



**Australian Government**

**Australian Commission for  
Law Enforcement Integrity**

# **ANNUAL REPORT OF THE INTEGRITY COMMISSIONER**

**2009–2010**





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Law Enforcement Integrity**

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**Cover design:**

This year's cover design highlights ACLEI's detection role, which is achieved by linking together pieces of information to form a picture about corruption risk and corrupt conduct.

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Copies of this report are also available on ACLEI's website, **[www.aclei.gov.au](http://www.aclei.gov.au)**.

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**Australian Government**

**Australian Commission for  
Law Enforcement Integrity**

18 October 2010

The Hon. Brendan O'Connor MP  
Minister for Home Affairs and Justice  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am pleased to give you the fourth Annual Report of the Integrity Commissioner, concerning the operations of the Australian Commission for Law Enforcement Integrity, as required by section 201(1) of the *Law Enforcement Integrity Commissioner Act 2006*.

The report covers the period 1 July 2009 to 30 June 2010.

In compiling this report, I have had regard to section 206 of the Law Enforcement Integrity Commissioner Act, which relates to considerations about the content of annual reports of the Integrity Commissioner.

In my opinion, the report is suitable for presentation to the Parliament.

Yours sincerely

A handwritten signature in blue ink that reads "Philip Moss".

Philip Moss  
Integrity Commissioner

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## REPORTING CORRUPTION

### How to report a corruption issue

The Australian Commission for Law Enforcement Integrity (ACLEI) investigates corruption issues involving staff members and previous staff members of the Australian Federal Police, the Australian Crime Commission and the former National Crime Authority.

Any information provided to ACLEI is received in the strictest confidence.

A person providing information about a corruption issue to ACLEI does not have to give a name, but should be aware that information given anonymously may be more difficult to investigate. If a person does not want to give his or her name, he or she may provide an alias and should arrange a way for contact to be made.

The Integrity Commissioner seeks to ensure that all corruption issues are properly addressed. Sometimes, it may be preferable to pass on the information provided (or part of it) to another government agency better suited to investigate it. If that action may cause a concern, it can be discussed with ACLEI at the time of providing the information.

A person who refers a corruption issue to ACLEI may elect to be kept informed of how the Integrity Commissioner deals with that issue. In appropriate circumstances, the Integrity Commissioner must also advise the person of the outcome of the investigation. It may not, however, be possible to provide progress reports during the course of an investigation, as this action may jeopardise the effectiveness of the investigation.

### Corruption issues can be reported to ACLEI by any of the following means:

**Hotline:** (02) 6229 9393; +61 2 6229 9393

**Fax:** (02) 6230 7341; +61 2 6230 7341

**Post:** Australian Commission for Law Enforcement Integrity  
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**Online:** [www.aclei.gov.au](http://www.aclei.gov.au)

## GUIDE TO THE REPORT

This annual report provides details the operations of the Integrity Commissioner and the Australian Commission for Law Enforcement Integrity (ACLEI) for the financial year ending 30 June 2010. Its purpose is to inform the Parliament and the general public about ACLEI's role and performance. The report is presented in the following six parts:

### Part One – Overview

The Integrity Commissioner's Review is a summary of ACLEI's principal achievements during the year, and outlines the year in prospect.

The Agency Overview describes ACLEI's role and functions, authority and powers, and organisational structure.

### Part Two – Progress Towards Outcomes

This part reviews ACLEI's performance in detecting, investigating and preventing corruption during the reporting year, measured against the expectations set for ACLEI in the 2009–10 Portfolio Budget Statements. It also provides an overview of ACLEI's financial performance.

An overview of corruption issues notified and referred to ACLEI, a summary of completed investigations, and a report on patterns and trends in corruption are also reported here.

### Part Three – Management And Accountability

This part of the annual report provides an overview of ACLEI's approach to corporate management, governance and accountability.

### Part Four – Financial Statements

ACLEI's audited accounts are presented in this part.

### Part Five – Appendices

The appendices provide information about:

- papers and presentations given by the Integrity Commissioner and ACLEI staff;
- additional statistics;
- significant changes affecting ACLEI's operating environment;
- Freedom of Information; and
- consultancy services provided to ACLEI.

### Part Six – Aids To Access

This part includes:

- acronyms used in this report;
- compliance index; and
- alphabetical index.

# TABLE OF CONTENTS

	Page
Letter of Transmittal	iii
Reporting Corruption	iv
Guide to the Report	v
List of Figures and Tables	viii
<b>Part One – Overview</b>	
Snapshot	2
Chapter One – Integrity Commissioner’s Review	3
A year of growth	4
Integrity partnership	5
Performance	6
Looking forward	6
Accountability and beyond	7
Chapter Two – Agency Overview	8
Role	8
ACLEI’s approach to informants	9
Independence	10
Responsibilities and powers	10
Strengthening integrity	13
Organisational structure	13
<b>Part Two – Progress Towards Outcomes</b>	
Chapter Three – Performance Overview	16
Planned outcomes	16
Performance summary	17
Factors influencing performance	25
Financial performance	26
Chapter Four – Strengthening Integrity Systems	30
Building ACLEI’s operational capability	30
Understanding our environment	32
Integrity partnerships	33
Building resistance to corruption	37
Anti-corruption policy	38
Fostering anti-corruption initiatives	43
Research partnerships	45
Engaging internationally	46
Chapter Five – Assessments and Investigations	50
Explanation of frequently used terms	50
Change in recording practice	50
Where corruption information came from	51
How workload was dealt with	54
ACLEI investigations	58
Government agency investigations	60
Concluded issues	62
Assessments pending	62
Issues carried forward to 2010–11	62

	<b>Page</b>
Use of information-gathering powers	64
Legal proceedings	66
<b>Chapter Six – Reports to the Minister</b>	<b>67</b>
Investigation reports	67
Previous recommendations	69
<b>Chapter Seven – Patterns and Trends</b>	<b>70</b>
Corruption risk approach	71
Changes in risk	71
Corruption indicators	73
Developments in the integrity framework	75
<b>Part Three – Management and Accountability</b>	
<b>Chapter Eight – Corporate Management</b>	<b>78</b>
Corporate projects	79
Governance practices	79
Management of financial processes	83
Management of human resources	85
Information technology	89
Facilities management	91
Security	91
Other corporate issues	92
<b>Chapter Nine – Accountability</b>	<b>94</b>
Parliamentary Joint Committee on ACLEI	94
Senate Estimates	95
Process accountability	96
Judicial review	97
Commonwealth Ombudsman	97
Auditor-General	98
Freedom of Information	98
Internal accountability	98
Integrity assurance measures	101
<b>Part Four – Financial Statements</b>	
<b>Financial Statements</b>	<b>103</b>
<b>Part Five – Appendices</b>	
<b>Appendix 1 – Papers and Presentations by the Integrity Commissioner and ACLEI Staff</b>	<b>142</b>
<b>Appendix 2 – Additional Statistics</b>	<b>144</b>
<b>Appendix 3 – Changes in ACLEI’s Operating Environment</b>	<b>153</b>
<b>Appendix 4 – Freedom of Information Statement</b>	<b>159</b>
<b>Appendix 5 – Consultancy Services</b>	<b>164</b>
<b>Part Six – Aids to Access</b>	
<b>Acronyms Used in this Report</b>	<b>168</b>
<b>Compliance Index</b>	<b>169</b>
<b>Alphabetical Index</b>	<b>172</b>



## LIST OF FIGURES AND TABLES

Figures		Page
<b>Figure One:</b>	ACLEI's organisational structure as at 30 June 2010	13
<b>Figure Two:</b>	Trend in ACLEI's assessment and investigation workload from 2006–07 to 2009–10	54

Tables		Page
<b>Table One:</b>	Performance snapshot – effectiveness of the reporting system	18
<b>Table Two:</b>	Performance snapshot – assessments are prioritised	19
<b>Table Three:</b>	Performance snapshot – investigations add value to the integrity system	20
<b>Table Four:</b>	Performance snapshot – law enforcement agency internal investigations	22
<b>Table Five:</b>	Performance snapshot – improving corruption resistance	23
<b>Table Six:</b>	Performance snapshot – awareness-raising	24
<b>Table Seven:</b>	Performance snapshot – handling sensitive information	25
<b>Table Eight:</b>	Resources available to ACLEI	27
<b>Table Nine:</b>	Agency Resource Statement 2009–10	28
<b>Table Ten:</b>	Expenses and Resources for Outcome One	29
<b>Table Eleven:</b>	Sources of information about new corruption issues in 2009–10	51
<b>Table Twelve:</b>	Trends in sources of information about corruption issues – mandatory notifications	51
<b>Table Thirteen:</b>	Trends in sources of information about corruption issues – other people or government agencies	52
<b>Table Fourteen:</b>	ACLEI's assessment and investigation workload for 2009–10	53
<b>Table Fifteen:</b>	Total workload – how notifications, referrals and 'own initiative' investigations were dealt with	56
<b>Sub-Table A:</b>	Corruption issues under investigation during 2009–10	56
<b>Sub-Table B:</b>	Corruption issues concluded during 2009–10	57
<b>Sub-Table C:</b>	Assessments in progress at 30 June 2010	57
<b>Sub-Table D:</b>	Total notifications and referrals current during 2009–10	57
<b>Table Sixteen:</b>	Investigations (including joint investigations) commenced by ACLEI in 2009–10	59
<b>Table Seventeen:</b>	Corruption issues dealt with as 'agency investigations' during 2009–10	62
<b>Table Eighteen:</b>	Summary of throughput of issues in 2009–10	64
<b>Table Nineteen:</b>	Use of coercive information-gathering powers during 2009–10	65
<b>Table Twenty:</b>	Use of intrusive and covert information-gathering powers during 2009–10	66
<b>Table Twenty-One:</b>	Corruption issues with a possible connection to organised crime	75
<b>Table Twenty-Two:</b>	Staffing profile at 30 June 2010	86

# PART ONE

## Overview

Snapshot

Chapter 1 Integrity Commissioner's Review

Chapter 2 Agency Overview



## SNAPSHOT

### This year...

#### Resources

- ACLEI received resources for five additional staff, commencing on 1 July 2009, taking to 17 the average staffing level.
- ACLEI received additional funding in the 2010 Federal Budget for two more staff, to commence on 1 July 2010.
- In February 2010, the Parliamentary Joint Committee on ACLEI recommended that the Australian Customs and Border Protection Service be added to the Integrity Commissioner's jurisdiction. In July 2010, the Prime Minister, the Hon. Julia Gillard MP, agreed to the Committee's recommendation and to implement the measure from 1 January 2011.

#### Facilities improvement

- ACLEI's secure operations facility commenced in July 2009, and was officially opened on 2 December 2009 by the Minister for Home Affairs (now Minister for Home Affairs and Justice), the Hon. Brendan O'Connor MP.

#### Corruption issues

- Eighty corruption issues were notified or referred to the Integrity Commissioner for assessment (up from 51 last year). One 'own-initiative' investigation was commenced. With the 49 corruption issues carried over from the previous year, ACLEI's operational workload increased substantially.
- A total of 70 issues involving allegations about corrupt conduct were subject to investigation by ACLEI, the ACC, the AFP or other government agencies.
- ACLEI investigated, or jointly investigated, twenty-two corruption issues. Twelve of these investigations were commenced during the year.
- Forty-one notifications and referrals about possible corrupt conduct were concluded.

#### Use of powers

- Coercive information gathering powers were used in 41 instances, relating to seven investigations, including holding 27 private hearings (up from 19 hearings last year).

#### Building resistance to corruption

- The Integrity Commissioner provided to the Minister three reports relating to investigations finalised during the year.
- The Integrity Commissioner and other ACLEI staff made presentations on 40 occasions to various audiences about integrity in law enforcement and corruption prevention.
- The Integrity Commissioner contributed to Australian Government policy development concerning the connections between organised crime and corrupt conduct in law enforcement, building resistance to corruption, and improvements to secrecy law.

# CHAPTER 1

## INTEGRITY

### COMMISSIONER'S REVIEW

The Integrity Commissioner's Review surveys ACLEI's impact through the reporting year, and canvasses the prospects and challenges of the year to come.

The Australian Commission for Law Enforcement Integrity (ACLEI) works to maintain and improve the integrity of law enforcement agencies in its jurisdiction, namely the Australian Crime Commission (ACC) and the Australian Federal Police (AFP). In deciding which issues to investigate and how to use its resources, ACLEI aims for outcomes that are of greatest overall benefit.

Early in its development, ACLEI adopted the phrase 'the building block approach' to describe how the agency would develop over time and to respond to the environment it encountered. The term had two meanings. The first relates to resources and capability (which have developed each year, including this one). The second relates to the method ACLEI would apply to its work.

As to this second meaning, this year's annual report indicates that many of the conceptual building-blocks necessary for future achievement are now in place or developing:

- corruption-detection and intelligence collection guide decision-making, rather than single instances of possible corrupt conduct;
- investigations are reviewed routinely for their contribution to ACLEI's strategic goals and understanding of the corruption environment;
- awareness of 'corruption risk' is established, and the idea of 'corruption indicators' is developing; and
- the notion of 'building resistance to corruption' is central to ACLEI's work.

These themes are discussed further in this Chapter and those which follow.



Philip Moss, Integrity Commissioner

## A year of growth

The 2009–10 year was one of growth for ACLEI. Now focussed as a forensic, intelligence-led investigation agency, ACLEI's present work scarcely resembles the agency's beginnings in early 2007. At that time, the corruption issues that might arise, and in what numbers, were not known.

By the end of the reporting year, a number of developments—strategic focus, increased staffing levels and a purpose-built secure operations facility—together with changes in practice and governance resulting from the experience gained from two-and-a-half years of operation, have resulted in ACLEI's becoming more effective and efficient, despite a growing workload.

### Facilities

The reporting year commenced with continued effort to increase ACLEI's capability. From 1 July 2009, the agency's staffing level increased from 12 to 17 people, with these additional resources being used to strengthen ACLEI's assessment, intelligence, and investigation functions. In the same period, after more than two years of planning, ACLEI's secure operations facility was commissioned. As well as providing accommodation for extra staff, the facility's design meets the particular operational needs of anti-corruption investigations and information-gathering in a law enforcement context.

### Use of powers

During the year, ACLEI obtained, for the first time in its own right, search and telecommunications interception warrants. These milestones were achieved because ACLEI has developed the expertise and specialised facilities that are prerequisites for the use of these significant powers. I commend ACLEI staff on this achievement and on their successful operational planning which provided the context.

### Quantity of information

As ACLEI becomes better known, more information about possible corrupt conduct is referred to it. In each of my previous annual reports, I have noted the increasing number of notifications and referrals to ACLEI of corruption issues: from 18 (in 2006–2007) to 45 and 51 in subsequent years, to 80 during 2009–10. These trends and others are discussed further in Chapter Five – *Assessments and Investigations*.

### Quality of information

Of the increased number of corruption issues notified and referred to me during the year, the information which gave rise to those issues reflected greater credibility, accuracy and value.

Only a few of these investigations are likely to result in evidence of corrupt conduct being obtained. Misconduct may be established in some instances and exoneration in others. Nevertheless, most investigations will reveal information about the ways in which resistance to corruption could be strengthened.

The experience of the year under review supports this observation. Two reports to the Minister recorded a finding of no corrupt conduct. Another report commented about integrity risks, although no corrupt conduct was detected (see Chapter Six – *Reports to the Minister*). Three other investigations, which are yet to be concluded, resulted in dissemination by ACLEI of information obtained about breaches of duty and possible criminal conduct. These disseminations, made variously to heads of the ACC and the AFP, allowed for risks to law enforcement operations to be mitigated while my investigations continued.

## Integrity partnership

The basis of ACLEI's work is the 'integrity partnership'—the approach which ACLEI has adopted concerning its relationship with the ACC and the AFP. The phrase expresses the shared responsibility for ensuring integrity in law enforcement agencies.

The ACC and the AFP have each been active in ensuring that ACLEI is informed of factors that may affect corruption risk in their agencies. This exchange of information strengthens the integrity framework and enables emerging risks to be assessed properly. I commend the ACC and the AFP for embracing this approach.

The agencies also contributed in practical ways through the year by giving operational assistance to ACLEI through staff secondment and participation in joint task-forces, and by providing resources for executing warrants and conducting surveillance.

I expect that the integrity partnership will remain central to ACLEI's work.

## Two-level approach

In November 2009, the Attorney-General, the Hon. Robert McClelland MP, and the Minister for Home Affairs (now Minister for Home Affairs and Justice), the Hon. Brendan O'Connor MP, launched the *Commonwealth Organised Crime Strategic Framework*. The Framework identifies the key threats from organised crime and sets out a whole-of-government strategy to address them.

One of the challenges noted in the Framework is that organised criminal networks may engage in infiltration and compromise to facilitate unlawful activities. The staff of law enforcement agencies and other areas of the public sector are identified as being possible targets of such attempts.

ACLEI's strategic emphasis—detecting corrupt conduct and investigating corruption issues related to organised crime—gave rise during the year to the development of a two-level approach to the integrity partnership. ACLEI now engages with the operational 'core business' areas of the ACC and the AFP, as well as with their Professional Standards units.

Law enforcement agencies lead the collection of intelligence about organised crime, and this information can provide insights about corrupt conduct. Likewise, integrity investigations can yield new information about the activities of criminal groups. For these reasons, at the end of the reporting year, ACLEI was putting in place arrangements to receive briefings about organised crime operations and threat analyses. Sharing information in this way means that ACLEI can remain alert to threats to law enforcement integrity, and direct its resources accordingly.

Chapter Seven – *Patterns and Trends* assesses the integrity dimensions of the organised crime threat environment.

## State integrity agencies

During the year, ACLEI continued to have strong relationships with other integrity agencies. I extend my thanks to the State integrity agencies, with which we shared resources and information, and with which in some cases we partnered in joint investigations. These partnerships are important to our capacity to respond to the present and emerging threats from organised criminal groups. Accordingly, I welcome the formation in 2010 of the Australia and New Zealand Police Integrity Leadership Forum, which aims to foster cooperation between like agencies at the Chief Executive level.

## Commonwealth Ombudsman

ACLEI's relationship with the Commonwealth Ombudsman is particularly important, because our respective jurisdictions touch on the law enforcement spectrum. Whereas the Integrity Commissioner is concerned with corruption issues and corruption risk, the Commonwealth and Law Enforcement Ombudsman<sup>1</sup> is concerned with reviewing the AFP's handling of conduct and practice issues (other than corrupt conduct). Because misconduct and breaches of duty can be indicators of corrupt conduct (see Chapter Seven – *Patterns and Trends*), and because improvements to practices and procedures can reduce corruption risk, there is a common interest between ACLEI and the Ombudsman's office.

I welcome the appointment of Mr Allan Asher as Commonwealth Ombudsman and look forward to working with him.

## Performance

In 2008–09, I reported that ACLEI had not achieved several performance goals relating to timeliness. This situation was caused by unanticipated growth in the size and complexity of workload, combined with the task of developing a new agency.

The situation improved during 2009–10. The appointment of staff to five new positions meant that some pressure points, such as assessment, could receive more attention. With increased staffing numbers comes also flexibility and economy: multi-skilling was introduced, whereby ACLEI staff can work across a number of work areas and skill sets. ACLEI now has greater ability to accommodate absences and to respond to busy periods.

Streamlined governance arrangements and the delegation of decision-making also became possible due to the evolution of procedures. In these ways, ACLEI is able to draw on the experience and skill sets of a broader staff group, thereby increasing agency efficiency.

Funding for an additional two positions, from 1 July 2010, was provided in the 2010 Federal Budget.

## Looking forward

A number of reviews will have important consequences for ACLEI and the integrity framework in 2010–11 and beyond.

## Operation of the LEIC Act

In May 2009, the Parliamentary Joint Committee on ACLEI commenced its statutory review of the operation of the *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act). After tabling an Interim Report in February 2010, the Inquiry ended when the general election was called in July 2010.

The Inquiry will probably resume during the 43rd Parliament to finalise those issues outstanding. Due to the considered, strategic viewpoint that the Committee has brought to its assessment of ACLEI's work, I would welcome the Committee's being able to complete its deliberations.

<sup>1</sup> This designation is used by the Commonwealth Ombudsman when working in his or her law enforcement accountability role.

## Extended jurisdiction

Investigations undertaken by ACLEI (there were 22 this year) reveal the breadth of law enforcement activity, the fast pace of change in the ACC and the AFP, and the various opportunities for corrupt conduct to occur.

Other Australian Government agencies also operate in high corruption risk environments. For this reason, from January 2011, the law enforcement functions of the Australian Customs and Border Protection Service will become subject to the Integrity Commissioner's scrutiny. The Government's decision was made in July 2010 as a result of a recommendation of the Parliamentary Joint Committee on ACLEI (see Appendix Three – *Changes in ACLEI's operational environment*).

I acknowledge the commitment of the Chief Executive Officer of the Australian Customs and Border Protection Service, Mr Michael Carmody AO, and of his senior staff, to ensure that this new integrity measure is implemented successfully.

Funding for five positions has been identified for this purpose, with a review of the related workload to inform the 2012–13 Budget process.

## Review of ACLEI

During the year, the Government agreed to another of the Parliamentary Joint Committee on ACLEI's recommendations, this time arising from its *Inquiry into law enforcement integrity models*. As a result, a *Review of ACLEI's business practices and funding structure*, which will be arranged by the Attorney-General's Department and ACLEI, will occur during 2010–11.

## Accountability and beyond

In my annual report last year, I noted that ACLEI's focus and priority was oriented toward countering what I called the 'corruption handshake'—the potential relationship between corrupt law enforcement officials and organised criminal groups. I drew attention also to the possibility of corruption through infiltration. My comments were made on the basis that whenever there are significant changes to corruption risk, mitigation measures need to remain matched to their task.

My intention is to continue to foster innovation and flexibility at ACLEI, so that the agency stays alert to emerging risks and responsive to countering threats to law enforcement integrity.

In my view, a key challenge in law enforcement integrity at present is to ensure that the response to threats from organised criminal groups is sufficient to withstand any attempts at compromise. Accordingly, ACLEI's 'two-level' approach is aimed at meeting this challenge.

This 'detect and deter' approach goes beyond the static 'accountability' approach that characterised ACLEI's earlier years.

Adding the Australian Customs and Border Protection Service to the LEIC Act framework from January 2011, when combined with ACLEI's intelligence-led approach to detecting, investigating and preventing corrupt conduct, will strengthen the law enforcement integrity system.



**Philip Moss**  
Integrity Commissioner





# CHAPTER 2

## AGENCY OVERVIEW

This chapter provides an overview of ACLEI’s role, responsibilities and structure.

