



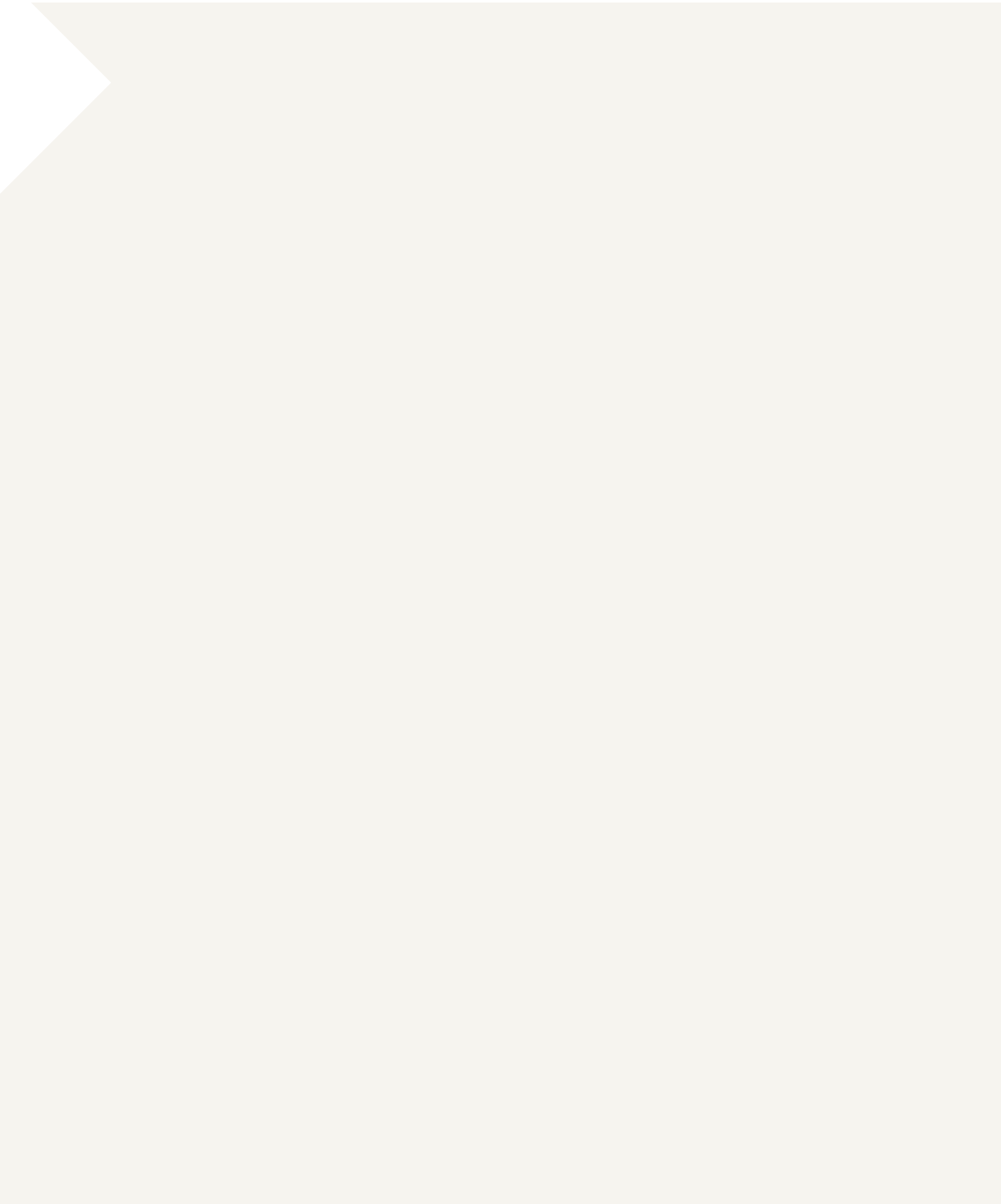
AFP
AUSTRALIAN FEDERAL POLICE

ACT POLICING



**CONTROLLED OPERATIONS
ANNUAL REPORT**

2012 / 2013





Chief Police Officer for the ACT
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26 September 2013

Simon Corbell MLA
Minister for Police and Emergency Services
ACT Legislative Assembly
London Circuit
Canberra ACT 2600

Dear Mr Corbell

I am pleased to submit ACT Policing's Controlled Operations Annual Report for financial year 1 July 2012 to 30 June 2013.

