



Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006

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Law and Bills Digest Section

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Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006

Date introduced: 29 March 2006

House: House of Representatives

Portfolio: Attorney-General

Commencement: Most items commence at the same time as section 3 of the proposed Law Enforcement Integrity Commissioner Act 2006 (ie 6 months after that Act receives Royal Assent or on proclamation, whichever occurs first).

Purpose

The Bill's main purpose is to enable the Australian Commission for Law Enforcement Integrity (ACLEI) to exercise coercive and information gathering powers under a variety of Commonwealth statutes. These include the ability to intercept telecommunications, use surveillance devices, conduct controlled operations and use assumed identities.

The Bill is part of a package of three Bills. The other Bills are:

- the Law Enforcement Integrity Commissioner Bill 2006 ('LEIC Bill'), and
- the Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006 ('AFP Professional Standards Bill').

Background

The LEIC Bill creates the office of Law Enforcement Integrity Commissioner and establishes ACLEI. The Commissioner has royal-commission powers to investigate corruption in the Australian Federal Police ('AFP'), the Australian Crime Commission ('ACC'), the former National Crime Authority and prescribed 'law enforcement agencies.' The Bill also provides procedures for the investigation of complaints against the ACLEI and establishes a parliamentary joint committee to monitor ACLEI's operations.

Background information about the LEIC Bill can be found in Bills Digest No. 131, 2005–06.

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Main provisions

Administrative Decisions (Judicial Review) Act 1977

The *Administrative Decisions (Judicial Review) Act 1977* ('ADJR Act') enables the Federal Court and the Federal Magistrates Court to review Commonwealth administrative action. In general, a person entitled to seek a review can obtain written reasons for the decision in question. Exceptions to this right include classes of decisions listed in Schedule 2 of the Act. These include decisions relating to extradition, certain decisions under the *National Security Information (Criminal and Civil Proceedings) Act 2004*, decisions relating to intelligence operations under the *Australian Crime Commission Act 2002*, and decisions relating to the administration of criminal justice.

Item 1 adds decisions under the proposed Law Enforcement Integrity Commission Act 2006 in connection with a corruption investigation or a public inquiry to the list of decisions in Schedule 2 of the ADJR Act. The Integrity Commissioner will not have to provide reasons for those decisions to a potential applicant for judicial review.

Archives Act 1983

Under the *Archives Act 1983*, the National Archives has the custody and management of Commonwealth records. The Archives Act establishes an open access period whereby records must be made publicly available after reaching 30 years of age unless exempted. Section 33 of the Archives Act lists a number of exemption categories including information that could damage national security, constitute a breach of confidence, or prejudice a criminal investigation. If a record or part of a record falls within one of these categories a decision may be made to exempt it from public access.

Item 2 makes any confidential information supplied to the Integrity Commissioner, staff of the ACLEI or a special investigator an exempt record under the Archives Act.¹

Australian Crime Commission Act 2002

Section 54 of the *Australian Crime Commission Act 2002* imposes secrecy obligations on the CEO of the ACC, Board members, staff and examiners. If such people disclose information 'except for the purposes of a relevant Act or otherwise with the performance of [their] .. duties under a relevant Act', they are guilty of a criminal offence. **Item 3** will permit the disclosure of information to the ALCEI by making the proposed Law Enforcement Integrity Commissioner Act 2006 and any regulations made under it a 'relevant Act.'

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Australian Federal Police Act 1979

Section 60A of the *Australian Federal Police Act 1979* imposes secrecy obligations on the AFP Commissioner, Deputy Commissioners and staff. With certain exceptions, such as disclosures made for the purposes of the Australian Federal Police Act and disclosures for the purposes of the *Witness Protection Act 1994*, disclosures by such officers attract criminal penalties. **Items 4 and 5** will allow disclosures to be made for the purposes of the proposed Law Enforcement Integrity Commissioner Act and any regulations made under it.

