



# Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity

---

Examination of the Annual Report  
of the Integrity Commissioner  
2012-13

September 2014



The Parliament of the Commonwealth of Australia

**PARLIAMENTARY JOINT COMMITTEE  
ON THE AUSTRALIAN COMMISSION FOR  
LAW ENFORCEMENT INTEGRITY**

**Examination of the Annual Report of the Integrity Commissioner  
2012-13**

September 2014

© Commonwealth of Australia

ISBN 978-1-76010-063-6

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website: <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was printed by the Senate Printing Unit, Parliament House, Canberra

# THE COMMITTEE

## *Members*

Mr Russell Matheson MP	LP, NSW	(Chair)
Senator Catryna Bilyk	ALP, TAS	(Deputy Chair)
Senator Sean Edwards	LP, SA	
The Hon Justine Elliot MP	ALP, NSW	
Senator Barry O'Sullivan	NATS, QLD	
The Hon Christian Porter MP	LP, WA	
Senator Glenn Sterle	ALP, WA	
Mr Jason Wood MP	LP, VIC	
Mr Tony Zappia	ALP, SA	

## *Former Members*

Senator Mark Furner (ALP, QLD) (from 12.11.13–30.06.14)  
Mr Chris Hayes MP (ALP, NSW) (from 05.12.13–17.07.14)  
Senator Stephen Parry (LP, TAS) (from 02.12.13–30.06.14)

## *Secretariat*

Ms Jackie Morris, Acting Secretary (to 06.01.14)  
Mr Stephen Palethorpe, Secretary (from 07.01.14)  
Mr Glenn Ryall, Principal Research Officer (to 23.03.14)  
Ms Jedidiah Reardon, Acting Principal Research Officer (31.03.14)  
Mr Josh See, Senior Research Officer (from 21.07.14)  
Mr Tim Hillman, Acting Senior Research Officer (from 17.03.14–30.06.14)  
Ms Rosalind McMahon, Administrative Officer  
Ms Marina Katic, Administrative Officer (from 30.03.14–02.06.14)  
Ms Sarah Brassler, Administrative Officer (from 18.08.14)

PO Box 6100

Parliament House

CANBERRA

Telephone: (02) 6277 3419

Facsimile: (02) 6277 5809

Email: [aclei.committee@aph.gov.au](mailto:aclei.committee@aph.gov.au)

Internet: [www.aph.gov.au/aclei\\_ctte](http://www.aph.gov.au/aclei_ctte)



## Acronyms and abbreviations list

ACC	Australian Crime Commission
ACLEI	Australian Commission for Law Enforcement Integrity
AFP	Australian Federal Police
ACBPS	Australian Customs and Border Protection Service
ANAO	Australian National Audit Office
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction and Reporting Analysis Centre
CEO	Chief Executive Officer
Hamburger Review	Review of the Australian Commission for Law Enforcement Integrity's Capabilities, Operating Arrangements and Resources
KPIs	Key Performance Indicators
LEIC Act	<i>Law Enforcement Integrity Commissioner Act 2006</i>
LEIC Regulations	Law Enforcement Integrity Commissioner Regulations 2006
PJC-ACLEI	Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity
the Minister	Minister for Justice
the committee	Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity
the report	Annual Report of the Integrity Commissioner 2012-13



# Table of Contents

<b>The Committee .....</b>	<b>iii</b>
<b>Acronyms and abbreviations list .....</b>	<b>v</b>
<b>Chapter 1.....</b>	<b>1</b>
<b>Introduction .....</b>	<b>1</b>
Requirements for the examination of the annual reports .....	1
Requirements for annual reports .....	1
Requirements for special reports .....	2
Conduct of the inquiry .....	2
Acknowledgements .....	2
<b>Chapter 2.....</b>	<b>5</b>
<b>Strategy and performance .....</b>	<b>5</b>
ACLEI's jurisdiction .....	5
Strengthening Australia's common integrity platform .....	6
Strategy and direction .....	6
Structure, governance and resourcing .....	8
Planned outcomes and performance .....	9
<b>Chapter 3.....</b>	<b>17</b>
<b>Key issues.....</b>	<b>17</b>
Inclusion of three new agencies under ACLEI's jurisdiction .....	17
The detection challenge .....	19
Operation Heritage-Marca .....	20
Opening of a second office .....	20
Coercive information-gathering powers .....	21
Workload .....	22
Integrity reforms at Customs in 2013-14 .....	24
ACLEI's reporting regulations .....	24
Ombudsman's report .....	25
Committee view .....	25