OUR VISION	<ul style="list-style-type: none"><li>• An Australian Government law enforcement culture that resists corruption.</li></ul>
OUR MISSION	<ul style="list-style-type: none"><li>• To support the Integrity Commissioner to detect, disrupt and deter corrupt conduct.</li></ul>
OUR RESPONSIBILITIES	<ul style="list-style-type: none"><li>• Detect, investigate and prevent corrupt conduct.</li><li>• Maintain and improve the integrity of law enforcement staff, through awareness-raising and making recommendations for reform of practices and laws.</li><li>• Collect and process information about corruption, and inform the Australian Parliament about patterns and trends.</li></ul>
OUR APPROACH	<div>Leadership</div> <div>Partnership  Independence</div>
OUR VALUES	<ul style="list-style-type: none"><li>• Innovation and excellence.</li><li>• Cooperation and communication.</li><li>• Fairness and objectivity.</li></ul>

### Role

ACLEI provides independent assurance to government about the integrity of prescribed law enforcement agencies and their staff members.

ACLEI’s role is outlined in the 2009–10 Portfolio Budget Statements, as follows.

**Outcome:** Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity, by detecting, investigating and preventing corruption.

The office of the Integrity Commissioner and ACLEI are established by the *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act).

Presently, the agencies subject to the Integrity Commissioner's jurisdiction are the Australian Crime Commission (ACC), the Australian Federal Police (AFP) and the former National Crime Authority (NCA). Other agencies with a law enforcement function may be added by regulation.

ACLEI's primary role is to investigate law enforcement-related corruption issues, giving priority to serious and systemic corruption.

Under the LEIC Act, the Integrity Commissioner must consider the nature and scope of corruption revealed by investigations, and report annually on any patterns and trends in corruption in Australian Government law enforcement and other Government agencies that have law enforcement functions. Accordingly, ACLEI collects information about corruption in support of the Integrity Commissioner's functions.

ACLEI also aims to understand corruption and prevent it. When, as a consequence of performing his or her functions, the Integrity Commissioner identifies laws of the Commonwealth or administrative practices of government agencies that might contribute to corrupt practices or prevent their early detection, he or she may make recommendations for these laws or practices to be changed.

Any information which indicates that corrupt conduct has occurred, is occurring, or may be likely to occur, can be investigated by the Integrity Commissioner. Information about corruption comes from members of the public, members of law enforcement and other government agencies, and from ACLEI's own detection initiatives. The ACC and the AFP must also notify corruption issues to the Integrity Commissioner.

In addition, the Minister may request the Integrity Commissioner to conduct a public inquiry into all or any of the following:

- a corruption issue;
- an issue about corruption generally in law enforcement; or
- an issue or issues about the integrity of staff members of law enforcement agencies.

## ACLEI's approach to informants

Any person, including members of the public and law enforcement officers, can give information to the Integrity Commissioner. Information can be given in confidence or provided anonymously.

ACLEI uses the term 'informant' to refer to a person, including a member of the public or a whistleblower from within an agency, who provides information about a corruption issue or corrupt conduct.

The Integrity Commissioner acknowledges the need to take account of the personal interest of people who approach ACLEI, and of the circumstances and frame of mind in which they may come forward. Accordingly, ACLEI's staff endeavour to be sensitive and helpful to informants. However, ACLEI does not have a complaint handling role, and ACLEI's investigations are not oriented specifically to achieving a personal remedy or resolution for an informant.

A comparison of the roles and functions of complaint-handling and anti-corruption bodies is contained in ACLEI's 2006–07 Annual Report (page 18). ACLEI's annual reports are available online at [www.aclei.gov.au](http://www.aclei.gov.au).

ACLEI takes all possible care to protect from discovery the identities of whistleblowers and other informants. Each case is managed carefully, including consultation with informants as to issues that may affect them.

In addition, the LEIC Act contains provisions to protect whistleblowers and other informants from victimisation or harassment.

- A person who refers an issue, gives information, or produces a document to the Integrity Commissioner is protected by section 220 of the LEIC Act, which establishes an offence of victimisation.
- Subsection 222(5) of the LEIC Act establishes an immunity from civil proceedings in respect of any information, document or evidence given to the Integrity Commissioner. Accordingly, a person may not be sued for defamation or libel as a consequence of providing information to ACLEI.
- Section 104A of the LEIC Act provides for the Integrity Commissioner to make such arrangements as are necessary to protect the safety of a witness or intended witness (and of others whose safety may be prejudiced as the result of another person giving evidence), or to protect such people from intimidation and harassment.

## Independence

The Integrity Commissioner is a statutory officer appointed under the LEIC Act. ACLEI is part of the Attorney-General's portfolio. The Minister for Home Affairs and Justice is responsible for the administration of the LEIC Act.

Impartial and independent investigations are central to the Integrity Commissioner's role. Under the LEIC Act, the Minister may ask the Integrity Commissioner to conduct a public inquiry, but cannot direct how inquiries or investigations will be conducted.

A feature of the LEIC Act is that it contains measures to ensure that the decisions of the Integrity Commissioner remain free from political interference. For instance, the Integrity Commissioner:

- is appointed by the Governor-General and cannot be removed arbitrarily;
- is appointed for a once-only term of up to five years;
- can commence investigations on his or her own initiative;
- can make public statements; and
- can release reports publicly.

In these ways, the Integrity Commissioner maintains an independent relationship with government.

## Responsibilities and powers

### Investigation options

The Integrity Commissioner decides independently how to deal with any allegations, information or intelligence about corrupt conduct concerning the agencies in ACLEI's jurisdiction. The Integrity Commissioner is not expected to investigate every corruption issue that arises in Commonwealth law enforcement. Rather, the Integrity Commissioner's role is to ensure that indications and risks of corrupt conduct in law enforcement agencies are identified and addressed properly.

The Integrity Commissioner can choose from a range of options in dealing with a corruption issue. The options are to:

- investigate the corruption issue independently;
- investigate the corruption issue jointly with another agency;
- refer the corruption issue to the law enforcement agency for internal investigation (with or without management or oversight by ACLEI);
- refer the corruption issue to another agency, such as a State integrity agency, the AFP, or another Government agency, for investigation; or
- take no further action.

The Integrity Commissioner will only investigate when there is advantage in ACLEI's direct involvement, for example if an independent investigation were beneficial, or if the use of ACLEI's coercive investigation powers were desirable.

Chapter Five sets out how corruption issues were reported and dealt with during 2009–10.

### Investigative powers

A challenge which faces ACLEI is that those law enforcement officers subject to investigation by the Integrity Commissioner are likely to be well-versed in law enforcement methods, and may be skilled at countering them in order to avoid scrutiny. As a consequence, ACLEI has access to a range of special law enforcement powers and methods in order to investigate corrupt conduct.

The investigation powers and methods available to the Integrity Commissioner include:

- coercive information-gathering hearings and notices;
- telecommunications interception and data access;
- electronic surveillance;
- controlled operations and assumed identities;
- search warrants; and
- scrutiny of financial transaction records.

In addition, the Integrity Commissioner may issue directions to prevent disclosures, by any witnesses summonsed to hearings, about the nature and existence of ACLEI investigations. This measure is designed to avoid collusion between witnesses and other forms of compromise that may arise, were the existence of an ACLEI investigation to become known prematurely. Non-disclosure directions are also one means by which ACLEI can protect whistleblowers.

### Monitoring of agency investigation outcomes

When the Integrity Commissioner decides not to investigate and refers a corruption issue to the ACC, the AFP or another Commonwealth government agency for it to investigate without ACLEI's oversight or management, the Integrity Commissioner retains an interest in the investigation's progress and outcome. For this form of investigation, the term 'government agency investigation' is used.

On receiving a final report resulting from a government agency investigation, the Integrity Commissioner may make recommendations to the head of the agency, for example to investigate further, to initiate disciplinary action, or to recommend that criminal charges be preferred against a person.

If the Integrity Commissioner were not satisfied with the response or proposed actions of an agency head, the Integrity Commissioner may provide his or her view, and reasons for this view, to the Minister. The Integrity Commissioner may also provide the material to the President of the Senate and the Speaker of the House of Representatives for presentation to each House of the Parliament.

### Investigation reports

Investigations completed by the Integrity Commissioner result in a report to the Minister. In most circumstances, a copy of the report is also provided to the head of the law enforcement agency.

A report made to the Minister can be publicly released by the Integrity Commissioner when the Integrity Commissioner considers it to be in the public interest.

If a public hearing were held as part of the investigation, or if a public inquiry were requested by the Minister, the Minister must cause the Integrity Commissioner's report to be laid before each House of the Parliament.

The Integrity Commissioner's reports on investigations must include findings, and the evidence or material on which those findings are based. In addition, the Integrity Commissioner can express opinions and make recommendations regarding, for example, disciplinary action or termination-of-employment processes against a member of a law enforcement agency.

The LEIC Act also encourages the Integrity Commissioner to consider measures that would remedy any practices which may give rise to corrupt conduct, or hamper its detection. The Integrity Commissioner is authorised to explore such issues in reports and to make recommendations accordingly.

A summary of each completed investigation, and any recommendations, is required to appear in the Integrity Commissioner's annual report (see Chapter Six).

### Prosecutions, civil actions and disciplinary action

If the Integrity Commissioner, through investigating a corruption issue, discovers evidence of an offence, a liability to civil penalty, or evidence that would be admissible in a proceeding under the *Proceeds of Crime Act 2002* (or a State or Territory equivalent), a brief of evidence may be given to the relevant public prosecution agency or police force.

'Direct use indemnity' applies when a person is not excused from providing information that may incriminate him or her. With limited exceptions, information provided during a coercive hearing by a witness who claimed a 'direct use indemnity' is not admissible in evidence against that person in criminal proceedings, or any other proceedings for the imposition or recovery of a penalty.

The 'direct use indemnity' does not apply to disciplinary proceedings or to proceedings under *Proceeds of Crime* legislation.

## Strengthening integrity

The Integrity Commissioner must consider the nature and scope of corruption revealed by investigations, and report annually on any patterns and trends concerning corruption in Australian Government agencies with law enforcement functions that may have come to his or her attention during the year (see Chapter Seven of this report).

The Integrity Commissioner may also include in the annual report any recommendations for changes to the laws of the Commonwealth, or to the administrative practices of government agencies, to the extent that these deficiencies or unintended consequences might contribute to corrupt practices or prevent their detection.

The Integrity Commissioner may provide to the Minister a special report, which is then required to be laid before each House of the Parliament. Special reports may relate to investigations or to any other matters relating to, or arising in connection with, the performance of the Integrity Commissioner’s functions, or the exercise of the Integrity Commissioner’s powers.

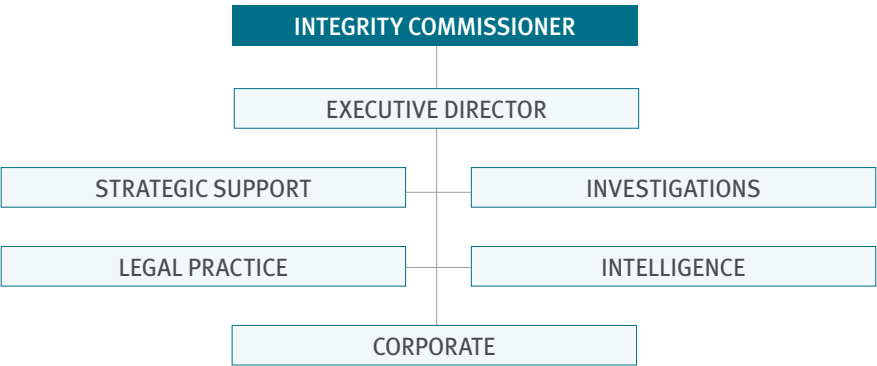
## Organisational structure

During 2009–10, ACLEI had ongoing funding for a staff of 17 people, including the Integrity Commissioner.

The Integrity Commissioner regularly reviews ACLEI’s organisational structure to ensure that the agency remains well managed, flexible and that the best use is made of its resources.

ACLEI’s organisational structure, represented in Figure One, is discussed further in *Management of human resources* in Chapter Eight.

**FIGURE ONE:** ACLEI’s organisational structure as at 30 June 2010





## PART TWO

# Progress Towards Outcomes

Chapter 3 Performance Overview

Chapter 4 Strengthening Integrity Systems

Chapter 5 Assessments and Investigations

Chapter 6 Reports to the Minister

Chapter 7 Patterns and Trends







# CHAPTER 3

## PERFORMANCE OVERVIEW

This chapter summarises ACLEI’s performance against objective measures and gives an overview of ACLEI’s financial resources.

### Planned outcomes

Annual reporting by Australian Government agencies this year is based on the ‘outcome and programs’ structure that was established in the 2009–10 Portfolio Budget Statements. The Statements, which are authorised by Ministers and published as part of the annual Federal Budget process (see [www.budget.gov.au](http://www.budget.gov.au)), specify the outcomes, program objectives and deliverables that Government expects each agency to achieve in any given year.

By reporting performance against outcomes and program expectations, each agency should demonstrate to the Parliament whether the funding it has received has been spent effectively and efficiently to achieve Government objectives.

Government outcomes are the intended results, impacts or consequences of actions by the Government on the Australian community. Agencies such as ACLEI deliver programs, which are the Government actions taken to deliver the stated outcomes.

ACLEI had one outcome, one program and one program objective in 2009–10, as follows:

- Outcome:** Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity, by detecting, investigating and preventing corruption.
- Program:** Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.
- Program objective:** ACLEI’s program objective is to ensure that instances of corruption are identified and addressed, and that law enforcement agencies have appropriate measures in place to control internal corruption risks. In this way, ACLEI can provide independent assurance to the Australian Government about the integrity of prescribed law enforcement agencies.

For the first time, the 2009–10 Portfolio Budget Statements also established a set of ‘deliverables’ for each program administered.

**ACLEI’s program deliverables are:**

- Corruption issues are promptly brought to the attention of the Integrity Commissioner for independent assessment and decision on how each issue should be dealt with (either by ACLEI, the agency to which the issue relates, or another agency).
- Where appropriate, ACLEI independently investigates corruption issues, giving priority to serious or systemic corruption.
- Where appropriate, the Integrity Commissioner uses statutory coercive and intrusive information-gathering powers to assist in investigations.
- ACLEI analyses and reports on patterns and trends in law enforcement corruption.
- ACLEI recommends changes to laws and to agency practices and procedures to improve integrity in law enforcement, and to detect and prevent corruption more effectively.
- ACLEI contributes to corruption prevention initiatives such as the assessment of corruption risk and raising awareness about corruption deterrence, thereby helping to build corruption-resistant work cultures.
- Staff members of law enforcement agencies are made aware that information about corruption can be referred with confidence to the Integrity Commissioner.

## Performance summary

The 2009–10 Portfolio Budget Statements adopted a system of performance information that is based on ‘Key Performance Indicators’ (KPI), which aim to link Program Objectives and Deliverables. The following pages provide an overview of ACLEI’s performance in 2009–10 against these indicators.

The LEIC Act and *Law Enforcement Integrity Commissioner Regulations 2006* (the LEIC Regulations) also require comprehensive reporting about ACLEI’s activities. Accordingly, Chapters Four to Seven and Appendices One and Two of this report provide greater detail about ACLEI’s performance and achievements during the year. To assist the reader, cross-references to this more-detailed information are provided in the KPI assessment.

### KPI ONE – *The corruption notification system is effective*

#### Why does this measure matter?

If anti-corruption arrangements concerning law enforcement agencies are sound, public confidence can be maintained.

The preparedness of the ACC and the AFP to notify corruption issues to ACLEI and to share other information concerning corruption risk, or for members of the public, whistleblowers and government agencies to refer issues direct to ACLEI, indicate a culture that resists corruption.

An effective notification and referral system is indicative of trust in ACLEI to take appropriate and proportionate responses to sensitive information.

How did ACLEI meet this measure?

The effectiveness of the corruption notification system is demonstrated, in part, by the number of corruption issues received by ACLEI. In 2009–10, notifications and referrals rose by 56% to a total of 80 new corruption issues. Table One sets out ACLEI’s performance against KPI One.

TABLE ONE: Performance snapshot – effectiveness of the reporting system

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Law enforcement agencies notify ACLEI of corruption issues in a timely way.	<p>40 notifications were received from the ACC and the AFP, 10 more than in the previous year.</p> <p>During assessment of each corruption issue, ACLEI considers the length of time between an agency becoming aware of a corruption issue and reporting it to ACLEI. ACLEI had no concerns in relation to the timeliness of agency notifications during the reporting period.</p> <p>Stakeholder discussions held with the ACC and the AFP at the end of the reporting year indicate a high level of confidence in the way ACLEI operates, and close alignment with ACLEI’s anti-corruption objectives.</p>	Chapter Five – <i>Assessments and investigations (see, Where corruption information comes from)</i>
Other agencies provide information about corruption issues to ACLEI.	Two referrals were received from other government agencies, the same number as in previous years.	
ACLEI is seen as viable for reporting information about corruption.	<p>The number of referrals received from whistleblowers increased from one in 2008–09 to eight in 2009–10.</p> <p>The number of referrals received from members of the public increased from 17 to 24 in the reporting period.</p>	

KPI TWO – ACLEI assesses all notifications and referrals of corruption issues in a timely way

Why does this measure matter?

Some investigations will be time-critical because detection, target identification and preservation of evidence each rely on the rapid analysis of new information and a prompt response from ACLEI.

Timeliness in assessments is also important in order to allow the ACC or the AFP, as the case may be, to mitigate against the operational integrity risks raised by corruption issues.

People or agencies approach ACLEI in the reasonable expectation that the information they provide will be treated seriously and dealt with appropriately. Timeliness in assessments is one way of demonstrating that appropriate action is being taken.

### How did ACLEI meet this measure?

ACLEI allocates resources based on an objective assessment of priority. All information provided to ACLEI is given a preliminary assessment upon receipt. Urgent work is prioritised ahead of work that is less time-critical. Full assessments, which may be completed later, culminate in a decision about how the issue will be dealt with under the LEIC Act. In this way, ACLEI applies a risk management framework to achieve its objectives within existing resources. (For more information about ACLEI's assessment process, see *How workload was dealt with*, Chapter Five – *Assessments and investigations*.)

As an indicative benchmark, ACLEI aims to complete 75% of assessments within 90 days. Last year, 27% of assessments were completed within this timeframe.

In 2009–10, ACLEI applied additional staffing resources to the assessment role. In addition, a change in practice provided for the delegation to the Executive Director of some decision-making powers relating to assessments. Depending on the relative importance of the issue being considered, this change allowed decision-making to occur more quickly.

In this reporting year ACLEI received 80 issues for assessment, and carried forward 20 assessments that had been in progress at the close of 2008–09. Seventy-one assessments were completed in 2009–10, of which 43 (or 60%) were completed within 90 days of receipt. At the end of the reporting year, there were only seven assessments pending that were older than 90-days, demonstrating that ACLEI made substantial progress in 2009–10 in finalising dated assessments from the previous year, and in completing new assessments in a timely way. A further 22 assessments were in progress, all still within the three month time frame. Table Two sets out these results.

**TABLE TWO:** Performance snapshot – assessments are prioritised

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Upon receipt, ACLEI assesses information about corruption to determine how each issue should be dealt with. Credible information about corruption is prioritised.	<p>ACLEI's assessment and prioritisation process includes factors such as: reliability of information; susceptibility of the issue to investigation; and seriousness and impact.</p> <p>All referrals and notifications were subject to initial assessment upon receipt, to determine their priority. 100% of all issues that raised serious concerns received prompt attention.</p> <p>At the close of the year, 29 assessments were outstanding, of which only seven were more than 90 days old.</p>	Chapter Five – <i>Assessments and investigations</i> (see, <i>How workload was dealt with</i> )

KPI THREE – ACLEI’s investigations are conducted professionally and efficiently, and add value to the integrity system

Why does this measure matter?

Independent assurance to the Australian Government about the integrity of Commonwealth law enforcement agencies and their staffs is achieved through investigation reports made by the Integrity Commissioner to the Minister, and through briefings concerning sensitive issues.

The purpose of investigation reports and briefings is to ensure that the Minister is informed and able to respond appropriately to concerns about corrupt conduct that may challenge public confidence in law enforcement agencies.

Fair practices, objective decision-making, and high quality products foster confidence in ACLEI. Accordingly, ACLEI’s investigations must be well managed, solutions-oriented and constructive, and aim to achieve sustained improvements to the integrity system.

How did ACLEI meet this measure?

Governance mechanisms for investigations were strengthened during the year: operational guidelines were updated to take account of experience, investigation planning was improved to meet to ACLEI’s strategic objectives, procedures for the fair exercise of the Integrity Commissioner’s coercive and intrusive powers were reviewed, and standards for investigation reports were developed further.

In addition, revised management measures ensured that investigations remained focussed on strategic objectives and that resources were used appropriately.

ACLEI adds value to the integrity system by assisting the ACC and the AFP to manage corruption risks. During the reporting year, ACLEI disseminated information to the ACC and the AFP, comprising information obtained through coercive hearings and other means. The information provided by ACLEI has led to disciplinary proceedings being commenced by those agencies, and the deployment of various risk-mitigation strategies (see *Disseminations* in Chapter Five – *Assessments and Investigations*).

TABLE THREE: Performance snapshot – investigations add value to the integrity system

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Investigations adhere to the Integrity Commissioner’s Investigation Guidelines.	<p>Each investigation is governed by both strategic and tactical investigation plans.</p> <p>The management of investigations is reviewed by the Executive Director at key milestones, such as the exercise of powers, or to ensure effective use of intelligence.</p> <p>Towards the close of 2009–10, ACLEI strengthened post-investigation analysis to monitor adherence to operational guidelines and to inform performance improvement measures.</p>	Chapter Nine – <i>Accountability</i> (see, <i>Internal accountability</i> )

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
ACLEI investigations are properly managed.	<p>The deployment of investigative resources was reviewed by managers on a weekly basis against ACLEI's strategic priorities. In this way, a number of investigations were refocussed, and one was discontinued during the reporting period.</p> <p>Disseminations of information were made to the ACC and the AFP concerning issues indicating serious breaches of duty.</p> <p>One complaint in relation to timeliness of two ACLEI investigations was investigated by the Commonwealth Ombudsman in the reporting period. ACLEI has since completed the reports.</p>	<p>Chapter Five – <i>Assessments and investigations</i> (see, <i>ACLEI Investigations and Disseminations</i>)</p> <p>Chapter Nine – <i>Accountability</i> (see, <i>Internal accountability and Commonwealth Ombudsman</i>)</p>
Investigation reports provided to the Minister are of high quality.	<p>The three investigation reports completed in 2009–10 allowed the Minister to be satisfied that the relevant corruption issues had been dealt with properly.</p> <p>All reports adhered to ACLEI's reporting guidelines, and complied with the requirements of the LEIC Act.</p> <p>All reports received positive feedback from key stakeholders.</p>	<p>Chapter Two – <i>Agency Overview</i> (see, <i>Responsibilities and powers</i>)</p> <p>Chapter Six – <i>Reports to the Minister</i></p>
Advice is provided to the Minister in a timely way.	<p>In 2009–10, while mindful of the principle that the decisions of the Integrity Commissioner must remain free from political interference, the Integrity Commissioner kept the Minister and the Attorney-General's Department appropriately informed of issues relating to ACLEI and its investigations.</p> <p>All requests for Minister's Office Briefings were met to appropriate standards within agreed time frames.</p>	Chapter Two – <i>Agency Overview</i> (see, <i>Independence</i> )

## KPI FOUR – ACLEI monitors the quality of corruption investigations conducted by law enforcement agencies

### Why does this measure matter?

The Integrity Commissioner may refer corruption issues to the ACC and the AFP for internal investigation. At the conclusion of an investigation, a report must be provided to ACLEI. The Integrity Commissioner may make recommendations and comments concerning the final report of an agency corruption investigation.

