



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

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Examination of the Annual Report of  
the Integrity Commissioner 2016-17

April 2019

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# The Committee

## Members

|                           |           |                        |
|---------------------------|-----------|------------------------|
| Senator Amanda Stoker     | LP, QLD   | (Chair) (from 13.2.19) |
| Senator Catryna Bilyk     | ALP, TAS  | (Deputy Chair)         |
| Mr Russell Broadbent MP   | LP, VIC   | (from 27.3.18)         |
| The Hon Justine Elliot MP | ALP, NSW  |                        |
| Mr Llew O'Brien MP        | NATS, QLD |                        |
| Senator Barry O'Sullivan  | NATS, QLD |                        |
| Mr Michael Sukkar MP      | LP, VIC   |                        |
| Senator Murray Watt       | ALP, QLD  |                        |
| Mr Tony Zappia MP         | ALP, SA   |                        |

## Former Members

|                                  |           |  |
|----------------------------------|-----------|--|
| Senator David Bushby             | LP, TAS   | (from 5.2.18 to 21.1.19)<br>(Chair from 6.2.18 to 21.1.19) |
| Senator the Hon Bridget McKenzie | NATS, VIC | (until 20.12.17)<br>(Chair until 20.12.17)                 |
| The Hon Stuart Robert MP         | LP, QLD   | (until 27.3.18)  |
| Mr Scott Buchholz MP             | LP, QLD   | (until 28.8.18)  |

## Secretariat

Ms Sophie Dunstone, Secretary  
Mr Joshua Wrest, Senior Research Officer  
Ms Jo-Anne Holmes, Administrative Officer (to 14.1.19)  
Ms Sofia Moffett, Administrative Officer (from 14.1.19)

PO Box 6100  
Parliament House  
CANBERRA ACT 2600  
Telephone: (02) 6277 3419  
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)



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## Acronyms and abbreviations list

|                  |  |
|------------------|--|
| ABF              | Australian Border Force  |
| ACC              | Australian Crime Commission  |
| ACIC             | Australian Criminal Intelligence Commission  |
| ACLEI            | Australian Commission for Law Enforcement Integrity                                      |
| AFP              | Australian Federal Police  |
| ACBPS            | Australian Customs and Border Protection Service   |
| ANAO             | Australian National Audit Office   |
| annual report    | Annual Report of the Integrity Commissioner 2015-16                                      |
| ASL              | Average Staffing Level   |
| AUSTRAC          | Australian Transaction and Reporting Analysis Centre                                     |
| CEO              | Chief Executive Officer  |
| DIBP             | Department of Immigration and Border Protection  |
| ICT              | information and communications technology  |
| IPP              | Indigenous Procurement Policy  |
| JTF              | Joint Task Force   |
| KPIs             | key performance indicators   |
| LEIC Act         | <i>Law Enforcement Integrity Commissioner Act 2006</i>                                   |
| LEIC Regulations | Law Enforcement Integrity Commissioner Regulations 2006                                  |
| PBS              | Portfolio Budget Statements  |
| PGPA Act         | <i>Public Governance, Performance and Accountability Act 2013</i>                        |
| PJCACLEI         | 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 |



# Recommendations

## Recommendation 1

**2.52** The committee recommends that the Australian Commission for Law Enforcement Integrity includes in its annual reports a table of assessment statistics that includes the:

- total number of assessments conducted in each year;
- total number of assessments completed in each year;
- total number of assessments completed within the 90-day benchmark in each year; and
- percentage of assessments that met the 90-day benchmark (against a target of 75 per cent).

## Recommendation 2

**2.94** The committee recommends that the Australian Commission for Law Enforcement Integrity promptly informs the committee of any errors identified in its annual reports, irrespective of whether ACLEI determines such errors do not meet the reporting threshold under section 17AH(1)(e) of the Public Governance, Performance and Accountability Rule 2014.



# 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) and commenced operation on 30 December 2006. The LEIC Act established the Office of the Integrity Commissioner, supported by a statutory authority, ACLEI.

1.2 The objectives of the LEIC Act, as set out in section 3, are 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>

1.3 The 2016–17 Annual Report of the Integrity Commissioner was presented to the Minister for Justice, the Hon. Michael Keenan MP, on 13 October 2017. It was tabled in the Senate on 13 November 2017 and in the House of Representatives on 4 December 2017.<sup>2</sup>

### Requirements for annual reports

1.4 Section 201 of the LEIC Act requires ACLEI's annual report to provide details of a range of matters, including:

- corruption issues that have come to the Integrity Commissioner via: notifications from heads of law enforcement agencies; referrals from the minister; and referrals from other people;<sup>3</sup>
- corruption issues that the Integrity Commissioner has: dealt with on his or her own initiative; investigated; or referred to a government agency for investigation;
- corruption issues investigated over the year and certificates issued under section 149 during the year;<sup>4</sup>

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1 *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act), s. 3.

2 *House of Representatives Votes and Proceedings*, No. 88, 4 December 2017, p. 1239; *Journals of the Senate*, 13 November 2017, No. 68, p. 2166.

3 See sections 18, 19 and 23 of LEIC Act.

- 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;
- 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.

1.5 The 2016–17 annual report includes an index that provides a guide to the report's compliance with the requirements set out under section 201 of the LEIC Act and associated regulations, as well as the requirements set out under section 46 of the *Public Governance, Performance and Accountability Act 2013* (including the Public Governance, Performance and Accountability Rule 2014).

1.6 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.<sup>5</sup>

### **Requirements for the examination of annual reports**

1.7 Paragraph 215(1)(c) of the LEIC Act requires the committee to examine:

- each annual report prepared by the Integrity Commissioner;
- any special report prepared by the Integrity Commissioner; and
- report to the Parliament on any matter appearing in, or arising out of, any such annual report or special report.

### **Requirements for special reports**

1.8 Under section 204 of the LEIC Act, the Integrity Commissioner may prepare special reports that 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.

1.9 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>6</sup> ACLEI has adopted this suggestion.

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4 Certificates issued under section 149 relate to the Attorney-General's ability under the LEIC Act to certify that disclosure of information or document contents would be contrary to the public interest on one or more grounds. These include, but are not limited to: prejudicing the security, defence or international relations of the Commonwealth; or the disclosure of ministerial communications or relations between the Commonwealth and states and territories.

5 ACLEI, *Annual Report of the Integrity Commissioner 2016-17*, pp 104–108.

6 Parliamentary Joint Committee on ACLEI, *Examination of the Annual Report of the Integrity Commissioner 2010-11*, p. 2.

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1.10 The 2016–17 annual report states that the Integrity Commissioner prepared no special reports during the relevant year.<sup>7</sup>

### **Corrections to the annual report of the Integrity Commissioner 2015–16**

1.11 On 24 April 2017, Acting Integrity Commissioner, Mr John Harris SC, informed the committee that a number of statistical errors were made in the 2015–16 annual report. On 23 June 2017, ACLEI provided the committee with corrected statistics.<sup>8</sup>

1.12 These corrected statistics are included under Appendix 7 of the 2016–17 annual report. ACLEI stated that internal procedures have since been 'strengthened through consultation with LEIC Act agencies to cross-check ACLEI's records prior to publication'.<sup>9</sup>

### **Conduct of the inquiry**

1.13 The committee held a public hearing to examine the annual report on 10 May 2018. During the hearing, the committee heard evidence from the Integrity Commissioner, Mr Michael Griffin AM and other ACLEI officers. A list of witnesses is provided in Appendix 1.

### **Acknowledgement**

1.14 The committee acknowledges ACLEI's ongoing co-operation and engagement with the committee.

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7 ACLEI, *Annual Report of the Integrity Commissioner 2016-17*, p. 108.

8 Parliamentary Joint Committee on ACLEI, *Examination of the Annual Report of the Integrity Commissioner 2015-16*, p. 19.

9 ACLEI, *Annual Report of the Integrity Commissioner 2016-17*, p. 88.



# Chapter 2

## Key issues

2.1 This chapter considers key issues highlighted during the committee's examination of the Integrity Commissioner's annual report for 2016–17.

2.2 This chapter first considers two broad issues raised during the committee's examination related to the Australian Commission for Law Enforcement Integrity's (ACLEI) expanded jurisdiction and subsequent recruitment process to meet its increased workload. The chapter then considers matters related to performance criteria one to four listed in ACLEI's annual report.<sup>1</sup>

2.3 The chapter continues with a summary of key investigations during 2016–17, and ACLEI's concern about its inability to access encrypted data. Finally, this chapter concludes with a summary of the Commonwealth Ombudsman's briefing about controlled operations and the committee's conclusion.