<b>Appendix 1 .....</b>	<b>27</b>
<b>Compliance with reporting requirements .....</b>	<b>27</b>
<b>Appendix 2 .....</b>	<b>31</b>
<b>Witnesses who appeared before the committee .....</b>	<b>31</b>

# Chapter 1

## Introduction

1.1 The Australian Commission for Law Enforcement Integrity (ACLEI) was established by the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act). The LEIC Act commenced operation on 30 December 2006.

1.2 The LEIC Act established a new Office of Integrity Commissioner, supported by a statutory agency, ACLEI.

1.3 The 2012-13 Annual Report of the Integrity Commissioner (annual report) was presented to the Minister for Justice, the Hon Michael Keenan MP, on 16 October 2013 and tabled in the Senate on 12 November 2013 and in the House of Representatives on 13 November 2013.

### Requirements for the examination of the annual reports

1.4 Paragraph 215(1)(c) of the LEIC Act requires the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (the committee) to examine:

- (i) each annual report prepared by the Integrity Commissioner under section 201;
- (ii) any special report prepared by the Integrity Commissioner under section 204;

and report to the Parliament on any matter appearing in, or arising out of, any such annual report or special report.

### Requirements for annual reports

1.5 Section 201 of the LEIC Act sets out the requirements for ACLEI annual reports. The annual report must provide details of:

- corruption issues notified to the Integrity Commissioner, dealt with by the Integrity Commissioner or referred to a government agency for investigation. Reports must include corruption issues investigated over the year and certificates issued under section 149 during the year;<sup>1</sup>
- investigations conducted that 'raise significant issues or developments in law enforcement' and the extent to which ACLEI investigations have resulted in prosecutions or confiscation proceedings;

---

1 Section 149 provides that the Attorney-General may certify that disclosure of information about a matter specified in the certificate or the contents of a document specified in a certificate 'would be contrary to the public interest' on the grounds that the disclosure would prejudice the conduct of an investigation or inquiry in crime or criminal activity or for other reasons as set out in subsection 149(2) of the LEIC Act.

- trends and patterns including the nature and scope of corruption in law enforcement and other Commonwealth agencies that have law enforcement functions; and
- recommendations for changes to Commonwealth laws or administrative practices of Commonwealth government agencies.

1.6 The 2012-13 ACLEI annual report includes a compliance index which provides a guide to the report's compliance with the requirements for annual reports under the LEIC Act.<sup>2</sup> The committee is satisfied that ACLEI has fulfilled its annual report obligations under the LEIC Act and other requirements as set out in the compliance index of the annual report. These requirements are set out in Appendix 1.

### **Requirements for special reports**

1.7 Under section 204 of the LEIC Act, the Integrity Commissioner may prepare special reports which relate to the operations of the Integrity Commissioner or any matter in connection with the performance of the Integrity Commissioner's powers or functions under the LEIC Act.

1.8 In its report on ACLEI's 2010-11 annual report, the committee suggested that future ACLEI annual reports 'clearly state whether any special reports have been provided to the Minister and make an appropriate reference in the compliance index'.<sup>3</sup> ACLEI has adopted this suggestion. The 2012-13 annual report states that the Integrity Commissioner gave no special reports under section 204 of the LEIC Act to the Minister during the review period.<sup>4</sup>

### **Conduct of the inquiry**

1.9 The committee held a public hearing to examine the annual report on 13 February 2014. During the hearing, the committee heard evidence from the Integrity Commissioner, Mr Philip Moss and ACLEI officers. The list of witnesses is provided as Appendix 2.

### **Acknowledgements**

1.10 The committee congratulates the Integrity Commissioner and ACLEI officers for the quality and readability of the 2012-13 annual report, and for their cooperation and engagement during the inquiry.