The report has been prepared in accordance with s. 28 of the *Crimes (Controlled Operations) Act 2008* (ACT).

I hereby certify that the attached Annual Report is an honest and accurate account, that all material information on controlled operations conducted by ACT Policing during the period 1 July 2012 to 30 June 2013 have been included and that it complies with s. 28 of the Act.

In line with s. 28, part 9 of the Act, I understand that the report is to be laid before the ACT Legislative Assembly within 15 sitting days from the day the report is received by you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rudi Lammers', is located below the 'Yours sincerely' text.

Rudi Lammers APM

Commonwealth of Australia 2013

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For general information about the AFP, telephone National Headquarters on (02) 6131 3000.

The hearing impaired can contact the AFP through a telephone typewriter facility on (02) 6256 7700.

For general inquiries regarding the content of this annual report please contact (02) 6264 9460.

Internet

Information about ACT Policing can be found at the ACT Policing website, police.act.gov.au, where an electronic version of this report can also be found.

For Freedom of Information requests contact (02) 6131 6131, foi@afp.gov.au, or go to afp.gov.au.

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THE LEGISLATION

In August 2008 the ACT Legislative Assembly passed the *Crimes (Controlled Operations) Act 2008 (ACT)*. The objectives of the Act are to provide for the authorisation, conduct and monitoring of controlled operations, including operations conducted in the ACT, and one or more other jurisdictions or in one or more participating jurisdictions.

A controlled operation is defined as one that:

- a. involves the participation of law enforcement officers
- b. is carried out for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious offence.

A controlled operation can be undertaken with respect to any relevant offence. A relevant offence, as defined by the Act means:

- a. an offence against an ACT law punishable by imprisonment of three years or more
- b. an offence against an ACT law prescribed by regulation.

IMMUNITY FROM CRIMINAL LIABILITY

The Act provides immunity from criminal liability and indemnity from civil liability for law enforcement officers and certain other persons who take an active part in a controlled operation.

This criminal liability is only removed when:

- a. the conduct is authorised by, and is engaged in in accordance with, the authority for the operation
- b. the conduct does not involve the participant intentionally inducing a person to commit an offence against a law of any jurisdiction or the Commonwealth that the person would not otherwise have committed
- c. the conduct does not involve the participant engaging in any conduct that is likely to —
 - i. cause the death of, or serious injury to, any person
 - ii. involve the commission of a sexual offence against any person
- d. if the participant is a civilian participant — the participant acts in accordance with the instructions of a law enforcement officer.

In circumstances similar to these, immunity from criminal liability is also provided for a person other than a law enforcement officer. A law enforcement officer means any of the following:

- a. a police officer
- b. a member of staff of the Australian Crime Commission
- c. a person who is seconded to a law enforcement agency, including, but not limited to, a member of the police service/police officer (however described), of another jurisdiction.

PROTECTION FROM CRIMINAL RESPONSIBILITY FOR CERTAIN ANCILLARY CONDUCT

This clause protects police and other people who are authorised to know and assist with a controlled operation but are not assigned as participants. Those people who are authorised would not be criminally liable for ancillary conduct, such as conspiracy. For example, scientific officers who provide technical assistance on storage or preparation of a sample drug but do not actively participate in operation.

SITUATIONS GIVING RISE TO THE ISSUE OF CONTROLLED OPERATION CERTIFICATES

An authority to conduct a controlled operation may not be granted unless the chief officer, as per the Act, the Chief Police Officer or a delegate, is satisfied on reasonable grounds that:

- a. a relevant offence has been, is being or is likely to be committed; and
- b. the controlled operation will be, or is likely to be, conducted in the ACT, in the ACT and one or more other jurisdictions or in one or more participating jurisdictions; and
- c. the nature and extent of the suspected criminal activity justify the conduct of a controlled operation in the ACT, in the ACT and one or more other jurisdictions or in one or more participating jurisdictions; and
- d. any unlawful conduct involved in conducting the operation will be limited to the minimum necessary to conduct an effective controlled operation; and