ACLEI's scrutiny of internal investigation reports: provides grounds for public confidence that investigations are conducted properly; is a safeguard to ensure that agencies remain engaged with their responsibility for the integrity of their own staffs; allows ACLEI to be updated about corruption risks; and permits ACLEI to focus its own investigations on serious and systemic corruption issues.

In these ways, ACLEI adds value to the agencies' own efforts to manage corruption risks.

How did ACLEI meet this measure?

ACLEI met on a case-by-case basis with the professional standards units of the ACC and the AFP to discuss the progress of investigations into corruption issues that the Integrity Commissioner had referred for internal investigation.

ACLEI received six reports for review during the reporting period, of which four were AFP internal investigations, one was an ACC internal investigation, and one was an investigation conducted by a State integrity agency. The Integrity Commissioner did not consider that any comments or recommendations were necessary, and accepted the conclusions of the reports. At the close of the reporting year, forty internal investigations were in progress, and a further two investigations were being conducted by the AFP about the ACC, representing 70% of all investigations then in progress.

ACLEI will enhance the management of this external aspect of its workload during 2010–11 to ensure that developments in inquiries made by agencies, or additional information from ACLEI, are communicated quickly. It is intended that this measure will lead to more timely escalation or to closure of issues, as determined by the evidence. From July 2010, a manager of assessment and review has been appointed for this purpose.

TABLE FOUR: Performance snapshot – law enforcement agency internal investigations

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
All agency corruption investigation reports provided to ACLEI are assessed for quality and completeness.	All agency corruption investigation reports provided to ACLEI during the reporting period were assessed.  All agency investigation report conclusions were accepted and no comments or recommendations were necessary.	Chapter Five – <i>Assessments and Investigations</i> (see, <i>Agency investigations</i> )
ACLEI liaises regularly with the agencies' professional standards units.	In 2009–10, ACLEI met monthly with the professional standards areas of the ACC and the AFP, and more often as case-work required.  ACLEI and AFP Professional Standards held a joint workshop to set expectations of each agency's contribution to the LEIC Act framework, and to identify strategies to improve efficiency and effectiveness.	Chapter Four – <i>Strengthening Integrity Systems</i> (see, <i>Integrity partnerships</i> )

KPI FIVE – ACLEI contributes to policy development and law reform in accountability and corruption prevention relating to law enforcement

Why does this measure matter?

Government policy settings influence the corruption-deterrence environment, and may affect the threat environment (for instance, by adopting new law enforcement methods).

Accordingly, an important function of the Integrity Commissioner is to advise Government about patterns and trends in corruption risks in law enforcement, and to recommend any changes to law and policy or to agency practices and procedures that may be desirable.

### How did ACLEI meet this measure?

The Integrity Commissioner seeks to ensure that ACLEI's investigations draw lessons about corruption risk and how it may be controlled. The Integrity Commissioner's recommendations and observations in this regard are developed with reference to contemporary research about the treatment and prevention of corrupt conduct.

During 2009–10, based on this experience, the Integrity Commissioner made submissions or provided other contributions to policy development and law reform on subjects relating to the integrity system including: corruption prevention, corruption risk, the use by organised crime of corruption as an enabler or facilitator, secrecy law, and corruption risk in Australia's ports and airports.

**TABLE FIVE:** Performance snapshot – improving corruption resistance

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Each investigation addresses corruption risk and, where warranted, makes recommendations for systemic improvement in corruption prevention or detection measures.	<p>One investigation report provided to the Minister included consideration of potential corruption risks, relevant to the issues under scrutiny. The ACC used ACLEI's analysis to strengthen its corruption resistance strategies.</p> <p>ACLEI publishes annually a 'patterns and trends' analysis, based on assessments, intelligence-gathering and investigation outcomes.</p>	<p>Chapter Six – <i>Reports to the Minister</i></p> <p>Chapter Seven – <i>Patterns and Trends</i></p>
Submissions that relate to corruption prevention or enhancing integrity may be made to government or in other relevant forums.	<p>ACLEI made four formal submissions to Australian Government or parliamentary inquiries during the reporting period and provided policy input to a number of other inquiries and initiatives, including research projects.</p> <p>ACLEI's submissions to these inquiries were cited with approval in each instance, and a number of suggestions have since been adopted in recommendations and in draft legislation.</p>	Chapter Four – <i>Strengthening Integrity Systems</i> (see, <i>Anti-corruption policy and Building resistance to corruption</i> .)

### KPI SIX – *staff members of law enforcement agencies are made aware of ACLEI's role*

#### Why does this measure matter?

Corruption deterrence relies on the prospect and expectation of detection, and also of exposure. ACLEI needs to be well-known and trusted by staff members and managers of law enforcement agencies in order to receive information about possible corrupt conduct.

In addition, the deterrence framework is enhanced by building common understanding about corruption among members of law enforcement agencies. Raising awareness about ACLEI's role communicates to law enforcement staff members the Australian Government's commitment to building a corruption-resistant law enforcement culture, and helps to engage them and instil shared values.



This effort helps to create a law enforcement culture that is resistant to corruption and in which individuals, including whistleblowers and managers, are able to recognise the indicators of corrupt behaviour and are willing to report information appropriately.

How did ACLEI meet this measure?

ACLEI promotes itself in law enforcement agencies and more broadly using a variety of strategies, including presentations and the distribution of a promotional pamphlet and other publications. Awareness-raising presentations to the ACC and the AFP are often made in conjunction with targeted training programs by those agencies, and are tailored to the audience.

During 2009–10, the Integrity Commissioner and other ACLEI staff addressed a total of 40 strategically-selected audiences.

TABLE SIX: Performance snapshot – awareness-raising

MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Marketing and other awareness-raising activities are in place, including joint initiatives with other agencies.	Five awareness-raising presentations were delivered to ACC audiences.	Chapter Four – <i>Strengthening Integrity Systems</i>  Appendix 1 – <i>Papers and Presentations by the Integrity Commissioner</i>
	Twenty-one awareness-raising presentations were delivered to AFP audiences.	
	The ACC and the AFP each promote ACLEI on their intranets and in targeted communications with their staff members.	
Targeted presentations about integrity are made to diverse audiences.	<p>The Integrity Commissioner or senior ACLEI staff made 13 presentations to public or special interest audiences in 2009–10.</p> <p>The Integrity Commissioner’s speech <i>Corruption: Matching measures to risks</i> was published in July 2009 in <i>The Canberra Times</i>’ supplement, <i>The Public Sector Informant</i>.</p>	Appendix 1 – <i>Papers and Presentations by the Integrity Commissioner</i>

KPI SEVEN – ACLEI handles personal information appropriately

Why does this measure matter?

ACLEI’s detection and investigation roles rely on the collection of sensitive law enforcement information. Accordingly, ACLEI has been granted significant powers to gather information relating to possible corrupt conduct.

However, agencies and other informants will only share information with ACLEI if they are assured of its appropriate handling, thereby enabling ACLEI to be a trusted and effective guard against corruption.

### How does ACLEI meet this measure?

During 2009–10, ACLEI’s secure operations facility was completed. The physical and technical features of the facility allow secure information-handling, including in taskforce settings. This significant security measure is a prerequisite for obtaining access to sensitive law enforcement databases. Staff also underwent mandatory security awareness training, in compliance with the Australian Government’s *Protective Security Manual*.

**TABLE SEVEN:** Performance snapshot – handling sensitive information

KEY PERFORMANCE INDICATOR:		
MEASURE	PERFORMANCE SNAPSHOT	FURTHER INFORMATION
Regular privacy audits are undertaken to ensure compliance with legal obligations and better practice policy for information-handling.	During the year, ACLEI’s auditors, Deloitte Touche Tohmatsu Limited, commenced an internal audit of ACLEI’s information handling practices.	Chapter Nine – <i>Accountability</i> (see, <i>Internal accountability</i> )
	The Integrity Commissioner published on the ACLEI website information-handling guidelines, relating to coercive or intrusive collection methods.	Chapter Four – <i>Strengthening Integrity Systems</i>

## Factors influencing performance

Three main factors or events influenced ACLEI’s performance during the reporting year.

First, ACLEI received resources for five additional staff from 1 July 2009. ACLEI’s secure operations facility was also functional early in the reporting year. These measures enhanced ACLEI’s capacity and efficiency.

Secondly, the number of notifications and referrals increased by 56% to a total of 80 new corruption issues. This workload, when combined with the 49 issues brought forward from the previous year, meant that close management was needed to ensure that resources remained directed to best effect.

Thirdly, a legal challenge was brought in the Federal Court of Australia by Nationwide News Pty Ltd (publishers of *The Australian* newspaper), under the *Administrative Decisions (Judicial Review) Act 1977*. The challenge concerned a joint investigation by ACLEI and the Office of Police Integrity (Victoria) of issues related to an unauthorised disclosure of law enforcement information to the newspaper. An injunction was granted in March 2010, temporarily restraining publication of information relating to the investigation. Consent Orders were later entered into, allowing ACLEI’s investigation to proceed.

The challenge caused an unexpected diversion of ACLEI’s resources for several weeks.

## Financial performance

### Financial summary

As Table Eight shows, the budgeted cost to Government for ACLEI for 2009–10 was \$4.127 million (up from \$2.821 million the previous year), providing for an average staffing level of 17 people, including the Integrity Commissioner (up from 12 the previous year).

During 2009–10, ACLEI sought approval for an operating loss of \$0.250 million to provide for unfunded depreciation expenses associated with a capital injection that ACLEI received in 2008–09 for the fit-out of additional premises. The Minister for Finance and Deregulation approved this request in April 2010, allowing ACLEI to record an operating deficit of \$0.165 million.

Action has occurred since to ensure that, in forward years, these annual depreciation expenses will be reflected correctly in budget estimates.

Taking account of the approved operating deficit, the actual cost of ACLEI to Government in 2009–10 was \$4.292 million.

As a consequence of measures announced in the 2010 Budget, ACLEI will receive additional annual funding of \$0.4 million for a further two staff from 1 July 2010. These resources arise from savings identified within the AFP's budget, and have been transferred to ACLEI as an additional investment in the law enforcement integrity framework.

### Significant developments

Table Eight also shows that ACLEI anticipates receiving additional resources as a result of a decision made by Government in July 2010 to include, initially by Regulation, the Australian Customs and Border Protection Service within the Integrity Commissioner's jurisdiction. This measure was announced in the *Pre-Election Economic and Fiscal Outlook 2010* and is yet to be confirmed by the Parliament as part of the Budget Additional Estimates process.

This proposed transfer of funds from the Australian Customs and Border Protection Service will enable ACLEI to appoint up to five additional staff for the initial implementation of the measure, which is due to commence on 1 January 2011.

**TABLE EIGHT:** Resources available to ACLEI

	2008–09		2009–10		2010–11		2011–12	
	ORIGINAL BUDGET*	ACTUAL EXPENSES <sup>#</sup>	ORIGINAL BUDGET*	ACTUAL EXPENSES <sup>#</sup>	ORIGINAL BUDGET**	PEFO 2010 CUSTOMS TRANSFER***	ORIGINAL BUDGET**	PEFO 2010 CUSTOMS TRANSFER***
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Resources	2,821	2,963	4,127	4,292	4,779	400	4,779	700
Average staffing level	12	14.3	17	17.2	19	5 <sup>##</sup>	19	5

\* Budgeted estimates are based on Table 3.2.1: Budgeted departmental income statement, ACLEI, *2009–10 Portfolio Budget Statements, Budget Related Paper No. 1.2, Attorney-General's Portfolio*, p 90.

<sup>#</sup> Actual expenses include Original Budget, Revenue from Government, and Budgeted Operating Loss approvals made by the Minister for Finance and Deregulation on an annual basis.

\*\* Budgeted estimates are based on Table 3.2.1: Comprehensive Income Statement, ACLEI, *2010–11 Portfolio Budget Statements, Budget Related Paper No. 1.2, Attorney-General's Portfolio*, p 88.

\*\*\* Budgeted estimates are based on Table B5: Expense measures since the Economic Statement, *Pre-Election Economic and Fiscal Outlook 2010* (PEFO), p 28. Transfer of resources is for an expanded jurisdiction, namely the Australian Customs and Border Protection Service, announced in the PEFO and anticipated to commence from 1 January 2011. These initial resourcing levels will be subject to review by Government following implementation.

<sup>##</sup> In 2010–11, these resources are available for the second half of the financial year only.

## Performance

ACLEI's audited 2009–10 Financial Statements appear in Part Four of this report.

The Integrity Commissioner again reports that ACLEI received an unqualified audit opinion from the Australian National Audit Office (ANAO) for these accounts. For convenience, some major features of the accounts reflecting ACLEI's financial performance are summarised in this section.

Table Nine sets out the total resources available to ACLEI during the year, including: unspent appropriations from previous years (which require permission from the Minister for Finance and Deregulation to be used in any year); and unspent departmental non-operating equity injections from previous years.

**TABLE NINE:** Agency Resource Statement 2009–10

	ACTUAL AVAILABLE APPROPRIATION FOR 2009–2010 \$'000	PAYMENTS MADE 2009–2010 \$'000	BALANCE REMAINING 2009–2010
	(a)	(b)	(a) – (b)
<b>Ordinary Annual Services</b>			
Departmental appropriation <sup>1</sup>	4,127	3,918	209
Previous years' outputs <sup>2</sup>	3,415	522	2,893
S 31 Relevant agency receipts <sup>3</sup>	159	–	159
Others <sup>4</sup>	7	7	–
<b>Total</b>	<b>7,708</b>	<b>4,447</b>	<b>3,261</b>
<b>Total ordinary annual services (A)</b>	<b>7,708</b>	<b>4,447</b>	<b>3,261</b>
<b>Departmental non-operating</b>			
Previous years' outputs <sup>5</sup>	887	641	246
<b>Total</b>	<b>887</b>	<b>641</b>	<b>246</b>
<b>Total other services (B)</b>	<b>887</b>	<b>641</b>	<b>246</b>
<b>Total Available Annual Appropriations and payments</b>	<b>8,595</b>	<b>5,088</b>	<b>3,507</b>
<b>Total net resourcing for ACLEI (A + B)</b>	<b>8,595</b>	<b>5,088<sup>6</sup></b>	<b>3,507</b>

1 Appropriation Bill (No.1) 2009–10.

2 Prior year departmental appropriations available at 1 July 2009.

3 Section 31 relevant agency receipts.

4 Section 30 repayments to the Commonwealth.

5 Prior year department non-operating appropriations available at 1 July 2009.

6 Total payments are exclusive of GST.

Table Ten shows the net cost of ACLEI's Outcome and Program. As previously noted, the net result for ACLEI's output was an operating loss of \$0.165 million (refer also to Note 16A of the Financial Statements, *Net Cost of Outcome Delivery*).

**TABLE TEN:** Expenses and Resources for Outcome One

Outcome 1 – Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity, by detecting, investigating and preventing corruption.

	BUDGET* 2009–10 \$'000	ACTUAL EXPENSES 2009–10 \$'000	VARIATION 2009–10 \$'000
	(a)	(b)	(a) – (b)
<b>Program 1.1: Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members</b>			
Departmental expenses			
Ordinary Annual Services (Appropriation Bill No. 1)	4,127	4,292	(165) <sup>#</sup>
<b>Total expenses for Program 1.1</b>	<b>4,127</b>	<b>4,292</b>	<b>(165)</b>
<b>Total expenses for Outcome 1</b>	<b>4,127</b>	<b>4,292</b>	<b>(165)</b>

ACTUAL AVERAGE STAFFING LEVEL (NUMBER)	2008–09	2009–10
	14.3	17.2

\* Full year budget, including any subsequent adjustment made to the 2009–10 Budget.

<sup>#</sup> Variation is the deficit attributable to the Australian Government.

# CHAPTER 4

## STRENGTHENING INTEGRITY SYSTEMS

This chapter describes ACLEI's contribution to the law enforcement integrity framework.

### Building ACLEI's operational capability

During the reporting year, ACLEI continued to develop and acquire the capabilities required to support the Integrity Commissioner's outlook and strategic focus.

#### Operations facility

The 2008 Federal Budget allocated \$750,000 to fit out a secure operations facility for ACLEI. The new high-security accommodation for ACLEI's legal, intelligence, investigation and seconded taskforce staff was completed and became functional in August 2009. The facility was formally opened on 2 December 2009 by the Minister for Home Affairs,<sup>1</sup> the Hon. Brendan O'Connor MP.

The facility is a pre-requisite for the type of work which ACLEI does, and provides a base from which many of the special challenges to the detection and investigation of corrupt conduct in law enforcement can be met.

For instance, with the establishment of secure accommodation and security-rated Information and Communication Technology (ICT) infrastructure, ACLEI's investigators and analysts have the facilities to access—remotely and conveniently—information held in law enforcement databases.



The Integrity Commissioner, Mr Philip Moss, and the Minister for Home Affairs, the Hon. Brendan O'Connor MP, at the opening in December 2009 of ACLEI's secure operations facility.

<sup>1</sup> Since 14 September 2010, the Hon. Brendan O'Connor MP is the Minister for Home Affairs and Justice.

## Telecommunications interception

With ACLEI's secure accommodation project completed, ACLEI is developing a telecommunications interception monitoring capability to complement its existing information-gathering and intelligence functions. In January 2010, senior ACLEI staff visited the AFP's telecommunications interception facility to be briefed about the related technologies and procedures used by the AFP. ACLEI staff also attended a national policy and practitioners' forum comprised of agencies with telecommunications interception powers.

## Additional staff

Additional funding for ACLEI became available in the 2009–10 year, enabling five more staff to be appointed to ongoing operations and support positions.

Also during the year, a staff member was seconded from each of the AFP and the Australian Taxation Office to work on specific investigations.

These appointments and secondments allowed opportunities for skill and knowledge transfer, and enhanced ACLEI's capacity to develop more sophisticated investigation techniques. The increased staffing also enabled ACLEI to assess notified or referred corruption issues more effectively.

## Investigative skills

As a small interdependent team, it is important that ACLEI's investigators and intelligence analysts can work across multiple disciplines to deal with the types of corruption issues that arise in law enforcement.

Accordingly, in 2009–10, ACLEI continued to invest in targeted skills development for its operations staff, including: scientific content analysis of written statements, intelligence collection and analysis, behavioural interviewing skills, and specific training in the tools and technologies available to them.

In March 2010, ACLEI invited participants from the Corruption and Crime Commission (Western Australia), the Crime and Misconduct Commission (Queensland), the Office of Police Integrity (Victoria) and the Police Integrity Commission (New South Wales) to its inaugural *Behavioural Interviewing Skills Enhancement Program* (BISEP).

The week-long program, which ACLEI develop for its own staff in partnership with a private company, is for corruption investigators and focuses on the use of behavioural science methods for interviewing people who are themselves experienced investigators. BISEP draws on contemporary research from the last two World Investigative Interviewing Conferences and teaches the latest in techniques from the United States of America and the United Kingdom.

BISEP also provided an opportunity for ACLEI to give expression to the *Memorandum of Understanding for International Cooperation on Combating Corruption*, which the Integrity Commissioner signed in July 2009 with the Corruption Eradication Commission of the Republic of Indonesia (KPK). ACLEI was pleased to welcome two participants from the KPK to BISEP. More information on the Memorandum of Understanding with the KPK can be found later in this chapter.

ACLEI intends to offer the BISEP program again in 2011.



### ACLEI ‘hotline’

During the reporting year, ACLEI introduced a new ‘hotline’ to make it easier for members of the public and whistleblowers to contact ACLEI.

At the end of the reporting period, of the calls received by the hotline, thirteen provided information about possible corrupt conduct. Of those calls, five were referrals of new corruption issues and were assessed accordingly, one caller reported an issue that was already under investigation, and four calls provided information which was added to ACLEI’s intelligence holdings. Three calls concerned agencies outside of ACLEI’s jurisdiction.

The ACLEI hotline number is (02) 6229 9393; +61 2 6229 9393.

### Legal practice

The ability to conduct coercive information-gathering hearings under the LEIC Act is an important aspect of the Integrity Commissioner’s role, and sets ACLEI apart from the courts and many other law enforcement agencies. To support the Integrity Commissioner in this role, ACLEI has an in-house lawyer, who provides a counsel-assisting service for hearings. During the reporting year, 27 coercive information-gathering hearings were conducted in relation to six investigations.

The legal practice is also responsible for the secure, lawful and accountable handling of all legal documents, including any matters related to warrants, notices and summonses. Forty-five such documents were issued during the reporting year, in relation to four investigations, including ACLEI’s first applications for search and telecommunications interception warrants.

ACLEI’s legal practice further supports the Integrity Commissioner by identifying legal policy issues relevant to ACLEI’s functions and powers (for examples, see Appendix Three), and updating ACLEI’s procedures, as appropriate.

## Understanding our environment

For ACLEI to perform its role and functions effectively, it is essential that the operational environment of the agencies in its jurisdiction is understood. Some of the themes, which are discussed below, are developed further in Chapter Seven – *Patterns and Trends*.

A broader scan of changes in ACLEI’s operating environment is included at Appendix Three – *Changes in our environment*.

### Understanding law enforcement corruption risks

ACLEI seeks to remain familiar with the diversity of agencies’ activities and locations in order to understand their practical challenges. For instance, law enforcement members deployed internationally sometimes work in environments that have specific corruption-risk challenges, while some specialist teams, such as those involved with drug investigation at Australia’s borders, are attractive to organised crime for attempted infiltration and compromise.

During the reporting period, the Integrity Commissioner or senior ACLEI staff members visited several ACC and AFP regional and special purpose offices to meet staff and managers in Canberra, Melbourne and Sydney, and (in the case of the AFP) the Solomon Islands.

## Understanding the organised crime threat environment

In the previous reporting year, the Integrity Commissioner re-oriented ACLEI's strategic focus towards countering the possible corrupt relationship between willing or vulnerable law enforcement agency staff members and organised criminal groups. The Integrity Commissioner described this potential relationship as the 'corruption handshake'.

The concept of the corruption handshake builds on ACLEI's role to provide assurance of the integrity of law enforcement agencies in its jurisdiction, to help safeguard them against infiltration and compromise by organised crime.

The additional value of the concept is that it enables ACLEI to work in active partnership with Australian Government agencies that have law enforcement functions by using its investigations and intelligence holdings to assist them in the fight against organised crime. For example, indications of possible corrupt conduct by staff members of law enforcement agencies may be used as a source of information about organised criminal groups.

During the year, in the context of ACLEI investigations, the Integrity Commissioner and senior ACLEI staff met separately with representatives of the ACC and AFP to discuss developments in the organised crime threat environment.

## Future focussed

In June 2010, the AFP hosted 27 Police Commissioners and executive law enforcement leaders and academics from Australia and around the world at the fourth annual *Pearls in Policing* conference, which was held in Sydney. *Pearls in Policing* is an international event, where participants share ideas, knowledge and policing experience in an informal and interactive setting.