1.11 The committee notes that ACLEI received the bronze award in the *small FMA agency—hardcopy* category, for its annual report from the Institute of Public Administration Australia 2012-13 Annual Report Awards. The awards recognise best practice in public sector annual reports.

1.12 The committee also notes that the 2012-13 annual report marks the final annual report from the inaugural Integrity Commissioner, Mr Philip Moss. The

---

2 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 161–163.

3 PJC-ACLEI, *Examination of the Annual Report of the Integrity Commissioner 2010-11*, p. 2.

4 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 163.

committee thanks Mr Moss for his dedicated service to ACLEI over his seven year tenure as Integrity Commissioner.



## 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

---

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:

---

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.

- 
- 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

---

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

---

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.

---

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.

---

**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>

---

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:</p> <p>Investigations adhere to the Integrity Commissioner's Investigation Guidelines</p>	<p>Performance against measure 1:</p> <p>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:</p> <p>ACLEI investigations are properly managed</p>	<p>Performance against measure 2:</p> <p>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:</p> <p>Investigation reports provided to the Minister are of high quality</p>	<p>Performance against measure 3:</p> <p>Five investigation reports, including an interim report on Operation Heritage, were provided to the Minister.</p> <p>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:</p> <p>Advice is provided to the Minister in a timely way</p>	<p>Performance against measure 4:</p> <p>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.

---

**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>
--	---

---

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.



## Chapter 3

### Key issues

3.1 This chapter considers the key issues of concern to the committee, namely the addition of AUSTRAC, CrimTrac and aspects of the Department of Agriculture within ACLEI's jurisdiction in late 2012, as well as phases of Operation Heritage and the opening of a second office for ACLEI in Sydney. This chapter also considers the impact of ACLEI's widened jurisdiction on its prioritised workload and the timeliness of its assessment and investigative functions.

#### **Inclusion of three new agencies under ACLEI's jurisdiction**

3.2 In November 2012, legislation was enacted to include AUSTRAC, CrimTrac and aspects of the Department of Agriculture in the Integrity Commissioner's jurisdiction.<sup>1</sup>

3.3 In the Report, the Integrity Commissioner stated that there was a high level of interaction and cooperation between the existing LEIC Act agencies and the new agencies. The reports states that this helped to develop the arrangements that take account of each separate agency's risks, while 'developing innovative approaches to understand corruption risk, assess the resilience of governance systems, and respond in targeted ways to common challenges.'<sup>2</sup>

3.4 In evidence regarding the 2012-13 annual report, the Integrity Commissioner informed the committee that Operation Heritage highlighted that 'the integrity partnership enables a high degree of cooperation between agencies, with the common objective of safeguarding the integrity of people, assets, decisions and information that are related to the Commonwealth's law enforcement interests.'<sup>3</sup>

3.5 The integrity partnership includes a combination of commitments from six agencies that are now included in the framework of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act). These agencies include the Australian Crime Commission, the Australian Customs and Border Protections Service (ACBPS), the Australian Federal Police (AFP), AUSTRAC; CrimTrac and prescribed aspects of the Department of Agriculture.<sup>4</sup>

3.6 The prescribed aspects of the Department of Agriculture that come under ACLEI's jurisdiction principally include the frontline biosecurity areas of the Department:

---

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

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

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

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

(b) members of staff of the Agriculture Department whose duties include undertaking assessment, control and clearance of vessels and cargo imported into Australia, and

(c) members of staff of the Agriculture Department who have access to the Integrated Cargo System.<sup>5</sup>

3.7 To determine the effectiveness of this extension, a review will be held in 2014 that examines the inclusion of the Department over its first 12 months. The review will also consider whether other aspects of the Department of Agriculture should be included in ACLEI's jurisdiction.<sup>6</sup>