### **ACLEI's jurisdiction and staffing**

2.4 ACLEI highlighted two overarching issues faced in 2016–17: its expanded jurisdiction to include the Department of Immigration and Border Protection (DIBP), which has revealed corruption issues beyond ACLEI's tradition law enforcement focus, and ACLEI's belief that it needs to increase its staff numbers and depth of expertise as a result of its increased workload.

#### ***Jurisdiction expansion***

2.5 In 2016–17, ACLEI had jurisdiction over the following law enforcement agencies (LEIC Act agencies):

- the Australian Criminal Intelligence Commission (ACIC);<sup>2</sup>
- the Australian Federal Police (AFP);<sup>3</sup>
- the Australian Transaction Reports and Analysis Centre (AUSTRAC);
- prescribed aspects of the Department of Agriculture and Water Resources (DAWR); and

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1 The committee did not consider criterion five—Australian Commission for Law Enforcement Integrity's (ACLEI) governance and risk management controls because no matter of concern was identified in this reporting period.

2 This includes the Australian Crime Commission, and the former CrimTrac Agency and National Crime Authority, which were part of ACLEI's jurisdiction before the commencement of the ACIC in 1 July 2016.

3 Includes Australian Capital Territory (ACT) Policing.

- the Department of Immigration and Border Protection (DIBP) (including the Australian Border Force (ABF)).

2.6 During this reporting period, ACLEI re-iterated the impact the inclusion of DIBP in its jurisdiction has had on ACLEI's activities. The Integrity Commissioner, Mr Michael Griffin AM, described the inclusion of DIBP in ACLEI's jurisdiction as being 'like a rock into a pond...insofar as it's been an unpredictable outcome'.<sup>4</sup> Mr Griffin added:

Whereas the pond is somewhat concentric and you think you know where you're going, this has been not like that. This has given rise to unforeseen outcomes. It has taken us into areas that I don't think anyone could reasonably have predicted.<sup>5</sup>

2.7 The DIBP is the largest agency under ACLEI's jurisdiction and in 2016–17, accounted for over 60 per cent of corruption issue notifications<sup>6</sup> and 47 per cent of all corruption issues investigated by ACLEI.<sup>7</sup> The corruption issues associated with the DIBP related to corruption-enabled border crime, specifically the importation of illicit drugs, the importation of illicit tobacco, and visa fraud.<sup>8</sup>

2.8 Visa fraud was an issue canvassed at length during the committee's hearing. The annual report explains that residential and travel visas to Australia are a highly attractive commodity, and for this reason, are susceptible to 'organised crime, terrorists or individuals attempting to commit fraud (including for commercial purposes) as a means of gaining illicit entry to Australia'.<sup>9</sup>

2.9 In order to address this issue, the committee was advised that ACLEI established a Visa Integrity Taskforce (VIT) with dedicated funding from the confiscated assets fund. The committee heard that a challenge in establishing the VIT was hiring suitably qualified people, which subsequently took several months to complete.<sup>10</sup> However, since VIT became operational, it has generated:

...a significant volume of intelligence and information related to visa fraud. This is both onshore and offshore. In the last year or so, we have deployed operational teams to successfully follow that trail in at least two overseas

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4 Mr Michael Griffin, Integrity Commissioner, Australian Commission for Law Enforcement Integrity, *Committee Hansard*, 10 May 2018, p. 1.

5 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 1.

6 See paragraphs 1.27 to 1.36 (Criterion one—the corruption notification and referral system) for further information.

7 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 2.

8 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 17.

9 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 17.

10 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 1.

areas, and we have a third one in preparation at the moment. So that's the visa fraud side of the house.<sup>11</sup>

2.10 The committee sought clarification about the impact visa fraud has had on ACLEI's resources. ACLEI stated that matters related to visa fraud were in an 'intelligence work-up phase' and that it had commenced investigations into two matters, one of which is based overseas.<sup>12</sup> ACLEI explained that its principal source of intelligence on visa fraud came from the DIBP itself, which has since established a 'very robust system':

I think it's fair to say that DIBP, or Home Affairs as it's now called, is very close to approaching the level of maturity of the Federal Police in understanding integrity and how the culture should be run. Very strong messaging for a couple of years now has manifested in people being prepared to—I don't want to characterise it as 'dob in', because it's not; it's self-defence.<sup>13</sup>

### *Staffing*

2.11 The expansion of ACLEI's jurisdiction from 1 July 2015 resulted in a need for the agency to increase its staff numbers. At the commencement of ACLEI's oversight of the DIBP, it received additional funding of \$3.1 million to devote additional resources to an anticipated increased workload. Part of this funding was to enable ACLEI to raise its average staffing level (ASL) to 52.<sup>14</sup> In its 2015–16 annual report, ACLEI advised that it had undertaken a staged recruitment program that had incrementally increased ACLEI's staffing numbers by one third in that year.<sup>15</sup>

2.12 In 2015–16, ACLEI reported that its ASL was 38.7.<sup>16</sup> At that time, ACLEI stated that it faced challenges recruiting suitably qualified and experienced staff, which had hindered ACLEI's ability to achieve its maximum ASL of 52.<sup>17</sup>

2.13 During 2016–17, ACLEI's ASL increased from 38.7 to an annualised average of 46.8,<sup>18</sup> which moved ACLEI closer to its budgeted target<sup>19</sup> of 50.<sup>20</sup> Similar to the

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11 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 1.

12 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 5.

13 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 5.

14 Parliamentary Joint Committee on ACLEI (PJCACLEI), *Examination of the Annual Report of the Integrity Commissioner 2015–16*, April 2018, p. 22.

15 PJCACLEI, *Examination of the Annual Report of the Integrity Commissioner 2015–16*, April 2018, p. 22.

16 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 97.

17 PJCACLEI, *Examination of the Annual Report of the Integrity Commissioner 2015–16*, April 2018, p. 22.

18 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 27.

previous financial year, ACLEI explained that the 'deficit in staffing reflects a staged approach to recruiting for specialised positions as well as normal staff movements', and that recruitment would continue into 2017–18.<sup>21</sup>

2.14 On notice, ACLEI provided a detailed breakdown of its staffing profile, based on figures from 30 April 2018 (outside the 2016–17 reporting period):

**Table 1: ACLEI staffing profile, as of 30 April 2018<sup>22</sup>**

|  |           |
|--|-----------|
| Ongoing employees (and the Integrity Commissioner) | 37        |
| Non-ongoing (specified-term) employees             | 9         |
| Temporary transfers and secondments                | 6         |
| <b>Total</b>                                       | <b>52</b> |
| Ongoing employees on leave/transfer                | 2         |
| Non-ongoing (casual) employees                     | 7         |

2.15 The Integrity Commissioner explained that ACLEI uses a mix of ongoing, non-ongoing and casual employees to ensure it operates within its budgeted ASL. Secondments from other agencies do not count towards its ASL.<sup>23</sup>

2.16 Although outside of this reporting period, ACLEI added that its budgeted ASL has decreased since 2016–17. In the 2017–18 financial year, ACLEI's ASL was 49, and at 30 April 2018, its ASL was running at 48.67 (excluding casual employees).<sup>24</sup> Due to the termination of funding measures at the end of the 2018–19 financial year, ACLEI's budgeted ASL for 2019–20 was 'expected to be as low as 43'.<sup>25</sup> The Integrity Commissioner added that the:

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- 19 The ACLEI Annual Report 2016–17 incorrectly reports a budgeted staffing total of 52. Correspondence received from ACLEI advised the committee this total should be 50. See Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 1.
- 20 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 27.
- 21 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 81.
- 22 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 2.
- 23 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 2.
- 24 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 2.
- 25 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 2.

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...use of nonongoing employees in positions associated with terminating funding ensures that the agency can continue to operate within its budget should additional funding not be secured into the future.<sup>26</sup>

2.17 During discussions about recruitment and staffing, Mr Griffin explained that ACLEI 'simply could not recruit people straight off the street' and consequently decided to supplement its full-time workforce by contracting 'well-known, reputable people who have retired' so that ACLEI 'can tap into that experience and knowledge'.<sup>27</sup> The contracted individuals are non-ongoing staff, which impacts ACLEI's ASL.<sup>28</sup>

2.18 The committee heard that ACLEI's recruitment issues had impacted on its ability to respond to integrity issues, and according to the Integrity Commissioner it was:

...something of a handbrake on my capacity to throw resources at issues that arose. But we found ways around that with the people that we reached out to, who were older members and retired members, and they provided that in the short term. We are now staffed to the level that we wanted to be, and I feel that we're in a good position going forward to do that and have been now for probably this calendar year.<sup>29</sup>

2.19 ACLEI's current position has been bolstered by an increasing number of applicants responding to recruitment advertisements, which in the previous year had been a problem.<sup>30</sup> The Integrity Commissioner added:

I don't know if it's a function of being reported more last year or it becoming better known in the community that we are interested in recruiting from, but we're not having that problem now. We certainly get pools of people applying. I'm confident that that will continue and, as the Sydney premises are stood up, I think that will be even more so.<sup>31</sup>

2.20 The committee asked whether ACLEI had sufficient staff to meet its oversight of the Home Affairs portfolio. In response, the Integrity Commissioner explained that it would conduct a review in mid-2018 to consider this matter, which would include consideration of the VIT.<sup>32</sup>

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26 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 2.