- e. the operation will be conducted in a way that will minimise the risk of more illicit goods being under the control of people, other than law enforcement officers, at the end of the operation than are reasonably necessary to enable the officers to achieve the purpose of the controlled operation; and
 - f. the proposed controlled conduct will be able to be accounted for in a way that will enable the reporting requirements of part 4 to be complied with; and
 - g. the operation will not be conducted in a way that a person is likely to be induced to commit an offence against a law of any jurisdiction or the Commonwealth that the person would not otherwise have committed; and
 - h. any conduct involved in the operation will not:
 - i. endanger the health or safety of any person; or
 - ii. cause the death of, or injury to, any person; or
 - iii. involve the commission of a sexual offence against any person
 - iv. result in unlawful loss of or serious damage to property (other than illicit goods)
 - i. any role assigned to a civilian participant in the operation is not one that could be adequately performed by a law enforcement officer.
- d. identify each person who may engage in controlled conduct for the purposes of the controlled operation; and
 - e. state the participating jurisdictions in which the controlled conduct is, or is likely, to be engaged in; and
 - f. identify the nature of the criminal activity (including the suspected relevant offences) in relation to which the controlled conduct is to be engaged in; and
 - g. identify —
 - i. in relation to the law enforcement participants — the nature of the controlled conduct that the participants may engage in; and
 - ii. in relation to the civilian participants — the particular controlled conduct (if any) that each participant may engage in; and
 - h. identify (to the extent known) any suspect; and
 - i. state the period (not longer than three months for a standard authority or seven days for an urgent authority) of validity of the authority; and
 - j. state any conditions to which the conduct of the operation is subject; and
 - k. state the date and time when the authority is granted; and
 - l. identify (to the extent known) —
 - i. the nature and quantity of any illicit goods that will be involved in the operation; and
 - ii. the route through which those goods will pass in the course of the operation.

AUTHORISATION OF CONTROLLED OPERATIONS AND CERTIFICATES

An authority to conduct a controlled operation may be granted in writing, signed by the chief officer, or in the matter of an urgent application, if the chief officer is satisfied that the delay caused by granting a standard authority may affect the success of the operation, the authorisation can be given orally in person or by telephone, fax, email or any other means of communication.

An authority, whether standard or urgent, must:

- a. state the name and rank or position of the person granting the authority; and
- b. identify the principal law enforcement officer and, if the principal law enforcement officer is not the applicant for the authority, the name of the applicant; and
- c. state whether the application is a standard application or an urgent application; and

A chief officer may delegate to a senior officer of the law enforcement agency any of the chief officer's functions under this Act relating to the authorisation of controlled operations (including the amendment and cancellation of controlled operations and notifications).

As defined by the legislation, a senior officer means a person for the time being holding office as:

- a. in relation to the Australian Federal Police — a Deputy Chief Police Officer
- b. in relation to the Australian Crime Commission, any of the following:
 - i. the Director National Operations
 - ii. a Director
 - iii. an office of the Australian Crime Commission that is prescribed by regulation.

CANCELLATION OF AUTHORITY

The chief officer may, by written order given to the principal law enforcement officer for an authorised operation, cancel the authority at any time and for any reason.

The chief officer may cancel an authority for an authorised operation at any time at the request of the principle law enforcement officer for the operation.

Cancellation of an authority for a controlled operation takes effect when the order is made, or if the order states a later time of effect – at the later time.

MUTUAL RECOGNITION

The Act allows for the recognition of controlled operation authorities issued under a corresponding law.

The clause enables a controlled operation that is authorised by a corresponding law to operate in the ACT as if the operation was authorised by ACT law. The clause identifies the critical sections that hold relevant powers and protections for controlled operations.

REPORTING REQUIREMENTS

The Chief Police Officer as soon as practicable after 30 July each year, must give to the Minister a report setting out the details in relation to controlled operations conducted on behalf of the agency during the previous financial year.

