

Secondly, law enforcement agencies and their staff are at risk of being compromised by criminals. Specific temptations may be offered to individual law enforcement officers or other staff to recruit them to a criminal cause. These attempts may occur opportunistically or in a planned and targeted way, and may also involve infiltration of the agency. Equally, a staff member who wished to act maliciously or opportunistically may find a ready market for restricted information.

Thirdly, if these inherent risks were left uncontrolled or unmitigated, a number of other factors could combine to magnify the threat that corruption could manifest. For instance, the strong bonds that exist among staff in law enforcement agencies may result in sub-cultures of misplaced loyalty and accompanying loss of objectivity, which in turn may lead to a reluctance to report misconduct or, in some cases, to a propensity to cover-up wrongdoing.

Finally, as corruption control expert Professor Malcolm Sparrow characterises the problem, corruption not only seeks to remain invisible and undetected, but also involves combating 'a conscious opponent'. While these characteristics present a challenge to corruption control generally, in the case of law enforcement corruption the opponents are likely to be well-versed in law enforcement detection and investigation methods, and skilled at countering them.

For these reasons, law enforcement agencies have an inherently high exposure to corruption risk. The specific risk will vary within each agency, according to the specific activities being undertaken, and the counter-measures deployed to mitigate each risk or vulnerability.

Accordingly, I have come to use the term 'corruption risk' to convey a number of ideas.

On the one hand, in the Australian Public Service there is no perception that there is an existing significant problem with corruption. I note that, in the Second Reading Speech that introduced the LEIC Bill, the then Attorney-General said

"... The focus on the AFP and the ACC does not reflect a perception that these bodies currently have a significant problem with corruption. However, these agencies play a key role in Australian Government law enforcement. The Government considers that putting in place a regime

**FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)**

THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY

of rigorous external examination now will ensure that the public can have continuing confidence in their integrity.”

I agree with that proposition, and all the evidence I have seen in relation to the ACC and AFP supports my view. I know of no information that would lead me to believe that Customs is in any different situation.

On the other hand, we should not be naïve about the prospect that serious corruption may occur. The Commonwealth has access to enormous resources, both in the monetary sense and in terms of the information it holds, including information about law enforcement methods, targets and operations. Public servants who work in a regulatory setting are frequently also in decision-making roles, and the possibility always exists of a ready market and lucrative illicit gains for those with a saleable product.

The point I am making about corruption risk is that, in such an environment, some situations carry a higher inherent risk than others.

For instance, those roles that are less amenable to supervision – remote locations or covert work are the classics – they have a higher inherent corruption risk.

Then there is the issue of attractiveness – what some commentators call ‘the invitational edge of corruption’. The closer an agency is to the role of combating serious and organised crime, the higher is its inherent risk.

The third issue is ‘displaced’ risk. The paradox of building up the ACC’s and AFP’s resistance to corruption is that the risk increases that criminals will retarget their activities from those two agencies to their partner agencies.

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.

**FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)**

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.

Conclusion

I think it vitally important for us to work together in better understanding each other's strengths. I have been asked to commence working on how ACLEI could do that, and my initial thoughts are about scoping the numbers, types and complexities of your case load so as to better understand the issues that face CUSTOMS today. ACLEI has a role to play in protecting the reputation of agencies and dealing with those who wish to discredit an agency such as yours.

Thank you for your attention.

**FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)**

THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY

PROTECTED

Moss, Philip

Subject: Meeting with Customs and Border Protection CEO: Wednesday, 10 August 2011

Note for File

On Wednesday, 10 August 2011, I met with the Chief Executive Officer (Michael Carmody) of the Australian Customs and Border Protection Service.

Subsection 22(1)(a)(ii) - material irrelevant to the request

Mr Carmody agreed to a combined ACLEI/I&PS half day focus session in which he and I would participate at the outset. The aim would be to further the ACLEI/Customs and Border Protection integrity partnership. (I mentioned the similar session which ACLEI held with AFP PRS.) I noted further that ACLEI had included an I&PS officer on a BISEP course which had led to a group of Customs and Border Protection I&PS staff undertaking the same course. I said that ACLEI would include Customs and Border Protection staff in any future training.