The conference theme for 2010 was *Navigating the Way Ahead*. Participants explored ways in which police and law enforcement agencies could identify and prepare for future challenges. Presentations on the topics of international collaboration, media management and managing organisational change also informed discussions.

The Integrity Commissioner was invited to attend the conference as one of three external observers to provide critical and objective feedback on the feature presentation, which was 'enhancing police legitimacy and public trust'. In his commentary, the Integrity Commissioner offered a positive example from Australia of how leadership may shape the future, namely the AFP's approach in ensuring that robust and appropriate integrity frameworks exist in order to better withstand challenges facing policing, both present and future. The Integrity Commissioner encouraged participants to look, not for a single solution, but for a mindset approach to dynamic issues and problems.

## Integrity partnerships

Cooperative arrangements with government agencies at Commonwealth, State and Territory levels are critical if ACLEI is to combat corruption effectively in Australian law enforcement agencies. Accordingly, ACLEI devotes time and effort to establishing and maintaining productive relationships with key partners in the integrity system.

## Agencies in the Integrity Commissioner's jurisdiction

The responsibility for maintaining and improving integrity in law enforcement is shared between the Integrity Commissioner and the heads of the law enforcement agencies whose staff (and former staff) are subject to the scrutiny of ACLEI. Accordingly, during 2009–10, the Integrity Commissioner again met regularly with the Chief Executive Officer of the ACC and with the AFP Commissioner. Meetings also occurred between ACLEI managers and other senior staff of those agencies.

ACLEI aims for robust relationships with these agencies, whereby the Integrity Commissioner brings an independent perspective and specialist skills to the challenge of deterring and disrupting corrupt conduct in high corruption-risk environments.

As a result of feedback from both agencies, the regular Managers' meetings were re-focused in 2009–10 to better meet the needs of all parties. Accordingly, these meetings now have multiple purposes, namely:

- to enable the more efficient assessment and investigation of corruption issues;
- to share information about emerging corruption issues and to discuss arrangements for their investigation;
- to help the ACC and the AFP manage operational risks that arise during corruption investigations; and
- to discuss strategies for deterring and detecting corrupt conduct.

The working relationship with each agency accords with the circumstances, operational profile and anti-corruption arrangements of the agency concerned, as discussed in the following pages.

## Australian Crime Commission

ACLEI's Executive Director meets monthly with the professional standards unit of the ACC. In addition to the purposes already listed, the ACC uses the meeting to provide information and data, to which ACLEI would not otherwise have access, about internal misconduct and corruption risk within the ACC. This information contributes to ACLEI's intelligence holdings and is used as an indicator for ACLEI to assess corruption issues, identify corruption risks and develop strategies to deter corrupt conduct in the ACC.

ACLEI and the ACC work closely to deter and prevent corrupt conduct in the ACC. For example, in March 2010, the ACC asked ACLEI for assistance to develop training materials in relation to a specific corruption risk. In response, ACLEI provided a case study about how aspects of organisational culture may affect corruption risk in a law enforcement agency.

During the reporting period, the Integrity Commissioner and ACLEI staff again made presentations to the internal Ethics Awareness training for ACC managers and staff in Canberra, Melbourne and Sydney, to raise their awareness of ACLEI and of integrity matters.

In 2009–10, in relation to specific ACLEI investigations, the ACC also provided ACLEI with specialist skills and services, such as financial analysis and physical surveillance. The Integrity Commissioner thanks the ACC for providing these services and acknowledges the strength of the integrity partnership between the two agencies.

At the close of the reporting period, the ACC had undertaken to provide ACLEI staff with a briefing about the ACC's activities in relation to organised crime. The briefing has since been provided.

## Australian Federal Police

The integrity partnership with the AFP is supported by the professional relationship between ACLEI and AFP Professional Standards (PRS), with which ACLEI's Executive Director also meets regularly to discuss strategic operational issues relating to ACLEI's investigations.

In April 2009, ACLEI and AFP Professional Standards held a forum, which was addressed by both the Integrity Commissioner and the AFP Commissioner, for their investigative teams with the specific purpose of enhancing the operational engagement between ACLEI and PRS. Participants discussed the improvement of business processes and administrative arrangements between the two agencies, arrangements for reporting, debriefing and communication in relation to investigations, the ongoing development of corruption deterrence measures, and arrangements for intelligence and data sharing.

As an outcome of the forum, at the end of the reporting period a Memorandum of Understanding was under development as a governance measure for the relationship between the two agencies, and the regular liaison meetings between ACLEI's Executive Director and the Manager AFP Professional Standards have been refocused. An additional operations committee has been established and it is intended that ACLEI and AFP PRS will hold a similar forum on an annual basis.

As a reflection of the cooperative relationship, the AFP offered to ACLEI a place on the *Interagency Introduction to Law Enforcement Intelligence* course run by the AFP in Darwin in June 2010. ACLEI sent one staff member to the course and may send others to future courses.

ACLEI and the AFP also work collaboratively to improve the integrity system, both locally and internationally. For instance, in August 2009, at ACLEI's request, the AFP seconded an experienced investigator to ACLEI for three months, to assist with a high priority investigation. For other investigations, the AFP has provided specialist skills and services that would not otherwise be available to an agency of ACLEI's size.

As to the international perspective, an ACLEI senior staff member twice travelled together with the AFP to the Regional Assistance Mission to the Solomon Islands (RAMSI) to address the *Major Investigation Management Workshop (Integrity Investigations)* which aims to assist the Royal Solomon Islands Police Force to build a robust integrity system.

ACLEI and the AFP continue to work cooperatively to detect and deter corruption in the AFP and, more broadly, to reinforce the integrity framework.

## State integrity agencies

The strong links that exist between ACLEI and the State integrity agencies continued in 2009–10. In the reporting period, this cooperation included operational and training activities with the Corruption and Crime Commission (Western Australia), the Crime and Misconduct Commission (Queensland), the Office of Police Integrity (Victoria) and the Police Integrity Commission (New South Wales).

During the year, the Integrity Commissioner and ACLEI staff met on several occasions with the heads and operations staff of each of these agencies to exchange information and to discuss investigation methods. The Integrity Commissioner conducted two joint investigations with State integrity agencies during 2009–10.

The Integrity Commissioner again used the purpose-built hearing room facilities of some State integrity agencies for ACLEI hearings conducted outside of Canberra. ACLEI also used specialist services, such as surveillance, provided by State integrity agencies. The Integrity Commissioner appreciates the provision of these resource-intensive or specialist services and acknowledges the impact upon the State integrity agencies' own demands for the same services.

In March 2010, State anti-corruption agencies with responsibility for police integrity sent participants, at no tuition expense, to ACLEI's inaugural *Behavioural Interviewing Skills Enhancement Program* (BISEP). ACLEI also contributed to research initiatives conducted by State integrity agencies and facilitated a session at the *Police integrity research forum*, hosted by the Crime and Misconduct Commission in Brisbane in July 2009. More information about BISEP, research initiatives and the forum is available elsewhere in this chapter.

In these ways, ACLEI's partnerships with State integrity agencies have helped to increase the capacity of the broader law enforcement integrity system.

### The Australian and New Zealand Police Integrity Leadership Forum

The Integrity Commissioner is a founding member of the Australian and New Zealand Police Integrity Leadership Forum, which met for the first time in April 2010. The Forum recognises that the exchange of information and the establishment of cooperative relationships are essential for agencies working in this field, and represents a maturing of the integrity framework in Australasia. Accordingly, the leaders of agencies with oversight of integrity in law enforcement agencies convened for two days to exchange views and discuss topics of common interest.

The inaugural meeting of the Forum was hosted by the Office of Police Integrity. The next meeting, to be hosted by the New Zealand Independent Police Conduct Authority, will be held in Wellington in November 2010. Topics proposed for discussion at that meeting include measuring agency effectiveness, maintaining public and stakeholder support, working cooperatively, and a forward scan of the policing and oversight environment in the next 5 to 10 years.

### The national intelligence community

The work of law enforcement and that of the intelligence community intersect on many practical levels. For example, law enforcement agencies and intelligence agencies collaborate in joint operations and taskforces countering terrorism and people-smuggling.

Accordingly, the integrity framework needs to be able to traverse the various operational arrangements that exist, or that may be brought into existence, in relation to national security issues. For this reason, ACLEI maintains contact with the Inspector-General of Intelligence and Security and some agencies in the intelligence community.

During the reporting year, the Integrity Commissioner twice participated as a panel member in training for the managers and leaders of the national intelligence community, on the subject of *Professionalism and ethics in the National Intelligence Community*. For each group, the Integrity Commissioner provided a case study which contained lessons, based on information from ACLEI investigations, about corruption risks in law enforcement that could also occur in the intelligence environment.

### Commonwealth and Law Enforcement Ombudsman

The Commonwealth and Law Enforcement Ombudsman, who has particular responsibilities under Part V of the *Australian Federal Police Act 1979* concerning the AFP's system for handling complaints, is a part of the Commonwealth law enforcement integrity framework.

Accordingly, ACLEI is mindful of the Ombudsman's responsibilities and functions during the assessment and investigation of corruption issues. When it emerges that an issue may be dealt with more conveniently or appropriately by the Ombudsman as either misconduct or

maladministration, ACLEI may recommend to the informant that he or she raise the matter with the Ombudsman, or ACLEI may refer the matter direct. One matter was referred to the Ombudsman in this manner during the reporting period.

ACLEI also endeavours to engage with the Ombudsman in other ways. In November 2009, ACLEI gave officers of the Ombudsman's Law Enforcement team a briefing about corruption risk in law enforcement. ACLEI also shares research with the Ombudsman's office that is pertinent to the integrity framework.

## Building resistance to corruption

One of the objectives of the LEIC Act is to maintain and improve the integrity of staff members of law enforcement agencies.

ACLEI is the only Australian Government agency whose sole focus is to combat corruption. Accordingly, ACLEI has a contribution to make in sharing information about corruption risk and deterrence measures. Drawing on ACLEI's detection, intelligence and investigation activities, the Integrity Commissioner uses complementary strategies—such as corruption prevention, deterrence and awareness-raising measures—to strengthen the integrity framework.

### Promoting ACLEI

For ACLEI to be seen by members of the public and whistleblowers as viable for reporting suspected corrupt conduct, it is important that ACLEI is well known and trusted. Accordingly, the ACLEI website and targeted presentations provide information about how to contact ACLEI if a person were to have concerns about the integrity of a member of the ACC or the AFP, and raise awareness about the role of the Integrity Commissioner in countering corrupt conduct in law enforcement.

ACLEI also makes use of opportunities presented by conferences, individual engagement with stakeholders and academics, and input to anti-corruption policy development, to raise awareness about ACLEI and give prominence to integrity issues in law enforcement. These strategies are discussed elsewhere in this chapter.

### 'Resistance to Corruption' report

ACLEI's publication *Resistance to Corruption*, was given to the Minister in June 2009, and published on ACLEI's website in July 2010. *Resistance to Corruption* is the report of a pilot review conducted by ACLEI jointly with the ACC and the AFP concerning those agencies' anti-corruption arrangements. The aim of the project was to commence building a corruption risk profile for each agency, and to gain a high level understanding of the strategies deployed or planned by each agency to address corruption risks, and to identify how ACLEI may contribute to those efforts. The report was well received by the ACC and the AFP and has contributed to planning for the further development of their anti-corruption frameworks.

*Resistance to Corruption* has been distributed at national and international conferences and to relevant parliamentary committees, and, because of demand, will be reprinted in 2010–11.

## Corruption: Matching measures to risks

In July 2009, *The Canberra Times*' supplement, *The Public Sector Informant*, published an article by the Integrity Commissioner entitled *Keeping the Faith: How to guard against corruption*. In that article, the Integrity Commissioner reflected on the nature and history of corruption, discussed the benefits and limitations of different types of corruption treatments, described ACLEI's approach to dealing with corruption, summarised the lessons that ACLEI has learned so far about combating corruption, and challenged readers to assess realistically their corruption risks and mitigation strategies.

The article was an abridged version of a speech, *Corruption: Matching measures to risks*, given to the Corruption Prevention Network in Canberra in June 2009.

## Presentations about integrity

Presentations about integrity are an important method to promote ACLEI, to encourage integrity and ethical conduct, and to raise awareness about contemporary corruption risks and vulnerabilities. ACLEI makes use of its experience and knowledge, gained through assessments, investigations, information-sharing and research, to give prominence to these issues.

During the reporting year, the Integrity Commissioner or senior ACLEI staff made 40 presentations to a range of audiences about integrity topics, including ACLEI's role and corruption prevention. For example, the Integrity Commissioner and other members of ACLEI were invited on three occasions to speak about ethics-in-practice to managers and staff of the Australian Customs and Border Protection Service and twice to managers working in the national intelligence community.

In August 2009, the Integrity Commissioner spoke to ACC senior executives on the topic of *Culture, Values and Ethics*. The Integrity Commissioner stressed the importance of leadership and the role of managers in building a culture in which the merest indication of corruption is recognised as contrary to common values. The Integrity Commissioner also noted that the potential for corruption in law enforcement agencies is more than a question of that agency's accountability, since it has wider implications for security and justice in Australia.

In May 2010, the Integrity Commissioner gave a presentation entitled *Bloodhounds and Watchdogs* to the Institute of Chartered Accountants (ACT), Forensic Accounting Special Interest Group. The Integrity Commissioner discussed corruption indicators, noted how forensic accounting may assist corruption investigations by 'following the money trail' to expose corrupt relationships, and observed that these specialised skills had been used in a number of ACLEI investigations.

Also during the reporting year, the Integrity Commissioner and other ACLEI staff made several other presentations to ACC and AFP audiences about integrity and ethical behaviour.

These occasions and others are noted in Appendix One.

## Anti-corruption policy

The Integrity Commissioner has a responsibility under the LEIC Act to make recommendations for changes to policy, practices and laws in order to reduce opportunity for corrupt conduct in law enforcement, aid its detection, and improve integrity generally. ACLEI's contribution to broader policy development is a natural complement to ACLEI's investigation, intelligence and corruption prevention activities.

In 2009–10, the Integrity Commissioner contributed to policy development in the areas of transparency, accountability, corruption risk and prevention, and law enforcement powers. These activities are summarised in the following pages.

## Inquiry into the Law Enforcement Integrity Commissioner Act

On 14 May 2009, the Parliamentary Joint Committee on ACLEI commenced an inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006*, pursuant to section 223A, which provides for the review of the first three years of the legislation's operation.

In July 2009, the Integrity Commissioner made a written submission to the Inquiry and gave evidence at public hearings on 14 August 2009 and 4 February 2010.

In his written submission, the Integrity Commissioner discussed the development of ACLEI's role and how corruption risk can arise in agencies with law enforcement functions. In relation to questions of jurisdiction, the submission suggested that the LEIC Act should apply to law enforcement agencies that have a high inherent risk of corruption due to:

- information held, or operational activities undertaken, that have a strong nexus with combating serious and organised crime;
- close interaction with other law enforcement agencies that have high inherent corruption risks; and
- operational staff working with a high degree of autonomy or discretion, away from central control.

The Chair of the Committee and Member for Fremantle, Ms Melissa Parke MP, tabled an interim report of the Inquiry in Parliament on 22 February 2010. The interim report made eleven recommendations, including that, as an immediate measure, the Australian Customs and Border Protection Service be brought under ACLEI's jurisdiction.

In her tabling comments to the House of Representatives, Ms Parke said that the recommendation to broaden ACLEI's jurisdiction recognised the level of corruption risk associated with law enforcement functions and was not born of any concern for the integrity or propriety of the current operation of the Australian Customs and Border Protection Service. She remarked also that the agency's existing internal integrity arrangements would be complemented and strengthened by the addition of ACLEI's external scrutiny and corruption prevention assistance. Committee member and Member for Gippsland, Mr Darren Chester MP, endorsed the Chair's comments.

The Inquiry was suspended in July 2010 with the dissolution of the 42nd Parliament for the purpose of the 2010 general election. It is expected that the Inquiry will formally conclude in the following Parliament.

Further information about the interim report and the Committee's recommendations can be found in Appendix Three – *Changes in ACLEI's operating environment*, or on the Committee's website (see [www.aph.gov.au/Senate/committee/aclei\\_ctte/](http://www.aph.gov.au/Senate/committee/aclei_ctte/)).

## Inquiry into aviation and maritime security measures

In September 2009, the Parliamentary Joint Committee on the ACC initiated an *Inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime*.

ACLEI's submission to the Inquiry, provided to the Committee in November 2009:

- focussed on corruption risk at the border;
- supplied a typology of law enforcement corruption, which was developed by ACLEI in 2009; and
- included a copy of ACLEI's *Resistance to Corruption* report.



ACLEI's submission invited the Committee to consider the development of seamless anti-corruption arrangements among the highest corruption risk agencies that operate in the aviation and maritime security environment. The submission suggested that such arrangements could include a joint regular stocktake of corruption risks and measures among all Australian Government agencies that operate in Australia's airports and ports, with a realistic assessment of the effectiveness of controls and acceptance of residual corruption risk.

This Inquiry was also suspended in July 2010 with the dissolution of the Parliament. It is expected to recommence when the Committee is appointed by the 43rd Parliament, following the general election.

### Inquiry into public sector whistleblower protections

In February 2009, the House of Representatives Standing Committee on Legal and Constitutional Affairs tabled its report *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector* in Parliament. The report made 26 recommendations concerning the development of a Public Interest Disclosure Bill. The report, hearing transcripts, ACLEI's two submissions to the Inquiry and the Government response can be found on the Committee's website at [www.aph.gov.au/laca](http://www.aph.gov.au/laca).

The Government, which tabled its response to the report on 17 March 2010, committed to introducing a comprehensive scheme for handling public interest disclosures, and for legislation to be developed accordingly. The proposed scheme will allow for information from 'whistleblowers' to be provided in-confidence to integrity agencies with a responsibility for the subject matter of that public interest disclosure.

During the Committee's deliberations, ACLEI provided advice and perspective, based on its own experience in receiving whistleblower referrals. This year, ACLEI has had consultations with the Department of the Prime Minister and Cabinet about ACLEI's role in the proposed public interest disclosure regime and anticipates further discussions once draft legislation is developed.

### Inquiry into Commonwealth secrecy laws

In August 2008, the Attorney-General asked the Australian Law Reform Commission (ALRC) to conduct an Inquiry into options for ensuring a consistent approach across government for the protection of Commonwealth information, which could be balanced against the need to maintain open and accountable government by providing appropriate access to information.

The Integrity Commissioner's submission, made in February 2009, was informed by several investigations about unauthorised releases of information, together with investigation outcomes from other jurisdictions. A copy of the submission can be found at [www.aclei.gov.au](http://www.aclei.gov.au). ACLEI's submission informed the ALRC's subsequent discussion paper, *Review of Secrecy Laws* (DP 74, June 2009).

In September 2009, responding to the discussion paper, ACLEI made a supplementary submission. ACLEI suggested that protections should be of sufficient breadth to cover official information relating to corruption inquiries into the conduct of public servants under the Australian Public Service Code of Conduct or the LEIC Act. Such protections, in ACLEI's view, would guard against the prospect of 'tip-offs' and collusion between witnesses, or of concealment or destruction of evidence, and protect the value and authority of integrity investigations.

The Attorney-General tabled in Parliament the final ALRC report *Secrecy Laws and Open Government in Australia (ALRC Report 112)* on 11 March 2010. The report contains 61 recommendations for reform, in three broad areas. The report cites ACLEI's submission on seven occasions.

The regime recommended by the ALRC would provide the basis for a more targeted system of protecting official information that could cause harm if it were disclosed inappropriately. The scheme reflects ACLEI's submissions, which centred on ensuring that the deterrence regime (including penalties) is proportionate to harm and is mindful of corruption risk.

More information about the Inquiry may be found on the ALRC website, [www.alrc.gov.au/inquiries](http://www.alrc.gov.au/inquiries).

## Review of the Royal Commissions Act

In January 2009, the Attorney-General asked the ALRC to review the operation and provisions of the *Royal Commissions Act 1902*. The question of whether there is any need to develop an alternative form or forms of Commonwealth executive inquiry, with statutory foundations, to provide an option that is more flexible, less formal and more cost-effective than a Royal Commission (particularly whether there would be any advantage in codifying special arrangements and powers that should apply to such alternative forms of inquiry) was also considered.

The matters considered by the ALRC that are relevant to ACLEI included:

- whether there is any need to develop special arrangements and powers for inquiries involving matters of national security;
- the appropriate balances between powers for persons undertaking inquiries and protections of the rights and liberties of persons interested in, or potentially affected by, inquiries; and
- the appropriateness of restrictions on the disclosure of information to, and use of information by, Royal Commissions and other inquiries, including restrictions contained in other legislation (but not including those arising from the operation of client legal privilege).

The ALRC released a discussion paper, *Royal Commissions and Official Inquiries* (DP 75), in August 2009.

The Integrity Commissioner made a submission to the Inquiry in September 2009, based on ACLEI's experience with the investigation of corruption issues using coercive and intrusive powers. The submission centred on the importance of matching powers to investigative complexity and noted that the exercise of intrusive, covert powers in conjunction with coercive hearings requires considerable experience, as well as the establishment of systems and cooperative arrangements to ensure their effectiveness. The submission also suggested that information-sharing between a Royal Commission or Official Inquiry and ACLEI should be supported by legislation. A copy of the Integrity Commissioner's submission can be found at ACLEI's website, [www.aclei.gov.au](http://www.aclei.gov.au).

The ALRC report, *Making Inquiries: A New Statutory Framework* (ALRC Report 111), was tabled in Parliament on 4 February 2010. The report, which cites ACLEI's submission on five occasions, made recommendations that reflected ACLEI's submission and which also drew on ACLEI's July submission to the Parliamentary Joint Committee on ACLEI *Inquiry into the operation of the Law Enforcement Integrity Commissioner Act 2006*.

The report made 82 recommendations for reform, including that the *Royal Commissions Act 1902* be amended to provide for the establishment of two tiers of public inquiry—Royal Commissions and Official Inquiries—each with defined coercive and investigatory powers.

The report noted that there were sound reasons for the reach and extent of ACLEI's powers and regime of penalties, and that ACLEI is a standing source of expertise to which a Royal Commission or an Official Inquiry could turn for advice or assistance.

More information about the ALRC Inquiry, including the discussion paper and the final report can be found on the ALRC website, [www.alrc.gov.au/inquiries](http://www.alrc.gov.au/inquiries).

## Better Practice Guide on Fraud Control

In 2010, the Australian National Audit Office commenced a review of its *Better Practice Guide to Fraud Control in Australian Government Agencies*. ACLEI met with the reviewers and contributed advice and perspective, from its experience as an anti-corruption agency, about precursors and cultural elements of corruption which also apply to systems of fraud control.

## Crimes Legislation Amendment Bill

The *Crimes Legislation Amendment Bill 2010* was introduced into Parliament in June 2010, but lapsed with the dissolution of the 42nd Parliament for the 2010 general election.

The Bill proposed particular dismissal arrangements in the ACC to deal decisively with serious misconduct and corrupt conduct, whereby certain dismissals would be exempt from the review provisions of the *Fair Work Act 2009*.

