

## Chapter 2

### Strategy and performance

2.1 The LEIC Act sets out the primary purpose of ACLEI to:

- facilitate the detection of corrupt conduct in law enforcement agencies;
- facilitate the investigation of corruption issues that relate to law enforcement agencies;
- enable criminal offences to be prosecuted, and civil penalty proceedings to be brought, following those investigations;
- prevent corrupt conduct in law enforcement agencies; and
- maintain and improve the integrity of staff members of law enforcement agencies.<sup>1</sup>

2.2 The vision of ACLEI is for an 'Australian Government law enforcement culture that resists corruption'. Its mission is to 'support the Integrity Commissioner to detect, disrupt and deter corrupt conduct' and its responsibilities are to:

- detect, investigate and prevent corrupt conduct;
- maintain and improve the integrity of law enforcement staff, through awareness-raising and making recommendations for reform of practices and laws; and
- collect and analyse information about corruption, and inform the Australian Parliament about patterns and trends.<sup>2</sup>

#### ACLEI's jurisdiction

2.3 The Commonwealth agencies currently within ACLEI's jurisdiction include the Australian Crime Commission (ACC), the Australian Federal Police (AFP) and the Australian Customs and Border Protection Service (ACBPS).

2.4 In its final report for the inquiry into the *Operation of the Law Enforcement Integrity Commissioner Act 2006*, the committee recommended that ACLEI's jurisdiction be further expanded to include all staff of the Australian Transaction and Reporting Analysis Centre (AUSTRAC), CrimTrac and Biosecurity staff of the then Department of Agriculture, Fisheries and Forestry (DAFF Biosecurity). The committee identified these agency staff as subject to a higher potential risk of infiltration by organised crime because of the nature of their work. This recommendation was realised when the Parliament passed amendments to the LEIC

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1 *Law Enforcement Integrity Commissioner Act 2006* (Cth), s3.

2 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 10.

Act on 27 November 2012,<sup>3</sup> with three new agencies included in ACLEI's jurisdiction from 1 July 2013.

### **Strengthening Australia's common integrity platform**

2.5 The Integrity Commissioner stated that during 2012-13, ACLEI worked closely with the new LEIC Act agencies to learn about their respective operating environments and to establish working business protocols. The Commissioner also noted that the integrity partnership approach means that the anti-corruption system is a combination of a commitment and participation of all agencies, and that the system does not rest solely with ACLEI. Accordingly, the new agencies updated their own integrity frameworks in preparation for the extension of ACLEI's jurisdiction. This included discussions held between existing and new agencies in order to inform and take account of each agency's risks.<sup>4</sup>

2.6 Specifically, AUSTRAC established a new position of Director of Security, Risk & Integrity to raise the importance of integrity issues within the agency. In addition, AUSTRAC sought ACLEI's comment on its 2011–13 Fraud Control Plan and developed a new integrity framework and implementation plan based on discussions with ACLEI, and on the *Community of Practice for Corruption Prevention*. Some of these measures were initiated before 1 July 2013.<sup>5</sup>

2.7 CrimTrac established an Integrity Advisory Committee to provide advice to the executive on appropriate action concerning integrity breaches and risks. CrimTrac also assessed its integrity framework and identified areas for development including: pre-employment declarations; gifts and hospitality; corporate training; and internal policies including conflicts of interest.<sup>6</sup>

2.8 The Department of Agriculture (formerly the Department of Agriculture, Fisheries and Forestry) developed new Chief Executive's Instruction to set an expectation that corrupt conduct would be reported under notification requirements of the LEIC Act. The department also developed new aspects of its website that include reporting options and an e-learning integrity training package focusing on fraud and corruption control.<sup>7</sup>

### **Strategy and direction**

2.9 ACLEI assists the ACC, ACBPS and AFP to maintain the integrity of their staff in the face of risks associated with law enforcement activities that may give rise to corrupt conduct. Under the LEIC Act, the Integrity Commissioner is required to give priority to serious or systemic corruption in those agencies and focuses therefore on corruption issues that may:

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3 *Journals of the Senate*, No. 127—27 November 2012, p. 3412.