Australian Security Intelligence Organisation Act 1979

Section 18 of the *Australian Security Intelligence Organisation Act 1979* provides that the unauthorised communication of intelligence by ASIO officers is a criminal offence. Exceptions to this general rule include the communication of information relating to an indictable offence to the police or the Australian Crime Commission. **Items 6 and 7** will also allow information to be communicated to the Integrity Commissioner, ACLEI staff or a special investigator.

Crimes Act 1914

Controlled operations

The *Crimes Act 1914* contains a regime for controlled operations. A controlled operation is an operation carried out to obtain evidence of the commission of a serious Commonwealth offence. It may involve a law enforcement officer engaging in conduct that would otherwise be illegal. Section 15M of the Crimes Act provides for controlled operations certificates. Controlled operations must be authorised by an ‘authorising officer’ who issues a certificate under section 15M of the Crimes Act. At present, the AFP Commissioner, Deputy Commissioners and AFP authorising officers can authorise AFP controlled operations.² ACC authorising officers can authorise ACC controlled operations. If a controlled operations certificate is in force then participating law enforcement officers are shielded from any criminal liability that would otherwise attach to their actions.

Items 17 and 18 enable an ‘ACLEI authorising officer’ to authorise a controlled operation relating to the investigation of ‘corruption issue’ that involves a serious Commonwealth offence. ACLEI authorising officers are:

- the Integrity Commissioner
- an Assistant Integrity Commissioner
- SES level ACLEI staff who are appropriately authorised by the Commissioner.³

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Item 20 enables a certificate authorising a controlled operation to be terminated by an ‘ACLEI authorising officer.’ **Items 21 and 22** make consequential amendments to the termination provision.

Item 23 amends a provision in the Crimes Act which requires the CEO of Customs to be notified if a controlled operation will involve goods dealt with by the Australian Customs Service (ACS). As is the case with the AFP and the ACC, an ACLEI authorising officer will be required to notify the ACS if an ACLEI controlled operation involves goods that will be dealt with by the ACS.

The Crimes Act imposes a number of reporting requirements in relation to controlled operations. For example, the AFP Commissioner and the CEO of the ACC must give the Minister quarterly reports about

- each decision made to grant or refuse an application for a controlled operation
- variations, reviews and terminations of controlled operations certificates, and
- each certificate that is still in force at the end of the quarter.

Item 24 places the same reporting obligations on the Integrity Commissioner.

The Crimes Act also empowers the Ombudsman to monitor controlled operations. The AFP Commissioner and the CEO of the ACC must give the Ombudsman a copy of the quarterly report to the Minister and any additional information that is requested. The Ombudsman must also inspect AFP and ACC records at least once in every 12 month period to ensure that the statutory regime is being complied with. **Item 27** requires the Integrity Commissioner to give the Ombudsman a copy of the quarterly report that is made to the Minister. **Item 28** empowers the Ombudsman to obtain additional information about ACLEI controlled operations certificates. **Item 29** requires the Ombudsman to inspect the records of the Integrity Commissioner in relation to ACLEI controlled operations at least once every 12 months.

Section 15T of the Crimes Act requires the Minister to make an annual controlled operations report to Parliament. Information must be excluded from the report if, following advice from the AFP Commissioner or the CEO of the ACC, the Minister considers it would endanger a person’s safety or prejudice an investigation or prosecution. **Item 25** will enable information to be excluded following advice from the Integrity Commissioner.

Section 15U of the Crimes Act provides that in a prosecution for a serious Commonwealth offence, a section 15M certificate is conclusive evidence that the authorising officer was satisfied that the statutory requirements for issuing a certificate were met. A document that is certified by the AFP Commissioner or CEO of the ACC to be a true copy of a section 15M certificate can be tendered as if it were the original. **Item 26** provides that copies of section 15M certificates certified as true copies by the Integrity Commissioner can also be tendered in evidence as if they were originals.

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Assumed identities

The Crimes Act enables officers from certain Commonwealth and State agencies such as the AFP, the ACC, ASIO, State police forces and State anti-corruption agencies to acquire and use assumed (ie false) identities. If appropriately authorised, these agencies can request assumed identity documents from Commonwealth, State and Territory issuing agencies. Such documents might include passports, Medicare cards, birth certificates and drivers' licences.