27 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

28 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

29 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 7.

30 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 7.

31 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 7.

32 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 3.

2.21 Uncertainty about ACLEI's Sydney premises, which had been temporary, also impacted on ACLEI's ability to recruit and retain staff. In its 2016–17 annual report, ACLEI noted that '[u]ncertainty about the future of the office, as well as concerns around existing accommodation, affected the choices of some staff'.<sup>33</sup> ACLEI clarified that it has had a taskforce based in Sydney since 2014, which had:

...basically had temporary arrangements in Sydney, so it's been a combination of utilising other people's premises, primarily the AFP. It's meant that we have tended to rely more on non-ongoing staff, because we haven't really had a permanent presence in Sydney.<sup>34</sup>

2.22 ACLEI updated the committee on the status of its Sydney office. It explained that in the 2017–18 Federal Budget ACLEI had received over \$800 000 per year (from 2019–20) to stand up permanent premises in Sydney. At the time, ACLEI was inquiring into suitable accommodation and anticipated that this would be identified by the end of 2018.<sup>35</sup>

#### *Committee comment*

2.23 The expansion of ACLEI's jurisdiction to include the DIBP, and the subsequent need to increase its workforce, continues to have a significant impact on the agency in 2016–17. A notable difference identified in this reporting period, compared to 2015–16, is the inclusion of corruption issues relating to instance of visa fraud within the DIBP. Corruption associated with visa fraud highlights the benefit of ACLEI's expanded jurisdiction in identifying corruption issues outside the traditional law enforcement sphere.

2.24 Despite the challenges visa fraud has caused ACLEI, including the need for ACLEI to expand its activities overseas, the committee is encouraged by the Integrity Commissioner's response, in particular, the formation of the VIT.

2.25 The committee congratulates the Integrity Commissioner, ACLEI and the DIBP's efforts to strengthen the DIBP's integrity culture. The committee is encouraged by the Integrity Commissioner's comment that the DIBP's understanding and culture concerning integrity matters is almost equal to that of the AFP. The committee understands this is a reflection of ACLEI's considerable work in this space and commends both ACLEI and the DIBP for their collective efforts.

2.26 The committee recognises that recruiting suitable staff is a particular challenge for ACLEI. The committee is pleased that ACLEI has managed to obtain sufficiently skilled people to be able to increase its ASL to 47; however, the

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33 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 28.

34 Mr Craig Furry, Executive Director, Secretariat Branch, ACLEI, *Committee Hansard*, 10 May 2018, p. 6.

35 Mr Craig Furry, Executive Director, Secretariat Branch, ACLEI, *Committee Hansard*, 10 May 2018, p. 6.

committee notes that ACLEI's budgeted ASL will decrease to 43. The committee considers it imperative that ACLEI is appropriately staffed and funded accordingly. Similarly, while the committee sees the benefits of ACLEI engaging reputable retired people to meet staffing shortfalls, the committee suggests this only addresses the issue in the short- to medium-term. The committee will monitor ACLEI's use of non-ongoing staff to meet staffing shortfalls into the future.

2.27 Despite the increased staff numbers and engagement of non-ongoing staff, the committee is concerned that ACLEI's submission was that nevertheless low staff numbers have limited its capacity to target resources at corruption issues. The committee will continue to monitor this issue to determine whether this reflects a genuine need. The committee acknowledges the establishment of the Commonwealth Integrity Commission in which ACLEI will be reconstituted as the law enforcement integrity division with:

a significantly expanded jurisdiction to also include the Australian Competition and Consumer Commission (ACCC), the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investment Commission (ASIC), the Australian Taxation Office (ATO), and the whole of the Department of Agriculture and Water Resources (DAWR).<sup>36</sup>

2.28 The committee expects that appropriate resourcing will be given due consideration by the Commonwealth government during this restructuring of ACLEI.

### **Performance criteria**

2.29 ACLEI, under the Portfolio Budget Statements and its 2016–17 Corporate Plan, lists a singular program that specifies a requirement for ACLEI to:

Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.<sup>37</sup>

2.30 ACLEI uses five performance criteria in its annual report to assess delivery of this program. Four of the five performance criteria listed in the annual report are considered in this section.<sup>38</sup>

#### ***Criterion one—the corruption notification and referral system***

2.31 Criterion one relates to the effectiveness of ACLEI's corruption notification and referral system, and specifically includes:

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36 The Hon Scott Morrison MP, Prime Minister of Australia, *Media release*, 13 December 2018, available: <https://www.pm.gov.au/media/commonwealth-government-establish-new-integrity-commission> (accessed 15 March 2019).

37 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 20.

38 The committee did not consider criterion five—ACLEI's governance and risk management controls because no matter of concern was identified in this reporting period.

- law enforcement agencies notifying ACLEI of corruption issues and related information in a timely way;
- other agencies or individuals providing information about corruption issues, risks and vulnerabilities to ACLEI;
- partner agencies indicating confidence in sharing information or intelligence with ACLEI; and
- ACLEI's support of awareness-raising activities in agencies within the Integrity Commissioner's jurisdiction, including ACLEI's participation in joint initiatives.<sup>39</sup>

2.32 The summary of results against criterion one reflects on ACLEI's relationship with LEIC Act agencies, including the Integrity Commissioner meeting with representatives from LEIC Act agencies to 'reinforce the importance of timely notifications and report on specific corruption vulnerabilities observed in investigations and how they may be addressed'.<sup>40</sup> The summary also highlights ACLEI's awareness-raising activities, and the overall drop in notifications in 2016–17.<sup>41</sup>

#### *Notifications from LEIC Act agencies*

2.33 The impact of the DIBP's inclusion under ACLEI's jurisdiction can be seen in the high number of notifications received from LEIC Act agencies in the past two years. At its peak in 2015–16, there were 185 notifications. In 2016–17, the number of notifications ACLEI received had reduced to 135.<sup>42</sup> The number of notifications from LEIC Act agencies from 2012–13 to 2016–17 is detailed in Table 2.

**Table 2: Notifications from LEIC Act agencies, 2012–13 to 2016–17<sup>43</sup>**

| <b>Year</b>   | 2012–13 | 2013–14 | 2014–15 | 2015–16 | 2016–17 |
|---------------|---------|---------|---------|---------|---------|
| <b>Number</b> | 56      | 69      | 71      | 185     | 135     |

2.34 Further details concerning corruption issues notified by LEIC Act agencies are found in Appendix 4 (Statistical Reporting) of the 2016–17 annual report. The primary driver of corruption notifications are issues pertaining to 'abuse of office' (124 in total).<sup>44</sup> The DIBP contributes the bulk of corruption issues (84) followed by the AFP (43), the DAWR (5), AUSTRAC (2) and the ACIC (1). The total number of

39 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

40 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

41 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

42 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

43 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

44 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 69.

corruption issues notified by LEIC Act agencies for 2016–17 under section 19<sup>45</sup> of the LEIC Act by corruption classification is detailed in Table 3. The 2015–16 results are included in brackets.<sup>46</sup>

**Table 3: Corruption issues notified in 2016–17 under section 19—by corruption class, as assessed upon receipt<sup>47</sup>**

|                               | ACIC  | AFP     | DAWR  | AUSTRAC | DIBP     | Total     |
|-------------------------------|-------|---------|-------|---------|----------|-----------|
| Abuse of office               | 1 (1) | 37 (36) | 3 (1) | 2 (1)   | 81 (107) | 124 (146) |
| Pervert the course of justice | 0 (0) | 3 (6)   | 0 (0) | 0 (0)   | 0 (0)    | 3 (6)     |
| Corruption of any other kind  | 0 (2) | 3 (10)  | 2 (0) | 0 (0)   | 3 (21)   | 8 (33)    |
| Total                         | 1 (3) | 43 (52) | 5 (1) | 2 (1)   | 84 (128) | 135 (185) |

2.35 With regard to the decrease in the number of notifications received in 2016–17 compared to 2015–16, the annual report explains:

...the overall volume of notifications fell marginally during this period—following the sharp increase in 2015–16 which was largely due to pre-existing matters associated with the newly-extended jurisdiction over DIBP. Notifications from other agencies within ACLEI's jurisdiction have continued to remain relatively stable.<sup>48</sup>

2.36 The Integrity Commissioner described the 2015–16 result as a statistical anomaly due to the inclusion of the DIBP under ACLEI's jurisdiction, and agreed with the committee's assessment that the reduction in 2016–17 was a result of improved processes in place since that time. When asked about future notifications, the Integrity Commissioner explained that:

There are a number of factors operating there. One of them that probably isn't apparent in the report is that the act enables me to enter into section 17 agreements with agency heads about what matters will be considered non-significant corruption or significant corruption. I have entered an agreement with the Australian Federal Police Commissioner to that effect and I have

45 Section 19 of the LEIC Act specifies the notification of corruption issues by law enforcement agency heads. This includes the requirements for an agency head to notify the Integrity Commissioner of a corruption issues and to indicate whether the corruption issue is a significant corruption issue. Section 19 states circumstances that an agency head is not required to notify the Integrity Commissioner, including whether a section 17 agreement between the Integrity Commission and the agency head has been made. See LEIC Act, s. 19.