4 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 6.

5 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 8.

6 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 9.

7 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 9.

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- involve a suspected link between law enforcement and organised crime;
  - bring into doubt the integrity of senior law enforcement managers;
  - relate to law enforcement activities that have a higher inherent corruption risk;
  - warrant the use of the Integrity Commissioner's information-gathering powers, including hearings; or
  - would otherwise benefit from independent investigation.<sup>8</sup>

2.10 The *Integrity Commissioner's Review* details some of the ongoing and emerging strategies employed by ACLEI over the review period including the development of:

- a new intelligence strategy to address 'the detection challenge' where corrupt conduct is expected to become more difficult to discover than it is currently: 'the increased sophistication of organised crime, combined with sustained pressure on laws enforcement agencies, means that corruption...may become less susceptible of discovery.'<sup>9</sup> This strategy will include investigations, integrity testing and corruption prevention outcomes.<sup>10</sup>
- a possible interstate office as a second base for operations to allow ACLEI 'to test employment markets outside of Canberra and advance key relations with partner agencies.'
- Closer ties with the Attorney-General's Department to identify whether secondments could be of benefit for both agencies, including administrative, policy and legal staff.<sup>11</sup>

2.11 In previous annual reports, ACLEI has highlighted its two-level approach to corruption whereby corruption investigations and organised crime investigations operate in partnership to counter organised crime activities. In the 2012-13 report, ACLEI made the following observations about this approach:

Law enforcement agencies and ACLEI investigate the 'corruption handshake' from complementary perspectives. Law enforcement agencies lead the collection of intelligence about organised crime, and this information can provide insights about corrupt conduct and corruption risk. Likewise, integrity investigations, by examining the conduct of possibly corrupt law enforcement officers, can yield new information about the activities and methods of criminal groups.

Accordingly, ACLEI engages with the operational 'core business' areas of the agencies in the Integrity Commissioner's jurisdiction, as well as with their professional standards units, to share information about organised crime

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8 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 12.

9 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 2.

10 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 6.

11 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 7.

operations and to work together to counter threats to law enforcement integrity.<sup>12</sup>

2.12 In addition to its normal activities, ACLEI gave priority during 2012-13 to key projects, namely:

- Operation Heritage-Marca, an investigation that required the input of multiple agencies as well as pilot surveillance that was provided by the ACC;<sup>13</sup>
- the preparation of the addition of the ACBPS, Crimtrac and parts of the Department of Agriculture to the Integrity Commissioner's jurisdiction;
- the establishment of two separate branches in ACLEI consisting of 'Strategic and Secretariat' and 'Operations'; and
- the simplification of recruitment procedures for applicants in addition to the establishment of an interstate office.<sup>14</sup>

### **Structure, governance and resourcing**

2.13 In 2012-13, ACLEI's budget was \$6.043 million which provided for an average staffing of 29 people compared to ACLEI's 2011-12 annual budget of \$5.6 million and funding for 24 staff.<sup>15</sup>

2.14 For the reporting period, ACLEI had an operating surplus of \$0.262 million. The Report states that ACLEI has previously reported an operating loss in four of its seven years of operation, due to the difficulties in forecasting with such a small budget, in addition to the unpredictability of factors associated with investigations.<sup>16</sup> The total actual cost of ACLEI to government through appropriations in 2012-13 was \$6.004 million.<sup>17</sup>

2.15 ACLEI received an unmodified audit opinion from the Australian National Audit Office for its accounts.<sup>18</sup>

2.16 In August 2012, a restructure was undertaken and a second branch of ACLEI was established—the Strategic and Secretariat Branch—headed by a Senior Executive Band One Officer. The two-branch structure will enable the new Branch to focus on ACLEI's 'developing governance, business improvement, corruption prevention, jurisdiction engagement and integrity responsibilities.' Such changes are also

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12 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 17.