Subsection 22(1)(a)(ii) - material irrelevant to the request

Subsection 22(1)(a)(ii) - material irrelevant to the request

Section 47C - deliberative process documents

Subsection 22(1)(a)(ii) - material irrelevant to the request

Subsection 22(1)(a)(ii) - material irrelevant to the request

Mr Carmody raised an issue about notification (presumably of significant corruption issues) and subsequent action. In such instances, I&PS feels that it could assist ACLEI more by doing background work.

I reminded Mr Carmody about my approach to integrity partnership, i.e. no surprises, sharing of information etc.

Philip Moss
Integrity Commissioner
Australian Commission for Law Enforcement Integrity

Ph: [REDACTED]
Section 47E - documents concerning certain operations of agencies
Section 47F - documents affecting personal privacy

Subsection 22(1)(a)(ii) - material irrelevant to the request
Section 47E - documents concerning certain operations of agencies

FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)

THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY

1
PROTECTED

Seen 9/2/2011
Dm

Australian Government
Australian Customs and
Border Protection Service

CHIEF EXECUTIVE OFFICER

Customs House
5 Constitution Avenue
Canberra City ACT 2601

Phone: 02 6275 6800
Fax: 02 62756796

Mr Philip Moss
Integrity Commissioner
Australian Commission for Law Enforcement Integrity
10 Moore St
CANBERRA ACT 2600

Dear Mr Moss,

I am writing to you in relation to the change in jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to have oversight of the Australian Customs and Border Protection Service (Customs and Border Protection) from 1 January 2011. Under section 19(1) of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act) I am required to notify you as soon as practicable of any allegation, or information I become aware of, that raises a corruption issue that relates to Customs and Border Protection.

Section 6(1) of the LEIC Act defines 'engages in corrupt conduct'. I am providing you with a list containing matters that have been assessed as notifiable incidents and meet the definition of corrupt conduct under the LEIC Act. For transparency, you will also note that the list contains all assessments, intelligence and investigations that are currently being undertaken by Integrity and Professional Standards, Customs and Border Protection, as at 1 January 2011.

Should you require any further information in relation to the matters notified in the Attachments, please contact Donna Storen, National Manager Integrity and Professional Standards on (02) 6275 6985.

Yours sincerely

Michael Carmody
Chief Executive Officer

**FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)**

THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY

4 January 2011



Australian Government
Australian Customs and
Border Protection Service

CHIEF EXECUTIVE OFFICER



Customs House
5 Constitution Avenue
Canberra City ACT 2601

Phone: 02 6275 6800
Fax: 02 62756796

Mr Phillip Moss
Integrity Commissioner
Australian Commission for Law Enforcement Integrity
GP Box 305
Canberra ACT 2601

Phillip

Dear Mr Moss

As a key partner in the protection of Australia's border and the facilitation of legitimate trade and travel, I wanted to share our Annual Plan for 2010–2011 with you. The Annual Plan describes Customs and Border Protection's approach to its activities and risks over the coming year, in line with an ever changing operational environment and meeting the expectations of the Government and Australian community.

Enclosed are the Customs and Border Protection 2010–2011 Annual Plan and 2010–2011 Annual Plan Summary for your reference.

These documents reflect our new approach to planning that focuses on Customs and Border Protection operating as an intelligence-led risk-based agency. During 2010–2011, we will release a number of strategic planning tools to ensure we are successful in implementing this approach.

Some of the tools we will be implementing include the Multi-Year Planning and Budgetary Framework, Budget and Resource Management Framework and Risk Management Framework. These frameworks are interrelated, and have been designed to work with each other to better support me and the Customs and Border Protection Executive with our strategic direction and decision making.

In the interest of information sharing and seeking best practice approaches, Customs and Border Protection officers working on these frameworks would be happy to discuss

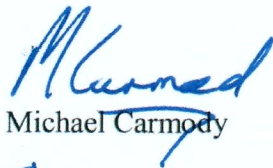
FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)

THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY

our approach with your agency. If this is of interest, our contact officer is Michelle Price, Director, Corporate Risk and Strategy available on 02 6229 3525.

I look forward to continuing to work with you throughout 2010–2011.

Yours sincerely



Michael Carmody

28 July 2010

FREEDOM OF INFORMATION ACT
1982 (Cth) (FOI ACT)
THIS DOCUMENT HAS BEEN RELEASED
UNDER THE PROVISIONS OF THE FOI
ACT BY THE AUSTRALIAN COMMISSION
FOR LAW ENFORCEMENT INTEGRITY