46 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, pp 68–69.

47 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 69.

48 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

recently entered one with the Secretary of the Department of Immigration and Border Protection. So before those agreements they sent me everything that raised a corruption issue. Now they can keep things that we've agreed under those MOUs are not significant corruption. They'll deal with those and they'll tell me later.<sup>49</sup>

2.37 The Integrity Commissioner added that the number of notifications is partially a product of section 17 agreements and partially a legacy of corruption matters with which the DIBP was already dealing. The Integrity Commissioner added that the DIBP:

...had a big cupboard waiting for us to come into jurisdiction. So it's partly that, partly the agreements and partly also the fact that they themselves have really matured in their internal professional standards side of the house.<sup>50</sup>

2.38 The Integrity Commissioner provided further clarification on notice. Mr Griffin explained that section 17 agreements between ACLEI, the AFP and DIBP had led to:

...significant investigative efficiencies, as the issues arising under these agreements are still reported in our statistics, they cannot be said to have had any influence on the number reported in the Annual Report.<sup>51</sup>

2.39 Section 17 agreements permit the Integrity Commissioner to enter into a written agreement with the heads of LEIC Act agencies concerning:

- (a) the kinds of issues that are significant corruption issues in relation to staff members of the agency;
- (b) the level of detail required to notify the Integrity Commissioner of a corruption issue;
- (c) the way in which information or documents in relation to a corruption issue may be given to the Integrity Commissioner (whether for the purpose of notifying the Integrity Commissioner or allowing the Integrity Commissioner to manage, oversee or review an investigation or otherwise);
- (d) the level of detail required in the final report given to the Integrity Commissioner on the law enforcement agency's investigation of a corruption issue.<sup>52</sup>

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49 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, pp 10–11.

50 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 11.

51 Mr Michael Griffin, Integrity Commissioner, ACLEI, answers to questions on notice, 10 May 2018 (received 6 June 2018), p. 3.

52 *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act), s. 17.

2.40 During the 2016–17 reporting period, section 17 agreements had not been negotiated with other LEIC Act agencies.<sup>53</sup>

#### *Referrals from other sources*

2.41 The committee sought clarification about the number of referrals ACLEI had received from other sources. ACLEI receives referrals through its network with state police and integrity agencies that 'uncover information that might indicate corruption in LEIC Act agencies'.<sup>54</sup> The number of referrals received fluctuates each year due to the nature of the investigations being conducted by those state counterparts.<sup>55</sup> For example, the total number of referrals from other sources in 2015–16 was 48, and in 2016–17 decreased to 19.<sup>56</sup> The referrals<sup>57</sup> largely involved the DIBP (12), followed by DAWR (5), the ACIC and the AFP (both with one referral).<sup>58</sup>

#### *Own-initiative investigations*

2.42 Under the LEIC Act, the Integrity Commission has the power to commence own-initiate investigations. According to the annual report, these 'investigations continue to reflect ACLEI's pivot towards developing a proactive information-gathering capability, which generates new leads'.<sup>59</sup> In 2016–17, ACLEI recorded four own-initiative investigations, a slight decrease from the six recorded in 2015–16.<sup>60</sup> The agencies implicated in these investigations in 2016–17 were DAWR (2) and the DIBP (2).<sup>61</sup>

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53 Section 17 agreements were considered as part of the committee's *Examination of the Annual Report of the Integrity Commissioner 2015–16*. The Integrity Commissioner stated that establishing a section 17 agreement was a lengthy engagement and determining a definition of what constitutes a significant corruption issue is a relatively complex task. The Integrity Commissioner had advised the committee that a two-year review would be conducted to determine whether section 17 agreements were satisfactory. See Parliamentary Joint Committee on ACLEI, *Examination of the Annual Report of the Integrity Commissioner 2015–16*, pp 11–12.

54 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

55 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 21.

56 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

57 For statistical details on how these referrals were dealt with, reasons for taking no further action and the number of referrals under assessment at close of the 2016–17 reporting period, see ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 71

58 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 70.

59 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

60 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

61 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 72.

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*Assessments of notifications*

2.43 The annual report details the number of assessments of notifications received by ACLEI from 2012–13 and 2016–17. In 2016–17, ACLEI made 193 assessments, with 171 (89 per cent) of those assessments completed with the 90-day benchmark.<sup>62</sup>

2.44 The assessment statistics for the last five reporting periods are detailed in Table 4.

**Table 4: Assessment statistics, 2012–13 to 2016–17<sup>63</sup>**

| Assessment statistics                                       | 2012–13 | 2013–14 | 2014–15 | 2015–16 | 2016–17 |
|---|---------|---------|---------|---------|---------|
| Total assessments completed                                 | 77      | 75      | 120     | 190     | 193     |
| % that met the 90-day benchmark (against the target of 75%) | 75%     | 64%     | 83%     | 63%     | 89%     |

2.45 ACLEI attributed the higher number of assessments meeting its 90-day benchmark to the increase in the number of ACLEI assessment staff.<sup>64</sup> The committee was also advised that the Integrity Commissioner is provided with 'weekly and monthly monitoring and reporting...of the state of each of the arms of the agency and what's happening in that regard'.<sup>65</sup> Concerning the inclusion of the DIBP, the Integrity Commissioner explained:

What happened with some of those was that we found ourselves with the deluge from Immigration and Border Protection—the new work. As you'd appreciate, we then had to do, I believe the medics call it 'a triaging process'. What's the more serious here? Do we do the assessment or do we get this investigation up and running? We did that. The new staff allowed us, as you'll see from the stats, a really significant increase, not just in the assessments but in the review of the matters that we'd sent back to the agencies to investigate themselves. That had been running at quite a low level, and we were able to do a new project and look into what they'd been doing. I'm pleased to say that you'd find that all but four we were happy with, that they'd done good investigations themselves.<sup>66</sup>

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62 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

63 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

64 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

65 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

66 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

2.46 Concerning the assessment statistics across reporting periods, the committee notes a number of variations in the data reported. Typically, ACLEI provides in its annual report the number of assessments completed in a reporting period, as well as the percentage of those assessments that were completed within its 90-day benchmark. Data not consistently reported across reporting periods is the total number of assessments completed within the 90-day benchmark, and the number of assessments conducted by ACLEI each year.

2.47 For example, in 2015–16 ACLEI provided the total number of assessments conducted (248) but did not disclose the number of assessments completed within the 90-day benchmark.<sup>67</sup> Further, the total number of assessments completed within the 90-day benchmark is provided for 2014–15 and 2016–17, but is not reported for 2015–16. An example of these inconsistencies is demonstrated in Table 5.

**Table 5: Assessment statistics across different reporting periods<sup>68</sup>**

| Assessment statistics   | 2014–15            | 2015–16            | 2016–17            |
|---|--------------------|--------------------|--------------------|
| Total number of assessments conducted                             | No figure provided | 248                | No figure provided |
| Total assessments completed                                       | 120                | 190                | 193                |
| Total number of assessments completed within the 90-day benchmark | 99                 | No figure provided | 171                |
| % that met the 90-day benchmark (against a target of 75%)         | 83%                | 63%                | 89%                |

*Committee comment*

2.48 The committee recognises a product of ACLEI's expanded jurisdiction has been an increase in the number of notifications it has received from LEIC Act agencies, and in particular, corruption notifications from the DIBP. However, since the introduction of section 17 agreements between ACLEI and the AFP and DIBP, the number of notifications received from LEIC Act agencies has decreased.

