



OFFICE OF THE
CHIEF EXECUTIVE

Our ref: 12/128473

Julie Dennett
Committee Secretary
Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Dennett

**Inquiry into the *Law Enforcement Integrity Legislation Amendment Bill 2012*
Australian Crime Commission Submission**

1. The Australian Crime Commission (ACC) welcomes the opportunity to make a submission to the Standing Committee on Legal and Constitutional Affairs with regard to its inquiry into the *Law Enforcement Integrity Legislation Amendment Bill 2012*.
2. This submission is unclassified.

Introduction to the Australian Crime Commission

3. The ACC is Australia's national criminal intelligence agency. It is a statutory authority with unique investigative capabilities that it draws on to provide government with an independent view of the risk of serious and organised crime. The ACC maintains national criminal intelligence holdings; produces strategic intelligence assessments; and coordinates national operational responses to disrupt, disable and prevent organised crime impacting on Australia.
4. The ACC works in partnership with other national and international law enforcement agencies, as well as Australian Public Service (APS) agencies under task force, joint operations and intelligence-sharing arrangements, to gather intelligence and investigate criminal activity. The ACC uses coercive powers and traditional law enforcement techniques such as physical and technical surveillance, controlled operations and Covert Human Intelligence Sources (informants).

Integrity Testing and the ACC

5. The introduction of an integrity testing regime would enhance and strengthen the ACC's existing integrity framework, providing another tool for the ACC to test the integrity of its staff who display evidence of misbehaviour.

6. Integrity testing is a term that is used to describe a range of activities designed to assess compliance with the integrity requirements of an office. In essence, integrity testing involves putting an individual in a simulated situation where corrupt behaviour could occur, and observing the individual's behaviour.
7. Integrity testing in the ACC context is designed to target high risk individuals who pose a corruption threat to the activities of the ACC and wellbeing of ACC staff. A targeted integrity test is intelligence-led and is only devised in response to evidence of misbehaviour that already exists.
8. Targeted integrity testing of police officers occurs in a number of jurisdictions in most Australian States, although not currently at the Commonwealth level.
9. Results of a failed test may be used to inform:
 - controls, processes and policies
 - performance management and disciplinary action
 - prevention tools, such as communication to all ACC staff via Intranet, all-staff messages, articles, and
 - potential criminal charges.
10. Integrity testing in the ACC would most likely involve a joint operation with the Australian Federal Police (AFP), Australian Customs and Border Protection Service (Customs) and the Australian Commission for Law Enforcement Integrity (ACLEI), given the resources required and the ACLEI jurisdiction.

ACC Integrity Framework

11. The ACC is established by section 7 of the *Australian Crime Commission Act 2002* (ACC Act) and consists of the ACC CEO, the examiners, and the members of the staff of the ACC. A member of the staff of the ACC means:
 - a) a member of the staff referred to in section 47(1); or
 - b) a person participating in an ACC operation/investigation; or
 - c) a member of a task force established by the Board under section 7C(1)(f); or
 - d) a person engaged under section 48(1); or
 - e) a person referred to in section 49 whose services are made available to the ACC;
or
 - f) a legal practitioner appointed under section 50 to assist the ACC as counsel.
12. The ACC is a unique agency in that it encompasses public service and law enforcement cultures in the one environment. A high percentage of operational staff participating in joint operations and ACC task forces are seconded from other APS and law enforcement agencies.
13. International and domestic experience has shown that even the most trusted people are vulnerable to corruption. The role of the ACC is combating serious and organised crime, and we are aware that every step of the intelligence chain carries with it a risk of compromise. Likewise, investigations which involve contact with criminals and exposure to criminal opportunity carry an inherent risk of corruption.
14. As outlined in the ACC's submission to the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (PJC-ACLEI) inquiry into integrity testing, the ACC has in place an integrity framework which contributes to effective fraud

and corruption control within the ACC with appropriate prevention, detection, investigation and reporting procedures.

15. The ACC views infiltration as a risk and as such undertakes pre-employment screening with rigorous staff vetting including a detailed assessment of a person's professional and private affairs and psychological assessment.
16. Fraud and corruption control in the ACC is based on the following principles:
 - prevention, detection and investigation
 - prosecution of offenders where appropriate
 - application of appropriate civil, administrative or disciplinary penalties
 - recovery of proceeds of criminal activity
 - dissemination of corruption issues to ACLEI
 - external scrutiny of fraud control activities, and
 - reporting to Government and accountability to Parliament.
17. The ACC integrity framework includes prevention, reporting, detection and investigation methodologies. The ACC's current program includes:
 - risk assessments and Fraud and Corruption Control Plan
 - random drug and alcohol testing of Senior Executive Staff and high risk operational staff which is being expanded to include all ACC staff
 - operational random audits (exhibit management and covert human source management)
 - staff awareness training programs (including induction and ethics and fraud awareness)
 - communications strategy to raise awareness and to encourage reporting
 - regular and random compliance audits, external audits, SES random audits
 - corruption resistance reviews
 - multi-disciplinary team structure
 - selection and vetting procedures
 - psychological profiling and testing
 - proactive investigations on high risk areas, and
 - proactive data analysis techniques to identify anomalies.
18. The ACC's integrity program is coordinated by the Security and Integrity Section which includes an Organisational Psychology capability. The Section investigates allegations of fraud, corruption and/or misconduct by ACC staff or by external parties against the ACC.
19. The ACC delivers a variety of awareness training relating to fraud, corruption and security. Security, fraud and corruption risk assessments and plans are developed and reviewed biennially which identify risks to the ACC and suggest measures to mitigate the risks.
20. The ACC also undertakes corruption resistance reviews to assess the corruption resistance of ACC systems and procedures and operational compliance audits to review normal operational activity. The ACC also has a random drug and alcohol testing regime which includes senior executives. The ACC's existing whistleblower and misconduct policies encourage disclosure and protect individuals who report.
21. The ACC's oversight body is ACLEI. The ACC is compliant with the *Law Enforcement Integrity Commissioner Act 2006* (ALEIC Act), which requires the CEO to notify the

Integrity Commissioner of corruption issues as soon as practicable. In June 2009, ACLEI released its 'Resistance to Corruption' report — consisting of a review of the ACC's integrity regime. The report found that the ACC:

- is realistic about corruption risk
- senior management is prepared to reorganise operations to reduce corruption risks and undertake difficult cultural change
- has key integrity policies and practices in place
- has an informed and competent management who are driving the values-based program which is well directed and contemporary in design
- has developed a whole of agency professional standards program, and
- is flexible and able to respond to emerging issues.

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22. The ACC liaised with the Commonwealth Attorney-General's Department during the development of the *Law Enforcement Integrity Legislation Amendment Bill 2012*.
23. The ACC supports the Bill as drafted and the amendments that it proposes to the ACC Act.
24. The ACC endorses the expansion of the ACC's function to allow for integrity testing of ACC members of staff. Likewise, the ACC supports an arrangement whereby the ACC can assist the AFP, Customs and ACLEI in relation to integrity operations.

ACC Contact

25. On behalf of the ACC, I thank you for this opportunity to make a submission to the Standing Committee on Legal and Constitutional Affairs with regard to its inquiry into the *Law Enforcement Integrity Legislation Amendment Bill 2012*.

Yours sincerely

Paul Jeytovic APM
A/g Chief Executive Officer
11 October 2012