The report must include the following details:

- a. the number of standard authorities that were granted or amended by the chief officer, and the number of standard applications for the granting or amendment of authorities that were refused by the chief officer, during the period to which the report relates
- b. the number of urgent authorities or urgent amendments of authorities that were granted by the chief officer, and the number of urgent applications for authorities or urgent amendments of authorities that were refused by the chief officer, during the period to which the report relates
- c. the nature of the criminal activities against which the authorised operations were directed
- d. the nature of the controlled conduct engaged in for the purposes of the authorised operations

- e. if any of the authorised operations involved illicit goods – a statement (to the extent known) of:
 - i. the nature and quantity of the illicit goods
 - ii. the route through which the illicit goods passed in the course of the operations
- f. details of any loss of or serious damage to property, or any personal injuries, occurring in the course of, or as a direct result of, the authorised operations
- g. the number of authorities cancelled by the chief officer or that expired during the period to which the report relates
- h. any seizure, arrest and prosecution arising from the authorised operations.

The report must not disclose any information that identifies any suspect or a participant in an authorised operation or that is likely to lead to a suspect or participant being identified.

The Minister must present a copy of the report to the ACT Legislative Assembly within 15 sitting days from the day on which the report is received by the Minister.

MONITORING BY THE OMBUDSMAN

The Ombudsman must, from time to time and at least once every 12 months, inspect the records of a law enforcement agency to determine the extent of compliance with this Act by the agency and law enforcement officers of the agency.

For the purpose of an inspection the Ombudsman must after notifying the chief officer of the law enforcement agency, may enter at any reasonable time premises occupied by the agency; and is entitled to have full and free access at all reasonable times to all records of the agency that are relevant to the inspection.

The Ombudsman may require a member of staff of the agency to give the Ombudsman any information that the Ombudsman considers necessary, being information that is in the member's possession, or to which the member has access, and that is relevant to the inspection.

The Ombudsman must give a written report prepared under the Annual Reports (Government Agencies) Act 2004, on the results of each inspection under this section in the preceding financial year. The report must include a report on the comprehensiveness and adequacy of the records of the agency and the cooperation given by the agency in facilitating the inspection by the Ombudsman of those records.

MATERIAL EXCLUDED FROM REPORTING

Subsection 5, s. 28 of the *Crimes (Controlled Operations) Act 2008* (ACT) clearly states that the report must not disclose any information that identifies any suspect or a participant in an authorised operation or that is likely to lead to a suspect or participant being identified.

OVERVIEW FOR CONTROLLED OPERATIONS CONDUCTED BY ACT POLICING 2012-13

Controlled operation number	Type of application	Date of application	Authorising officer	Offence investigated	Completion of operation
2012–13/01	Standard	2 July 2012	Commander David Pryce, Deputy Chief Police Officer	Traffic in a trafficable quantity of cannabis, against s. 603, ss. 5 of the Criminal Code 2002 (ACT).	21 September 2012
2012–13/02	Standard	5 October 2012	Superintendent Kylie Flower, performing the duties of Deputy Chief Police Officer	Traffic in a trafficable quantity of cannabis, against s. 603, ss. 5 of the Criminal Code 2002 (ACT). Trafficking in Controlled Drug, against s. 603, ss. 7 of the Criminal Code 2002 (ACT). Supply an anabolic steroid for human use, against s. 171 ss. 2 of the Crimes Act 1900 (ACT)	29 November 2012
2012-13/03	Standard	2 January 2013	Detective Superintendent Brett McCann, performing the duties of Deputy Chief Police officer	Traffic in a trafficable quantity of cannabis, against s. 603, ss. 5 of the Criminal Code 2002 (ACT).	Expired – 1 April 2013

Notes.

1. There were no standard authority or amendment applications refused by the Chief Police Officer during the reporting period.
2. There were no urgent authority or amendment applications made to the Chief Police Officer during the reporting period.
3. There were no controlled operations carried over from the previous reporting period.
4. There were no controlled operations authorised during the reporting period which involved controlled conduct outside the ACT.