3.8 The committee queried whether the current inclusion of aspects of the Department of Agriculture were adequate or if there were other aspects of the Department where integrity issues are still a risk but are outside of ACLEI's jurisdiction. The Integrity Commissioner stated that from his own experience 'a broader approach, rather than a more restricted one, is the better way.'<sup>7</sup> The Integrity Commissioner agreed that if the entire Department of Agriculture was included within ACLEI's jurisdiction, nothing would inhibit ACLEI from investigating support staff that could possibly be implicated in corruption issues.<sup>8</sup> In addition, it was raised that the addition of the Australian Taxation Office (ATO) and the law enforcement aspects of the Department of Immigration could be a beneficial addition to the jurisdiction of ACLEI.<sup>9</sup>

3.9 ACLEI maintained its focus in relation to the other agencies within its jurisdiction, noting that during 2012-13, 78 corruption issues were notified or referred to the Integrity Commissioner for assessment. Two more issues were identified by ACLEI and dealt with on an 'own initiative' basis. The reported total number of corruption issues is fewer than the 106 issues in 2011-12 and the 90 issues in 2010-11.<sup>10</sup> The Report states that it was too early to attribute a probable cause for the decrease in the numbers of notification of corruption issues but it was stressed that there 'is no indication that this decline indicates a reticence to notify the Integrity Commissioner about corruption issues' and that it could be a consequence of the 'detection challenge'.<sup>11</sup> The sources of information about corruption issues in 2012-13 are outlined in the following table.

---

5 Regulation 8, Law Enforcement Integrity Commission Regulations 2006.

6 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 3. The committee is currently conducting an inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity.

7 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 3.

8 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 3.

9 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 4.

10 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 51.

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

**Table 1—Sources of information about corruption issues 2012-13 (2011-12 figures)<sup>12</sup>**

		<b>ACC</b>	<b>ACBPS</b>	<b>AFP</b>	<b>TOTAL</b>
Notifications	Notification by law enforcement agency heads	3 (8)	27 (29)	26 (36)	56 (73)
Referrals	Minister	0 (0)	0 (0)	0 (0)	0 (0)
	Other people or government agencies	1 (1)	9 (14)	11 (23)	21 (38)
Own initiative	ACLEI intelligence/ own initiative identifications	0 (0)	2 (0)	0 (3)	2 (3)
<b>Sub total</b>		4 (9)	38 (43)	37 (62)	79 (114)
<b>Less duplicates</b>		0 (0)	1 (8)	0 (0)	1 (8)
<b>TOTAL</b>		4 (9)	37 (35)	37 (62)	<b>78 (106)</b>

### The detection challenge

3.10 The Integrity Commissioner's opening statement detailed a new priority for ACLEI, referred to as the 'detection challenge'.<sup>13</sup> This was described as a situation where:

The increased sophistication of organised crime, combined with sustained pressure on law enforcement agencies, means that corruption is likely to continue to occur, and may become less susceptible of discovery than is already the case.<sup>14</sup>

12 Numbers in (brackets) are for the 2011-12 reporting year. ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 51.

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

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

3.11 ACLEI is therefore collaborating with other agencies, including the Australian Crime Commission, to shape a concerted response to this challenge. Through this collaboration, ACLEI has access to the National Criminal Intelligence Data Fusion Capability, which consists of:

...a capability which the ACC has developed and...is, seemingly, coming into great demand from the whole range of agencies, including state agencies, wanting to use that capacity. It is an area of data mining, matching various known actors and bring them into a process whereby they match up. [By using the ACC's Fusion Capability] you do have...the capacity to get into the area of corruption detection.<sup>15</sup>

3.12 A cooperative framework is being established within the integrity partnership, to combine and analyse information that could point to a heightened corruption risk or an occurrence of corruption. Precursors of the chance of corruption in one agency 'will continue to inform detection and prevention activities in all other LEIC Act agencies, and perhaps several others beyond.'<sup>16</sup>

### **Operation Heritage-Marca**

3.13 Operation Heritage-Marca is a joint operation between ACLEI and the AFP that commenced in January 2011 when the ACBPS was shifted into the LEIC Act jurisdiction, and the ACBPS notified ACLEI of multiple corruption issues.<sup>17</sup>

3.14 The committee was informed that Operation Heritage-Marca had resulted in the arrest of 17 criminal entities that were a part of organised crime and were linked to Customs officers.<sup>18</sup> In addition, prosecution has commenced against four officers of the ACBPS and one officer of the Department of Agriculture.<sup>19</sup>

3.15 The Integrity Commissioner noted that the majority of the investigation had been completed, however, there are outstanding matters requiring further investigation. The Integrity Commissioner mentioned that an interim report on the investigation had already been provided to the Minister and that a final report would be submitted once the operation was completed, including the prosecution phase of the investigation.<sup>20</sup> The committee was told that it was unlikely that there would be any further arrests as a result of the investigation.

