on each draft authority. Following some suggested changes from our inspection of the checklists, the COR made updates to further support their effective use.

Each variation to an authority must comply with section 24 of the CCO Act, whereby it:

- identifies the authorised operation, as well as the name and rank or position of the person varying the authority
- states the name of the applicant and whether it was a formal or urgent variation application
- states the date and time the authority was varied and describes the variation.

All variations to an authority granted by Victoria Police met these requirements.

For the inspected records, Victoria Police cancelled an authority to conduct a controlled operation on 43 occasions, noting this includes one authority that was cancelled outside the reporting period. Other than a minor error in 2 cancellations self-disclosed by Victoria Police, in all cases the authorities were cancelled in writing and in accordance with section 25 of the CCO Act.

Findings: records

Did Victoria Police keep all records connected with authorised operations?

Victoria Police is required to keep certain records in connection with authorised operations, including:

- each formal application made for an authority to be granted or varied
- each formal authority and variation granted
- all written notes made in connection with the granting of an urgent authority, as well as notes connected to varying an authority, specifically, the date and time the authority was varied and the identity of relevant law enforcement officer
- the order cancelling the authority
- the report made by the PLEO.

Victoria Police complied with these record-keeping requirements.

Did Victoria Police keep a general register?

Integrity Oversight Victoria found that a general register was kept by Victoria Police, as required by section 41 of the CCO Act.

The general register must specify, for each application made for an authority or variation of an authority (formal and urgent), the following particulars:

- date of application, and whether it was formal or urgent
- whether it was made with respect to a cross-border, local major or local minor controlled operation
- whether the application was granted, refused or withdrawn, and if refused or withdrawn, the date and time that occurred.

For each authority granted, the general register must include the following details:

- date and time it was granted, and whether it was formal or urgent
- name and rank/position of person who granted the authority
- whether it was a cross-border, local major or local minor controlled operation
- each offence in respect of which the controlled conduct was engaged in
- period of validity, and if cancelled, the date and time of the cancellation
- date and time the authorised operation began, and date it was completed
- date of the PLEO's report under section 37 of the CCO Act
- if the authorised operation involved illicit goods, the nature and quantity of such goods, as well as the route through which they passed (to the extent known)
- any loss of or serious damage to property, or personal injuries, resulting from the operation
- for each variation of authority, the date and time it was made, whether it was formal or urgent, and the name and rank/position of person who made the variation.

For 3 authorities, we found that the general register kept by Victoria Police did not comply with all requirements.

Finding 2: information omitted or not recorded in the general register

Among the particulars to be recorded in the general register for each authority granted under the CCO Act is the requirement to specify each offence in respect of which controlled conduct under the authority was to be engaged in. An authority typically authorises conduct relating to multiple offences. In the case of 2 authorities, however, the general register was found to have omitted an offence listed in the authority.

We confirmed at the next inspection that Victoria Police had amended the general register to include the previously omitted offences.

For one other inspected authority, we found a discrepancy between the application and the general register regarding the quantity of illicit goods under the authorised operation. In our post-inspection enquiries, the COR stated that the quantity described in the general register was incorrect.

We confirmed at a later inspection that the general register was amended to show the correct amount of illicit goods and a notation was included in the Errors Register maintained by the COR.

Findings: reports

Were PLEO reports properly made?

The PLEO is required, within 2 months after the completion of an authorised operation, to make a report to the Chief Commissioner. Under section 37 of the CCO Act, each report must give the following details for the authorised operation:

- date and time it commenced, as well as its duration
- whether it was a cross-border, local major or local minor controlled operation
- the nature of the controlled conduct engaged in
- the outcome of the operation
- if the operation involved illicit goods, the nature and quantity of such goods, as well as the route through which they passed (to the extent known)
- any loss of or serious damage to property, or personal injuries, resulting from the operation.

With regards to these reporting obligations, we found on 2 occasions Victoria Police incorrectly reported or omitted information.

Finding 3: an error identified in 2 reports made to the Chief Commissioner

With respect to reporting the nature and quantity of illicit goods involved in the authorised operation, the information given in the report made under section 37 of the CCO Act did not correlate with the details of the operation described in the application for the same authority. [Note: this error is connected to an authority with a general register issue referred to at Finding 2.]

Enquiries with Victoria Police confirmed this discrepancy was caused by a reporting error. We subsequently confirmed a supplementary report was made to give corrected information relating to the outcome of the operation.

For one other authority, we found the report omitted information required by section 37 of the CCO Act. We later inspected an amended report that confirmed there was no loss of or serious damage to property, or personal injuries, from the operation.

The COR disclosed an error in a further report made under section 37, referenced in the below section.

Findings: transparency and cooperation

Integrity Oversight Victoria considers an agency's transparency, its cooperation during inspections, and its responsiveness to suggestions and issues to be a measure of its compliance culture.

During the reporting period, Victoria Police' COR updated the checklists it uses to conduct quality assurance checks on applications and authorities, including those connected to a variation, in response to our feedback. These changes included a guidance note at the item concerning the nature of controlled conduct to ensure it covers all proposed activities.

