

2024

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

**STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
REPORT 26
INQUIRY INTO THE INTEGRITY COMMISSION AMENDMENT BILL 2022 (NO 2)
GOVERNMENT RESPONSE**

**Presented by
Andrew Barr MLA
Chief Minister
July 2024**

Introduction

The Integrity Commission Amendment Bill 2022 (No 2) (the Bill) is a private member's bill that would amend the *Integrity Commission Act 2018* (IC Act) to meet the necessary requirements for the Australian Government to consider bringing forward amendments to the *Telecommunications (Interception and Access) Act 1979* (Cth) (TIA Act) to recognise the ACT Integrity Commission (Commission) as an eligible authority to seek telecommunication interception warrants.

The Standing Committee for Justice and Community Safety (the Committee) decided it would inquire into the Bill on 27 October 2022. The Committee's inquiry report was delayed, by agreement of the Assembly, noting that the IC Act was undergoing a statutory review between January and October 2023. The Assembly's agreement to extend the reporting date required the Committee to deliver its report within two months following the public release of the review of the IC Act. On 28 November 2023 the Assembly agreed to an additional two-month extension, being within four months of the review of the IC Act becoming available.

The statutory review of the IC Act was required under section 303 of that Act. On 12 January 2023 the Chief Minister, Andrew Barr MLA, announced that Mr Ian Govey AM, former Chief Executive Officer of the Australian Government Solicitor, would lead the review. The review's term of reference included an assessment of whether powers under the TIA Act are appropriate for the Commission.

The report of the review of the IC Act was tabled in the Assembly on 28 November 2023. The Committee then released its inquiry report on 21 March 2024.

The Committee report notes that its inquiry received a submission from the Commission and the Inspector of the Commission. The Commission supported the Bill, but did not consider a 'Public Interest Monitor' (PIM) role necessary or desirable given the strong oversight framework that is already in place in the TIA Act and because telecommunication warrants can also be granted to ACT Policing. The Commission also argued that the PIM role should not be undertaken by the Inspector, as proposed in the Bill.

The ACT Ombudsman, in its capacity as the Inspector of the Commission, noted that should the ACT Ombudsman become responsible for overseeing the Commission's use of interception it would require additional funding.

ACT Government Response to the Recommendation

Recommendation 1

The Committee recommends that the ACT Government should accept and implement recommendations 15, 16 and 17 of the review of the ACT Integrity Commission by Mr Ian Govey AM as part of its overall legislative response to the full findings and recommendations of the review. Doing this will mean that it will no longer be necessary to pass the Integrity Commission Amendment Bill 2022 (No 2) as the intent of that bill will be effectively met.

Government position: Noted

The ACT Government notes the Committee's recommendation.

The Government has prepared a response to the review of the IC Act which adopts a two-stage approach to consider the review's recommendations. This is available here <https://www.cmtedd.act.gov.au/office-of-industrial-relations-and-workforce-strategy/review-of-the-acts-integrity-commission-act-2018>.

The first stage includes seeking to introduce a bill during the tenth Assembly that would implement recommendations focussed on administrative efficiency and wellbeing, and agreed to by all relevant stakeholders. This occurred on 26 June 2024 when the Government introduced the Integrity Legislation Amendment Bill 2024 (the Bill). The Bill is available to view on the ACT Legislation Register.

The ACT Government is pleased to update that on 4 June 2024 the Commonwealth Attorney-General, the Hon Mark Dreyfus KC MP, wrote to Andrew Barr MLA, Chief Minister of the ACT, to advise that the Attorney-General had made a legislative instrument to temporarily declare the ACT Integrity Commission as a Criminal Law Enforcement Agency (CLEA) under section 110A the *Telecommunications (Interception and Access) Act 1979* (TIA Act). This aligns with the ACT Government's agreement with recommendation 15 of Mr Govey's review of the IC Act, which recommended that the ACT Government continue to engage with the Commonwealth to seek a temporary declaration of the ACT Integrity Commission as a CLEA under the TIA Act. A temporary declaration under the TIA Act lasts for 40 Australian Parliamentary sitting days after the instrument is made. A new instrument may be made ahead of a current instrument's expiry.

Noting the upcoming prorogue of the Assembly ahead of the October 2024 ACT election, there is insufficient time for the government to properly consider several of the review's recommendations that would require budget analysis and/or represent a significant shift in the IC Act framework. This relates to recommendation 16 and 17. Consequently, consideration of these recommendations will be deferred to the eleventh Assembly as part of the second stage consideration.