### **Opening of a second office**

3.16 The Integrity Commissioner raised the possibility of opening a second ACLEI office outside of Canberra in the near future. ACLEI proposed Sydney as a prime location, as it would serve as a good location for initiating interstate operations, as

---

15 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 4.

16 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 51.

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

18 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 4.

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

20 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, pp 3–4.

---

well as providing a good selection of the kind of staff that ACLEI needs without the competition that other agencies usually create in Canberra.<sup>21</sup> Another office in Sydney would also create the opportunity of further liaison with state agencies in New South Wales that undertake similar work to the Integrity Commissioner and that participate in joint operations.<sup>22</sup>

### **Coercive information-gathering powers**

3.17 Part 9 of the LEIC Act sets out the Integrity Commissioner's information-gathering powers. These powers require a person to produce documentary evidence or appear as a witness and answer questions truthfully at a hearing. A 'notice to produce' or a summons to attend a hearing can be issued only in relation to ACLEI investigations or joint operations.<sup>23</sup>

3.18 During 2012-13, the Integrity Commissioner exercised information-gathering powers in 5 investigations and held 20 hearings. The Integrity Commissioner also issued 28 notices to produce information, documents or things, in relation to four investigations (including two investigations that also included hearings). In contrast, there were 15 such notices issued in 2011-12.<sup>24</sup>

3.19 The number of summonses issued to witnesses to attend hearings in order to provide information, documents or things under section 83 of the LEIC Act increased to 21 instances in 2012-13, up from 13 instances in 2011-12.<sup>25</sup>

### ***Intrusive information-gathering powers***

3.20 The Integrity Commissioner has intrusive and covert powers for the purpose of investigating possible corrupt conduct. During the year, these powers were used 16 times as part of investigation strategies relating to three investigations.<sup>26</sup>

3.21 The context in which intrusive and covert powers were used during the review period include:

- Ten telecommunications (interception and access) warrants compared to nine in 2011-12;
- Six surveillance device warrants (may include multiple devices) compared to seven in 2011-12.<sup>27</sup>

---

21 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 5.

22 Mr Philip Moss, Integrity Commissioner, *Committee Hansard*, 13 February 2014, p. 5.

23 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 62.

24 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 62.

25 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 62.

26 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 62.

27 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 63.

## Workload

3.22 In 2012-13, the totality of ACLEI's assessment and investigation workload amounted to 204 corruption issues.<sup>28</sup> These issues comprised 78 notifications and referrals (including two own initiative investigations) and 126 other corruption issues carried forward from previous years. In comparison, the total number of corruption issues before ACLEI in 2011-12 was 161.<sup>29</sup>

### *Corruption issues carried forward*

3.23 In 2012-13, there were 126 corruption issues carried forward from the previous years of which 3 were concluded after assessments determined that they did not raise a corruption issues within the meaning of the LEIC Act.<sup>30</sup> Of the remaining 123 corruption investigations carried over from previous years, the annual report notes that:

- 4 matters were carried over from 2008-09 (down from 12 in 2011-12);
- 10 matters were carried over from 2009-10 (down from 22 in 2011-12);
- 32 matters were carried over from 2010-11 (down from 42 in 2011-12);
- 80 matters were carried over from 2011-12.<sup>31</sup>

3.24 In 2012-13 and 2013-14, 126 issues and 125 issues were carried forward from the previous years respectively.<sup>32</sup> In previous reports, the committee has expressed concerns about the increasing number of issues carried over from one year to the next and ACLEI's ability to manage the volume of work within existing resources. During the 2010-11 review period, the Integrity Commissioner reported that several initiatives together with an overall increase in the budget and staffing had enabled ACLEI to manage its assessment and review function.<sup>33</sup> However, the committee notes that there was only one fewer corruption issue carried over during the reporting period than the year before. The committee intends to continue to monitor this issue in the future, to ensure that ACLEI is adequately resourced and able to undertake its current workload effectively.