The Bill also sought to amend the *Telecommunications (Interception and Access) Act 1979* to allow the ACC CEO to use lawfully intercepted information to investigate any alleged misbehaviour or alleged improper conduct of a member of the staff of the ACC, and to use that information to make a disciplinary decision, including termination of employment.

The Bill reflected corruption prevention measures proposed by ACLEI as a result of early experience gained in investigating corruption issues concerning the ACC. The proposed amendments to ACC dismissal arrangements also respond to a recommendation of the Parliamentary Joint Committee on ACLEI (Recommendation 8, *Inquiry into law enforcement integrity models*, 2009).

ACLEI contributed policy advice concerning some of these aspects during the development of the Bill.

In September 2010, the Bill was reintroduced for consideration by the 43rd Parliament.

## Integrity testing

Covert integrity tests simulate opportunities for corrupt conduct, thereby examining the honesty of individuals in a controlled (and observed) situation. One effect of integrity testing is to create an environment that resists corruption.

Several Australian State police services have integrity testing programs as part of their anti-corruption framework, and ACLEI participates in a national forum of government agencies with these and other agencies that have an interest in integrity testing. As reported last year, the AFP is considering an integrity testing system to apply to AFP staff.

ACLEI participates in a working group with the AFP on this topic. Issues under consideration include what role ACLEI should have in such a regime, and what legislative provisions may be necessary.

As was the case in the previous year, the Integrity Commissioner had related discussions with the Australian Federal Police Association and expects to continue this dialogue.

In the early part of 2010, ACLEI provided background information about integrity testing for a report for Senator Stephen Parry, who is a member of the Parliamentary Joint Committee on ACLEI. The report was prepared by Ms Colette Lebsanft, an intern then working in Senator Parry's office under the Australian National Internship Program.

## Review of Victoria's integrity system

During the reporting year, ACLEI met with officers of the Victorian State Services Authority who were conducting a *Review of Victoria's anti-corruption and integrity system* (the Proust Review). In particular, ACLEI noted the principle of matching measures to risks (which, at the Federal level, underpins the need for special arrangements to detect and deter possible corrupt conduct in law enforcement agencies), and the need to manage possible gaps and overlaps in integrity systems.

The Premier of Victoria, the Hon. John Brumby MLA, released the Proust Review report in June 2010. Mr Brumby committed his Government to implementing the Review's recommendations, including the establishment of a public service-wide anti-corruption commission with investigation and prevention roles, and the retention of the Office of Police Integrity within the new agency structure. A recommendation for an 'Integrity Board' to coordinate the activity of the State's various integrity agencies was also supported.

The report is available at [www.ssa.vic.gov.au](http://www.ssa.vic.gov.au).

## Fostering anti-corruption initiatives

ACLEI is a focus of interest for organisations and individuals with an interest in integrity in the public sector.

The Integrity Commissioner and ACLEI staff meet from time to time with researchers, academics, representatives of Non-Government Organisations, and others with an interest in preventing corruption. These relationships assist ACLEI to engage in broader dialogue about addressing corruption risk and strengthening integrity systems. ACLEI acknowledges the positive contribution that these individuals and organisations make.

## Transparency International

ACLEI meets regularly with executive members of Transparency International (Australia) to discuss national and international developments in combating corruption.

The Hon. Jerrold Cripps QC was appointed chairman of Transparency International (Australia) in February 2010. Mr Cripps is a former senior jurist and, until November 2009, was the Commissioner of the Independent Commission Against Corruption in New South Wales.

The Integrity Commissioner met with Mr Cripps and with Mr Michael Ahrens, Chief Executive Officer of Transparency International (Australia), in March 2010 to welcome Mr Cripps in his new role and to discuss recent developments in anti-corruption policy and legislation.

Also in March 2010, ACLEI officers together with staff from the Attorney-General's Department and AusAID, met with Mr Pascal Fabie, from Transparency International's secretariat in Berlin. The purpose of the meeting was to exchange information about Transparency International's activities in the Asia Pacific region, for which Mr Fabie is responsible, and to inform him about Australia's anti-corruption arrangements, including ACLEI.

## Australian Federal Police Association

The Australian Federal Police Association (AFPA) takes an interest in the integrity regime because it affects its membership. The AFPA acknowledges the risk that corruption poses to the safety and reputation of its members and engages actively in policy discussions.

During the reporting year, the AFPA made a submission concerning ACLEI to the Parliamentary Joint Committee on ACLEI *Inquiry into the operations of the LEIC Act*. Another submission—surveying corruption and infiltration risk in agencies with law enforcement functions—was made to the Parliamentary Joint Committee on the ACC *Inquiry into adequacy of aviation and maritime security measures to combat serious and organised crime*.

On several occasions during the reporting year, the Integrity Commissioner met with the President of the AFPA, Mr Jon Hunt-Sharman, and the Chief Executive Officer, Mr Jim Torr, to discuss such topics as ACLEI's arrangements for use of coercive powers, proposals for an integrity testing regime, and the corruption detection and deterrence framework of the AFP.

## Corruption Prevention Network

The Corruption Prevention Network is a national practitioners' forum which facilitates the exchange of information and ideas about best practice in corruption prevention.

In July 2009, the Integrity Commissioner's keynote address to the Corruption Prevention Network, given in June 2009 at its inaugural meeting in Canberra, was published in *The Canberra Times* (see page 38 of this report).

The Integrity Commissioner was represented by an ACLEI staff member at the Corruption Prevention Network's *Annual Forum* in Sydney in September 2009.

## Anti-corruption conference

The Australian Public Sector Anti-Corruption Conference (APSACC) is held every second year, and attracts an international and national audience of practitioners, policy makers, legislators and academics to learn about, and contribute to, the strengthening of anti-corruption arrangements.

APSACC was held in Brisbane from 28–31 July 2009. The conference is presented jointly by the Independent Commission Against Corruption (New South Wales), the Crime and Misconduct Commission (Queensland) and the Corruption and Crime Commission (Western Australia).

ACLEI, together with the Police Integrity Commission (New South Wales) and the Office of Police Integrity (Victoria), was a 'partner agency' sponsor for the Brisbane conference. The Integrity Commissioner chaired a plenary discussion on corruption prevention initiatives in Australia, New Zealand and the broader international sphere. Supporting APSACC in these ways enables ACLEI to contribute to the national network of anti-corruption agencies and raise awareness of the Integrity Commissioner's role.

In 2009, APSACC coincided with the 20-year anniversary of the Fitzgerald Inquiry report *Commission of inquiry into possible illegal activities and associated police misconduct*, which exposed widespread corruption in the Queensland Police Service and set new standards for corruption inquiries. Accordingly, the conference had a particular focus on corruption in law enforcement and was a timely opportunity to reflect on developments in the intervening years.

APSACC is next planned for Perth in November 2011.

## Executive level meeting of police integrity oversight agencies

The APSACC organising committee arranged a meeting of the heads of police integrity oversight agencies on the final day of the conference. The Integrity Commissioner reported on the recommendation of the Parliamentary Joint Committee on ACLEI (Recommendation 4, *Inquiry into law enforcement integrity models*, 2009), relating to the proposed establishment of a national forum of integrity agencies that have coercive information-gathering powers. The discussion was one catalyst for the formation, in 2010, of the Australia New Zealand Police Integrity Leadership Forum.

## Graduate Certificate in Integrity Studies

As reported last year, several State anti-corruption agencies, the Australian Taxation Office, ACLEI and other bodies commenced planning to offer a Graduate Certificate in Integrity Studies in conjunction with the Centre for Transnational Crime Prevention at the University of Wollongong.

During 2009–10, ACLEI participated in the project reference group and in a working group to help design the course structure and content. ACLEI contributed information and perspectives drawn from investigating corruption issues in law enforcement. These perspectives included: the importance of matching anti-corruption measures to a realistic assessment of corruption risks and threats; the links between organised crime, corruption, infiltration and compromise; the dynamic nature of corruption, whereby it may manifest or adapt quickly to take advantage of new situations; the need to look beyond fraud control; and the role of workplace cultures in resisting or facilitating corruption.

The Graduate Certificate in Integrity Studies, which commences in Spring 2010, will offer three broad topics: ethics and integrity in the public sector; understanding corruption and misconduct; and corruption prevention and integrity assurance. It is envisaged that the integrity agencies will contribute guest lecturers and case studies to provide the course with contemporary lessons learned about corruption, its detection and prevention.

## Research partnerships

ACLEI aims to keep informed of innovations in corruption detection, investigation and prevention. This effort ensures that ACLEI makes use of contemporary anti-corruption theory during its investigations and when formulating findings and recommendations. ACLEI also notes any observations gained from practical investigation and intelligence experience to inform the anti-corruption and integrity research agenda.

As reported last year, the Integrity Commissioner intends eventually to develop this research function, to enable ACLEI to record and communicate in a systematic way observations about corruption detection, investigation and deterrence.

## Police integrity agency research forum

Taking the opportunity presented by APSACC, in July 2009 the Crime and Misconduct Commission convened a pre-conference workshop to discuss policy and research issues facing police integrity agencies. Representatives from a broad range of agencies attended the workshop, as did invited academics with expertise in systems to counter misconduct and corruption in law enforcement.

The forum was an opportunity to exchange information about current research projects concerning integrity in law enforcement. One theme that emerged was the value of strong collaboration between intelligence and research areas of agencies. ACLEI led a round table discussion on developing national research priorities, to enable better linking of the experiences and expertise that resides across the various agencies.

### ‘Public trust and confidence in police’ workshop

ACLEI attended an international invitational workshop arranged in December 2009 by the Tasmanian Institute of Law Enforcement Studies at the University of Tasmania. The workshop—*The Public Gets What the Public Wants: Public trust and confidence in the police*—brought together a small group of researchers, senior police and integrity practitioners to discuss contemporary and emerging issues that may affect the public’s confidence in law enforcement.

A core theme of many of the presenters was the diversity of expectations about police performance that have emerged in response to ‘service delivery’ requirements of government, and the tensions this new paradigm raises for law enforcement policy, police independence, media management, and corruption risk.

### Cooperative research

During the reporting year, ACLEI participated as a subject or contributed to a number of research projects about the national integrity framework. These projects were:

- *Declarable and inappropriate associations* (Crime and Misconduct Commission, Queensland) – ACLEI provided a joint briefing with the AFP’s Professional Standards and Security portfolios;
- *Strengthening ethical practices and behaviours in police agencies in Australia and New Zealand* (the Australia and New Zealand School of Government) – ACLEI provided a briefing for researchers about corruption resistance strategies; and
- *A study into police oversight agencies* (Ms Bernadine Tucker, Edith Cowan University) – ACLEI contributed ideas about the factors to be considered (and their relative influence) in the design of police integrity oversight models.

### Engaging internationally

As with organised crime, to which it is often linked, corrupt conduct is not restrained by national or state boundaries. Accordingly, the eradication of corruption cannot be achieved by countries in isolation, and requires cooperative law enforcement efforts and collaboration in the development of international integrity frameworks.

ACLEI contributes to many of Australia’s existing international anti-corruption efforts in collaboration with AusAID, the AFP, the Australian Public Service Commission, the Department of Foreign Affairs and Trade, and the Attorney-General’s Department.

During the reporting year, the Attorney-General’s Department and the Department of Foreign Affairs and Trade consulted with ACLEI (among other organisations) about meeting Australia’s obligations under the *United Nations Convention against Corruption* (UNCAC) and the *United Nations Convention against Transnational Organized Crime* (UNTOC).

### Inter-departmental anti-corruption meeting

Domestic policy on transnational crime, including corruption, is coordinated by the Attorney-General’s Department. Accordingly, the Department convenes a meeting comprised of Australian Government agencies with anti-corruption, fraud control or integrity roles, to develop domestic corruption policy in order to meet Australia’s international obligations. This group met three times in 2009–10.

ACLEI contributes to the meeting an operational, research and policy perspective about corruption control.



## United Nations Convention Against Corruption

In November 2009, ACLEI's acting Director, Strategic Support, joined the Australian Delegation to the Third Conference of States Parties to the *United Nations Convention Against Corruption* in Doha, Qatar to deliver a country statement to the Expert Consultation on Corruption Prevention and to attend a workshop on corruption prevention.

The statement, *Australia's approach to fighting corruption: the case of ACLEI*, noted that Australia uses a range of strategies to prevent, detect and investigate corruption and that ACLEI is but one of these measures. The statement also invited delegates to consider ACLEI's targeted approach to preventing corruption in government agencies that operate in high corruption-risk environments.

Representatives from a number of States Parties have since visited Australia to discuss the ACLEI model.

## Links with integrity agencies in other countries

ACLEI engages direct with integrity agencies from other countries as opportunities arise, in order to exchange knowledge about combating and preventing corruption. The Integrity Commissioner's present strategy of international engagement is to focus ACLEI's efforts on Australia's region and, in particular, on four countries where the AFP has a significant presence: Indonesia, Papua New Guinea, East Timor, and the Solomon Islands.

During the year, in addition to the activities noted in the following pages, the Integrity Commissioner or his senior managers met visiting delegations from the People's Republic of China, the Republic of Korea, and Vietnam. The Integrity Commissioner also hosted a visit from His Excellency Mr Sar Kheng, Deputy Prime Minister of the Kingdom of Cambodia.

The Integrity Commissioner wishes to record his appreciation of the assistance provided by AusAID and the Department of Foreign Affairs and Trade in keeping ACLEI informed of international developments in integrity arrangements, and for supporting ACLEI's contact with integrity agencies in other countries by providing country briefs and advice.



**VISIT TO ACLEI:** Mr Philip Moss, Integrity Commissioner, and His Excellency Mr Sar Kheng, Deputy Prime Minister of the Kingdom of Cambodia



## Indonesia

Indonesia and Australia cooperate in law enforcement, security issues and in border control. These reciprocal arrangements are important in the international fight against serious and organised crime.

On 27 July 2009, the Integrity Commissioner, together with representatives from the Attorney-General's Department and the Australian Public Service Commission, signed a *Memorandum of Understanding for bilateral cooperation on combating corruption* with Mr Moch. Jasin, Vice Chairman of the Corruption Eradication Commission of the Republic of Indonesia (Komisi Pemberantasan Korupsi, or KPK).



Signing of the Memorandum of Understanding for International Cooperation on Combating Corruption on 27 July 2009. Signatories, from left to right:

- Mr Moch. Jasin, Vice Chairman and Commissioner, Corruption Eradication Commission (KPK) of the Republic of Indonesia;
- Mr Miles Jordana, Deputy Secretary Attorney-General's Department;
- His Excellency Primo Alui Joelianto, Indonesian Ambassador to Australia;
- Mr Philip Moss, Integrity Commissioner; and
- Ms Carmel McGregor, Deputy Public Service Commissioner.

On that occasion, the Integrity Commissioner noted in his address that the Australian-Indonesian relationship had been strengthened by the linking of integrity agencies under the Memorandum of Understanding. The Integrity Commissioner recognised the KPK's role in fighting corruption in Indonesia and said he looked forward to learning from the Indonesian experience.

In March 2010, two KPK staff attended ACLEI's inaugural *Behavioural Interviewing Skills Enhancement Program* (BISEP), adding a valued perspective to the course and allowing for personal links to be established between the agencies.

The Integrity Commissioner and Mr Jasin will continue to develop the relationship for the benefit of both agencies.

## Papua New Guinea

The Chief Ombudsman of the Ombudsman Commission of Papua New Guinea, Mr Chronox Manek, visited Canberra in February 2010 as the guest of the Commonwealth Ombudsman. The Chief Ombudsman has a broad mandate to investigate and prosecute corruption in Papua New Guinea at all levels, including in politics, the judiciary and the public service.

During his visit, the Chief Ombudsman toured ACLEI's operations facility and discussed with the Integrity Commissioner ways in which ACLEI and the Ombudsman Commission could cooperate in the future.

## East Timor

East Timor appointed its first anti-corruption Commissioner, Mr Aderito de Jesus Soares, in February 2010.

The Integrity Commissioner invited Mr Soares to visit ACLEI while he was in Canberra, in March 2010, to brief him on how Australia deals with corruption issues in law enforcement, ACLEI's role, and how ACLEI conducts investigations. The Integrity Commissioner also discussed with Mr Soares the challenges of setting up a new anti-corruption agency. Commissioner Soares viewed ACLEI's operations facility and also visited hearing rooms used by ACLEI in Canberra.

The Integrity Commissioner intends to travel to East Timor during 2010–11 to familiarise himself with the operations of the AFP International Deployment Group, and to further the relationship between ACLEI and the East Timor Anti-Corruption Commission.

## Solomon Islands

Since 2007–08, ACLEI has been developing links with the Solomon Islands, where the AFP has a significant deployment to the Participating Police Force of the Regional Assistance Mission to the Solomon Islands (RAMSI).

During 2009–10, a senior ACLEI staff member twice travelled to the Solomon Islands to address the *Major Investigation Management Workshop (Integrity Investigations)*, which was hosted by the AFP and aimed at assisting the Solomon Islands to build a robust integrity system.

In June 2010, the Integrity Commissioner invited to ACLEI the High Commissioner of the Solomon Islands to Australia, His Excellency Mr Beraki Jino, for a briefing on how Australia deals with corruption issues in law enforcement, followed by a tour of ACLEI's premises.

# CHAPTER 5

## ASSESSMENTS AND INVESTIGATIONS



This chapter sets out information about the corruption issues dealt with by ACLEI during 2009–10.

### Explanation of frequently used terms

Some terms used by ACLEI have a particular meaning in the LEIC Act.

- A ‘corruption issue’ arises when a person who is (or has been) a staff member of a designated law enforcement agency, is engaging, has (or may have) engaged, or will (or may at any time in the future) engage, in corrupt conduct.
- A corruption issue is ‘notified’ to ACLEI when an allegation or information that raises a corruption issue comes from the head of the ACC or the AFP, and is ‘referred’ if it comes from any other source. It should not be inferred that every allegation or all information that gives rise to a corruption issue will have substance.

Other terms are used for convenience.

- Among the options available to the Integrity Commissioner to deal with a corruption issue is to refer it to another government agency, including to the ACC and the AFP, for investigation. The Integrity Commissioner may decide to manage (see section 61 of the LEIC Act) or oversee (see section 62) the investigation of a corruption issue. ACLEI refers to these forms of oversight as ‘supervised investigations’.

### Change in recording practice

In 2008–09, ACLEI commenced recording all allegations and information received by ACLEI, whether or not they involved a prescribed law enforcement agency. This practice reflected the effort involved in assessing information, communicating with the person who provided it to ACLEI, and referring information to other agencies (where appropriate). Accordingly, information that may relate to possible corrupt conduct, but is clearly not related to the agencies in ACLEI’s jurisdiction, was recorded in ACLEI’s statistics as ‘other’.

This reporting year, to remove ambiguity, the term ‘out of jurisdiction’ or ‘OOJ’ is being used to described these instances.

## Where corruption information came from

Table Eleven sets out the various sources of the information about potential corruption that ACLEI received during the year. A total of 80 notifications or referrals was received from external sources, up 57% from the 51 occurrences of the previous year.

In addition, during the year, the Integrity Commissioner commenced an ‘own initiative’ investigation. Accordingly, total ‘new work’ for the year comprised 81 corruption issues.

**TABLE ELEVEN:** Sources of information about new corruption issues in 2009–10

	ACC	AFP	FORMER NCA	OIJ	TOTAL
Mandatory notification by ACC CEO or AFP Commissioner [s 19(1)]	11 (9)	29 (21)	0 (0)	0 (0)	40 (30)
Minister [s 18]	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Other people or government agencies [s 23]	3 (5)	26 (12)	0 (0)	11 (4)	40 (21)
<b>Subtotal</b>	<b>14 (14)</b>	<b>55 (33)</b>	<b>0 (0)</b>	<b>11 (4)</b>	<b>80 (51)</b>
ACLEI intelligence / ‘own initiative’ investigation [s 38(1)]	0 (0)	1 (0)	0 (0)	N/A	1 (0)
<b>Total</b>	<b>14 (14)</b>	<b>56 (33)</b>	<b>0 (0)</b>	<b>11 (4)</b>	<b>81 (51)</b>

Numbers in (brackets) are for the 2008–09 reporting year. ‘OOJ’ means ‘out of ACLEI’s jurisdiction’.

## Notifications

Under the LEIC Act, it is mandatory for the ACC Chief Executive Officer and the AFP Commissioner to notify the Integrity Commissioner of corruption issues that relate to their respective agencies. These notifications have proven to be a source of reliable information about possible corrupt conduct, since the underlying information often is generated from within the agency—from whistleblowers, internal detection mechanisms, and from managers.

In 2009–10, ACLEI received 40 notifications from these sources. Table Twelve shows a trend, since ACLEI’s commencement, of steady growth in notifications from both the ACC and the AFP.

**TABLE TWELVE:** Trends in sources of information about corruption issues – mandatory notifications

	2006–07*	2007–08	2008–09	2009–10	TOTAL
ACC Chief Executive Officer	7	2	9	11	29
AFP Commissioner	5	17	21	29	72
<b>Total</b>	<b>12</b>	<b>19</b>	<b>30</b>	<b>40</b>	<b>101</b>

\*For the six month period after ACLEI’s commencement on 30 December 2006.

These increases appear to reflect the increased efforts of the agencies throughout the year to raise awareness among managers and other staff about the risk of corruption and of the requirement to report suspected corrupt conduct. This result is a practical example of the link between corruption prevention activities and corruption reporting rates.

Referrals

Any person, company or government agency may provide information to ACLEI about possible corrupt conduct. The Minister may also refer a corruption issue to the Integrity Commissioner for assessment, although none was referred in 2009–10.

ACLEI takes an interest in the sources of information to guide approaches to marketing, witness or informant management, and intelligence-gathering. Table Thirteen breaks down further the sources of corruption issues brought to the Integrity Commissioner’s attention under section 23 of the LEIC Act (other people or government agencies), and shows the trend in referrals over time.

**TABLE THIRTEEN:** Trends in sources of information about corruption issues – other people or government agencies

	2006–07*	2007–08	2008–09	2009–10	TOTAL
Member of Parliament (including Parliamentary Committees), other than the Minister	1	1	0	2	4
Referral by Commonwealth Ombudsman	2	3	0	0	5
Other government agencies (Commonwealth, State and Territory including other integrity agencies and police forces)	0	2	2	2	6
‘Whistleblowers’: members (or past members) of the ACC or the AFP, or of the former NCA	0	1	1	8	10
People in custody	2	3	1	4	10
Other members of the public	1	15	17	24	57
<b>Total</b>	<b>6</b>	<b>25</b>	<b>21</b>	<b>40</b>	<b>92</b>

\*For the six month period after ACLEI’s commencement on 30 December 2006.

This reporting year, the total number of referrals made to ACLEI increased from 21 in 2008–09 to 40 occurrences. However, in 11 of these instances (that is, in just over half of the growth recorded) the information provided did not to relate to agencies in ACLEI’s jurisdiction (see Table Eleven). According to the circumstances of each case, ACLEI referred the informant, or the information, to State integrity agencies or to other appropriate agencies.