Item 30 enables ACLEI staff to acquire and use assumed identities in accordance with the statutory regime in the Crimes Act.

Spent convictions

The Crimes Act contains a spent convictions scheme. This means that where a person's conviction of a Commonwealth offence is 'spent', they are not required to disclose their conviction (for instance, for employment purposes) and a criminal record check will not reveal that conviction.⁴ There are certain exceptions to these general rules. For instance, information can be disclosed to or by a law enforcement agency in making decisions about prosecutions or employment. Staff of law enforcement agencies can also exchange information about spent convictions in the course of their duties.

Item 31 adds the ACLEI to the list of law enforcement agencies in section 85ZL of the Crimes Act. This will enable ACLEI staff to disclose, record, use or take account of information about spent convictions in the performance of their duties.

Criminal Code Act 1995

Section 147.1 of the Criminal Code contains offences of causing harm to 'Commonwealth public officials.' Increased penalties apply in relation to certain categories of 'Commonwealth public official,' such as 'Commonwealth law enforcement officers.' **Item 32** amends the definition of 'Commonwealth law enforcement officer' in section 146.1 of the Criminal Code so that it includes the Integrity Commissioner and staff of the ACLEI.

Financial Transactions Reports Act 1988

The *Financial Transactions Reports Act 1988* ('FTR Act') enables AUSTRAC to collect financial transactions reports ('FTR') information for analysis and dissemination to its partner agencies. Partner agencies include Commonwealth, State and Territory police, ACC, Australian Customs Service, the Australian Taxation Office, the Australian Securities and Investments Commission, ASIO, Centrelink, and State anti-corruption agencies. The FTR information that AUSTRAC collects relates to:

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- suspect transactions—where it is suspected that the transaction may be relevant to investigations of criminal offences or where the transaction may assist in enforcing the *Proceeds of Crime Act 2002*
- significant cash transactions—that is, any transaction involving a cash component of A\$10,000 or the foreign currency equivalent.⁵

The purpose of collecting, analysing and disseminating FTR information is to identify money laundering, major crime and tax evasion.

Items 35 and 36 give the Integrity Commissioner and ACLEI staff the same powers as the AFP Commissioner and AFP members to investigate and receive FTR information. **Item 37** enables ACLEI staff to give FTR information to the Integrity Commissioner without breaching the secrecy provisions of the FTR Act. **Item 38** enables the Integrity Commissioner and ACLEI staff to communicate FTR information in the same limited circumstance that currently apply to the CEO of the ACC and ACC staff.

Ombudsman Act 1976

The functions of the Commonwealth Ombudsman include investigating complaints and conducting own motion investigations about the administrative actions of Australian Government officials and agencies. Such investigations examine whether the administrative action is unlawful, unreasonable, unjust, oppressive, discriminatory, factually deficient or otherwise wrong. After completing an investigation, the Ombudsman can recommend that the agency take remedial action.⁶

Paragraph 5(2)(b) of the *Ombudsman Act 1976* provides that the Ombudsman cannot investigate the actions of a judge. The LEIC Bill provides that judges may be appointed to the positions of Integrity Commissioner and Assistant Commissioner. **Item 41** clarifies that judicial appointment in these cases does not prevent the Ombudsman investigating the actions of the Integrity Commissioner or Assistant Commissioners.

Item 42 specifies how the Ombudsman deals with a complaint that involves a ‘corruption issue’ that could have been referred to the Integrity Commissioner:

- in the case of a ‘corruption issue’ that is not a ‘significant corruption issue’, the Ombudsman may decide not to investigate the complaint and refer it to the Integrity Commissioner
- in the case of a ‘significant corruption issue’, the Ombudsman must not investigate the complaint and must refer it to the Integrity Commissioner.

Where the Ombudsman refers a complaint to the Integrity Commissioner, this must be done as soon as reasonably practicable, relevant information must be passed on and the complainant notified in writing.

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The terms ‘corruption issue’ and ‘significant corruption issue’ are defined with reference to the proposed Law Enforcement Integrity Commissioner Act 2006.