3.25 The 125 issues identified for the reporting period include:

- 22 investigations by ACLEI including 12 investigations conducted jointly with other agencies;
- 68 internal investigations conducted by LEIC Act agencies, without ACLEI supervision (ACC-6; ACBPS-28 and AFP-34);

---

28 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 53.

29 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 53.

30 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 55.

31 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 61.

32 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 53.

33 PJC-ACLEI, *Examination of the Annual Report of the Integrity Commissioner 2010-11*, March 2012, p. 11.

- one ACBPS internal investigation with ACLEI oversight;
- one AFP internal investigation with ACLEI oversight;
- one AFP investigation relating to the ACBPS, without supervision by ACLEI; and
- 32 notifications and referrals under assessment.<sup>34</sup>

### ***Drop in notifications***

3.26 Under KPI 1, concerning notifications by agency heads, there were 55 notifications of corruption issues in 2012-13 compared to 66 in the previous year (a decrease of 16.6 per cent in the volume of notifications).<sup>35</sup> The report noted that the decrease in notifications was difficult to attribute to one particular factor:

There is no indication that this decline indicates a reticence to notify the Integrity Commissioner about corruption issues. It is too early to pinpoint a probable cause—which may, for instance, reflect a strengthening of deterrence measures. As a safeguard, ACLEI will emphasise the 'detection challenge' in 2013-14, and direct additional resources towards the discovery of corrupt conduct.<sup>36</sup>

### ***Monitoring and addressing workload challenges***

3.27 The Integrity Commissioner emphasised that ACLEI has systems in place to manage workloads effectively:

Some major investigations are underway, which continue to stretch the agency. The concertina model, which describes ACLEI's ability to draw on resources from other agencies on an as-needs basis, continues to provide a cost-effective mechanism to respond to workload variation, and the challenge of ensuring that ACLEI has access to leading-edge skill and technology.<sup>37</sup>

3.28 ACLEI is also responsible for undertaking a review process when provided with a report under section 66 of the LEIC Act where the agency has conducted an investigation and reports back to the Integrity Commissioner. During the reporting period, ACLEI reviewed 38 reports (compared with 25 in 2011-12, 18 in 2010-11 and six in 2009-10) and found no basis to provide comments to agencies.<sup>38</sup>

---

34 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 61.

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

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

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

38 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 58-59.

## Integrity reforms at Customs in 2013-14

3.29 In the context of this inquiry, the committee received correspondence from ACLEI outlining additional integrity reforms undertaken by the ACBPS.<sup>39</sup>

3.30 In addition to the reforms that the ACBPS has undertaken that were outlined in the Annual Report, the Integrity Commissioner identified other actions that the ACBPS initiated in the 2013-14 reporting period that highlighted its continuing focus on integrity reform. The Integrity Commissioner maintained that the ACBPS was a good model for other agencies:

The ACBPS CEO's present emphasis on anti-corruption reform and professionalisation draws on the insight that an agency's ability to deliver sustainable outcomes is linked directly to the integrity of its staff and the strength of its governance arrangements.<sup>40</sup>

## ACLEI's reporting regulations

3.31 The correspondence from ACLEI also outlined possible changes to the Law Enforcement Integrity Commissioner Regulations 2006 (LEIC regulations) to amend reporting requirements.<sup>41</sup>

3.32 The Integrity Commission raised issues with the current terminology used in the LEIC regulations, stating that the notions of 'allegation' and 'complaint' are out-dated and that reporting on outcomes rather than inputs may be of more benefit.<sup>42</sup>

3.33 It was also raised that the expansion of ACLEI's jurisdiction to include smaller agencies with low number of notifications could lead to a 'tip off' in the Annual Report for the subjects of a corruption investigation once the information of the investigation is published in a report.<sup>43</sup>

3.34 The committee notes that ACLEI is in discussion with the Attorney-General's Department and the Commonwealth Ombudsman to examine alternatives. If these

39 Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2012–13*, Additional information, received 4 March 2014, [www.aph.gov.au/~media/Committees/Senate/committee/aclei\\_ctte/annual/2014/hearings/Integrity\\_Commissioner\\_additional\\_issues.PDF](http://www.aph.gov.au/~media/Committees/Senate/committee/aclei_ctte/annual/2014/hearings/Integrity_Commissioner_additional_issues.PDF), (accessed 6 June 2014).