CERTIFICATES ISSUED BY AUTHORISING OFFICERS OF ACT POLICING 2012-13

STANDARD CONTROLLED OPERATION NUMBER: 2012 – 13/01

Previous applications
None
Date of application
2 July 2012
Authorising officer
Commander David Pryce, Deputy Chief Police Officer
Nature of application
This application was made pursuant to part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT).
Decision of authorising officer
At 3:05pm on Tuesday 3 July 2012, Commander David Pryce, Deputy Chief Police Officer of ACT Policing, an authorising officer within the meaning of part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT), issued a certificate authorising a controlled operation to be undertaken.
Period the certificate was in force
Three months
Grounds for issue of certificate
<p>On the information provided, the authorising officer considered that:</p> <p>The person or persons targeted by the controlled operation have committed or are likely to commit an offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT), whether or not the controlled operation took place.</p> <p>The offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT) is a serious Australian Capital Territory offence and attracts a maximum penalty of 1000 penalty units, 10 years imprisonment or both.</p> <p>Conducting a controlled operation will provide police with an opportunity to identify those person(s) in the Australian Capital Territory who are involved in the commission of the offence subject of the controlled operation.</p> <p>Conducting a controlled operation would enable the police to gather direct evidence of the involvement of those person(s).</p> <p>In deciding to give the certificate, the authorising officer took into account the seriousness of the series of offences in relation to which the certificate was given and any suspected criminal activity that is related to that offence.</p>

Variation of certificate
Nil
Review
None
Termination, cancelled or surrender
Nil
Conduct of the Controlled Operation
The controlled operation commenced at 4.30pm on Monday 23 July 2012 and concluded at 7.00am on Friday 21 September 2012.
Target/s of the Controlled Operation
This information has been excluded under the provision of s. 28, ss. 5 of the Crimes (Controlled Operations) Act 2008 (ACT) which states that the report must not disclose any information that identifies any suspect or a participant in an authorised operation or that is likely to lead to a suspect or participant being identified.
Nature of activities
The certificate authorised the controlled purchase of drugs within the ACT
Illicit goods
There were no illicit goods involved in the conduct of the controlled operation.
Loss of, or serious damage to property
Nil
Personal injuries resulting from the Controlled Operation
Nil
Outcome
The activities of the controlled operation did not result in or contribute to any arrest or criminal prosecution.

CERTIFICATES ISSUED BY AUTHORISING OFFICERS OF ACT POLICING

STANDARD CONTROLLED OPERATION NUMBER: 2012 – 13/02

Previous applications
Yes. A previous application was made July 2 2012, authorised by Commander David Pryce, Deputy Chief Police Officer of ACT Policing on 3 July 2012. See Standard Controlled Operation 2012-13/01 above.
Date of application
Friday 5 October 2012
Authorising officer
Superintendent Kylie Flower, performing the duties of Deputy Chief Police Officer
Nature of application
This application was made pursuant to part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT).
Decision of authorising officer
At 2.05pm on Wednesday 10 October 2012, Superintendent Kylie Flower, performing the duties of Deputy Chief Police Officer of ACT Policing, an authorising officer within the meaning of part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT), issued a certificate authorising a controlled operation to be undertaken.
Period the certificate was in force
Three months
Grounds for issue of certificate
<p>On the information provided, the authorising officer considered that:</p> <p>The person or persons targeted by the controlled operation have committed or are likely to commit an offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT), whether or not the controlled operation took place.</p> <p>The offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT) is a serious Australian Capital Territory offence and attracts a maximum penalty of 1000 penalty units, 10 years imprisonment or both.</p> <p>The person or persons targeted by the controlled operation have committed or are likely to commit an offence of Trafficking in Controlled Drug other than cannabis, against s. 603, ss. 7 of the Criminal Code 2002(ACT), whether or not the controlled operation took place.</p> <p>The offence of Trafficking in Controlled Drug other than cannabis against s. 603, ss. 7 of the Criminal Code 2002(ACT) is a serious Australian Capital Territory offence and attracts a maximum penalty of 1000 penalty units, imprisonment for 10 years, or both.</p> <p>The person or persons targeted by the controlled operation have committed or are likely to commit an offence of Supply anabolic steroid for another person for human use, against s.171 ss. 2 of the Crimes Act 1900 (ACT), whether or not the controlled operation took place.</p> <p>The offence of Supply anabolic steroid for another person for human use, against s.171 ss. 2 of the Crimes Act 1900 (ACT) is a serious Australian Capital Territory offence and attracts a maximum penalty of 500 penalty units, imprisonment for 5 years, or both.</p> <p>Conducting a controlled operation will provide police with an opportunity to identify those person(s) in the Australian Capital Territory who are involved in the commission of the offences subject to the controlled operation.</p> <p>Conducting a controlled operation would enable the police to gather direct evidence of the involvement of those person(s).</p> <p>In deciding to give the certificate, the authorising officer took into account the seriousness of the series of offences in relation to which the certificate was given and any suspected criminal activity that is related to those offences.</p>