Item 43 enables the Ombudsman to transfer complaints about the Integrity Commissioner to another Commonwealth, State or Territory authority if the complaint could be ‘more conveniently or effectively dealt with’ by that authority. Once again, this must be done as soon as reasonably practicable, relevant information must be passed on and the complainant notified in writing. A similar provision exists in the Ombudsman Act in relation to complaints about the ACC (section 6A).

Item 44 enables the Ombudsman to enter into arrangements with another Commonwealth, State or Territory authority for that authority to investigate the actions of the Integrity Commissioner or ACLEI staff. Regulations may provide for the Ombudsman to participate in such an investigation. A similar provision exists in the Ombudsman Act in relation to the ACC (section 8B).

Section 9 of the Ombudsman Act empowers the Ombudsman to obtain information and documents that are relevant to an investigation being conducted by his or her office. There are a number of exceptions to this general rule—for instance, if the Attorney-General certifies that disclosure would prejudice national security or reveal Cabinet or Executive Council deliberations. **Item 45** enables the Attorney-General to prevent disclosure of ACLEI records to the Ombudsman if doing so would endanger human life or create a risk of serious injury to a person. This provision mirrors existing paragraph 9(3)(e) of the Ombudsman Act, which relates to the ACC.

Item 47 enables the Attorney-General to prevent the Ombudsman disclosing ‘ACLEI information’ by certifying that disclosure would be contrary to the public interest because it would prejudice the safety of a person, the fair trial of a person, the proper performance of the Integrity Commissioner’s functions or the operations of a law enforcement agency. This provision mirrors existing section 35B, which relates to the ACC. ‘ACLEI information’ is widely defined as information or the contents of a document that is or was in the possession or control of the Integrity Commissioner.

Privacy Act 1988

The *Privacy Act 1988* protects personal information held by federal agencies, large private sector organisations, private sector health service providers and others. It also protects credit worthiness information held by credit reporting agencies and credit providers.

Item 48 adds the Integrity Commissioner to the definition of ‘enforcement body’ in the Privacy Act. This means that personal information can be disclosed to the Integrity Commissioner in specified circumstances—for example, in order to prevent, detect, investigate or prosecute criminal offences.

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Paragraph 7(1)(a) of the Privacy Act provides that references in the Act to ‘an act or a practice’ are to be read as a reference to an act or practice of an agency. The words, ‘an act or a practice’ are relevant in a number of contexts. For instance, the Act enables the Privacy Commissioner to investigate acts or practices that may interfere with personal privacy. The effect of **item 50** is that references to ‘an act or a practice’ cannot be read as including acts or practices of the Integrity Commissioner. **Item 51** has a similar effect.

Subsection 18K(5) of the Privacy Act provides that where a credit reporting agency discloses personal information contained in a person’s credit information file, it must make a file note of that disclosure. Subsection 18K(5) is followed by a note stating:

A credit reporting agency must not include a note about the disclosure of information in a file if a notation has been made on a summons, or a notice, relating to the disclosure of the information and the notation has not been cancelled (see section 29A of the Australian Crime Commission Act 2002)

Item 52 amends the note that follows section 18K to include a reference to the proposed Law Enforcement Integrity Commissioner Act 2002. As is the case with the ACC, the Integrity Commissioner can include a non-disclosure notation on a summons. This prevents a person disclosing information about the summons or investigations or proceedings associated with the summons.

Section 70 of the Privacy Act prevents information being given to the Privacy Commissioner if the Attorney-General certifies that it would be contrary to the public interest on grounds which include prejudice to national security or to the operational methods or investigative practices of law enforcement agencies. **Item 53** enables the Attorney-General to prevent information being given to the Privacy Commissioner on the ground that it would prejudice the proper performance of the Integrity Commissioner’s functions.

Proceeds of Crime Act 2002

The objects of the *Proceeds of Crime Act 2002* include depriving offenders of the proceeds of their crimes, preventing the reinvestment of those proceeds into further criminal activities and punishing offenders and deterring them from breaching Commonwealth laws.

