

## **ACLEI as deterrence**

Fundamentally, ACLEI is a measure to reduce corruption risk. We are a deterrent to bad behaviour. We increase the likelihood that corrupt conduct will be discovered. We encourage and protect whistleblowers. We work with law enforcement agencies and integrity agencies around Australia to strengthen integrity frameworks and share information. We collate and analyse intelligence, instead of seeing issues as once-off, unconnected HR issues (as sometimes they are seen). We work with agencies to refine and improve their own integrity framework.

In all these ways, ACLEI is a part of the Government's strategy to achieve the highest ethical standards in key law enforcement agencies, thereby supporting them to be effective in their missions. For its work, ACLEI enjoys strong bi-partisan support.

## **ACLEI and Customs**

I return now to the Parliamentary Joint Committee recommendation.

I view favourably the suggestion that the Customs and Border Protection be added to ACLEI's jurisdiction. One could make arguments about your high corruption risk in certain areas of operation, but, frankly, that is not my preoccupation.

Rather, I believe that in recent years the Customs and Border Protection Service, both through the addition of new functions and also through the exemplary way it has achieved results for Government, has been elevated in status to such an extent that it has a reputation that is very deserving of protection, and you have created a brand that should be closely guarded.

I see no evidence that Customs has a serious corruption problem or that it is not handling its risks appropriately at present.

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I conclude with an observation. When the planning was done to put ACLEI together, the planners estimated that we would see about 20 corruption issues a year, of which we might look at one or two. In the three and a bit years to date we have seen 170 issues. Roughly a third have resulted in one form of enquiry or another. The difference you see in numbers is the difference that is made when an independent agency is added to the integrity framework.

## **Conclusion**

The ACC and the AFP and ACLEI work in close integrity partnership to deliver assurance to Government about the integrity of its key law enforcement agencies. Our mutual trust has grown with the benefit of close-quarters experience and cooperation.

Let me finish by saying that if Government were to add Customs to the ACLEI integrity framework, I would look forward to working with you, as integrity leaders, in the same productive way.

Thank you for your attention.



Customs and Border Protection – Adelaide Airport  
**Understanding each other's business**

Address by the Executive Director ACLEI  
15 June 2011

Customs Adelaide

## CHECK AGAINST DELIVERY

### Introduction

Firstly, thank you for the opportunity to meet with you today. I realise that these types of forums provide you with the opportunity to discuss internal matters and to connect with each other, and I hope that this presentation does not detract from those important conversations.

As you would know, the Parliamentary Joint Committee on ACLEI recommended in February this year that Customs and Border Protection should come under the Integrity Commissioner's jurisdiction of detecting, investigating and preventing corruption. In fact, ACLEI's vision is An Australian Government law enforcement culture that resists corruption. This does not mean that ACLEI now assumes sole responsibility for this.

I would like to start with reassuring you that the Integrity Commissioner, Philip Moss, has a view he will extend to Customs and Border Protection the same approach of 'integrity partnership' that we have developed with the Australian Crime Commission and with the AFP.

In particular, he has indicated that the inclusion of your agency should be seen to strengthen the integrity framework that you already have in place, and to complement your existing responsibility and efforts to assure the integrity of your staff members.

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ACLEI recognises that Customs and Border Protection has a reputation that deserves protection. In short, any questions of corruption risk aside, you have created a brand that should be safeguarded.

That fundamental point brings me to what our common purpose is and the reason for my presentation today: how does ACLEI go about a partnership approach to assist the ongoing protection of an agency's reputation from incidents of corrupt conduct, and how we achieve that goal together.

For those of you not familiar with the work of ACLEI, let me give you a snapshot.

Formed just over three years ago, ACLEI is a small, specialised agency that is designed to collect information and deal with allegations about possible corrupt conduct, and then decide whether investigations should be commenced. If it is decided that an investigation is necessary, ACLEI may investigate, or the Integrity Commissioner may refer the issue for internal investigation or criminal investigation. When I say the Integrity Commissioner, every investigation undertaken by ACLEI is in support of the Integrity Commissioner. They are his investigations.

[ACLEI is not a complaint-handling agency. Accordingly, its main focus is to find the truth of a matter, rather than to achieve resolution for a complainant.]

Presently, the Australian Crime Commission and the Australian Federal Police are the two agencies subject to this integrity regime.

Among the policy rationales for ACLEI is that Government recognises that the ACC, AFP and Customs and Border Protection, as a consequence of their law enforcement roles, may be at high risk of infiltration and compromise, for example by organised crime groups. A second reason is that these agencies are so central to public confidence in law enforcement, that their compromise would have a significant and lasting effect on their ability to operate effectively.

