

UNCLASSIFIED

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Mr Stephen Palethorpe
Committee Secretary
Parliamentary Joint Committee on Law Enforcement
By Email: aclei.committee@aph.gov.au

Dear Mr Palethorpe

**Submission to the parliamentary inquiry into the jurisdiction of the
Australian Commission for Law Enforcement Integrity**

Thank you for your correspondence of 21 March 2014, inviting CrimTrac to make a submission to the parliamentary inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity.

Attached is the submission of the CrimTrac agency.

I authorise publication of this submission on the committee's website after the committee has examined, accepted and authorised its publication.

If you would like further information on this submission please contact me via the details below.

Yours sincerely

Doug ~~Smith~~
Chief Executive Officer

/ May 2014

Background

This submission has been prepared according to the following terms of reference:

Pursuant to the committee's duties set out in section 215 of the *Law Enforcement Integrity Commissioner Act 2006*, the committee will inquire into the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI).

In particular, the committee will consider:

- 1) *the adequacy of ACLEI's current jurisdiction;*
- 2) *the desirability and feasibility of extending ACLEI's jurisdiction to include the entire Department of Agriculture or additional parts of that department;*
- 3) *in response to a recommendation of the Parliamentary Joint Committee on Law Enforcement, the desirability and feasibility of extending ACLEI's jurisdiction to include:*
 - a. *the Australian Securities and Investments Commission;*
 - b. *the Attorney-General's Department; and*
 - c. *the Australian Taxation Office;*
- 4) *the desirability and feasibility of extending ACLEI's jurisdiction to include the Department of Immigration and Border Protection;*
- 5) *whether an activity-based approach to ACLEI's jurisdiction would be preferable to the current jurisdiction-based approach;*
- 6) *the most appropriate method of implementing any change to ACLEI's jurisdiction including any budgetary implications; and*
- 7) *any relevant matters.*

CrimTrac submission

CrimTrac's submission focusses on paragraphs (1) the adequacy of ACLEI's current jurisdiction; and (5) whether an activity-based approach to ACLEI's jurisdiction would be preferable to the current jurisdiction-based approach.

The following information seeks to provide background information as context to CrimTrac's responses to the specific questions asked by the Committee.

Introduction – the CrimTrac Agency

In 2000, under the then responsible Minister (Senator the Hon. Amanda Vanstone) a major initiative was undertaken between the state, territory and Commonwealth governments, whereby an intergovernmental agreement was signed to deliver the vision of sharing policing information to achieve local, national and international policing outcomes – resulting in the CrimTrac Agency, an Executive Agency of the Commonwealth Attorney-General's Department.

The objective of CrimTrac is to enhance Australian policing and law enforcement through the delivery of high quality information services that meet the needs of the law enforcement community. CrimTrac hosts a number of law enforcement systems that provide data storage and matching capabilities, including:

- The National Automated Fingerprint Identification System (NAFIS), which has been hosted by CrimTrac since 2001 and is used continuously by partner law enforcement agencies to perform core duties. It enables police agencies to solve crimes by quickly and reliably establishing a person's identity from fingerprint and palm impressions left at crime scenes. Previous

evaluations of the NAFIS have clearly articulated the benefits of national capabilities delivered across Australian law enforcement agencies;

- The National Criminal Investigation DNA Database (NCIDD) was established by CrimTrac in 2001 to assist police partner agencies across Australia to:
 - compare DNA profiles from crime scenes with profiles from convicted offenders to identify or eliminate them as potential suspects in other crimes;
 - match DNA profiles from two or more unsolved crime scenes, thereby linking seemingly unrelated police investigations; and
 - identify missing persons, unknown deceased persons and disaster victims;
- The National Police Reference Services (NPRS), which is a suite of technology services designed to support Australia's operational police and non-police law enforcement agencies to share policing information across state and territory borders. It focuses on three key needs of law enforcement – persons, vehicles and firearms. This information is collected by police for police; CrimTrac does not own the information. Police use the NPRS to access a range of operational police information held by other jurisdictions to assist them in their investigations. The NPRS currently holds 8.7m person records and 2.8m photographs and allows police to access information, for example, about names and aliases, identity details (including photographs), warnings, warrants, etc. The NPRS provides access to vital information for Australian Government law enforcement and national security agencies. For example, the AFP and ACC rely on information obtained through NPRS to support their investigations. The NPRS also provides a tool for facilitating co-operation between those agencies and their state counterparts, for example, in multi-jurisdictional investigations into high value organized crime targets;
- The National Firearms Identification Database (NFID) was developed and implemented by CrimTrac on 26 February 2013. It provides a national firearm reference table of all known makes, models and variants of firearms in Australia and is used by police, the Australian Crime Commission, Australian Customs and Border Protection Service and the Attorney-General's Department as a reference source to consistently identify, record and register firearms.