Significant this reporting year is the increase in referrals—from one instance in 2008–09 to eight in 2009–10—received from ‘whistleblowers’ who, as staff members or past employees of the ACC, the AFP or the former NCA, provided information to ACLEI about possible corrupt conduct in those agencies. ACLEI’s efforts in previous years, and again this year, to give presentations to targeted audiences, account for some of this increase; a growing reputation for confidentiality and trustworthiness may also be a contributing factor. From the perspective of developing a strong and alert anti-corruption culture, this result is encouraging.

There was continued growth in information received from members of the public (17 instances in 2008–09 to 24 in 2009–10). Five of these referrals were received through ACLEI’s ‘corruption hotline’ telephone service (02 6229 9393), whereby people with information may speak direct to an investigator about providing information to ACLEI. This new service was implemented early in 2009–10.

## Reassessments

From time to time, the Integrity Commissioner reviews information previously provided to ACLEI for the purposes of assessing whether some action, or a different action, should be taken as a result of a second look. The catalyst for this reassessment may be: new information that has come to light; or, as a courtesy and as a safeguard, to reconsider a decision already made.

There were two reassessments commenced in 2009–10. Presently, ACLEI does not record this additional work in its ‘total workload’ reporting.

## Total workload

In addition to the 80 notifications and referrals made to the Integrity Commissioner in 2009–10, ACLEI’s workload during the year included one ‘own initiative’ investigation and 49 corruption issues carried forward from previous years. Accordingly, as shown in Table Fourteen, ACLEI had a total of 130 corruption issues to deal with in the reporting year.

Table Fourteen also shows the origin of ACLEI’s total workload for 2009–10, including matters carried forward from previous years.

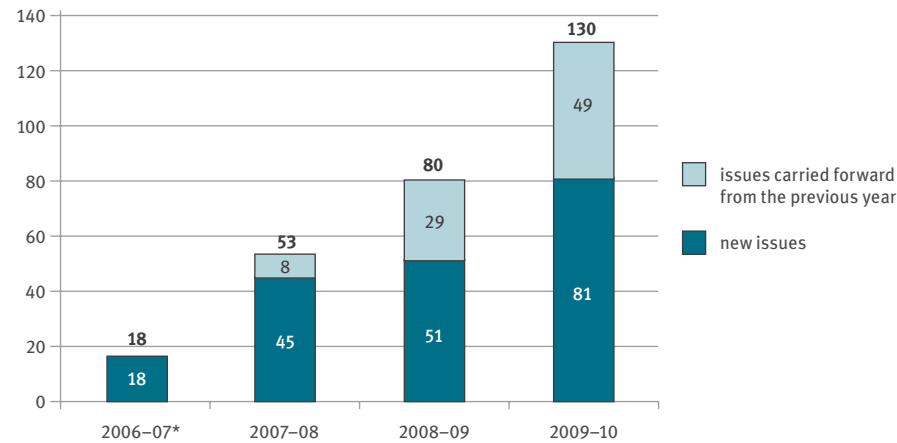
**TABLE FOURTEEN:** ACLEI’s assessment and investigation workload for 2009–10

	ACC	AFP	FORMER NCA	OOJ	SUB TOTAL	TOTAL
Notifications and referrals from 2006–07 carried over to 2009–10	1 (2)	0 (3)	0 (0)	–	1 (5)	
Notifications and referrals from 2007–08 carried over to 2009–10	3 (4)	12 (18)	1 (2)	–	16 (24)	
Notifications and referrals from 2008–09 carried over to 2009–10	9 (-)	23 (-)	0 (-)	0 (-)	32 (-)	49 (29)
New notifications and referrals in 2009–10	14 (14)	55 (33)	0 (0)	11 (4)		80 (51)
Own Initiative investigations commenced in 2009–10	0 (0)	1 (0)	0 (0)	–		1 (0)
<b>Total</b>	<b>27 (20)</b>	<b>91 (54)</b>	<b>1 (2)</b>	<b>11 (4)</b>		<b>130 (80)</b>

Numbers in (brackets) are for the 2008–09 reporting year. ‘OOJ’ means ‘out of ACLEI’s jurisdiction’.

ACLEI’s total workload has increased each year since its commencement: 18 issues in 2006–07, 53 in 2007–08, 80 in 2008–09, and 130 this reporting year. The factors contributing to this growth are annual increases in notifications and referrals, plus increases in the number of issues carried forward from one year to another. This four-year trend in the total workload managed each year is shown in Figure Two.

**FIGURE TWO:** Trend in ACLEI’s assessment and investigation workload from 2006–07 to 2009–10



\*For the six month period after ACLEI’s commencement on 30 December 2006.

## How workload was dealt with

All information provided to ACLEI is assessed for its reliability, that is, the likelihood that the allegation or information is true. ACLEI’s role is to obtain intelligence or evidence that may corroborate, exclude or contextualise the information provided.

Once an assessment of the information is complete, the Integrity Commissioner decides whether the issue should be dealt with as an investigation under the LEIC Act framework. Factors in that decision include:

- jurisdiction;
- susceptibility of the issue to investigation (issues of quality of information, staleness, strength of evidence, potential avenues of enquiry);
- alignment with strategic objectives (for instance, links to organised crime, relates to doubt about leadership, or use of powers would be advantageous);
- priority (seriousness and impact, currency, availability of resources);
- corruption-disruption and prevention value; and
- other risk-assessment factors (such as whether independent investigation by ACLEI would improve confidence in an outcome).

The Integrity Commissioner must also decide which agency is best placed to investigate. Section 27 of the LEIC Act establishes criteria to guide this decision, such as the need to ensure a balance is achieved between the Integrity Commissioner's role (on the one hand) and ensuring that the heads of law enforcement agencies take responsibility for managing their agencies (on the other).

The Integrity Commissioner can choose from among five options in dealing with a corruption issue, according to the circumstances. The options are to:

- investigate the corruption issue independently;
- investigate the corruption issue jointly with another agency;
- refer the corruption issue to the law enforcement agency for internal investigation (with or without management or oversight by ACLEI);
- refer the corruption issue to another government agency, such as a State integrity agency, the AFP, or another government agency, for investigation; or
- take no further action.

Table Fifteen comprises three smaller tables that summarise the way ACLEI dealt with each of the 130 issues that were active in 2009–10:

- Sub-Table A shows all issues that, due to a decision of the Integrity Commissioner, resulted in some form of investigation;
- Sub-Table B summarises the way issues were concluded;
- Sub-Table C shows the assessments in progress at 30 June 2010; and
- Sub-Table D totals the number of notifications and referrals dealt with in 2009–10.

The information, trends and patterns shown in these sub-tables are discussed in the rest of this Chapter.



**TABLE FIFTEEN:** Total workload – how notifications, referrals and ‘own initiative’ investigations were dealt with**SUB-TABLE A:** Corruption issues under investigation during 2009–10

		ACC	AFP	FORMER NCA	SUB TOTAL	TOTAL
INVESTIGATED BY ACLEI	ACLEI investigation [s 26(1)(a)]	8 (6)	4 (3)	0 (0)	12 (9)	
	ACLEI joint investigation [s 26(2)]	2 (1)	8 (3)	0 (0)	10 (4)	
	Public Inquiry at request of the Minister [s 71]	0 (0)	0 (0)	0 (0)	0 (0)	22 (13)
SUPERVISED INVESTIGATIONS	Agency investigation managed by ACLEI [s 26(1)(b)(i) or 26(1)(d)]	0 (0)	0 (0)	0 (0)	0 (0)	
	Agency investigation overseen by ACLEI [s 26(1)(b)(ii) or 26(1)(e)]	0 (0)	1 (2)	0 (0)	1 (2)	
UNSUPERVISED GOVERNMENT AGENCY INVESTIGATIONS, WITH OUTCOME TO BE REVIEWED BY ACLEI (IN MOST INSTANCES)	ACLEI satisfied that agency notifying a ‘significant’ issue should investigate (without supervision) [s 26(1)(b)(iii)]	0 (0)	15 (1)	0 (0)	15 (1)	
	Referred to AFP for investigation (without supervision) [s 26(1)(c)(iii)]	2 (2)	N/A	0 (0)	2 (2)	
	ACLEI satisfied that agency notifying a ‘not significant’ issue should continue to investigate (without supervision) [s 22(1)]	1 (1)	28 (15)	0 (0)	29 (16)	
	State integrity agency to investigate conduct of a secondees [s 29(6)(b)]	1 (1)	0 (0)	0 (0)	1 (1)	48 (22)
	<b>Total</b>	14 (11)	56 (24)	0 (0)		<b>70 (35)</b>

**SUB-TABLE B:** Corruption issues concluded during 2009–10

<b>B1: ACLEI INVESTIGATIONS FINALISED</b>	<b>ACC</b>	<b>AFP</b>	<b>FORMER NCA</b>	<b>OOJ</b>	<b>TOTAL</b>
ACLEI investigation finalised (Report to Minister)	3 (1)	0 (0)	0 (0)	N/A	3 (1)
ACLEI investigation discontinued (s 42 reconsideration)	0 (0)	1 (2)	0 (0)	N/A	1 (2)
<b>Subtotal (B1)</b>	<b>3 (1)</b>	<b>1 (2)</b>	<b>0 (0)</b>	<b>N/A</b>	<b>4 (3)</b>
<b>B2: REVIEWS OR REFERRALS FINALISED</b>	<b>ACC</b>	<b>AFP</b>	<b>FORMER NCA</b>	<b>OOJ</b>	<b>TOTAL</b>
External Reports accepted by ACLEI [s 66]	1 (1)	4 (2)	0 (0)	N/A	5 (3)
State government agency report received [s 30]	1 (0)	0 (0)	0 (0)	N/A	1 (0)
<b>Subtotal (B2)</b>	<b>2 (1)</b>	<b>4 (2)</b>	<b>0 (0)</b>	<b>N/A</b>	<b>6 (3)</b>
<b>B3: CONCLUDED FOLLOWING ASSESSMENT</b>	<b>ACC</b>	<b>AFP</b>	<b>FORMER NCA</b>	<b>OOJ</b>	<b>TOTAL</b>
Did not raise a corruption issue within the meaning of the LEIC Act	1 (4)	12 (12)	1 (1)	7 (4)	21 (21)
Decided to take no further action (after assessment) [s 31(2)(b) or 32(2)]	3 (0)	7 (0)	0 (0)	N/A	10 (0)
Has, is or will be the subject of court proceedings [s 31(4)(d)]	0 (1)	0 (3)	0 (0)	N/A	0 (4)
Refuse to investigate following a requirement to put allegation in writing [s 23(4)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
<b>Subtotal (B3)</b>	<b>4 (5)</b>	<b>19 (15)</b>	<b>1 (1)</b>	<b>7 (4)</b>	<b>31 (25)</b>
<b>Total concluded issues (B)</b>	<b>9 (7)</b>	<b>24 (19)</b>	<b>1 (1)</b>	<b>7 (4)</b>	<b>41 (31)</b>

**SUB-TABLE C:** Assessments in progress at 30 June 2010

	<b>ACC</b>	<b>AFP</b>	<b>FORMER NCA</b>	<b>OOJ</b>	<b>TOTAL</b>
Issues under assessment at close of reporting year	9 (4)	16 (15)	0 (1)	4 (0)	<b>29 (20)</b>

**SUB-TABLE D:** Total notifications and referrals current during 2009–10

	<b>ACC</b>	<b>AFP</b>	<b>FORMER NCA</b>	<b>OOJ</b>	<b>TOTAL</b>
(Sub-Tables A + B3 + C)	27 (20)	91 (54)	1 (2)	11 (4)	<b>130 (80)</b>

Numbers in (brackets) are for the 2008–09 reporting year. 'OOJ' means 'out of ACLEI's jurisdiction'.

## ACLEI investigations

An allegation or information that raises a corruption issue is accepted for investigation when assessment indicates that the information is reliable and able to be investigated, and when there is a public interest in the Integrity Commissioner's direct involvement. ACLEI gives priority to corruption issues with possible links to serious and organised crime.

The Integrity Commissioner may decide to investigate solely, or may engage with other agencies in joint investigations. Joint investigations may be held with the ACC or the AFP, or with any Australian, State or Territory government agency.

The Integrity Commissioner commenced investigations into 12 corruption issues during 2009–10, compared with five investigations commenced in the previous 12 months. As shown in Sub-Table Fifteen A, a total of 22 ACLEI investigations were active during the reporting period (up from 13 in the previous year).

Three investigations were concluded during the year when the Integrity Commissioner gave a report to the Minister. These reports are summarised in Chapter Six, and copies of each are available from ACLEI's website, [www.aclei.gov.au](http://www.aclei.gov.au).

The Integrity Commissioner allocates ACLEI's investigation resources to maximise strategic benefit and efficiency. Accordingly, all investigations remain under review with regard to the value of evidence gathered, the effort required to collect further evidence, the prospect of being able to reach a conclusion if evidence were available, the relative priority of the issue being examined, and the disruptive or deterrent effect of an ACLEI investigation. Upon reconsideration, the Integrity Commissioner may decide that a corruption issue should be dealt with in a different way, or that no further investigation is required or warranted. In the latter case, the outcomes are conveyed to the agency concerned and ACLEI takes no further action.

This reporting year, in this way, one investigation was discontinued when it became apparent that further investigation would not achieve any worthwhile result, such as evidence of corrupt conduct or lessons for corruption prevention. In addition, one investigation commenced in 2009–10, which had previously been referred by ACLEI to the AFP for internal investigation (s 26(1) b(ii)), was reconsidered and continued as an investigation by ACLEI as a result of information obtained by the AFP.

Accordingly, at 30 June 2010, there were 18 ACLEI investigations in progress. Three of these investigations were waiting for a report to the Minister to be finalised, and two others were being reconsidered.

## Joint investigations

ACLEI's ability to undertake joint investigations is an important part of the LEIC Act framework. Corruption issues may sometimes involve people from agencies across more than one jurisdiction and individual law enforcement officers can move between jurisdictions in their careers, including by secondment or task-force attachment. In these instances, ACLEI may investigate jointly with a State integrity agency or with a State police force or other government agency.

Joint investigations may also be used when the Integrity Commissioner wishes to partner with the ACC or the AFP in an investigation. This arrangement has been used when: a joint investigation would bring the benefit of access to resources not held by ACLEI; the investigation is linked to a broader criminal investigation; the investigation covers a range of misconduct and corruption issues requiring management by the agency; or particular requirements exist to ensure that the law enforcement agency can maintain operational security. Joint investigations may also be used when an ACC or AFP internal investigation would benefit from the use of the Integrity Commissioner's coercive hearing or notice powers.

Of the 12 investigations the Integrity Commissioner commenced during the year, six are being conducted jointly with other agencies (another investigation had commenced as a joint investigation with a State integrity agency, but was later continued as an ACLEI investigation). Four other joint investigations from the previous year were continued.

This increase in the number of investigations being conducted jointly (from a total of four last reporting year to ten this year) largely reflects a growing appreciation of the value of working in joint arrangements with the ACC and the AFP to achieve a coordinated approach to responding to possible corrupt conduct.

### Nature of allegations

Table Sixteen sets out the nature of the twelve corruption issues that led to investigations being commenced during 2009–10, whether as joint investigations or as investigations conducted solely by ACLEI.

Information about the ten investigations from previous reporting years that were also active during 2009–10 is set out in Appendix Two (see table relating to Regulation 20).

**TABLE SIXTEEN:** Investigations (including joint investigations) commenced by ACLEI in 2009–10: type of corruption issues

	ACC	AFP	FORMER NCA	TOTAL
Abuse of office [s 6(1)(a)]	3 (2)	4 (1)	0 (0)	7 (3)
Pervert the course of justice [s 6(1)(b)]	0 (0)	1 (0)	0 (0)	1 (0)
Corruption of any other kind [s 6(1)(c)]	1 (0)	3 (2)	0 (0)	4 (2)
<b>Total</b>	<b>4 (2)</b>	<b>8 (3)</b>	<b>0 (0)</b>	<b>12 (5)</b>

Numbers in (brackets) are for the 2008–09 reporting year.

### Disseminations made during investigations

ACLEI is alert to the need for the ACC and the AFP to manage operational risks that may be revealed by, or be heightened by, the Integrity Commissioner's investigations. Accordingly, the Integrity Commissioner may disseminate information to law enforcement agencies during an investigation.

The LEIC Act, at section 49, requires the Integrity Commissioner to consult with the head of an agency and take reasonable steps to ensure that an investigation does not prejudice that agency's law enforcement operations. Further, section 146 provides that the Integrity Commissioner must bring to an agency head's notice any evidence of a breach of duty or misconduct by a staff member, where the Integrity Commissioner is satisfied that the evidence is, in all the circumstances, of sufficient force to justify his or her doing so.

During the reporting year, when warranted by the circumstances, ACLEI consulted with agencies about possible risks to their operations concerning investigations being conducted by the Integrity Commissioner, and disseminated information accordingly. On other occasions, joint investigation arrangements were put in place to manage specific risks.

Disseminating information to law enforcement agencies as it is obtained is a practice that is likely to increase in coming years. In the appropriate circumstances, this approach will allow ACLEI to contribute timely information and intelligence concerning corrupt conduct and other activities related to the 'core business' of the ACC and the AFP. This practice is also consistent with ACLEI's 'two level' approach, which seeks to align ACLEI's investigation of corruption issues with the broader efforts of law enforcement agencies to counter serious and organised crime.

## Government agency investigations

When an allegation or information which raises a corruption issue has credibility, one option available to the Integrity Commissioner is to refer the issue to another government agency for investigation.

Under this arrangement, corruption issues can be referred to:

- the ACC or the AFP for an internal investigation relating to the conduct of their own staff or appointees;
- the AFP (in relation to the conduct of an ACC staff member or secondee, including investigation of alleged breaches of Commonwealth criminal laws);
- a State or Territory police force (in relation to the conduct of a secondee from the State or Territory police force to the ACC or the AFP);
- a State integrity agency (in relation to the conduct of a secondee to the ACC or the AFP, and that is in the jurisdiction of that agency to investigate); or
- any other Australian Government agency.

The Integrity Commissioner may arrange to supervise an agency investigation conducted by an Australian Government entity, or to be notified of the outcome of an unsupervised investigation. The Integrity Commissioner's 2008–09 Annual Report sets out these options in detail (at pages 51–53).

In addition, when the ACC or the AFP notifies ACLEI of a corruption issue that is not designated as 'significant', the Integrity Commissioner may decide, under section 22(1) of the LEIC Act, to allow the respective agency to continue to investigate.

Under section 67 of the LEIC Act, the Integrity Commissioner may comment on, or make recommendations about, any matter relating to or arising out of an investigation report prepared by another Commonwealth government agency, or the investigation to which the report relates. This provision allows the Integrity Commissioner to assure himself or herself that investigations external to ACLEI have been conducted properly, and provides the opportunity for ACLEI to comment or make recommendations, and for ACLEI's intelligence holdings to be updated.

At 30 June 2010, forty-two reports were yet to be received from external agencies for review by ACLEI (up from 18 in the previous year). A proportion of these instances are matters that were referred to external agencies in the second half of the reporting year.

From 1 July 2010, using additional resources provided to ACLEI in the 2010–11 Budget, the Integrity Commissioner established a position to manage ACLEI's assessment and review function. Accordingly, ACLEI expects that improved management of external investigations will ensure that this body of work is completed in a timely way, and according to the priority assigned to each issue.

Six reports were reviewed by ACLEI in the reporting year. In each instance, all conclusions were accepted and the Integrity Commissioner made no comment or recommendation under section 67 of the LEIC Act.

Table Seventeen shows the total number of corruption issues (including issues carried forward from previous years) that were being dealt with as agency investigations during the year. The table also shows whether investigation reports were received for review by the Integrity Commissioner during the year.

**TABLE SEVENTEEN:** Corruption issues dealt with as ‘agency investigations’ during 2009–10

		AGENCY INVESTIGATION ABOUT THE ACC			AGENCY INVESTIGATION ABOUT THE AFP			TOTAL
		IN PROGRESS	REPORT RECEIVED AWAITING REVIEW	REPORT RECEIVED AND REVIEWED	IN PROGRESS	REPORT RECEIVED AWAITING REVIEW	REPORT RECEIVED AND REVIEWED	
SUPERVISED AGENCY INVESTIGATIONS	Agency investigation managed by ACLEI [s 26(1)(b)(i) or 26(1)(d)]	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
	Agency investigation overseen by ACLEI [s 26(1)(b)(ii) or 26(1)(e)]	0 (0)	0 (0)	0 (0)	1 (1)	0 (0)	0 (1)	1 (2)
UNSUPERVISED AGENCY INVESTIGATIONS	ACLEI satisfied that agency notifying a ‘significant’ issue should investigate (without supervision) [s 26(1)(b)(iii)]	0 (0)	0 (0)	0 (0)	15 (1)	0 (0)	0 (0)	15 (1)
	Referred to AFP for investigation (without supervision) [s 26(1)(c)(iii)]	2 (2)	0 (0)	0 (0)	N/A	N/A	N/A	2 (2)
	ACLEI satisfied that agency notifying a ‘not significant’ issue should continue to investigate (without supervision) [s 22(1)]	0 (0)	0 (0)	1 (1)	24 (14)	0 (0)	4 (1)	29 (16)
	Another integrity agency, police force or relevant government agency to investigate conduct of a secondees (without supervision) [s 29(6)(b)]	0 (0)	0 (1)	1 (0)*	0 (0)	0 (0)	0 (0)*	1 (1)
<b>Total</b>		<b>2 (2)</b>	<b>0 (1)</b>	<b>2 (1)</b>	<b>40 (16)</b>	<b>0</b>	<b>4 (2)</b>	<b>48 (22)</b>

Numbers in (brackets) are for the 2008–09 reporting year.

\* See Appendix Two – *Regulation 21* for additional information about how these corruption issues were dealt with.

## Concluded issues

A corruption issue is concluded: when an investigation is completed and a report sent to the Minister; when an issue is referred to another agency under ACLEI management or oversight and is subsequently completed; when an issue is referred to a government agency without the need for supervision by the Integrity Commissioner and a satisfactory final report is received (or, in the case of a non-Commonwealth agency, the Integrity Commissioner decides that it is not necessary to receive and review a report); or when a decision is made that no investigation, or further investigation, by ACLEI is warranted.

Forty-one issues were concluded during 2009–10. Sub-Table Fifteen B summarises the various ways in which this action occurred.

## Issues not investigated

Of the total workload of 130 corruption issues dealt with in the 2009–10 reporting year, 21 occurrences did not raise a corruption issue within the meaning of the LEIC Act. In these instances, the issue raised either did not amount to corrupt conduct or did not involve members of agencies within ACLEI's jurisdiction, or both.

In 10 other instances, after assessment, the Integrity Commissioner decided that investigation was not warranted, for example because the information was dated or lacked corroboration or wanted for realistic lines of inquiry, and therefore were unlikely to lead to a conclusion being reached. In these circumstances, ACLEI retains the information provided as part of agency intelligence holdings.

## Assessments pending

All allegations and information received by ACLEI are prioritised upon receipt to determine credibility, urgency, and the susceptibility of the issues to investigation. This prioritisation system assists ACLEI to manage its workflow.