The legislation we work under, the Law Enforcement Integrity Commissioner Act requires us to focus on serious and systemic corruption. As a result, ACLEI's strategic prioritisation of cases, which based on our current jurisdiction, recognises the tangible benefit that ACLEI brings to the partnership, namely:

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- The Integrity Commissioner's independence
- His combination of special powers;
- the increasing specialisation of our staff; and
- ACLEI's ability to apply an external and dispassionate perspective to difficult issues.

our integrity partnership will develop in pursuit of this common purpose. Clearly, the more experience we have of each other, the better we understand our respective roles, and so the system evolves in positive directions. It is from this position that ACLEI will seek to understand your environment, the role and function of your current arrangements and to attempt to identify the type, quantities and complexities of cases that you deal with.

Our sources of information are varied. We may receive information from whistle-blowers and members of the public, including persons in detention, among others.

ACLEI operates with our current partners at two levels. One level is the dealing with allegations against members of the AFP or the ACC, the second level is working with those agencies in their core functions, dealing with organised crime. The organised crime networks are the potential corruptors, and ACLEI has a role to play in assisting to protect the core operations of those agencies from corruption.

A key source of information will be your own agency. Under the Act, each agency head must notify the Integrity Commissioner about any information or allegations that they receive that raises a corruption issue within their agencies. This mandatory arrangement brings us into an 'integrity partnership' with the agencies. We share a common purpose.

Under the Act, the Integrity Commissioner reports to the Minister for Home Affairs, who you may note is also the minister for the ACC, the AFP and yourselves. It is he who should know about the integrity of the agencies in his portfolio.

ACLEI's approach is to protect the reputations of individuals from unfair harm, as well as the reputations of the agencies. For me, this approach goes beyond the mere affording of procedural fairness.

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## Managing Integrity

I turn now to the topic of managing integrity.

Integrity is a broad topic and I intend to talk to you about it in terms of ACLEI.

The main purpose of ACLEI is to guard against compromise, particularly that which is linked to serious crime or organised crime. In this context, an ACLEI investigation could relate to anyone in an agency – the IT officer may be as much use for a corrupt or criminal purpose as a person with law enforcement powers. From the 1<sup>st</sup> of January 2011, in the first instance Customs and Border Protection will come into our jurisdiction by way of regulation. Under the regulations, only those functions within Customs and Border Protection that are a law enforcement function will be our focus.

A second purpose is to ensure that the senior leadership of an agency is seen to maintain the highest standards of integrity; and that there is in place a mechanism to give that assurance when necessary. Leadership is important to meet the challenges of managing an organisation, including corruption challenges, for example those that accompany Budget austerity measures.

Accordingly, ACLEI's other focus can be to assure the integrity of an agency's senior leadership, because it sets the ethical tone by which more junior staff will measure themselves. This ethical tone is the background against which staff and managers alike will assess the agency's preparedness to resist internal corruption.

When I say corruption, I must tell you that the Integrity Commissioner has very little interest in garden-variety fraud, bullying, misuse of resources, or conflicts of interest. He does not believe the Parliament has provided the Integrity Commissioner with extensive law enforcement powers in order for him to do what an employer should do for itself, or to replicate what the your agency can already do.

His powers include the ability for him to summons witnesses, who must appear, must answer questions and must answer truthfully under threat of incarceration for non-compliance. It is a significant power, and not given or used lightly. Used in combination with our law enforcement powers – controlled operations, technical surveillance, and others –

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ACLEI has an appropriate and unique framework to deal with the hidden nature of corrupt conduct. In many instances, ACLEI undertakes its work jointly with the agencies it oversees.

ACLEI is re focusing its strategic direction, and enhancing intelligence led investigations, particularly with an intent of detecting corrupt conduct. We are learning from agencies such as your own, that intelligence led, target development and investigation of high risk targets is a resource effective method. So what about corruption risks?

### **Corruption risk**

Those of you with a sense of history might properly regard corruption challenges as 'old problems', and you would be correct. Bribery, favouritism, stand-over schemes, 'green-lighting' and tip-offs have been the standard fare that have captured the interest of corruption fighters for a long time. In fact, the underbelly series has focused on all of these options.

It is clear, however, that these problems are not old, in the sense that they no longer occur. The risk of corruption in law enforcement continues to exist.

When any official role involves a discretionary power, there is the potential for corruption to arise. However, it is generally recognised that there is a particular risk that corruption may arise in law enforcement environments, unless appropriate counter-measures are in place to meet the risk. There are a number of reasons for this view.

First, because the duties of law enforcement officers bring them directly into the path of opportunity, there may be a temptation to use their discretionary power to gain a benefit. Law enforcement work necessarily includes engaging in legitimate activities that carry a high corruption risk, often with limited opportunity for supervision, including:

- dealing direct with criminals (including in covert operations or through criminal informants);
- seizing and handling property, firearms and illicit drugs;
- having a high degree of control over an investigation or interdiction, including charging and arresting individuals; and
- having access to law enforcement information data sources.

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