13 Operation Heritage-Marca is a joint investigation between ACLEI, the AFP and the ACBPS into corrupt collaboration between ACBPS offices and other to import illicit drugs through Sydney International Airport. ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 20.

14 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 20.

15 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 35.

16 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 35.

17 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 35–36.

18 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 37.

expected to enable ACLEI to give greater executive focus to more complex investigations.<sup>19</sup>

2.17 ACLEI underwent two internal audits during the reporting period that focused on evidence handling, as well as safety and security.<sup>20</sup>

### ***Additional funding 2012-13***

2.18 During the reporting period, the government announced the provision of an additional \$0.75 million per annum through a reallocation of resources within the Attorney-General's portfolio from the ACBPS to ACLEI. The funding will be directed into fulfilling the *Hamburger Review of the implementation of ACLEI's jurisdiction to deal with corruption issues within the Australian Customs and Border Protection Service*.<sup>21</sup>

2.19 During the year, ACLEI was allocated \$2.12 million from the Australian Government grant scheme established under the *Proceeds of Crime Act 2002* to facilitate the agency's 'Surveillance Capability Enhancement Pilot Project'.<sup>22</sup> Under the project's Memorandum of Understanding with the ACC, ACLEI is given priority to draw on the ACC's surveillance capability.<sup>23</sup>

### **Planned outcomes and performance**

2.20 In 2012-13, ACLEI's outcome and output structure (set out in the following table) remain unchanged from 2011-12.

**Table 1—Outcome and reporting framework**

**Outcome**—Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity, by detecting, investigating and preventing corruption.

**Outcome strategy**—Ensure that corruption issues brought to the attention of the Integrity Commissioner are assessed in a timely manner and, where appropriate, investigated. ACLEI will also assist law enforcement agencies to maintain the integrity of their staff by contributing to corruption detection and prevention initiatives.

**Program**—Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.

**Program objective**—ACLEI's program objective is to ensure that instances of corruption are identified and addressed, and that law enforcement agencies have

19 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 76.

20 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 78.

21 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 35.

22 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 35.

23 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 76.

appropriate measures in place to control corruption risks. In this way, ACLEI can provide independent assurance to the Australian Government about the integrity of prescribed law enforcement agencies.<sup>24</sup>

2.21 The Portfolio Budget Statements establish a set of 'deliverables' for the program administered. There are seven 2012-13 ACLEI deliverables for the program:

- Corruption issues are promptly brought to the attention of the Integrity Commissioner for independent assessment and decision on how each issue should be dealt with (either by ACLEI, the agency to which the issue relates, or another agency).
- Where appropriate, ACLEI independently investigates corruption issues, giving priority to conduct that constitutes serious corruption or systemic corruption.
- Where appropriate, the Integrity Commissioner uses statutory intrusive and coercive information-gathering powers to assist investigations.
- ACLEI analyses and reports on patterns and trends in law enforcement corruption.
- ACLEI recommends changes to laws and to agency practices and procedures to improve integrity in law enforcement, and to detect and prevent corruption more effectively.
- ACLEI enhances corruption prevention initiatives, such as the assessment of corruption risk and raising awareness about corruption deterrence, thereby helping to build corruption-resistant work cultures.
- Staff members of law enforcement agencies are made aware that information about corruption can be referred with confidence to the Integrity Commissioner.<sup>25</sup>

2.22 Seven Key Performance Indicators (KPIs) are linked to the program objective and deliverables. In comparison to previous years, ACLEI 'largely met its KPIs for 2012-13'. The annual report also notes that attention given to Operation Heritage–Marca over the year in review 'contributed towards several KPIs—namely, the areas of investigation and strengthening the integrity framework'.<sup>26</sup> The seven KPIs are outline in the following tables.

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24 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 21.

25 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 21.

26 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 22.

