

PARLIAMENTARY JOINT COMMITTEE ON THE  
AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY  
QUESTIONS ON NOTICE (DEPUTY CHAIR) - ACLEI

**Senator Bilyk (Deputy Chair) asked the following questions on Friday 2<sup>nd</sup> October 2020.**

**Questions**

With respect to the 16 August 2020 story in The Age entitled “Covert war crimes inquiry compromised by former AFP chief Mick Keelty”:

- 1. On what date was the disclosure of sensitive information from the AFP to Mr Keelty referred to ACLEI?**
- 2. Who made the referral?**
- 3. On what date did ACLEI decide to launch an investigation into the disclosures?**
- 4. What were the terms of the referral? (i.e. exactly what was referred to ACLEI)**
- 5. Has ACLEI spoken to Deputy Commissioner Neil Gaughan as part of its investigation?**
  - If not, why not?
  - If so, on what date?
- 6. Has ACLEI formally interviewed Deputy Commissioner Neil Gaughan as part of its investigation?**
  - If not, why not?
  - If so, on what date?
- 7. Has ACLEI spoken to Ramzi Jabbour as part of its investigation?**
  - If not, why not?
  - If so, on what date?
- 8. Has ACLEI formally interviewed Ramzi Jabbour as part of its investigation?**
  - If not, why not?
  - If so, on what date?
- 9. Has ACLEI spoken to Mick Keelty as part of its investigation?**
  - If not, why not?
  - If so, on what date?
- 10. Has ACLEI formally interviewed Mick Keelty as part of its investigation?**
  - If not, why not?
  - If so, on what date?

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11. Noting that ACLEI is not a court, what did ACLEI mean by its statement to The Age that it has not uncovered “admissible evidence”?
12. Could ACLEI provide three examples of evidence that is “inadmissible” in the context of an ACLEI investigation?
13. What is the current status of the investigation?

**The answer to the honourable senator’s question is as follows:**

These questions relate to an ongoing investigation. As such, it would not be appropriate for ACLEI to respond to some of the questions asked. While this investigation remains open, the following information is provided.

On 21 June 2018, ACLEI received a notification from the Australian Federal Police of a potential corruption issue relating to the alleged release of information by an unknown AFP member to Mr Ben Roberts-Smith about a referral in relation to Mr Roberts-Smith.

On 27 June 2018, the former Integrity Commissioner decided to investigate this matter jointly with the AFP.

Under s142(1)(a) of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act), the Integrity Commissioner must refer evidence of an offence against the Commonwealth that would be admissible in a prosecution for the offence to the CDPP. In determining whether evidence is admissible, the Integrity Commissioner has regard to the *Evidence Act 1995* (Cth), in particular Chapter 3. Evidence is not admissible if one of the exclusions in Chapter 3 applies or the evidence is excluded under another statutory provision, for example, if it was obtained pursuant to a coercive s 83 LEIC Act summons to answer a question or produce a document or thing (s 96(4) of the LEIC Act). This LEIC Act provision excludes evidence obtained through the use of coercive powers, including hearings, from being used against the person in criminal, confiscation or penalty proceedings, apart from the proceedings listed in s 96(4A).