Section 213 of the *Proceeds of Crime Act* enables certain Commonwealth officers to issue notices requiring financial institutions to provide information about accounts and transactions. Such notices can be issued in order to decide whether to take action under the Act or in relation to proceedings under the Act. Officers who currently can issue a notice are the AFP Commissioner or a Deputy Commissioner, an SES level AFP employee, the CEO of the ACC or an ACC examiner. **Item 54** adds the Integrity Commissioner to this list.

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Item 55 adds the Integrity Commissioner, Assistant Integrity Commissioners and authorised ACLEI staff members to the definition of ‘authorised officer’ in the Proceeds of Crime Act. ‘Authorised officers’ exercise a range of powers and functions under the Proceeds of Crime Act. For example, they can obtain search warrants. And, any application for a restraining order on a person’s property must be accompanied by an affidavit from an ‘authorised officer’ setting out his or her suspicion that that property constitutes proceeds of crime.

Radiocommunications Act 1992

One of the purposes of the *Radiocommunications Act 1992* is to manage the radiofrequency spectrum in order to enable national security, defence, law enforcement and emergency service agencies to use the spectrum. Section 27 of the Radiocommunications Act enables the Australian Communications and Media Authority (ACMA) to determine that particular agencies can access the radiofrequency spectrum without a licence or being subject to restricted zone use.

Item 56 adds the Integrity Commissioner to the list of agencies that be the subject of an ACMA determination.

Royal Commissions Act 1902

If a royal commission obtains information relating to a contravention of a Commonwealth, State or Territory law, that information can be passed on to a number of bodies including the relevant Commonwealth, State or Territory Attorney-General; the Director of Public Prosecutions; or a police commissioner (subsection 6P(1), *Royal Commissions Act 1902*). Information relating to the ACC may also be passed on to the ACC’s CEO (subsection 6P(2A)). **Item 58** inserts a similar provision in relation to the ACLEI.

Surveillance Devices Act 2004

The *Surveillance Devices Act 2004* contains a regime governing the use of surveillance devices by the AFP, the ACC, State and Territory police forces and anti-corruption agencies when they are investigating Commonwealth offences or State offences with a federal aspect which carry a maximum penalty of at least three years imprisonment. Surveillance devices include data surveillance devices, optical surveillance devices, listening devices and tracking devices.⁷

Item 68 will allow ACLEI staff and secondees to use an optical surveillance device without a warrant so long as use of such a device does not involve entry onto premises without permission or interference with a vehicle without permission. Officers from the AFP, ACC and other agencies can also use optical surveillance devices in this way.

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The Surveillance Devices Act enables listening and recording devices to be used by officers from the AFP, ACC and other agencies without a warrant if the officer is a party to the conversation or if the officer has the consent of a person who is permitted to listen to or record the words. **Item 69** gives the same power to ACLEI staff.

Section 64 of the Surveillance Devices Act enables a person who suffers injury or loss as a result of the unlawful use by the AFP or ACC of a surveillance device, to claim damages from the Commonwealth. The effect of **item 70** is that a person will also be able to seek damages for injury or loss as a result of the unlawful use of a surveillance device by the Integrity Commissioner and ACLEI staff.

Telecommunications Act 1997

The *Telecommunications Act 1997* makes it an offence to disclose or use information relating to the contents of a telecommunication, details of carriage services provided to a person (such as telephone numbers called by a person) or the personal particulars of a person (including addresses and unlisted telephone numbers).⁸

There are some exceptions to this general prohibition. For example, a carrier or carriage service provider can release information such as billing records and personal particulars to a ‘criminal law-enforcement agency’ if the agency certifies that the disclosure is reasonably necessary for the enforcement of the criminal law.⁹ ‘Criminal law-enforcement agencies’ currently include the AFP, State and Territory police services, the ACC, NSW Crime Commission, NSW Independent Commission Against Corruption and the Queensland Crime and Misconduct Commission. **Items 73-75** add the ACLEI to this list.

Note that the contents or substance of a telecommunication cannot be disclosed under these provisions—see subsection 282(6). Such information can only be obtained under a Telecommunications (Interception) Act warrant.