2.49 For this reason, the committee sees a significant benefit of section 17 agreements to ensure ACLEI's resources are focused on significant corruption issues. The committee acknowledges the complexity of negotiating section 17 agreements

<sup>67</sup> ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 91.

<sup>68</sup> Data drawn from: ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 91, p. 22; and ACLEI, *Annual Report of the Integrity Commissioner 2014–15*, p. 30.

with agency heads;<sup>69</sup> however, the committee supports ACLEI's pursuit of establishing such agreements with other agencies into the future.

2.50 Concerning ACLEI's assessment statistics, the committee commends ACLEI on the high completion rates for assessments during the 2016–17 reporting period. In particular, the committee congratulates ACLEI in exceeding its benchmark for completing assessments within 90-days. The committee recognises that the increased workload in this space is due to ACLEI's expanded jurisdiction.

2.51 The reporting of ACLEI's assessment statistics typically refers to the total number of assessments completed and the percentage of those assessments completed within the 90-day benchmark. The committee sees benefit in ACLEI including in its statistical analysis reference to the total number of assessments ACLEI conducted during a reporting period. Reference to this number was made in the 2015–16 annual report, but not in the current year. To ensure a clear read between annual reports, the committee recommends that ACLEI includes in future annual reports a table of assessment statistics that includes:

- the total number of assessments conducted;
- the total number of assessments completed;
- the total number of assessments completed within the 90-day benchmark; and
- the percentage of assessments that met the 90-day benchmark (against a target of 75 per cent).

### **Recommendation 1**

**2.52 The committee recommends that the Australian Commission for Law Enforcement Integrity includes in its annual reports a table of assessment statistics that includes the:**

- **total number of assessments conducted in each year;**
- **total number of assessments completed in each year;**
- **total number of assessments completed within the 90-day benchmark in each year; and**
- **percentage of assessments that met the 90-day benchmark (against a target of 75 per cent).**

### ***Criterion two—investigations conducted professionally and efficiently***

2.53 Criterion two relates to the professional and efficient conduct of ACLEI's investigations and the value that ACLEI adds to the law enforcement integrity system. Specifically, criterion two includes:

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69 See PJCACLEI, *Examination of the Annual Report of the Integrity Commissioner 2015–16*, p. 11.

- whether each investigation considers corruption risk and the broader impact on law enforcement outcomes;
- whether operational resources are actively managed and targeted for maximum effect; and
- whether risks relating to the operating context of law enforcement agencies are taken into account and, in appropriate circumstances, mitigation strategies are agreed with the agency concerned.<sup>70</sup>

*Investigations conducted by ACLEI*

2.54 ACLEI reported that its investigation workload for 2016–17 was historically high with 242 corruption issues<sup>71</sup> under active investigation.<sup>72</sup> According to the annual report, this increase reflected:

...an increase in the quality of information received as well as an increased capacity to assess the merit of notifications and referrals that relate to multiple allegations.<sup>73</sup>

2.55 In 2016–17, ACLEI commenced 107 investigations (including joint investigations), with a total of 242 active investigations and 14 concluded.<sup>74</sup> This number continues a significant increase in the number of active investigations being conducted by ACLEI in the last two reporting periods. In 2014–15, ACLEI had 75 active investigations; in 2015–16 this increased to 144.<sup>75</sup>

2.56 The number of concluded investigations does not appear to have kept pace with this increase. ACLEI concluded seven cases in 2014–15, eight in 2015–16 and as already stated, 14 in 2016–17.<sup>76</sup> Table 6 provides data on the number of corruption issues investigated by ACLEI between 2012–13 and 2016–17.

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70 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 22.

71 Page 23 of the *ACLEI Annual Report 2016–17* incorrectly reports a historic high of 244 corruption issues under active investigation. Correspondence received from ACLEI advised the committee this total should be 242. See Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 1.

72 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

73 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

74 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

75 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

76 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

**Table 6: Corruption issues investigated by ACLEI (including joint investigations), 2012–13 to 2016–17<sup>77</sup>**

| Corruption issues investigated by ACLEI <sup>78</sup> | 2012–13 | 2013–14 | 2014–15 | 2015–16 | 2016–17 |
|---|---------|---------|---------|---------|---------|
| Number commenced                                      | 11      | 23      | 42      | 76      | 107     |
| Total active in the year                              | 31      | 45      | 75      | 144     | 242     |
| Number concluded                                      | 9       | 12      | 7       | 8       | 14      |

2.57 More detail on these investigations is found in Appendix 4 of the annual report. As of 30 June 2017, ACLEI had 228 investigations carried forward into 2017–18, with the majority originating from DIBP (110), then the AFP (90), the ACIC and DAWR (14 each).<sup>79</sup> Table 7 shows ACLEI investigations carried forward as of 30 June 2017 to 2017–18, by year of notification or referral. Data from the previous reporting period is included in brackets and was drawn from the table found in Appendix 7<sup>80</sup> of the annual report for 2016–17.<sup>81</sup>

77 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

78 Including joint investigations.

79 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 74.

80 Appendix 7 incorporates corrections to the *Annual Report of the Integrity Commissioner 2015–16*.

81 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 97.

**Table 7: ACLEI investigations carried forward to 2017–18, by year of notification or referral (previous reporting period in brackets)<sup>82</sup>**

| ACLEI or joint investigations                       | ACIC                | AFP     | DAWR    | AUSTRAC | DIBP     | Total     |
|---|---------------------|---------|---------|---------|----------|-----------|
| 2009–10   | 3 (3)               | 0       | NA      | NA      | NA       | 3 (3)     |
| 2010–11   | 0                   | 2 (2)   | NA      | NA      | 0        | 2 (2)     |
| 2011–12   | 2 (3)               | 4 (4)   | NA      | NA      | 1 (1)    | 7 (8)     |
| 2012–13   | 0                   | 4 (4)   | NA      | NA      | 4 (4)    | 8 (8)     |
| 2013–14   | 0                   | 11 (11) | 2 (4)   | 0       | 5 (6)    | 18 (21)   |
| 2014–15   | 3 (2) <sup>83</sup> | 9 (10)  | 2 (2)   | 0 (1)   | 17 (18)  | 31 (34)   |
| 2015–16   | 5 (5)               | 34 (23) | 4 (5)   | 0 (1)   | 33 (28)  | 76 (62)   |
| 2016–17   | 1                   | 26      | 6       | 0       | 50       | 83        |
| Total under instigation by ACLEI as of 30 June 2017 | 14 (13)             | 90 (54) | 14 (11) | 0 (2)   | 110 (57) | 228 (138) |

2.58 The results for the AFP and DIBP are significantly higher than the previous reporting period. As of 30 June 2016, ACLEI had 138 investigations carried forward, with an almost even split between the DIBP (57) and the AFP (54).<sup>84</sup>

2.59 Despite the high number of investigations commenced and active in 2016–17, ACLEI reported positive operational results for the year, which included:

- five prosecutions that resulted in convictions;

82 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 74.

83 Please note that CrimTrac was merged into the ACC and the pre-existing corruption investigation existing from 2014–15 appears to have merged into the ACIC data for that year.

84 Please note that Appendix 4 (Statistical reporting) for 2015–16 were incorrectly reported in the annual report for 2015–16, and were subsequently reported correctly in Appendix 7 of the annual report for 2016–17. Thirteen investigations were carried forward for the ACC/ACIC, 11 for the Department of Agriculture, two for AUSTRAC and one for CrimTrac. See ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 97.

- two final investigation reports provided to the Minister (relating to information security and conflicts of interest); and
- 112 disseminations of information made, which provided criminal intelligence or vulnerability assessments, and disciplinary action with regard to serious breaches of duty.<sup>85</sup>

2.60 In response to the increasing number of investigations, in July 2017 ACLEI commenced a review of the investigations workload 'to identify cases for closure, generally on the basis that further investigation is not warranted in all of the circumstances'.<sup>86</sup> The annual report states that ACLEI may investigate multiple corruption issues as part of one investigation in circumstances in which allegations are related, and 'to assist operational effectiveness and efficiency'.<sup>87</sup>

2.61 ACLEI noted two areas that relate to its corruption investigation workload: ACLEI's investigations into visa fraud and the establishment of the VIT; and the 'increasingly complex nature of investigations', which in 2017–18, will result in emphasis being 'placed on prioritising investigations in terms of the Integrity Commissioner's strategic focus and closing investigations which fall outside these priorities'.<sup>88</sup>

2.62 The increasing complexity of ACLEI's work received particular attention in its annual report. ACLEI attributed the increased complexity to one of the contributing factors affecting its delivery. ACLEI stated that as its 'investigative capacity continues to mature and gain from the benefit of experience, deeper levels of corruption within LEIC Act agencies are being uncovered'. These investigations are subsequently revealing the connections between corruption and organised crime, in particular, 'public officials being influenced by non-financial motivators—such as through relationships grooming, social connections or familiar relationships—which are often characterised by high levels of secrecy and concealment'.<sup>89</sup>

2.63 The complexity of these investigations has meant ACLEI has had to deploy specialist resources and enhance co-ordination across 'ACLEI's investigative, intelligence, legal and corruption prevention areas', and to call upon additional resources provided by the AFP and state police. Further, the inclusion of the DIBP has meant its investigations have become internationally focused and reliant upon international co-ordination.<sup>90</sup>

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85 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

86 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

87 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

88 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 23.