40 Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2012–13*, Additional information, received 4 March 2014.

41 Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2012–13*, Additional information, received 4 March 2014.

42 Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2012–13*, Additional information, received 4 March 2014.

43 Joint Parliamentary Committee on the Australian Commission for Law Enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2012–13*, Additional information, received 4 March 2014.

---

discussions result in proposed regulations amendments, the committee will consider the proposed changes to determine if they will achieve a satisfactory balance between transparency and the effective operation of the LEIC Act.

### **Ombudsman's report**

3.35 In the usual manner, the committee received a report from the Commonwealth Ombudsman regarding the Integrity Commissioner's involvement in controlled operations under Part 1AB of the *Crimes Act 1914* during the preceding 12 months. The report was provided in accordance with section 218 of the *Law Enforcement Integrity Commissioner Act 2006*. The committee noted the report and has received it as confidential correspondence in adherence to the LEIC Act.<sup>44</sup>

### **Committee view**

3.36 As noted in the introduction, the committee congratulates ACLEI on the quality and readability of its annual report and on another highly significant and productive year of operation. The committee also congratulates ACLEI for winning the bronze award in the small FMA agency—hardcopy category of the Institute of Public Administration Australia (IPAA) awards for its 2012-13 Annual Report. The awards aim to promote better practice and improve the standard of reporting for governing bodies' annual reports. The IPAA stated that the report 'is very clear in showing the environment driving corruption and resulting concerns as well as the Commission's responsiveness to this changing environment.'<sup>45</sup>

3.37 The committee appreciates the challenges before ACLEI in terms of expanding its jurisdiction and managing a greater workload. At the same time, the committee recognises that these challenges provide an opportunity for ACLEI to widen the integrity framework and its influence.

3.38 Finally, the committee commends the Integrity Commissioner and his staff for their hard work over the reporting period and for an informative annual report. The 2012-13 annual report reflects the fact that ACLEI is now strongly embedded within the Commonwealth's integrity landscape and is able to adapt to respond appropriately to the rapidly transforming corruption landscape.

### **Mr Russell Matheson MP Chair**

---

44 *Law Enforcement Integrity Commission Act 2006*, s. 218.

45 Institute of Public Administration Australia, ACT Division, *IPPA Annual Report Awards: 2012-13 Judges' report*, p. 16.



# Appendix 1

## Compliance with reporting requirements

Each annual report must be prepared in accordance with reporting requirements set out in the organisation's founding legislation (the LEIC Act) and the relevant regulations formed under this Act—the Law Enforcement Integrity Commissioner Regulations 2006 (the LEIC Regulations). In addition, as a matter of policy, each annual report should comply with the reporting requirements set out in the Joint Committee of Public Accounts and Audit approved guidelines: Requirements for Annual Reports.

A comprehensive compliance index is included in the annual report and cross-references compliance with these requirements.<sup>1</sup> Each requirement is described in brief below.

### *ACLEI's legislation*

The annual reporting requirements for ACLEI are set out in section 201 of the LEIC Act and require that the Integrity Commissioner provides the Minister—for presentation to the Parliament—a report on the performance of the Integrity Commissioner's functions during each financial year.

Section 201 states that annual report must include the following:

- (a) the prescribed particulars of:
  - (i) corruption issues notified to the Integrity Commissioner under section 19 during the financial year; and
  - (ii) corruption issues raised by allegations or information referred to the Integrity Commissioner under sections 18 and 23 during that year; and
  - (iii) corruption issues dealt with by the Integrity Commissioner on his or her own initiative during that year; and
  - (iv) corruption issues investigated by the Integrity Commissioner during that year; and
  - (v) corruption issues that the Integrity Commissioner referred to a government agency for investigation during that year; and
  - (vi) ACLEI corruption issues investigated during that year; and
  - (vii) certificates issued under section 149 during that year;
- (b) a description of investigations conducted by the Integrity Commissioner during the financial year that the Integrity Commissioner considers raise significant issues or developments in law enforcement;

---

<sup>1</sup> ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, pp 161–163.