Telecommunications (Interception) Act 1979

The *Telecommunications (Interception) Act 1979* (‘TI Act’) enables ASIO and certain Commonwealth, State and Northern Territory law enforcement agencies to apply for and obtain warrants to intercept telecommunications.¹⁰ These agencies can also lawfully access stored communications, such as voicemail, email and SMS messages. Amendments to the TI Act enable the ACLEI to apply for and obtain warrants to intercept telecommunications. The ACLEI will also be able to access stored communications (**items 76-85, 88-90**).

Among the accountability provisions in the TI Act are record-keeping requirements for agencies empowered to intercept telecommunications under warrant (section 80). **Item 93** requires the Integrity Commissioner to keep certain records including each warrant issued

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to the ACLEI, each instrument revoking a warrant, and authorisations given to ACLEI staff to receive information obtained by interceptions.¹¹

Other record-keeping requirements are imposed by section 81 of the TI Act. These include particulars of telephone applications for TI warrants, whether applications for warrants were refused or granted, particulars of each warrant, the duration of each interception etc. **Item 94** amends section 81 so that these obligations will also apply to the Integrity Commissioner.¹²

As well as containing a general prohibition on the interception of telecommunications (subject to exceptions, such as interception under a warrant), the TI Act also generally prohibits information obtained from intercepts being disclosed. There are a various exceptions to this general prohibition. For instance:

- section 68 of the TI Act enables the chief officer of an agency that has lawfully intercepted information, to pass that information on to certain other agencies. **Item 91** enables information that relates to a 'corruption issue' or an 'ACLEI corruption issue' to be passed on to the Integrity Commissioner. The terms 'corruption issue' and 'ACLEI corruption issue' are defined in the Law Enforcement Integrity Commissioner Bill 2006.¹³
- section 71 of the TI Act enables a person to advise the Attorney-General, Director of Public Prosecutions, AFP Commissioner or CEO of the ACC if they suspect that an offence of unlawfully intercepting telecommunications has been committed. **Item 92** will also enable the Integrity Commissioner to be advised of such an offence.
- section 140 of the TI Act enables a person to communicate information obtained by accessing a stored communication to the Attorney-General, Director of Public Prosecutions, the AFP Commissioner or the CEO of the ACC if the person suspects on reasonable grounds that the information may tend to establish that certain offences have been committed.¹⁴ **Item 96** enables this information to be passed on to the Integrity Commissioner.

Items 86 and 87 make general amendments to the TI Act. They add to the list of what are *currently* called 'class 2 offences' and what *will be* called 'serious offences' when the *Telecommunications (Interception) Amendment Act 2006* commences. Interception warrants can be issued in relation to these offences. The new offences include theft from a Commonwealth entity, abuse of public office, giving false testimony, perverting the course of justice, aiding a prisoner to escape and escaping.

If section 3 of the proposed Law Enforcement Integrity Commissioner Act 2006 does not commence by 1 July 2006, then **item 86** will not commence at all. This is because 1 July 2006 is the date that Schedule 4 of the *Telecommunications (Interception) Amendment Act 2006* commences. Schedule 4 abolishes the current classification of TI Act offences as 'class 1' and 'class 2' offences and replaces them with one category, called 'serious

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offences.’ **Item 87** commences immediately after the commencement of Schedule 4 of the *Telecommunications (Interception) Amendment Act 2006*.

Concluding comments

The Consequential Amendments Bill, together with the LEIC Bill and the AFP Professional Standards Bill, was referred to the Senate Committee on Legal and Constitutional Affairs. The Committee reported on 11 May 2006. Two of the Committee’s recommendations relate to the Consequential Amendments Bill:

Own motion investigations by the Ombudsman and referrals to the ACLEI

The Ombudsman can investigate the administrative actions of Commonwealth agencies either as the result of a complaint *or* on his or her own initiative.

Item 42 of **Schedule 1** amends section 6 of the Ombudsman Act and thus enables the Ombudsman to transfer a *complaint* involving a corruption issue to the Integrity Commissioner.