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**KPI 1—The corruption notification and referral system is effective**

Measure 1: Law enforcement agencies notify ACLEI of corruption issues in a timely way	Performance against measure 1: In 2012-13 there were 56 notifications <sup>27</sup> compared to 73 in the previous year. <sup>28</sup>
Measure 2: Other agencies provide information about corruption issues to ACLEI	Performance against measure 2: 12 referrals were received from other government agencies. <sup>29</sup>
Measure 3: ACLEI is seen as viable for reporting information about corruption	Performance against measure 3: Nine referrals from members of the public and other sources were received in 2012–13. <sup>30</sup>

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27 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 23.

28 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 52.

29 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 23.

30 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 23.

## KPI 2—ACLEI assesses corruption notifications and referrals in a timely way

<p>Measure 1:</p> <p>Upon receipt, ACLEI assesses information about corruption to determine how each issue should be dealt with. Credible information about corruption is prioritised</p>	<p>Performance against measure 1:<sup>31</sup></p> <p>ACLEI received 60 notification and referrals during the reporting period.</p> <p>Assessments completed for 92 per cent of all notifications and referrals received in 2012-13 within 90 days of receipt.<sup>32</sup></p> <p>58 of the 77 completed assessments (75 per cent) were handled within 90 days including 17 issues that carried over from the 2011-12 period. ACLEI achieved its target of 75 per cent for completing assessments within 90 days.<sup>33</sup></p> <p>At the end of the year, 18 assessments were in progress of which 10 were more than 90 days old.<sup>34</sup></p>
<p>Measure 2:</p> <p>Risks relating to the operating context of law enforcement agencies are taken into account and, in appropriate circumstances, mitigation strategies are agreed with the agencies concerned</p>	<p>Performance against measure 2:</p> <p>ACLEI notes that risks relating to investigations, as well as mitigation strategies, are routinely discussed between agency staff and ACLEI.</p> <p>Information is disseminated to assist the agency to manage operating risks during the course of an investigation. A multitude of disseminations occurred during 2012-13.<sup>35</sup></p>
<p>Measure 3:</p> <p>Decisions are communicated to affected agencies in a timely way</p>	<p>Performance against measure 3:</p> <p>Regular meetings are held with LEIC Act agencies to allow issues to be brought forwards when necessary.<sup>36</sup></p>

31 In describing its performance in relation to this measure, ACLEI highlighted that the assessments and prioritisation process 'includes factors such as: reliability of information; susceptibility of the issue to investigation; opportunity for real-time evidence collection; and seriousness and impact of the issue'. ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 25.

32 Compared to 63 per cent in 2011-12 and 76 per cent in 2010-11. ACLEI, *Annual Report of the Integrity Commissioner 2011-12*, p. 36.

33 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 24–25.

34 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 24–25.

35 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 25.

36 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 25.



### KPI 3—ACLEI's investigations are conducted professionally and efficiently

<p>Measure 1: Investigations adhere to the Integrity Commissioner's Investigation Guidelines</p>	<p>Performance against measure 1: While the report does not explicitly state that the Integrity Commissioner's Investigation Guidelines were adhered to, it provides the following indicators of performance:</p> <ul style="list-style-type: none"> <li>• the strengthening of ACLEI's exhibit management practices after an internal audit; and</li> <li>• an update to the practice notes that are published on ACLEI's website.<sup>37</sup></li> </ul>
<p>Measure 2: ACLEI investigations are properly managed</p>	<p>Performance against measure 2: As part of a regular review process of the deployment of investigative resources measured against strategic priorities, five investigations (of a total of 31 investigations active during the year) were reconsidered and discontinued. This compares with 5 in 2011-12 and 15 in 2010-11.<sup>38</sup></p>
<p>Measure 3: Investigation reports provided to the Minister are of high quality</p>	<p>Performance against measure 3: Five investigation reports, including an interim report on Operation Heritage, were provided to the Minister. The reports contained recommendations or observations surrounding risk corruption, which were then used by agencies to improve anti-corruption frameworks.<sup>39</sup></p>
<p>Measure 4: Advice is provided to the Minister in a timely way</p>	<p>Performance against measure 4: All briefings to the Minister met appropriate standards and were provided within agreed time frames.<sup>40</sup></p>

37 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 28.