- (c) a description, which may include statistics, of any patterns or trends, and the nature and scope, of corruption in:
  - (i) law enforcement agencies; and
  - (ii) other Commonwealth government agencies that have law enforcement functions; that have come to the Integrity Commissioner's attention during that year in the performance of his or her functions;
- (d) any recommendations for changes to:
  - (i) the laws of the Commonwealth; or
  - (ii) administrative practices of Commonwealth government agencies; that the Integrity Commissioner, as a result of performing his or her functions during that year, considers should be made;
- (e) the extent to which investigations by the Integrity Commissioner have resulted in the prosecution in that year of persons for offences;
- (f) the extent to which investigations by the Integrity Commissioner have resulted in confiscation proceedings in that year;
- (g) details of the number and results of:
  - (i) applications made to the Federal Court or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* for orders of review in respect of matters arising under this Act; and
  - (ii) other court proceedings involving the Integrity Commissioner; being applications and proceedings that were determined, or otherwise disposed of, during that year.

### ***Law Enforcement Integrity Commissioner Regulations 2006***

Regulations 17 to 23 set out the prescribed particulars of the corruption issues outlined in subsection 201(2) of the LEIC Act.

### ***Joint Committee of Public Accounts and Audit approved guidelines***

The Department of the Prime Minister and Cabinet publishes the *Requirements for Annual Reports*.<sup>2</sup> These annual reporting requirements are approved by the Joint Committee of Public Accounts and Audits under subsections 63(2) and 70(2) of the *Public Service Act 1999*. The requirements cover a range of mandatory and suggested matters.

### ***Financial Management and Accountability Act 1997***

The *Financial Management and Accountability Act 1997* (FMA Act) sets out the framework for the proper management of public money and public property by the Executive arm of the Commonwealth. Under section 49 of the FMA Act the chief

---

2 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, 24 June 2013, [www.dpmc.gov.au/guidelines/](http://www.dpmc.gov.au/guidelines/) (accessed 10 June 2014).

---

executive is required to prepare annual financial statements in accordance with the Finance Minister's Orders (FMOs), including the Australian Accounting Standards.

It was the Auditor's opinion that the financial statements were prepared in accordance with the FMOs and give a 'true and fair view' of ACLEI's financial position and as at 30 June 2013 and of its financial performance and cash flows for the year then ended'.<sup>3</sup>

***Compliance with other government requirements***

In addition to the above annual reporting obligations, ACLEI has fulfilled the following requirements:

- Publishing of information under section 8 of the *Freedom of Information Act 1982*;
- Reporting on contracts with greater than \$100 000 value in accordance with the Senate Order for Departmental and Agency Contracts;<sup>4</sup>
- Listing of file titles in accordance with the Senate Order for the Production of Indexed Lists of Departmental and Agency Files;<sup>5</sup> and
- Recording of legal services expenditure in accordance with the Legal Services Directions 2005, issued by the Attorney-General under the *Judiciary Act 1903*.<sup>6</sup>

---

3 ACLEI, *Annual Report of the Integrity Commissioner 2012-13*, p. 101.

4 The Senate, *Standing Orders and Other Orders of the Senate*, February 2014, p. 127.

5 The Senate, *Standing Orders and Other Orders of the Senate*, February 2014, p. 126.

6 Legal Services Directions 2005, para. 11.1(ba).



## **Appendix 2**

### **Witnesses who appeared before the committee**

**Thursday, 13 February 2014 – Parliament House, Canberra**

**Australian Commission for Law Enforcement Integrity**

Mr Philip Moss, Integrity Commissioner

Ms Sarah Marshall, Acting Executive Director Operations

Mr Nicholas Sellars, Acting Executive Director Secretariat