CrimTrac's information holdings

CrimTrac's information holdings perform the role of a 'reference library' for policing information. In the policing and law enforcement environments there are a range of different levels and categories of information. These are:

- Reference information, which is a basic detail of a person, object or place that enables identification of a person or object and may contain enough ancillary information, such as police history, warrants or warnings to allow the user an initial action;
- Intelligence information, which is the combination of credible information with quality analysis. It is a process where information is evaluated and conclusions are drawn;
- Investigation, which enables decision makers to combine critical information and intelligence gleaned from seemingly unrelated sources and incidents into a holistic assessment of the situation.

The information facilitated by CrimTrac is information collected by police. The information and information systems hosted by CrimTrac perform a niche function that complements and contributes to the activities undertaken by policing and law enforcement agencies.

CrimTrac does not provide value added intelligence product to policing and law enforcement agencies, nor does CrimTrac know the specific value of the information it holds. The CrimTrac reference information provides what can be called 'opportunistic' information – the value of which is fully capitalised (and therefore, known and quantifiable) when used by, or linkages are made by, the police and law enforcement agencies.

The adequacy of ACLEI's current jurisdiction

CrimTrac's submission is based on its own work in strengthening integrity frameworks and its experience of working with ACLEI. It is not intended as an in depth examination and analysis of a particular department. These comments also reflect CrimTrac CEO Mr Smith's 41 years experience in law enforcement. Mr Smith has worked across a multitude of operational policing roles, including as Inspector of Police in charge of the Fitzgerald Implementation Unit in the Office of the Deputy Commissioner and later, as a consultant to State and Commonwealth Governments on matters such as public service integrity and reform. Mr Smith is currently the Chief Executive Officer of CrimTrac, and has led a cultural change program for CrimTrac centred on strengthening integrity frameworks, controls and practices.

While not a traditional law enforcement agency, CrimTrac forms a critical part of the law enforcement response in Australia. As the provider of national information sharing solutions for police and law enforcement, CrimTrac must maintain the confidence of our partner agencies, the Law Crime and Community Safety Council (LCCSC) and the Australian public in order to successfully deliver these solutions. This requires high standards of propriety and probity in order to maintain relationships of confidence and trust with our partner organisations.

CrimTrac's partnership with ACLEI has brought many benefits such as inclusion in the ACLEI Community of Practice; a forum that enables sharing of integrity lessons, approaches and initiatives. Under ACLEI's guidance, CrimTrac initiated a review of its integrity controls for prevention, detection and management of corruption, leading to the institution of, for example:

- an Integrity Advisory Committee (IAC), to advise senior leadership on how CrimTrac remains, and is recognised as, an integrity-based organisation. The IAC provides advice on potential integrity issues arising from the risk framework (including internal and external perceptions of CrimTrac's integrity) and on ways in which such risks can be addressed;
- strengthened policies and procedures across the full range of agency activities, including recruitment, procurement, receipt of gifts and benefits, conflict of interest and contract management;
- training packages to enhance staff understanding of their responsibilities and avenues of address; and
- enhanced communication with stakeholders, including potential suppliers, with regard to expectations about integrity.

CrimTrac submits that the current ACLEI jurisdiction could be enhanced to provide the reputational protection and assistance that it has the potential to provide, to a range of law enforcement or regulatory bodies. Agencies or departments that have a significant investigative and regulatory function

require the positive protection and assistance of an independent integrity body such as ACLEI, and can only benefit from the assurance that such a formalised relationship provides.

As an example, the Department of Agriculture, which provides a range of significant investigative and regulatory functions particularly in the areas of biosecurity and fisheries management, would benefit from extending its coverage under the jurisdiction of ACLEI. The Department of Agriculture's investigative and regulatory functions may be conducted in isolated environments away from continuing high level supervision making them vulnerable to integrity issues. Extending the jurisdiction of ACLEI would both address those vulnerabilities and align the approach to all departmental staff with that covering the investigators and regulatory officials from other agencies, with whom they may work, and who already come under ACLEI's jurisdiction.

Activity versus jurisdictional based approaches

Corruption experts, (such as Robert Klitgaard), observe that corruption flourishes in environments where staff have high levels of discretion, where monopolies are allowed to operate, and where there is limited transparency in organisational operation. In order to successfully prevent corruption it is important that organisations have systemic interventions in place that:

- limit the discretion available to staff (through policies and practices);
- increase transparency in all activities; and
- ensure that there are limited opportunities for monopolies to occur.

These interventions – covering prevention, detection and management of corruption – should apply to staff directly performing front line roles, and to staff who supply the support and ancillary functions, as these constitute an organisation's climate and culture. CrimTrac submits that interventions that work to limit vulnerability to corruption are more likely to succeed if they are fully entrenched across an organisation, effectively becoming 'the way we do things around here'.

Ancillary and corporate functions can either nourish misconduct or be a vital tool in misconduct and corruption prevention. Excluding those performing such roles from ACLEI's jurisdiction is an artificial separation that may have a negative impact on the role of ACLEI. A combined activity and jurisdictional based approach would enable ACLEI to provide support, assurance and protection for agencies and staff across the full gambit of operations where areas of vulnerability to corruption may exist.