Variation of certificate	
Nil	
Review	
None	
Termination, cancelled or surrender	
Cancelled – Thursday 13 December 2012	
Conduct of the Controlled Operation	
The controlled operation commenced at 6.00am on Wednesday 17 October 2012 and concluded at 7.00am on Thursday 29 November 2012.	
Target/s of the Controlled Operation	
This information has been excluded under the provision of s. 28, ss. 5 of the Crimes (Controlled Operations) Act 2008 (ACT) which states that the report must not disclose any information that identifies any suspect or a participant in an authorised operation or that is likely to lead to a suspect or participant being identified.	
Nature of activities	
The certificate authorised the controlled purchase of drugs within the ACT.	
Illicit goods	
Type (Weight or Quantity)	Deca Durobolin (30ml), Sustanon 250 (60ml), Oxandrolone (100 tablets, Stanozolol (200 tablets)
Current Location	Destroyed
Route through which the illicit goods travelled	Passed from target to undercover officer to controller to police
Persons who had had possession of the illicit goods	Target
Loss of, or serious damage to property	
Nil	
Personal injuries resulting from the Controlled Operation	
Nil	
Outcome	
The activities of the controlled operation contributed to the arrest and criminal prosecution of the target in this investigation.	

CERTIFICATES ISSUED BY AUTHORISING OFFICERS OF ACT POLICING 2012-13

STANDARD CONTROLLED OPERATION NUMBER: 2012 – 13/03

Previous applications
None
Date of application
2 January 2013
Authorising officer
Detective Superintendent Brett McCann, performing the duties of Deputy Chief Police Officer
Nature of application
This application was made pursuant to part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT).
Decision of authorising officer
At 3:17pm on Wednesday 2 January 2013, Detective Superintendent Brett McCann, performing the duties of Deputy Chief Police Officer of ACT Policing, an authorising officer within the meaning of part 2, s. 9 of the Crimes (Controlled Operations) Act 2008 (ACT), issued a certificate authorising a controlled operation to be undertaken.
Period the certificate was in force
Three months
Grounds for issue of certificate
<p>On the information provided, the authorising officer considered that:</p> <p>The person or persons targeted by the controlled operation have committed or are likely to commit an offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT), whether or not the controlled operation took place.</p> <p>The offence of traffic in a trafficable quantity of cannabis, s.603 ss. 5 of the Criminal Code 2002 (ACT) is a serious Australian Capital Territory offence and attracts a maximum penalty of 1000 penalty units, 10 years imprisonment or both.</p> <p>Conducting a controlled operation will provide police with an opportunity to identify those person(s) in the Australian Capital Territory who are involved in the commission of the offence subject of the controlled operation.</p> <p>Conducting a controlled operation would enable the police to gather direct evidence of the involvement of those person(s).</p> <p>In deciding to give the certificate, the authorising officer took into account the seriousness of the offence in relation to which the certificate was given and any suspected criminal activity that is related to that offence.</p>

Variation of certificate
Nil
Review
None
Termination, cancelled or surrender
Expired – 1 April 2013
Conduct of the Controlled Operation
No controlled conduct took place.
Target/s of the Controlled Operation
This information has been excluded under the provision of s. 28, ss. 5 of the Crimes (Controlled Operations) Act 2008 (ACT) which states that the report must not disclose any information that identifies any suspect or a participant in an authorised operation or that is likely to lead to a suspect or participant being identified.
Nature of activities
The certificate authorised the controlled purchase of drugs within the ACT
Illicit goods
There were no illicit goods involved in the conduct of the controlled operation.
Loss of, or serious damage to property
Nil
Personal injuries resulting from the Controlled Operation
Nil
Outcome
The activities of the controlled operation did not result in or contribute to any arrest or criminal prosecution.



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