Victoria Police was transparent, provided additional information when requested, made corrections as required and was responsive to suggested improvements.

Did Victoria Police self-disclose compliance issues?

Victoria Police disclosed a total 4 compliance errors during the reporting period. In relation to 2 disclosures, the order for cancellation of the authority was not completed in accordance with the instrument template. We note these errors were minor and did not affect the validity of the instruments.

A disclosure was also made for an error identified in a report made under section 37 of the CCO Act regarding the conduct of a law enforcement participant. As a result of this, in addition to advising a supplementary report be made, we also requested to inspect COR procedural instructions for conducting quality assurance checks on reports prior to their finalisation. We subsequently inspected a supplementary report and guidance documents for checking authorities.

The COR made one other self-disclosure during the reporting period. This concerned a particularly significant non-compliance matter; described below.

Disclosure: granted authority omitted nature of controlled conduct

Victoria Police's COR disclosed that one granted authority did not specify the nature of the controlled conduct the participants may engage in. It further disclosed that 2 other authorities were made, in part, as a result of information obtained by the affected authority. Victoria Police immediately suspended conduct under the active authorities while legal advice was sought.

The authority affected by the omission was subsequently cancelled. Additionally, we were advised that in relation to a brief of evidence connected to the 2 authorities with investigative links to the affected authority, Victoria Police disclosed this issue with the Office of Public Prosecutions and the defence counsel. In consideration of all information provided to us, we found that Victoria Police appropriately dealt with this error.

Together with the feedback we provided for an error with the form of an authority (refer to Finding 1 in this report), the disclosure prompted the COR to immediately implement checklists for draft authorities and for those granted since.

Outstanding recommendation connected to earlier disclosures of unauthorised conduct by Victoria Police officers

During the reporting period we sought updates regarding action by Victoria Police to address the following outstanding recommendation:

Victoria Police undertake awareness raising that gives clear guidance to members on the need to ensure any planned conduct is consistent with an authority, and to consider how the scope of planned conduct can be better communicated to all participants. In connection with this, the current briefing process on planned conduct should be reviewed to ensure it is effective and fit for purpose.

In our previous inspection report, we reported that 1 of 2 recommendations remained open to track Victoria Police's progress in establishing processes which ensure all participants to a controlled operation are fully apprised of the scope of planned conduct. In this respect, we were advised that an online training package that will be mandatory for all applicants and PLEOs remains in development.

This recommendation remains open to assess any changes Victoria Police makes to its processes to enable the PLEO to fulfil their responsibility to ensure all authorised participants are appropriately informed of the nature of controlled conduct, including undercover operatives and any civilian participants.

Were issues identified at previous inspections addressed?

Integrity Oversight Victoria re-inspected the general register for 3 authorities. We confirmed the general register was amended to correct earlier errors with the information kept under section 41 of the CCO Act (shown in Finding 2 of this report). Additionally, we confirmed the COR made a supplementary report under section 37 of the CCO Act to correct a reporting error on the outcome of the authorised operation (referred to in Finding 3).

Comprehensiveness and adequacy of the chief officer's reports

Section 38(1) of the CCO Act requires Victoria Police to report to Integrity Oversight Victoria, as soon as practicable (and no more than 2 months) after 30 June and 31 December, on the details of its authorised operations conducted during the preceding 6 months.

Each report was received within the required timeframe. We found these reports met all reporting criteria under section 38 of the Act except for one error relating to a granted urgent authority. This reporting error was connected to the error detailed in Finding 1 above. It is noted the relevant 6-monthly report was submitted by Victoria Police before we conducted our inspection of the authority that contained the error.

Work and activities of Victoria Police

To report on the work and activities of Victoria Police for the 1 July 2023 to 30 June 2024 period, Integrity Oversight Victoria largely relied on the information supplied by Victoria Police in its 6-monthly reports made under section 38 of the CCO Act. Our inspections are limited to files for authorities that have ceased and for which the reporting requirements were completed during the period. Therefore, not all authorised operations granted by Victoria Police within a reporting period will be eligible for inspection.

Applications for an authority to conduct a controlled operation at Victoria Police are made to an Assistant Commissioner (who has delegated authority in accordance with s 44 of the CCO Act).

Victoria Police granted a total of 64 authorities during 2023-24; this number being consistent with the preceding 12-month period but significantly below the average from at least 2 years earlier.

Table 1: Comparison of number of authorities granted over the past four years

Year	2020-21	2021-22	2022-23	2023-24
Number of authorities granted	95	85	61	64

Note: These are the figures reported by Victoria Police in its Chief Officer Reports made under section 38 of the CCO Act as the number of authorities granted each financial year. They are not the same as the number of completed authorities inspected during these periods.

Victoria Police may, in limited circumstances, make an application for an urgent authority orally including via telephone, or by other means such as email. Victoria Police did not make an urgent application during the reporting period.