At the close of the period, 29 issues were in assessment phase, as shown in Sub-Table Fifteen C. A formal decision about how these issues should be dealt with will be made during 2010–11. In 16 of these instances, the information giving rise to these assessments was received by ACLEI in the last two months of the reporting year.

## Issues carried forward to 2010–11

ACLEI finalised more issues in 2009–10 than was the case in the previous year (38 compared to 31). Due to the continuing higher number of notifications and referrals (80 this reporting year), and the relatively large number of issues that have been referred to other agencies for investigation, but which had not been concluded at the end of the reporting year (42 instances), ACLEI will carry forward 89 issues to the 2010–11 year (compared with 49 issues the previous year).

At 30 June 2010, these 89 issues were distributed as follows:

- Eight investigations by ACLEI;
- Ten investigations being conducted jointly by ACLEI with other government agencies;
- Thirty-nine investigations being conducted by the AFP as internal investigations without supervision by ACLEI;
- One AFP internal investigation, being overseen by ACLEI;
- Two unsupervised AFP investigations relating to the ACC; and
- Twenty-nine notifications and referrals under assessment.

Table Eighteen summarises the number of issues concluded this reporting year and shows the number of issues that will be carried forward to 2010–11.

**TABLE EIGHTEEN:** Summary of throughput of issues in 2009–10

	ACC	AFP	FORMER NCA	OOJ	SUB TOTAL	TOTAL
A: ACLEI investigations, supervised investigations and assessments carried forward from previous year	10 (6)	11 (18)	1 (2)	N/A	22 (26)	
B: Unsupervised investigations carried forward from previous year*	3 (0)	24 (3)	0 (0)	N/A	27 (3)	49 (29)
C: Notifications and referrals received during the reporting year	14 (14)	55 (33)	0 (0)	11 (4)		80 (51)
D: 'Own initiative' investigations commenced during the reporting year	0 (0)	1 (0)	0 (0)	N/A		1 (0)
E: Issues concluded during the reporting year	9 (7)	24 (19)	1 (4)	7 (4)		41 (31)
<b>Issues to be carried forward to 2010–11 (Rows A + B + C + D - E)</b>	<b>18 (13)</b>	<b>67 (35)</b>	<b>0 (1)</b>	<b>4 (0)</b>		<b>89 (49)</b>

\*Until June 2008, these investigations were counted as 'closed'. To reflect ACLEI's work more accurately, these cases are now included in ACLEI's workload statistics.

Numbers in (brackets) are for the 2008–09 reporting year. 'OOJ' means 'out of ACLEI's jurisdiction'.



## Use of information-gathering powers

In investigating an issue under section 26(1)(a) of the LEIC Act, or conducting a public inquiry under section 71, the Integrity Commissioner can use certain investigative powers.

### Coercive information-gathering powers

The Integrity Commissioner's coercive information-gathering powers are set out in Part 9 of the LEIC Act. These powers require a person to produce documentary evidence or appear as a witness and answer questions truthfully at a hearing. Notices or summonses can only be issued in relation to ACLEI investigations or joint investigations. It is an offence not to comply with these notices or summonses, and not to answer questions truthfully.

The Integrity Commissioner's exercise of coercive information-gathering powers is set out in Table Nineteen.

During the reporting year, the Integrity Commissioner exercised coercive information-gathering powers in seven investigations.

Twenty-nine summonses were issued for witnesses to appear in private hearings in relation to six investigations. Two summonses were revoked after issue: one to accommodate witness commitments (a new summons was issued for a later date), and one because the witness was no longer required (as a result of other evidence since obtained).

All 27 witnesses appeared. Seven witnesses were legally represented. No witnesses applied to the Attorney-General for financial assistance in respect of their attendance.

A total of 14 'notices to produce' information, documents or things were issued by the Integrity Commissioner in relation to four investigations (including three investigations that also included hearings).

As may be seen in Table Nineteen, the number of summonses to witnesses to attend hearings in order to provide information, documents or things under section 83 of the LEIC Act has grown from 19 to 29, whereas the number of 'notices to produce' information, documents or things issued under sections 75 and 76 of the LEIC Act has continued to fall, from 22 to 14.

As was the case in 2008–09, ACLEI made increasing use of summonses, rather than 'notices to produce' in order to protect investigations from compromise. This practice arose because summonses attract a prohibition against disclosure of information where notated to that effect, and evidence obtained in hearings may be protected from disclosure by confidentiality directions made by the Integrity Commissioner.

In its *Examination of the Annual Report of the Integrity Commissioner 2008–09*, the Parliamentary Joint Committee on ACLEI noted that the capacity to keep confidential certain information in order to protect investigations from compromise is critical. The Committee also noted that the holding of hearings to receive evidence and/or documents is a costly and time consuming process. The committee suggested that other options—including amending the legislation to incorporate a provision enabling the Integrity Commissioner to prohibit disclosure of information invoked under sections 75 and 76 of the LEIC Act—be given consideration.

The Integrity Commissioner shares the Committee's view. Accordingly, the proposal to amend the LEIC Act is presently under consideration by Government.

**TABLE NINETEEN:** Use of coercive information-gathering powers during 2009–10

	TOTAL
Notice to a staff member of a law enforcement agency to provide information or produce documents or things [s 75(1)]	2 (10)
Notice to a person, other than a staff member of a law enforcement agency, to provide information or produce documents or things [s 76(1)]	12 (12)
Summons to attend a hearing to give evidence and/or produce documents or things [s 83]	29 (19)
<b>Total</b>	<b>43 (41)</b>

Numbers in (brackets) are for the 2008–09 reporting year.

### Intrusive information-gathering powers

The Integrity Commissioner has certain intrusive and covert powers for the purpose of investigating possible corrupt conduct. This year, for the first time, ACLEI issued warrants for intrusive or covert information-gathering powers in its own right, in relation to one investigation. These powers are listed in Table Twenty.

The independent exercise of intrusive and covert information-gathering powers in 2009–10 marks a new milestone in ACLEI's development. Previously, the use of these powers had been exercised by other agencies on ACLEI's behalf in the context of joint investigations, a practice that also occurred during the reporting year.

**TABLE TWENTY:** Use of intrusive and covert information-gathering powers during 2009–10

	TOTAL
Power of entry (section 105, LEIC Act)	0
Search warrant (Part 9, Division 4, LEIC Act)	2
Telecommunications (interception and access) warrant ( <i>Telecommunications (Interception and Access) Act 1979</i> )	1
Surveillance device warrant ( <i>Surveillance Devices Act 2004</i> )	0
Controlled operation authorisation (Part 1AB of the <i>Crimes Act 1914</i> )	0
Assumed identity authorisation (Part 1AC of the <i>Crimes Act 1914</i> )	0
<b>Total</b>	<b>3</b>

### Enforcement orders

No applications were made to the Federal Court of Australia for delivery of a witness' passport or for an arrest (sections 97–101, LEIC Act).

# Legal proceedings

## Prosecutions

No brief of evidence for prosecution arising from investigations has been provided by the Integrity Commissioner this year.

## Confiscation Proceedings

No matters were commenced under the *Proceeds of Crime Act 2002* during the reporting period.

# CHAPTER 6

## REPORTS TO THE MINISTER

This chapter summarises the investigation reports submitted to the Minister during 2009–10, and tracks agency responses to the Integrity Commissioner’s recommendations.

### Investigation reports

The Integrity Commissioner’s investigations may culminate in a report to the Minister. A copy may also be provided to the head of the agency to which the investigation relates.

Regulation 20(e) of the *Law Enforcement Integrity Commissioner Regulations 2006* requires a summary of the outcomes of the investigations completed during the reporting period, together with any recommendations and any action taken as a result of the investigations, to be presented in the Integrity Commissioner’s annual report. In addition, Regulation 20(e) requires that the annual report record the commencement and outcomes of any disciplinary proceedings, criminal proceedings or civil penalty proceedings resulting from these investigations.

The Integrity Commissioner provided three investigation reports to the Minister during 2009–10. The reports are available from ACLEI’s website, [www.aclei.gov.au](http://www.aclei.gov.au), and are summarised below.

No disciplinary, criminal or civil penalty proceedings were commenced as a result of these investigations.

#### *Report 01/2010 An investigation into allegations about the Australian Crime Commission relating to the communication of information obtained under section 3E of the Taxation Administration Act 1953*

This investigation concerned two suspected breaches of section 3E of the *Taxation Administration Act 1953* (the TA Act) by an officer or officers of the ACC. If found to be true, both suspected breaches would have involved the unlawful communication by an ACC officer of material which had been provided by the Commissioner of Taxation in accordance with the provisions of section 3E of the TA Act.

The Integrity Commissioner found that the communication of the material did not constitute corrupt conduct.

Rather, the disputed material was obtained by the ACC as part of a properly authorised investigation, undertaken with a view to prosecution in connection with a tax-related offence and the possible making of orders under the *Proceeds of Crime Act 2002*.

In addition, the investigation did not find any evidence of an offence against a law of the Commonwealth or of any contravention of a law which would attract a civil penalty, or that any officer of the ACC had breached his or her professional standards.

The Integrity Commissioner made no recommendations in relation to this issue.

### *Report 02/2010 An investigation into allegations about the Australian Crime Commission relating to compliance with a Direction made under section 25A(9) of the Australian Crime Commission Act 2002*

This investigation related to concerns that a Direction made by an ACC Examiner under section 25A(9) of the *Australian Crime Commission Act 2002* (the ACC Act) may have been breached by an officer or officers of the ACC.

As a result of the investigation of information referred by the informant, the Integrity Commissioner found that ACC officers did not engage in corrupt conduct in relation to those issues.

The investigation found no evidence that an unauthorised person had attended the ACC examinations, or that material used in the Federal Court of Australia proceedings in question relied on a prohibited disclosure from ACC examinations, or that any disclosure was made to the ACC legal team involved with the Federal Court proceedings.

The Integrity Commissioner observed that the quarantining from criminal proceedings of self-incriminatory information gathered through coercive questioning is a fundamental doctrine of Australian law and that the prospect that an agency with coercive examination powers might act intentionally to circumvent that doctrine is anathema. The Integrity Commissioner was satisfied that the ACC was conscious of the need to sequester the evidence obtained through the examination process from matters being dealt with by the Federal Court, and took steps to do so.

The Integrity Commissioner made no recommendations in relation to this issue.

### *Report 03/2010 An investigation into staff claims about misuse of position and certain other integrity matters in the Australian Crime Commission*

This investigation primarily concerned information which suggested corrupt conduct involving an ACC senior manager. Specifically, the senior manager was said to have misused his position of influence to provide a more junior female staff member with preferential employment and financial benefits because they were reportedly engaged in a sexual relationship.

This and other information was provided to the ACC and ACLEI from a number of sources and initially raised concerns about possible systemic corrupt conduct on the part of several senior ACC staff members.

After extensive investigation by ACLEI, the Integrity Commissioner found that, although brought forward in good faith, there was no substance to the allegations and that they had been based on groundless rumour and misinterpretation. Although the Integrity Commissioner made no finding of corrupt conduct, this investigation provided several insights into how the culture of a law enforcement agency may affect corruption risk.

The Integrity Commissioner observed that cultural acceptance of certain types of unethical behaviour, such as spreading rumours, dulls the ability or preparedness of staff members to recognise and report indications of corruption. Lack of confidence in management systems also undermines the detection and reporting of corruption and sets up a workplace environment in

which avoiding management intervention is acceptable behaviour. In turn, staff perceptions that the risk of detection is low or that penalties are weak may reduce the deterrence value of professional reporting (whistleblower) systems and may encourage risk-taking behaviour.

The Integrity Commissioner is satisfied that the ACC has taken steps to prevent the recurrence of such a situation, and thereby has reduced corruption risk in the agency. These measures include instilling a values-based culture, awareness-raising about corruption risk and strengthening management structures.

The Integrity Commissioner made no recommendations in relation to this issue.

## Previous recommendations

ACLEI takes an interest in how agencies deal in the longer term with recommendations and suggestions made by the Integrity Commissioner.

### *Report 01/2009 An investigation into allegations about the Australian Crime Commission relating to unfair dismissal proceedings, and certain other integrity matters*

Last year's annual report noted that the ACC had commenced a review of its policies and procedures relating to the use of covert surveillance devices. The purpose of the review was to take account of a recommendation made by the Integrity Commissioner in *Report 1/2009*.

That investigation concerned two related corruption issues arising from the dismissal of an ACC staff member. The Integrity Commissioner found that no corrupt conduct was evident in either issue.

The ACC has confirmed that its policies relating to the use of covert surveillance devices have been reviewed and amended as recommended.

### *Report 2/2008 An investigation into an allegation that the Australian Federal police 'tipped-off' a Federal Member of Parliament about an impending search*

The 2007–08 annual report noted that the AFP had commenced a review of its guidelines and procedures about 'politically sensitive matters' relating to criminal investigations that may involve Members of Parliament and/or their staff. The purpose of the review was to take account of a recommendation made by the Integrity Commissioner in *Report 2/2008*.

In his report, the Integrity Commissioner found that there was no indication that the AFP investigation had been compromised, or that the AFP had alerted the Federal Member of Parliament.

During the 2008–09 reporting year, the AFP provided a copy of review documents to ACLEI. The Integrity Commissioner suggested that further clarification should be considered, prior to settling any policy revisions.

The AFP has informed ACLEI that the review documents have been redrafted, taking account of the Integrity Commissioner's feedback. The AFP policy on this matter is presently under consideration by AFP senior management.

# CHAPTER 7

## PATTERNS AND TRENDS



This chapter provides a summary of the patterns, trends and emerging issues in corruption identified by the Integrity Commissioner in the course ACLEI's activities during 2009–10.

The LEIC Act requires the Integrity Commissioner to report annually on the nature and scope of corruption, and any patterns and trends, that have come to his or her attention during the year in prescribed law enforcement agencies and in other Australian Government agencies that have law enforcement functions.

Within the resources available to the Integrity Commissioner, ACLEI monitors patterns and trends in a number of ways. Monitoring is done predominantly through the assessment and investigation of notifications and referrals of allegations and information made under the LEIC Act to the Integrity Commissioner.

For instance, not only does ACLEI examine specific corruption issues and the conduct of individuals, but also analyses the circumstance, motive, method and environment of each case. Whether or not corrupt conduct is subsequently found, ACLEI's assessments and investigations generate intelligence about trends, possible links to organised crime, deficient practices, workplace cultures and other systemic vulnerabilities.

In addition, through collaboration with other anti-corruption agencies, ACLEI has access to information about patterns and trends that may be observed in other jurisdictions, and what is being done or considered in these jurisdictions to build resistance to corruption. Access to this information enhances ACLEI's ability to detect and deter corruption through effective targeting strategies.

Accordingly, ACLEI collates information about corruption risk across a number of categories that are relevant to the operational environments and threats faced by the two agencies in ACLEI's jurisdiction. The Integrity Commissioner uses this patterns and trends analysis to inform agencies and government about precautions that may be taken to lessen any risks to integrity.

During the reporting year, ACLEI provided advice to Australian Government agencies about:

- corruption prevention initiatives in high-risk environments;
- Public Interest Disclosure (or 'whistleblower') law reform;
- unauthorised disclosure of law enforcement information to the media;
- dismissal and suspension arrangements in the contemporary law enforcement employment environment;
- secrecy law; and
- integrity testing policy.

## Corruption risk approach

In describing ACLEI's work, the Integrity Commissioner uses the terms 'corruption issue' and 'corruption risk'. The first term, 'corruption issue', comes from the LEIC Act and has a reserved meaning: an allegation or information about possible corrupt conduct that is considered for investigation. The term 'corruption risk' relates to the conditions, or 'precursors', that may give rise to a 'corruption issue'.

As the Beale report on the *Federal Audit of Police Capabilities* identified:

Law enforcement agencies have a high inherent risk of corruption due to their size, complexity, geographical spread, law enforcement methods, activities and information holdings. Some areas of work are more susceptible to corruption than others, for example community policing, informer management, drug-handling and international deployment, particularly in cultures where corruption may be commonplace. Apart from the high inherent risk, these same factors also lead to the likelihood that sub-cultures could arise that, if unchecked, could undermine organisational integrity.<sup>1</sup>

By understanding corruption risk, ACLEI is better placed to provide informed assurance to government about the integrity of Australian Government agencies with law enforcement functions.

The Integrity Commissioner's 2008–09 Annual Report (at pages 62 to 64) and the ACLEI publication *Resistance to Corruption*,<sup>2</sup> gave an overview of the risk profiles of the ACC and AFP, as they stood at that time. Since then, senior members of the ACC and the AFP have provided briefings to the Integrity Commissioner and to ACLEI staff about aspects of their operations, methods or targets that may have an impact upon corruption risk.

## Changes in risk

An observed characteristic of corruption is that it is dynamic and manifests in new ways to take advantage of emerging opportunities or to adapt to changes in the deterrence regime. Accordingly, ACLEI expects that the risk profile of agencies will also change. The main factors affecting risk include significant changes in the:

- threat environment, namely organised crime;
- law enforcement operational model; and
- corruption-deterrence regime.

These factors, and their potential impact on corruption risk, are discussed below.

<sup>1</sup> Beale, Roger, *New Realities: National Policing in the 21st Century – Federal Audit of Police Capabilities*, Report to the Minister for Home Affairs, The Hon Brendan O'Connor MP, 30 June 2009 (Allen Consulting Group), p. 207.

<sup>2</sup> ACLEI, *Resistance to Corruption: a pilot review of the internal anti-corruption arrangements of the Australian Crime Commission and the Australian Federal Police*, June 2009.



## Threat environment

The last 25 years have seen unprecedented openness in world finance, trade, travel and communication. Despite the benefits of economic growth and well-being, these developments have also given rise to massive opportunities for criminals to make their illegal business prosper. According to the United Nations Office of Drugs and Crime, 'organized crime has diversified, gone global and reached macro-economic proportions: illicit goods are sourced from one continent, trafficked across another, and marketed in a third'.<sup>3</sup>

The recent experience of Australian law enforcement agencies, including the ACC and the AFP is, that, more than ever before, organised criminal groups operating in Australia are part of global criminal 'franchises' headquartered overseas. Accompanying this change in organisation has been a new sophistication in operational models, including the use of methods such as: infiltration into business and government sectors to facilitate criminal purposes; and cooperation between criminal groups to achieve objectives.

To enable this level of organised crime in Australia, there is an active market for: government-held information; access to regulatory systems; and the granting of clearances and identity documents. Accordingly, infiltration, compromise and corrupt collaboration remain significant risks to public sector integrity.

In this context, information is a commodity. As the commodity becomes scarce (for instance, through tighter controls on law enforcement information), or of more intrinsic value (because of effective targeting of crime groups), it is likely that corruption risk will rise.

Due to the globalisation of crime, it is also possible that corruption methods have been, or will be, imported to Australia as part of a long-term strategy to protect a lucrative illicit market. These methods include:

- subornation of individual government officials over their careers; and
- 'passing' the details of corrupt officials from one criminal group to another, including across borders, for further exploitation.

Under these scenarios, the risk of serious and systemic corruption increases.

## Law enforcement operational model

During 2009 and 2010, in line with National Security Priorities and the *Commonwealth Organised Crime Strategic Framework*, the ACC and the AFP each made key changes to their operational focus and organisational arrangements in order to strengthen efforts to combat organised crime.

The new 'fusion' approach that has been adopted aims to involve non-traditional partners (such as non-law enforcement Federal and State government agencies, and businesses) in law enforcement intelligence and investigation initiatives to detect and disrupt organised crime.

One goal of the strategy is to collate a dynamic 'picture of criminality', to fill knowledge gaps about how criminal groups are operating in Australia. Attendant to the strategy is the increased use of short-term secondments to the ACC and the AFP, as well as task forces and joint investigative teams. The strategy necessarily widens the circle of individuals and agencies that may share information about law enforcement methods, targets and counter-measures, and also introduces challenges for maintaining the effectiveness of anti-corruption strategies.

3 UNODC, *The Globalization of Crime: a Transnational Organized Crime Threat Assessment*, 2010, Preface by Antonio Maria Costa, Executive Director.

Without assurance that information can be shared in-confidence, there is a risk that the fusion strategy will not reach its full potential. Accordingly, integrity assurance is as much a commodity to law enforcement agencies as is information gained through corruption to organised crime.

ACLEI will continue to monitor changes in the operational environment to identify emerging corruption risks.

### Corruption-deterrence regime

In February 2010, the Federal Parliament passed the *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010* and the *Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010*. In relation to corruption-deterrence, these acts strengthen existing laws by:

- requiring individuals suspected of possessing unexplained wealth to demonstrate it was legally acquired;
- extending criminal liability to individuals who jointly commit a Commonwealth offence; and
- increasing penalties for bribery of a Commonwealth public official.

No other significant changes occurred to the corruption-deterrence regime during the year, although discussions continued with the AFP about the possible introduction of an ‘integrity testing’ program and modifications to the AFP staff drug testing program.

### Corruption indicators

Corruption in Australia, as elsewhere, is a clandestine activity—its practitioners strive to remain undetected.

From time to time, corrupt conduct comes to official or public attention because of the actions of whistleblowers, auditors, and ‘police informers’, and through information provided by members of the public. Other corruption-detection activities, such as drug-testing, may focus on areas of high corruption risk and also act as a deterrent to corrupt conduct. These are each important potential sources of information for ACLEI about corrupt conduct.

Under a traditional model of internal investigation, an approach which owes much to the discipline of criminal investigation, cases of misconduct tend to be treated as individual transactions of wrong-doing. In contrast, the role of anti-corruption investigators is to consider potential patterns and to be alert to other information that may indicate that corrupt conduct may be present. To this end, the Integrity Commissioner’s 2008–09 Annual Report included a typology of corruption—see *What is law enforcement corruption?* (pages 68–72).

Presently, ACLEI is collecting information about corruption indicators—the visible aspects of possible corruption that, of themselves, may not constitute corrupt conduct. A number of these indicators have come to attention during the year through notifications and referrals made to the Integrity Commissioner, and through investigations.

## Unauthorised disclosure of information

One outward sign that corrupt conduct may have occurred is evidence of the ‘leaking’, or ‘unauthorised disclosure’ of official information. These signs may be, for example, an unexpected, well informed newspaper article, or a failed or compromised law enforcement operation.

ACLEI’s experience is that awareness in law enforcement about the risk of compromise due to unauthorised disclosures is contextual. That is, individuals may tend to justify their views about disclosing information according to their own circumstances and values, without sufficient reference to a corporate viewpoint. There is also a tendency to view the issue as concerning an individual’s behaviour, rather than as a starting point to examine a failed system. In this way, a person can be ‘blind’ to breaches of operational security by a colleague, and fail to recognise the associated corruption risk.

In response to the increasing threat from organised crime, ACLEI’s approach is to treat an unauthorised disclosure as both a security breach and as a corruption indicator and, therefore, as a starting point for investigation about possible infiltration or compromise by organised crime.

Unauthorised disclosure and its twin—inappropriate association with high-corruption risk people or environments—remain proportionately the largest categories of investigations commenced under the LEIC Act framework.