89 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 28.

90 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 28.

2.64 ACLEI explained the increased complexity has meant it has had to draw upon its covert capabilities (telecommunication interception, surveillance devices and assumed identities), as well as the Integrity Commissioner's statutory coercive powers. When compared to 2015–16, ACLEI reported that it 'conducted over four times as many hearings, sought over three times as many telecommunications interception warrants, and sought over five times as many surveillance device warrants'.<sup>91</sup> ACLEI concluded that this 'high level of activity needs to be carefully managed and prioritised with a constant eye on ACLEI's strategic and legislative focus on serious and systemic corruption'.<sup>92</sup>

### *ANAO audit of the operational efficiency of ACLEI*

2.65 On 28 August 2018, the Australian National Audit Office (ANAO) released its report on the *Operational Efficiency of the ACLEI*. The audit was part of a series of performance audits focussing on efficiency across Commonwealth agencies, and included ACLEI because it 'has undergone various changes to its funding and jurisdiction over the past 10 years'.<sup>93</sup>

2.66 As part of this audit, the ANAO considered ACLEI's increased workload, and its operational capacity to manage this work. The ANAO sought to determine whether ACLEI has established appropriate arrangements to assess its efficiency and how ACLEI compares to similar anti-corruption agencies.<sup>94</sup> ACLEI's performance during the 2016–17 reporting period was considered as part of this audit.

2.67 As the ANAO report was published on 28 August 2018, outside the 2016–17 reporting period, the committee has determined to defer its consideration of the ANAO's findings until its examination of the Integrity Commissioner's 2017–18 annual report.

### *Committee comment*

2.68 The committee acknowledges that the increase in the number of investigations conducted by ACLEI is a product of its expanded jurisdiction. The committee recognises the complex nature of these investigations impacts on ACLEI's ability to promptly finalise investigations, and supports ACLEI's careful management and prioritisation of these cases.

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91 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 13.

92 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 28.

93 Australian National Audit Office (ANAO), *Operational Efficiency of the ACLEI*, 28 August 2018, available at: <https://www.anao.gov.au/work/performance-audit/operational-efficiency-australian-commission-law-enforcement-integrity> (accessed 21 February 2019).

94 ANAO, *Operational Efficiency of the ACLEI*, 28 August 2018, available at: <https://www.anao.gov.au/work/performance-audit/operational-efficiency-australian-commission-law-enforcement-integrity> (accessed 21 February 2019).

2.69 Although it acknowledges that complexity, the committee is nevertheless concerned by the high numbers of investigations carried forward and will continue to closely monitor the number of investigations conducted by ACLEI, and in particular, the number of investigations that are carried forward into each new reporting period. The committee hopes that efforts to address the culture within the DIBP (and other LEIC Act agencies) will result in a reduction in the number of corruption issues arising in the years to come.

2.70 The committee recognises the demands on the Integrity Commissioner and his staff arising from the increased workload. The committee commends ACLEI for its continued efforts and diligence in investigating corruption issues within LEIC Act agencies.

2.71 As previously noted, the committee will consider the ANAO's audit of ACLEI's operational efficiency during its examination of the Integrity Commissioner's 2017–18 annual report.

***Criterion three—ACLEI monitors corruption investigations conducted by law enforcement agencies***

2.72 Criterion three considers ACLEI's support to investigations undertaken by LEIC Act agencies. Specifically:

- agency corruption investigations reports provided to ACLEI for review are assessed by ACLEI for intelligence value and completeness; and
- ACLEI liaises regularly with LEIC Act agencies professional standards units about the progress of internal investigations.

2.73 For this reporting period, ACLEI noted an increase in the number of internal investigations conducted by LEIC Act agencies in 2016–17. Of the 425 corruption issues under investigation in 2016–17, 183 (43 per cent) were conducted by LEIC Act agencies, 'which—unless reconsidered and discontinued with the agreement of ACLEI—result in a section 66 report for review by the Integrity Commissioner'.<sup>95</sup> Of those investigations, the majority were conducted by the DIBP (104), followed by the AFP (74).<sup>96</sup> Table 8 provides data on the number of corruption issues investigated by LEIC agencies between 2012–13 and 2016–17.

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95 Section 66 of the LEIC Act requires agencies to prepare a report once a corruption investigation is completed, detailing findings, evidence, and action taken or proposed to be taken, and to provide a copy of the report to the Integrity Commissioner. See LEIC Act, s. 66. Also see ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 24.

96 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 24.

**Table 8: Corruption issues investigated by LEIC Act agencies, 2012–13 to 2016–17<sup>97</sup>**

| Corruption issues investigated by LEIC Act agencies | 2012–13 | 2013–14 | 2014–15 | 2015–16 | 2016–17 |
|---|---------|---------|---------|---------|---------|
| Total active in the year                            | 109     | 105     | 127     | 131     | 183     |

2.74 The higher number of internal investigations conducted by LEIC Act agencies correlates with ACLEI's commentary in its 2015–16 annual report, which linked this growth to the introduction of section 17 agreements and agencies strengthening their corruption detection methods.<sup>98</sup> Of the 131 reported internal investigations from 2015–16, the AFP undertook 59 investigations, while the DIBP conducted 72.<sup>99</sup>

2.75 Appendix 4 of the annual report reveals a decline in the number of LEIC Act agency investigations carried forward into 2017–18 compared to the year before. In 2017–18, 110 investigations were carried forward (74 from the DIBP, 33 from the AFP, two from AUSTRAC and one from DAWR),<sup>100</sup> which is a slight decrease compared to the 117 carried forward in 2016–17 (65 from DIBP, 49 from AFP, two from AUSTRAC and one from the former ACC).<sup>101</sup>

#### *Regulation 15—external referrals*

2.76 In 2017, the *Law Enforcement Integrity Commission Regulation 2017* amended the reporting requirements in ACLEI's annual report. One of these amendments included the inclusion of data on external referrals (Regulation 15), which provides details of corruption issues referred by the Integrity Commissioner to LEIC Act agencies for investigation in 2016–17.<sup>102</sup>

2.77 In total, the Integrity Commissioner referred 54 corruption issues to LEIC Act agencies in 2016–17. The DIBP received 39 of those referrals, followed by the AFP (13), DAWR (1) and AUSTRAC (1). The majority of matters referred (49) were allegations of abuse of office. None of these matters were managed or oversighted by ACLEI.<sup>103</sup> This was the first time ACLEI included these statistics in its annual report.

97 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 24.

98 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

99 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 28.

100 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 75.

101 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 97.

102 Under section 26(1)(b) or section 26(1)(c) of the LEIC Act. See ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 73.

103 ACLEI, *Annual Report of the Integrity Commissioner 2015–16*, p. 73.

*Committee comment*

2.78 The increase in the number of internal investigations conducted by LEIC Act agencies is a reflection of section 17 agreements made between ACLEI and the AFP and DIBP. The committee will continue to monitor the number of internal LEIC Act agency investigations; the committee anticipates the number of internal LEIC Act agency investigations will increase further with additional section 17 agreements being negotiated between ACLEI and partner agencies.

2.79 The committee welcomes the Regulation 15 amendment to the Law Enforcement Integrity Commission Regulation 2017. The inclusion of this information will assist the committee by reporting the number of corruption issues referred by the Integrity Commissioner to LEIC Act agencies for investigation. The committee asks for this data to be included in annual reports, with data from past years to allow comparison.