The Senate Committee heard evidence from the Deputy Commonwealth Ombudsman that ‘the Consequential Amendments Bill should be amended to ensure that corruption issues that become apparent through not only complaint investigations, but also own motion investigations by the Ombudsman, may be referred to ACLEI.’ The Senate Committee endorsed this view in recommendation 7 of its report.

Keeping the Ombudsman informed

The Committee also recommended that the Bill be amended to ‘provide greater clarity in relation to ACLEI’s obligations to notify the Commonwealth Ombudsman of information relating to matters referred by the Ombudsman’ (recommendation 8). In evidence before the Committee, the Deputy Commonwealth Ombudsman said that, as drafted, the Consequential Amendments Bill would require the Ombudsman to commence an investigation in order to seek this information.

The Senate Committee’s report remarks:

In relation to this ... concern, the Attorney-General's Department noted that the Consequential Amendments Bill was not intended to leave the Ombudsman in a position where it could not receive information without initiating an investigation of its own. As such, this matter would be considered for possible amendments.¹⁵

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Endnotes

1. A 'special investigator' is a person appointed by the Minister under the proposed Law Enforcement Integrity Commissioner Act to investigate an allegation of corruption within the ACLEI.
2. Authorisations must be obtained from the AFP Commissioner or a Deputy Commissioner in the case of major controlled operations. Authorisations can be obtained from AFP authorising officers in the case of controlled operations that are not major operations.
3. The term, 'corruption issue' is defined in clause 7 of the LEIC Bill. It means an issue whether current or former staff of a law enforcement agency had, are or will engage in 'corrupt conduct'. 'Corrupt conduct' is conduct involving abuse of office, perverting the course of justice or corruption of any other kind.
4. Under the Crimes Act, a person's conviction will only become 'spent' if they were sentenced to no more than 30 months imprisonment. In the case of adults there is a 10 year waiting period before such a conviction becomes spent.
5. AUSTRAC, *Annual Report 2004-05*, p. 15.
6. Commonwealth Ombudsman, *Annual Report 2004-2005*, p. 8.
7. *Surveillance Devices Act 2004, Report for the Year Ending 30 June 2004*. In the period to 30 June 2005, surveillance device warrants could be obtained by the AFP, ACC, NSW Police, NSW Crime Commission, NSW Independent Commission Against Corruption, NSW Police Integrity Commission, Queensland Crime and Misconduct Commission, Queensland Police, South Australian Police, Victoria Police, Western Australian Police, Western Australian Crime and Corruption Commission, Tasmanian Police and Northern Territory Police.
8. Section 276, Telecommunications Act.
9. Section 282, Telecommunications Act.
10. As at 30 June 2005, the following law enforcement agencies could obtain telecommunications interception warrants: AFP, ACC, Victoria Police, NSW Crime Commission, NSW Police, NSW Independent Commission Against Corruption, South Australia Police, Western Australia Police Service, NSW Police Integrity Commission, Western Australian Corruption and Crime Commission, Tasmania Police.
11. Item 93 will not commence if Schedule 5 of the Telecommunications (Interception) Amendment Act 2006 commences before the commencement of section 3 of the proposed Law Enforcement Integrity Commissioner Act 2006.
12. Item 94 will not commence if Schedule 5 of the Telecommunications (Interception) Amendment Act 2006 commences before the commencement of section 3 of the proposed Law Enforcement Integrity Commissioner Act 2006.
13. For the definition of 'corruption issue', see endnote 3. An 'ACLEI corruption issue' is an issue of whether a current or former staff member of the ACLEI has, is or will engage in corrupt conduct (clause 8, LEIC Bill).

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14. These offences are: contravening the prohibition against access to stored communications and contravening the prohibition against communicating accessed information.
15. Senate Legal and Constitutional Legislation Committee, *Report. Provisions of: Law Enforcement Integrity Commissioner Bill 2006; Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006; and Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006*, para. 3.102. The report can be accessed at:
http://www.aph.gov.au/senate/committee/legcon_ctte/aclei/report/index.htm

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