An authority may be varied for different purposes such as:

- to extend the period of its validity
- to authorise additional persons to engage in controlled conduct or
- to identify additional suspects.

A total 23¹ authorities to conduct a controlled operation were varied on at least one occasion by Victoria Police during the reporting period. Of these, 18 authorities were varied once, 4 were varied twice, and 1 was varied on three occasions.

No applications for an authority were refused by a delegate of the Chief Commissioner during the period. The absence of any refused applications reflects Victoria Police’s rigorous internal approval process whereby each application must be recommended by a committee of officers at the rank of superintendent before it is considered by the Chief Commissioner’s delegate.

The total number of Victoria Police authorities active at any time during 2023-24 (i.e., including authorities commenced prior to the relevant reporting period) is similar to the year before but significantly lower than from 2 or more years earlier. These numbers reflect the downward trend for granted authorities as shown in Table 1.

Table 2: Comparison of number of authorities reported on over the past four years²

Year	2020-21	2021-22	2022-23	2023-24
Number of active authorities	119	138	91	89

Authorised operations undertaken by Victoria Police are categorised as either local minor, local major, or cross-border controlled operations. Local minor and local major controlled operations are conducted wholly within Victoria. The former targets offending punishable by less than three years’ imprisonment whereas the latter relates to offending that may result in three or more years’ imprisonment. A cross-border controlled operation targets offending punishable by three or more years’ imprisonment and is also likely to be partially conducted in at least one jurisdiction outside Victoria that has a corresponding law in force.

In total, Victoria Police had 64 authorised operations that ceased during the 2023-24 period. All these authorities were local major controlled operations. As shown in Table 3 (below), Victoria Police seldom conducts either local minor or cross-border controlled operations.

Table 3: Number of controlled operations by operation type over the past four years

Year	2020-21	2021-22	2022-23	2023-24
Local Major	74	92	65	64
Local Minor	1	2	1	0
Cross-Border	1	2	1	0

Note: These figures are based on authorities that ceased during the period.

¹ This figure shows the number of authorities varied at any stage during the 6-monthly period they were cancelled or expired—according to the reports made under section 38 of the CCO Act, and therefore, it does not include any variations that may have been made prior to the 6-monthly period during which it ceased. This also applies to the reported number of occasions that each authority was varied.

² The number of active authorities represents the combined total number of authorities reported on in the 6-monthly reports made under section 38 of the CCO Act for the year. Since an authority reported as commenced (but not yet concluded) during the period of one report will subsequently be reported on as concluded in a later report, the number authorities shown in Table 2 is greater than the number of individual authorities that were administered by Victoria Police for the yearly period.

In addition to authorising law enforcement participants to engage in controlled conduct, authorities may also authorise civilian participants to engage in controlled conduct. The involvement of civilian participants in an operation is limited to when their role cannot be adequately performed by a law enforcement officer. Victoria Police rarely involves civilian participants in its controlled operations and in 2023-24, no civilian participants were used.

Table 4: Controlled conduct engaged in by participant type over the past four years

Year	2020-21	2021-22	2022-23	2023-24
Law Enforcement only	65	62	44	45
Civilian only	0	0	0	0
Law Enforcement and Civilian	0	1	0	0

Note: These figures are based on authorities that ceased during the period. The tally for the numbers for each period is lower than the total number of ceased authorities shown at Table 3 since controlled conduct is not engaged in under all authorities.

In some situations, controlled conduct is not engaged in at all during the life of an authority. This can occur for various reasons, such as where evidence has been obtained by other means or operational priorities change. The number of authorities with no controlled conduct relative to the number of authorities granted by Victoria Police is similar to the 2 years prior but significantly higher than what was recorded 3 years earlier.

Table 5: Number of authorities with/without controlled conduct over the past four years

Year	2020-21	2021-22	2022-23	2023-24
With controlled conduct	65	63	44	45
Without controlled conduct	11	33	23	19

Note: These figures are based on authorities that ceased during the period.

Over the past 3 years, the proportion of Victoria Police authorities cancelled rather than expired continued to rise. This demonstrates strict controls implemented by the COR since our better practice suggestion that it regularly review the need to keep each authority active, and to seek cancellation once no longer required. By comparison, while only 4% of authorities were cancelled in 2020-21, this number has since grown to 66%.

During the reporting period, Victoria Police cancelled 15 of the 19 authorities under which no controlled conduct was engaged in.

Table 6: Number of authorities expired or cancelled over the past four years

Year	2020-21	2021-22	2022-23	2023-24
Expired	73	67	44	22
Cancelled	3	29	23	42

Note: These figures are based on authorities that ceased during the period.

Victoria Police must consider a number of matters before granting an authority to conduct a controlled operation. Such matters include ensuring any conduct under the authority will not endanger the safety of any person or cause serious damage to property. Of the 45 completed authorities during the period that involved controlled conduct, Victoria Police did not report any loss of or serious damage to property, or any personal injuries, as having occurred in the course of or as a direct result of its authorised operations.