***Criterion four—ACLEI insights contribute to accountability and anti-corruption policy development***

2.80 Criterion four addresses ACLEI's accountability and anti-corruption policy development, such as:

- enabling the Integrity Commissioner to make recommendations for improvement to corruption prevention or detection measures;
- engagement with government or in other forums that relate to corruption prevention or enhancing integrity arrangements (such as making submissions);
- targeted presentations about integrity issues made to a diverse range of audiences; and
- the analysis of patterns and trends in law enforcement corruption to be included in the Integrity Commissioner's annual report and other publications.<sup>104</sup>

2.81 The annual report referred to the ongoing work as part of the 2015–16 Peer Review. This review included ACLEI conducting vulnerability assessments of LEIC Act agencies, which used data and insight gathered from ACLEI's 'investigations to provide agencies with real-time awareness of specific risks that may exist within internal processes and procedures, including the conduct of staff members'.<sup>105</sup>

2.82 The committee asked about ACLEI's corruption prevention function. The Integrity Commissioner informed the committee that in November 2016, ACLEI had 'operationalised' its corruption prevention function after identifying an issue with the

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104 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 24.

105 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 25.

timeliness of its vulnerabilities assessments. To resolve this issue, ACLEI moved its corruption prevention team:

...to the front of the process line, and they are now in the hearings. When I'm conducting coercive hearings, they are with the investigators. They are accessing that intelligence immediately, developing their product and disseminating it to the agencies in real time.<sup>106</sup>

2.83 The committee was further advised that this response came from the realisation that ACLEI's:

...corruption prevention product was available well after the car crash, if you like. The reasons for it, the lessons learned, were happening a long time after the event. That was simply a function of a smaller agency and the structure that it had. As we became larger and I became involved in the hearing process, I realised that the people who did the corruption prevention weren't part of the hearing process, weren't part of the investigation...That was when we thought we would bring in the corruption prevention people and give them an additional role with the intelligence assessments folk, because the nature of the work they do is very similar—they are assessing information and analysing it—and put them right at the front end of the process so that they could engage with the agencies.

2.84 The Integrity Commissioner explained that this response occurred whilst ACLEI underwent its Peer Review process, which looked at LEIC Act agencies concern that 'they carried the risk before they actually knew what the problem was' and subsequently this new operationalisation process enables ACLEI to provide up-front information.<sup>107</sup> The response to this new process had, so far:

...been very well received. We actually have a project underway with one of the agencies where we are mapping the maturity of that process. I'm hoping that that will give us some evaluation as well of the success or otherwise. But anecdotally, in all our engagements with the agencies, they are very pleased with it.<sup>108</sup>

2.85 In addition to ACLEI's corruption prevention work, the annual report made special reference to the establishment of the Department of Home Affairs. ACLEI noted that this 'reform will no doubt have an important integrity dimension that ACLEI will continue to monitor and provide advice to Government as needed'.<sup>109</sup>

#### *Committee comment*

2.86 The committee applauds ACLEI for the amendments made to its vulnerability assessment process by including its corruption prevention team earlier in the

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106 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

107 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 3.

108 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 3.

109 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 25.

investigative process. By doing this, ACLEI has ensured LEIC Act agencies are provided with information to address identified issues earlier. The committee looks forward to ACLEI's evaluation of this process, to determine its success and identify any subsequent improvements.

### **Data errors identified in ACLEI Annual Report 2016–17**

2.87 The committee's examination of the 2016–17 annual report resulted in the identification of a number of errors with data used to report on ACLEI's performance. The following errors were identified:

- Page 14 of the report states the total number of ACLEI investigations in 2016–17 equalled 226. This figure should be 228.
- Page 23 of the report incorrectly declares an ACLEI workload of 244 corruption issues under investigation. This figure should be 242.
- Incorrect staffing figures are provided on page 27 of the report. The 'budgeted staffing' figure should be 50, rather than 52; and the figure for 'actual staffing (end of year FTE)' should be 43 in 2016–17. Additionally, 'actual staffing (end of year FTE)' should instead be 'actual staffing (end of year headcount)'.<sup>110</sup>

2.88 ACLEI also incorrectly reported 14 assumed identity authorisations listed on page 15 of the report. This figure should be 15. ACLEI advised the committee that it had separately contacted the 'Attorney-General in the Integrity Commissioner's annual report about authorities for assumed identities pursuant to section 15LD(1) of the *Crimes Act 1914*'.<sup>111</sup>

2.89 ACLEI informed the committee that the errors listed above were identified during its preparation of the Integrity Commissioner's 2017–18 annual report; however, ACLEI did not consider it necessary to include corrections in that report because they did not meet 'the threshold for mandatory reporting under section 17AH(1)(e) of the Public Governance, Performance and Accountability Rule 2014' (PGPA Rule).<sup>112</sup> This rule states:

...if a previous annual report for the entity contains any significant statement on a matter of fact which has proved to be wrong in a material respect— information correcting the record.<sup>113</sup>

2.90 The committee was informed that ACLEI has since adopted measures to reduce the possibility of such errors, including earlier consultation with stakeholders, cross-checking statistics and additional in-house checking for accuracy.<sup>114</sup>

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110 Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 1.

111 Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 2.

112 Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 2.

113 Public Governance, Performance and Accountability Rule 2014, s. 14AH(1)(e).

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*Committee comment*

2.91 The committee is grateful for the ACLEI's effort to address the inconsistencies identified during the committee's examination of the 2016–17 annual report. Whilst the committee recognises that reporting of data is a complex task, this type of error has now occurred on two occasions (in its 2015–16 and 2016–17 annual reports). The committee urges ACLEI to review its use of figures prior to the release of its annual reports to avoid future occurrences of errors being published.

2.92 Whilst the committee does not question ACLEI's view that these errors did not meet the reporting threshold specified under the PGPA Rule, the committee is concerned that ACLEI did not provide advice to the committee that such errors had occurred. Correspondence of this type would assist the committee with its requirement under the LEIC Act to examine and report on ACLEI's annual reports. Further, it would permit the committee to make an assessment as to whether the PGPA Rule applies.

2.93 To assist the committee with future examinations, the committee recommends that ACLEI promptly informs the committee of any errors identified in its annual reports, irrespective of whether ACLEI determines such errors do not meet the reporting threshold under the PGPA Rule.

## **Recommendation 2**

**2.94 The committee recommends that the Australian Commission for Law Enforcement Integrity promptly informs the committee of any errors identified in its annual reports, irrespective of whether ACLEI determines such errors do not meet the reporting threshold under section 17AH(1)(e) of the Public Governance, Performance and Accountability Rule 2014.**

## **Key investigations and challenges**

2.95 The annual report identifies five prosecutions made in 2016–17, with a number discussed during the committee's hearing. These five prosecutions were:

- Operation Murray, which was a joint investigation between ACLEI and the AFP. The Integrity Commissioner advised the committee that this complex investigation arose out of issues at Sydney Airport, which 'revealed a considerable spread of criminal and corrupt activity within the then Customs staff'.<sup>115</sup> A civilian received a nine-year imprisonment sentence with a six and a half year non-parole period.<sup>116</sup>
- The second highlighted prosecution stemmed from Operation Hadron, which involved a former Australian Crime Commission employee who 'was a

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114 Mr Craig Furry, Executive Director, ACLEI, Correspondence received 4 February 2019, p. 2.

115 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

116 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 16.

back-office person with access to information because of their role'.<sup>117</sup> With the use of controlled operations, ACLEI and the ACIC were able 'to prove that this person was actually involved with corruption activities'.<sup>118</sup> This individual received a 12-month good behaviour bond, and a fine of \$500.<sup>119</sup>

- Operation Swan involved a staff member from the DAWR who was based in Melbourne. The Integrity Commissioner explained that the extensive investigation was done in partnership with the Victorian Police and DAWR,<sup>120</sup> and involved two individuals: the first, a DAWR officer, received a 24-month community correction order, a fine of \$10 000, mandatory drug and alcohol rehabilitation treatment, and 'a forfeiture order over property as a result of charges arising' from the investigation.<sup>121</sup> The second, a civilian, received a \$5000 fine and 'a sum of \$50 100 was forfeited as the proceeds of crime'.<sup>122</sup> The committee heard that Operation Swan was able to recover almost \$1 million in confiscated proceeds of crime.<sup>123</sup>
- The final prosecution related to Operation Jarvis, which was a joint ACLEI and AFP investigation that involved a former Australian Border Force officer at Sydney airport who was engaged in drug activity and received a three-year good behaviour bond.<sup>124</sup>

2.96 The Integrity Commissioner also made reference to Operation Astatine/Operation Zeus. Although outside of the 2016–17 reporting period, the Integrity Commissioner informed the committee that this investigation was significant because:

For decades, law enforcement had been talking about the mythical 'doors'. These are the people who are the corrupt insiders who would open the door. We found them—not just one, but two—with great detective work by the ACLEI staff and intelligence work-up, and we were able to arrest these people, in conjunction with the AFP. The allegations are before the courts. This is a very significant breakthrough, and that comes from that very solid groundwork that's been done over those two years beforehand.<sup>125</sup>

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117 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

118 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

119 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 16.