38 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 28.

39 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 28.

40 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 28.

#### **KPI 4—ACLEI monitors corruption investigations conducted by law enforcement agencies**<sup>41</sup>

<p>Measure 1:</p> <p>All agency corruption investigation reports provided to ACLEI for review are assessed for intelligence value and completeness</p>	<p>Performance against measure 1:</p> <p>38 agency internal investigation reports were received and reviewed (compared to 25 in 2011-12) and all report conclusions were accepted by the relevant law enforcement agency with no comments or recommendations necessary.</p>
<p>Measure 2:</p> <p>ACLEI liaises regularly with the agencies' professional standards units</p>	<p>Performance against measure 2:</p> <p>ACLEI investigation managers met regularly with the professional standards unit of the ACC, ACBPS and AFP to consider progress on corruption issues that the Integrity Commissioner had referred for internal investigation. A number of officers from the agency professional standards units were seconded to ACLEI or worked with ALCEI in joint taskforce arrangements.<sup>42</sup></p>

#### **KPI 5—ACLEI contributes to policy development and law reform**

<p>Measure 1:</p> <p>Each investigation addresses corruption risk and, where warranted, makes recommendations for improvement in corruption prevention or detection measures</p>	<p>Performance against measure 1:</p> <p>Investigation reports provided to the Minister made observations or recommendations to improve the resistance to corruption of law enforcement agencies.</p> <p>All recommendations were accepted by the agencies concerned.</p> <p>An in-confidence vulnerabilities report which was provided to the Minister informed integrity reforms of the ACBPS.<sup>43</sup></p>
<p>Measure 2:</p> <p>Submissions that relate to corruption prevention or enhancing integrity may be made to government or in other relevant forums</p>	<p>Performance against measure 2:</p> <p>Submissions to five government and parliamentary inquiries and policy input into other initiatives including the Customs Reform Board.<sup>44</sup></p>

41 ACLEI may refer corruption issues for internal investigation by the ACC, ACBPS or AFP, or ask the AFP to investigate corruption issues relating to the two other agencies. At the completion of an investigation, the agency head provides a report to the Integrity Commissioner who may make recommendations and comments in relation to the investigation or outcome. ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 29.

42 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 30.

43 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 31.

44 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 31.

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**KPI 6—Staff of law enforcement agencies are made aware of ACLEI's role**

<p>Measure 1:</p> <p>Marketing and other awareness-raising activities are in place, including joint initiatives with other agencies</p>	<p>Performance against measure 1:</p> <p>ACLEI's information pamphlet was updated to include the addition of AUSTRAC, CrimTrac and the Department of Agriculture, as well as the introduction of integrity testing powers.</p> <p>Contribution to e-learning packages produced by agencies that include information about corruption risk and how to report a corruption issue to ACLEI.<sup>45</sup></p>
<p>Measure 2:</p> <p>Targeted presentations about integrity are made to diverse audiences</p>	<p>Performance against measure 2:</p> <p>21 presentations and 17 awareness-raising sessions were provided to the agencies in ACLEI's jurisdiction.<sup>46</sup></p>

**KPI 7—ACLEI handles personal information appropriately**

<p>Measure 1:</p> <p>Regular privacy audits are undertaken to ensure compliance with legal obligations and better practice policy for information-handling</p>	<p>Performance against measure 1:</p> <p>A broad review of information-handling arrangements is due to commence in 2013-14.</p> <p>There were no reported security incidents involving the unauthorised release of personal information during the year.<sup>47</sup></p>
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45 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 33.

46 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 33.

47 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 35.