120 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

121 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 16.

122 ACLEI, *Annual Report of the Integrity Commissioner 2016–17*, p. 16.

123 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

124 Ms Sarah Marshall, Executive Director, Operations Branch, ACLEI, *Committee Hansard*, 10 May 2018, p. 4.

125 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

2.97 Operation Zeus was an investigation conducted by ACLEI, the AFP and the DIBP, which was occurring within a broader investigation under the name Operation Astatine. Operation Zeus was specifically investigating allegations of corruption-enabled border crime involving an ABF officer who allegedly 'assisted an organised crime syndicate to avoid detection by providing sensitive law enforcement information'. An additional person, who had worked as an officer in the then Australian Customs and Border Protection Service, was also arrested for allegedly similar criminal conduct.<sup>126</sup>

### ***Investigation into the conduct of the former Australian Border Force Commissioner***

2.98 An additional matter raised by the committee was ACLEI's investigation of the former Commissioner of the ABF, Mr Roman Quaedvlieg. The Integrity Commissioner clarified that ACLEI had received a notification from the DIBP under section 19 of the LEIC Act, a provision that requires LEIC Act agencies to inform the Integrity Commissioner 'if they feel a matter raises a corruption issue'.<sup>127</sup> At the time of the hearing, the Integrity Commissioner commented that that investigation was not complete and he had not finalised a report into the matter.<sup>128</sup> Mr Griffin did, however, confirm that ACLEI had delivered to the Secretary of the Department of Home Affairs:

...information that I had gathered. At that time I formed the view that it was necessary for me to inform government, and to do that was to go through the agency that had notified me of the matter.<sup>129</sup>

2.99 As part of the investigation into Mr Quaedvlieg, ACLEI advised that it had used the 'full suite of powers available...which includes seizing and examining materials and equipment', but was unable to provide the committee with specific details due to a risk of compromising the investigation. The Integrity Commissioner was able to confirm that ACLEI had not interviewed the former Commissioner,<sup>130</sup> but had provided Mr Quaedvlieg an opportunity to comment on ACLEI's findings, which he did.<sup>131</sup>

### ***Key challenge—encryption***

2.100 The Integrity Commissioner highlighted the impact encryption software has on ACLEI and other law enforcement agency investigations. The Integrity

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126 ACLEI, 'ACLEI Operation Zeus', *Media Statement*, 10 August 2017, available at: [https://www.aclei.gov.au/sites/g/files/net846/f/aclei\\_media\\_statement\\_-\\_operation\\_zeus\\_-\\_10\\_august\\_2017\\_1.pdf](https://www.aclei.gov.au/sites/g/files/net846/f/aclei_media_statement_-_operation_zeus_-_10_august_2017_1.pdf) (accessed 19 December 2018).

127 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 6.

128 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 6.

129 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 11.

130 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 6.

131 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 12.

Commissioner spoke of the use of 'encryption machines' as a particular challenge for ACLEI:

...because the people that we are after are corrupt law enforcement officials. And, by definition, they know how to cover their tracks. They know about countersurveillance. They know about monitoring.<sup>132</sup>

2.101 In response, ACLEI highlighted the importance of human intelligence, which has generated:

...very considerable intelligence material, such that we are able—and have been, some 300 times now—to disseminate the information that we're gathering to the state agencies and the state law enforcement police forces and the federal law enforcement forces. So we've been able to penetrate and get a good access, and we're getting material that was not previously available to ACLEI and, indeed, to a lot of other agencies. Our net is now very wide, and we are trawling in areas that we didn't go before.<sup>133</sup>

*Committee comment*

2.102 The committee congratulates ACLEI for its success with the investigations detailed earlier. The committee does not comment on specific ACLEI investigations; however, the committee commends ACLEI's professionalism in relation to the Quaedvlieg matter, which generated a high degree of public and political interest.

2.103 With regard to the issue of encryption, the committee understands this as an ongoing matter of concern for the agency. The matter is of particular concern for ACLEI because those law enforcement officers investigated by ACLEI are aware of limitations on ACLEI's ability to intercept encrypted data. The committee notes that the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* was passed on the 6 December 2018, and established a framework for voluntary and mandatory industry assistance to law enforcement agencies (including ACLEI) to access encryption technologies (via a technical assistance request, technical assistance notice and a technical capability notice).<sup>134</sup>

2.104 The committee sees significant benefit in permitting ACLEI access to these powers and will monitor the operation and effect these amendments have on ACLEI's investigations.

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132 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

133 Mr Michael Griffin, Integrity Commissioner, ACLEI, *Committee Hansard*, 10 May 2018, p. 2.

134 Parliament of Australia, *Telecommunications and Other Legislation Amendment (Assistance and Access) Bill 2018*, [https://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/Bills\\_Search\\_Results/Result?bId=r6195](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6195) (accessed 14 January 2019).

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## Ombudsman's briefing about controlled operations

2.105 Section 218 of the LEIC Act requires the Commonwealth Ombudsman to provide a briefing to the committee at least once each year about the Integrity Commissioner's involvement in controlled operations under Part IAB of the *Crimes Act 1914* during the preceding 12-months. The committee must meet in private for the purposes of receiving such a briefing. In accordance with this section of the Act, the committee met with the Commonwealth Ombudsman on 26 October 2018.

2.106 The Commonwealth Ombudsman noted in its *Report on the Commonwealth Ombudsman's activities in monitoring controlled operations—1 July 2016 to 30 June 2017* that, with respect to ACLEI's controlled operations, no inspection was conducted in 2016–17 because 'no controlled operations authorities expired or were cancelled from 1 January to 31 December 2016'.<sup>135</sup>

## Conclusion

2.107 The 2016–17 annual report discussed many of the same challenges faced by ACLEI in 2015–16; namely, ACLEI's expanded jurisdiction and challenges with the recruitment of qualified personnel to meet ACLEI's increased workload. The committee recognises the inclusion of the DIBP in its entirety has had a significant influence, with ACLEI now responsible for oversight of over 14 000 DIBP employees.<sup>136</sup> This expanded oversight has also led to the expansion of ACLEI's investigative focus, beyond the traditional law enforcement sphere to broader corruption matters, such as visa fraud.

2.108 The committee acknowledges the record number of investigations (242) conducted by ACLEI in 2016–17, and commends ACLEI for its continued adaptation to its ever-increasing workload. The committee reiterates its intention to closely monitor the number of investigations conducted by ACLEI, in particular, the number of investigations ACLEI carries forward from one year to the next. In time, the committee hopes to see a reduction in the number of corruption issues arising in those agencies that have been under ACLEI's jurisdiction for some time. The committee is pleased that the most recent and largest agency under ACLEI's jurisdiction, the DIBP, is demonstrating increased maturity in its understanding of integrity and its relationship to cultural issues.

2.109 The committee will continue to monitor ACLEI's staffing profile, in particular its ability to attract qualified specialists that meet ACLEI's unique purpose, and the impact of any shortfall on ACLEI's investigative capabilities. The committee also looks forward to the outcomes of the reviews noted in this report, especially with

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135 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations—1 July 2016 to 30 June 2017*, August 2018, p. 5.

136 Department of Immigration and Border Protection, *Annual Report 2017–18*, p. 197.

regard to the mid-2018 review of ACLEI's oversight of the new Home Affairs portfolio.

2.110 Despite a number of challenges, ACLEI has yet again demonstrated its ability to adapt, respond and succeed as its jurisdiction and workload has expanded. The committee congratulates the Integrity Commissioner, Mr Michael Griffin AM, and his staff for their tireless efforts to address corruption and improve integrity in Australia's national law enforcement agencies.

**Senator Amanda Stoker**  
**Chair**

# **Appendix 1**

## **Public hearings and witnesses**

**Thursday 10 May 2018—Canberra**

**Australian Commission for Law Enforcement Integrity**

Mr Michael Griffin AM, Integrity Commissioner

Mr Craig Furry, Executive Director Secretariat Branch

Ms Sarah Marshall, Executive Director Operations Branch

Ms Penny McKay, General Counsel



# **Appendix 2**

## **Additional Documents**

### **Answers to questions on notice**

1. Answers to questions on notice and clarifications to evidence provided at public hearing on 10 May 2018 (received 6 June 2018) – Integrity Commissioner, Australian Commission for Law Enforcement Integrity.

### **Correspondence**

1. Letter from the Integrity Commissioner to the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity regarding corrections to 2016-17 Annual Report (received 4 February 2019).