## Lifestyle anomalies

Another corruption indicator centres on discontinuities or anomalies in lifestyle (such as unexplained wealth) or personal vulnerabilities (such as alcoholism and gambling, use of performance-enhancing drugs, or excessive debt).

Presently, the tools to gather this type of information are under-developed. ACLEI hopes to work with the ACC, the AFP and other partners to develop tools or projects that may identify and capture these indicators more effectively.

## Leadership and confidence in management structures

Integrity in leadership is a key determinant of the success of any anti-corruption framework, as doubts about leadership may create a culture where avoidance of accountability systems becomes acceptable (see Investigation 03/2010 in Chapter Six – *Reports to the Minister*).

A number of corruption issues considered by ACLEI involve allegations or information about junior or middle-level employees engaging in multiple incidents of misconduct or potentially corrupt conduct. Upon assessment and investigation, one theme emerging is that inattention from supervisors, usually in the form of not recognising corruption risk, has contributed in some way to the conduct occurring or continuing to be unreported.

A compounding concern is the potential influence in law enforcement agency cultures (which essentially are closed recruitment environments) of nepotism and cronyism, whereby the degree of affinity between groups or individuals is the dominant factor in appointments and promotions or the approval of special working conditions, whether as a reward to one person or as a penalty to another. This situation, or even its perception (as was the case in Investigation 03/2010), encourages division rather than cohesion, and undermines confidence in the integrity system and the preparedness of individuals to report misconduct.

Accordingly, ACLEI remains alert to allegations that may bring into doubt the integrity of senior managers.

## Links to organised crime

Due to the potential use of corruption as a facilitator or enabler of organised crime—the ‘corruption handshake’—patterns and trends in the activity of organised crime gangs may also point to areas of corruption risk.

Since the commencement of the LEIC Act, ACLEI has observed an increase in the number of corruption issues with links to organised crime, as shown in Table Twenty-One.

**TABLE TWENTY-ONE:** Corruption issues with a possible connection to organised crime

	NUMBER
Corruption issues received in 2009–10	18
Corruption issues received in 2008–09	8
Corruption issues received in 2007–08	6
Corruption issues received in 2006–07	3
<b>Total</b>	<b>35</b>

While not all of these occurrences are investigated in the first instance, often due to inherent limitations in the information provided, the trend remains of interest. The causes of this growth may well be linked to the renewed emphasis for law enforcement agencies to combat organised crime, or to compromise tactics being adopted by criminal groups, but may also be a result of ACLEI’s own work to draw the attention of corruption-risk managers to the possibility of ‘the corruption handshake’.

At the end of the reporting year, ACLEI had commenced discussions with the ACC, the AFP and other agencies to put in place arrangements that will ensure that ACLEI is kept informed about developments in the ‘picture of criminality’ that may affect corruption risk in the agencies under the jurisdiction of the LEIC Act.

## Developments in the integrity framework

In November 2009, the Tasmanian Parliament passed legislation to establish an Integrity Commission to assure the integrity of senior police, public servants, local government officials and Members of Parliament, and to promote integrity. The Integrity Commission will commence operation in October 2010.

In June 2010, the Hon. John Brumby MLA, Premier of Victoria, announced that the Victorian Government would establish an Integrity and Anti-Corruption Commission. The Premier’s decision followed the *Review of Victoria’s integrity and anti-corruption system* by the Victorian State Services Authority (the Proust Review).

Both models embrace different forms of ‘integrity boards’ to ensure that the agencies which contribute to integrity programs work in concert. Noting that each jurisdiction must design and adopt an integrity model that is suited to its needs, ACLEI welcomes these recent developments in the integrity framework in Australia.



## PART THREE

# Management and Accountability

Chapter 8 Corporate Management

Chapter 9 Accountability

PART 3





## CHAPTER 8

# CORPORATE MANAGEMENT

### PART 3

This chapter provides an overview of ACLEI's corporate management and governance practices, financial and human resource frameworks, and security and information technology infrastructure.

The Integrity Commissioner, in his role as head of ACLEI, is responsible for managing the agency in a way that promotes the proper use of Australian Government resources while achieving high-quality outcomes. The key elements of the governance framework that apply to the Integrity Commissioner are specified in the *Financial Management and Accountability Act 1997* (the FMA Act).

The Integrity Commissioner, supported by the Executive Director and ACLEI's Corporate Services Section, has put in place a range of management processes and controls to ensure compliance with his responsibilities. These controls include:

- Chief Executive's Instructions (CEIs) that set out the agency's procedures for financial transactions and accountability;
- financial delegations and authorisations, consistent with the CEIs;
- senior management involvement in planning, risk management, budget development, allocation and monitoring; and
- an Audit Committee that provides advice to the Integrity Commissioner about corporate and financial management.

During the reporting period, the Integrity Commissioner established a Senior Leadership Group to ensure the inclusion of each functional area in corporate management and decision-making. The group, which is comprised of the Executive Director and the Directors of ACLEI's five sections, meets fortnightly to discuss issues such as risk and fraud management, budget, staff and resource allocation and forward planning. After each meeting, the Executive Director provides a summary of key points to the Integrity Commissioner for resolution or approval.

This arrangement consolidates a number of corporate governance functions and is a more efficient use of management resources in an agency of ACLEI's size than the establishment and maintenance of a number of special-purpose meetings, as was previously the case. The Integrity Commissioner and the Executive Director also meet weekly with the Director, Corporate Services to oversee specific financial and governance arrangements.

## Corporate projects

In addition to day-to-day business activity, ACLEI's Corporate Services Section manages selected projects that contribute to improving ACLEI's governance, transparency and efficiency. These projects may relate to any of a broad range of specialised subjects, including Human Resources, Finances and Procurement, Audit, Governance and Reporting, Information Technology, Records Management, Security, and Facilities Management.

Significant projects undertaken during the reporting year included:

- the recruitment of seven people to positions in ACLEI (see *Management of human resources*);
- the fit-out and delivery of ACLEI's secure operations facility (see *Facilities management*);
- an upgrade of information and communications technology across ACLEI (see *Information technology*); and
- revision of the Chief Executive Instructions (see *Governance practices*).

In making the most efficient use of its resources, ACLEI also draws on external relationships and partnerships to achieve its corporate objectives. For instance, as an agency in the Attorney-General's portfolio, ACLEI receives cooperation and support from the Attorney-General's Department's corporate and policy areas. The Department's staff have readily provided advice, guidance and practical assistance in relation to ACLEI's various corporate projects. The Integrity Commissioner is grateful for the help provided by the Department.

## Governance practices

The Integrity Commissioner is mindful that, as an integrity agency, ACLEI must establish and maintain strong internal governance arrangements. During 2009–10, ACLEI continued to implement and refine governance arrangements to meet the standards expected of an agency with ACLEI's role and powers.

### Audit Committee

The ACLEI Audit Committee is established in accordance with section 46 of the FMA Act. Due to the limited size of ACLEI's management, the Audit Committee is a vital component of ACLEI's internal governance arrangements.

As required by section 2.1 of the *Financial Management and Accountability Orders 2005*, Terms of Reference set out the framework and objectives of ACLEI's Audit Committee, including the role, functions, membership and operation of the Committee.

The Audit Committee is appointed by, and is responsible to, the Integrity Commissioner for the provision of advice relating to:

- ACLEI's systems of internal control;
- management of risk;
- review of financial reporting and control of public money and assets;
- compliance with relevant laws, rules, regulations and directions; and
- compliance with ACLEI's Information Handling Guidelines.



The Committee advises the Integrity Commissioner on the exercise of his executive powers and is authorised to obtain any information to perform its role from any employee or external party and access any documents held by ACLEI.

The Audit Committee comprises three members external to ACLEI and two ACLEI staff members, and is chaired by an external member. In 2009–10, the Committee comprised the following members:

- Mr Mark Hummerston, Assistant Privacy Commissioner (Committee Chair);
- Ms Elizabeth Kelly, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department;
- Mr Jeff Smart, Manager Corporate Services, High Court of Australia;
- ACLEI's Executive Director, Mr Peter Bache (acting) from July 2009 to April 2010 and Mr Stephen Hayward from April to June 2010; and
- Mr Nicholas Sellars, acting Director Strategic Support, ACLEI.

As a matter of convention, the Auditor-General is invited to nominate a representative to attend each meeting. Mr Simon Kidman, Executive Director of the Australian National Audit Office (ANAO) Assurance Audit Services Group, provided that representation.

In June 2010, Ms Kelly was promoted to Deputy Secretary, Civil Justice & Legal Services Group, Attorney-General's Department and stepped down from the Committee. The Integrity Commissioner thanks Ms Kelly for her contribution to ACLEI as an Audit Committee member and as the inaugural Chair of the Committee.

The Integrity Commissioner is pleased to welcome Ms Sarah Chidgey, Assistant Secretary, Criminal Law and Law Enforcement Branch, Attorney-General's Department, who will join the Committee in 2010–11.

The Committee's strong external representation provides a breadth of experience and expertise that would, ordinarily, not be available within an agency of ACLEI's size. The Committee's oversight, largely coming from outside of ACLEI, also provides for the objective appraisal of ACLEI's performance.

The Committee meets four times in each financial year. During 2009–10, the Committee:

- endorsed ACLEI's revised CEIs;
- assessed and endorsed ACLEI's rolling three-year Strategic Internal Audit Plan, which from 2010 will involve scenario testing as well as compliance and performance auditing;
- oversaw internal and external audit activity for 2009–10 and monitored progress against recommendations;
- reviewed the agency's financial performance and endorsed the Financial Statements Preparation Plan for 2009–10; and
- oversaw a strengthening of ACLEI's risk management and fraud and corruption control frameworks.

Throughout 2009–10, the Audit Committee provided advice to the Integrity Commissioner that led to the strengthening of ACLEI's governance practices and helped ensure that internal controls are appropriate, robust and effective. The Integrity Commissioner acknowledges the significant work of the Audit Committee during the reporting period and thanks the members for their efforts.

## Chief Executive Instructions

During 2009–10, as a result of recommendations from the previous year’s internal audit of financial controls, ACLEI revised the CEIs and amended other financial procedures.

The CEIs were amended to reflect relevant legislation and to meet ACLEI’s business requirements in relation to financial and asset management. Increased segregation of financial duties also helped to ensure that stringent accountability systems are in place.

## Internal audit

ACLEI’s Director of Corporate Services performs the role of Head of Internal Audit and manages internal audit activity. Internal Audit reports to the Audit Committee, and the Head of Internal Audit is accountable to the Integrity Commissioner for the efficient and effective operation of the function. ACLEI has engaged Deloitte Touche Tohmatsu (Deloitte) to provide internal audit services.

ACLEI has a rolling three-year Strategic Internal Audit Plan which is reviewed by management at the beginning of each financial year. Following the management review, the plan is subject to annual assessment and endorsement by ACLEI’s Audit Committee.

The plan is informed by agency strategic risk assessments to ensure that internal audit activity continues to assist in addressing areas of risk for ACLEI. Owing to ACLEI’s size and investigative functions, the two key risk areas continue to be financial management and operational information security. Accordingly, these areas were again the subject of the two internal audits in 2009–10. These audits are summarised in the following sections.

## Internal audit of handling of sensitive information

In 2008–09, Deloitte audited ACLEI’s security processes for information collected in the course of investigations and in the gathering of operational intelligence. In 2009–10, Deloitte was asked to review memorandums of understanding in relation to information-sharing arrangements and to examine whether the controls relating to the secure operations facility complied with ACLEI’s policies and procedures for obtaining, handling and storing sensitive (including personal) information. At the close of the reporting period, the audit findings had not been concluded.

## Internal audit of financial controls

During 2009–10, as a result of recommendations from the previous year’s internal audit of financial controls, ACLEI revised the CEIs and amended other financial procedures. Towards the end of the 2009–10 financial year, Deloitte was asked to conduct a further audit to test the strength of the revised controls and their compliance with FMA Act, the FMA Regulations and the *Commonwealth Procurement Guidelines* (CPGs),

The specific financial processes examined included:

- procurement, including compliance with the CPGs;
- accounts payable, including the use of public money, approval of spending proposals, recording of spending approvals and compliance with delegations;
- credit card use and reconciliation processes;
- banking of public money;
- bank reconciliations.

The audit did not identify any areas of high risk, and highlighted several opportunities for ACLEI's financial controls to be further strengthened. As a result of the recommendations, ACLEI will again revise its financial procedures during 2010–11.

### Agency risk management

ACLEI's Risk Management Plan provides guidance to all staff on the application of risk management to their work, with the aim of achieving a structured and consistent approach to risk identification, analysis, and treatment throughout ACLEI.

The Risk Management Plan includes a Strategic Risk Register which identifies risks, provides an analysis of likelihood and consequence of occurrence, and lists current risk mitigation strategies and controls, as well as longer term measures to mitigate further these identified risks. In addition, the Strategic Risk Register helps to identify and prioritise issues for internal audit activity under ACLEI's Strategic Internal Audit Plan.

In 2009–10, ACLEI introduced a Risk Treatment Register to assign responsibility for risk mitigation within the agency and ensure active management of risk. The Strategic Risk Register and Risk Treatment Register are reviewed quarterly by ACLEI's Senior Leadership Group.

ACLEI also has a Risk Management Policy, which is intended to drive practices that will: protect assets, fortify business operations, map liabilities, contribute to legal compliance and due diligence, create an environment where staff are 'risk aware', and assist with quality improvement.

Until March 2010, the ACLEI Risk Committee, comprising the senior management of ACLEI, met quarterly to oversee the Risk Management Plan. In the last quarter of 2009–10, the functions of the Risk Committee were absorbed by the Senior Leadership Group, which meets fortnightly and which has consolidated a number of corporate governance functions. Accordingly, as part of its brief, the Senior Leadership Group is responsible for:

- ensuring that risk in ACLEI is identified and assessed;
- assigning responsibility for active management of specific risks;
- monitoring mitigation action to ensure progress;
- reviewing and assessing regularly the effectiveness of risk mitigation strategies and measures; and
- ensuring that ACLEI's Strategic and Fraud Risk Registers remain current.

### Business planning

ACLEI's planning process aligns the business plans of each of ACLEI's functional areas with the Integrity Commissioner's strategic directions. Section Business Plans describe how the general focus of each section is aligned with ACLEI's strategic direction and list specific projects or bodies of work targeted at achieving ACLEI's strategic aims.

Section Business Plans are also linked to individual staff performance plans, developed under ACLEI's Program for Performance Improvement, to ensure that the work of each staff member contributes to the Integrity Commissioner's strategic objectives and to achieving the agency's outcomes and programs as set down in the Portfolio Budget Statements.

A full review of ACLEI's strategic plan and supporting documents will take place in 2010–11. This review is intended to recognise present and emerging changes in ACLEI's environment and to capitalise on experience gained in ACLEI's first three and a half years of operation.

## Business continuity planning

Information and Communication Technology disaster recovery and business continuity arrangements established with the Attorney-General's Department remained in place throughout 2009–10. These arrangements ensure the retention and accessibility of electronic agency information in the event of a disaster, and the subsequent resumption of business within appropriate time frames.

In 2010, ACLEI commenced a full review of the agency Business Continuity Plan. The review will conclude in the new reporting year.

## Fraud and corruption control

Consistent with the principles of good corporate governance and the requirements of both the FMA Act and the *Commonwealth Fraud Control Guidelines* and supplemented by specific knowledge about corruption control and prevention, ACLEI has adopted a number of strategies to identify and address fraud and corruption risks, including a rolling three-year Fraud Control Plan.

ACLEI assesses fraud risk and reviews the Fraud Control Plan annually. As part of this exercise in 2009–10, ACLEI revised the Fraud Risk Register and Fraud Risk Treatment Plan with a view to strengthening risk mitigation in the agency. ACLEI's Senior Leadership Group monitors Fraud Treatment Plans as part of the quarterly review of agency risks.

The Integrity Commissioner is satisfied that, for the 2009–10 reporting period, ACLEI had appropriate fraud control mechanisms in place that met the needs of the agency and complied with the *Commonwealth Fraud Control Guidelines*.

The Integrity Commissioner has also submitted ACLEI's annual statistical return to the Australian Institute of Criminology, in accordance with Guideline 1.16 of the *Commonwealth Fraud Control Guidelines*.

There were no cases of suspected fraud in the reporting period.

## Management of financial processes

As an assurance that agencies protect the public revenue, Australian Government agencies are required to remain accountable for their financial practices. Transparency measures and independent auditing to monitor adherence to guidelines ensure that this goal is met.

## Financial Statements

ACLEI again achieved an unqualified audit finding for its 2009–10 Financial Statements, which are set out in Part Four of this Annual Report. ACLEI thanks the ANAO staff for their oversight of the preparation of the 2009–10 Financial Statements.

## Purchasing

The *Commonwealth Procurement Guidelines*, ACLEI's *Chief Executive's Instructions* and the FMA Act provide the framework for decisions concerning the purchase of goods and services.

Within this framework, ACLEI uses procurement methods that are both efficient and cost effective, and that take account of ACLEI's security needs, specialised role and small size. For instance, ACLEI has been able to access supply panels and providers already selected by or contracted to the Attorney-General's Department, provided the value of ACLEI's contract is under \$80,000.

Value for money is always the guiding principle in selecting providers of goods and services to ACLEI. One factor in these decisions is reliability, that is, the assurance that a product will be delivered on time, with minimal project management from ACLEI.

Information on ACLEI's expenditure on contracts and consultancies is also available on the AusTender website, [www.tenders.gov.au](http://www.tenders.gov.au).

## Consultants

During 2009–10, two new consultancy contracts were entered into involving total actual expenditure of \$70,000 (including GST). These consultancies were for specialist expertise to assist with the assessment of a complex corruption issue and the independent review and finalisation of two investigations.

One ongoing consultancy contract was active in the reporting period, for the provision of internal audit services from September 2007 until July 2010. The value of the consultancy is anticipated to be \$70,000 (including GST) over the full term of the contract. This consultancy will extend into the 2010–11 reporting year.

Additional information on individual consultancy contracts to a value of \$10,000 or more appears at Appendix Five.

*Note: Last year's annual report incorrectly stated that there were no ongoing consultancy contracts during the 2008–09 financial year. ACLEI wishes to clarify that one ongoing consultancy was active during the 2008–09 financial year, namely for the provision by Deloitte of internal audit services. This consultancy is the same as the ongoing consultancy that is active during 2009–10.*

## Competitive tendering and contracting

Competitive tendering and contracting activity relates to the contracting out of government activities, previously performed by a government agency, to another organisation. ACLEI has not let any contracts of this nature.

## Exempt contracts

No contracts costing more than \$10,000 including GST have been exempted by the Integrity Commissioner from being published in AusTender on the basis that it would disclose exempt matters under the *Freedom of Information Act 1982*. No contracts were let that did not provide for the Auditor-General to have access to a contractor's premises.

## Legal services expenditure

In accordance with the requirements of the *Legal Services Directions 2005*, issued by the Attorney-General under the *Judiciary Act 1903*, ACLEI reports that the total expenditure on external legal services in 2009–10 was \$91,362.35 (including GST), up from \$29,013.16 incurred in the previous reporting year. This expenditure was incurred only on solicitors' fees and no costs were recovered.

No external legal counsel was engaged during the period.

Internal legal employee expenses, comprising salaries and on-costs, are estimated to have cost \$275,917.20 (including GST).

## Grant programs

ACLEI did not administer any grant programs during the reporting year.

## Management of human resources

The 2008 Federal Budget made additional funds available to ACLEI from 1 July 2009, allowing ACLEI to increase its ongoing full-time staff numbers (including the Integrity Commissioner) from twelve in 2008–09 to seventeen in 2009–10.

In the 2010 Budget, the Government announced that it would increase ACLEI's funding by a further \$1.6 million over four years, to provide additional resources to help address an increasing number of issues being notified and referred to ACLEI. The appropriation was offset by commensurate savings achieved by the AFP. These additional funds will be used in 2010–11 to appoint two ongoing staff to augment ACLEI's assessment and reporting functions, taking ACLEI's average staffing level to nineteen positions.

## Organisational review

As was the case in the previous year, ACLEI reviewed its organisational structure at intervals throughout the year. During the reporting period, a new position, Director Strategic Support, was created to more closely align ACLEI's policy, research and investigative functions. The position of Manager, Human Resources was also reoriented to Manager, Operations Security and Resources to link the administration of operational and human resource matters.

## Acting Integrity Commissioner

The Integrity Commissioner was absent from Australia on leave for three weeks in September 2009. To cover this absence, the Minister for Home Affairs appointed Mr Robert Cornall AO, a former Secretary of the Attorney-General's Department, to act as Integrity Commissioner.

## Senior Executive Service

At the beginning of the reporting period, the Senior Executive Service (SES) Band 1 position of Executive Director was occupied on a non-ongoing basis and ACLEI had commenced recruitment with a view to filling the position substantively. Mr Stephen Hayward took up the position of Executive Director in March 2010.

## Staffing profile and remuneration

In 2009–10, ACLEI had ongoing funding for seventeen positions, including the Integrity Commissioner. ACLEI began the reporting period with nine of the seventeen establishment positions filled on an ongoing basis, and six seconded or non-ongoing staff.

During the year, ACLEI began recruitment action to fill substantively the remaining ongoing positions. Seven of the eight advertised ongoing positions were filled during the reporting period, and recruitment for the remaining position was nearing completion at 30 June 2010.

For various periods during the reporting period, ACLEI also employed three non-ongoing staff and seconded a further three staff from other agencies to assist in specific investigations or to temporarily fill individual vacancies.

One ongoing staff member, who had been on long-term Defence Leave, resigned from ACLEI during the reporting period.

ACLEI's actual staffing profile at 30 June 2010 consisted of 17 ongoing staff, supplemented by three temporary or seconded staff, a total of 20 people. During 2009–10, ACLEI also retained three staff on a casual basis at various times for defined projects or activities.

Table Twenty-Two sets out ACLEI's salary bands for each level, provides a breakdown of gender and employment types, and includes acting arrangements as at 30 June 2010. Salary ranges are set out in more detail in ACLEI's Collective Agreement, which can be found on ACLEI's website, [www.aclei.gov.au](http://www.aclei.gov.au).

**TABLE TWENTY-TWO:** Staffing profile at 30 June 2010

CLASSIFICATION	ONGOING		NON-ONGOING		TOTAL
	MALE	FEMALE	MALE	FEMALE	
Statutory Office Holder	1 (1)	—	—	—	1 (1)
SES Band 1 (\$152,654)	1 (1**)	—	—	—	1 (1)
EL 2 (\$103,016–\$116,080)	4 + 1** (2)	—	0 (1**+ 2*)	—	5 (5)
EL 1 (\$83,798–\$101,836)	3 (0)	1 + 2** (1)	0 (1**)	1* (1*)	7 (3)
APS 6 (\$65,699–\$75,471)	1 (1)	1 (2)	—	1 (1)	3 (4)
APS 5 (\$60,831–\$64,504)	—	—	—	—	—
APS 4 (\$54,538–\$59,217)	—	2 (1)	—	1 (0)	3 (1)
APS 3 (\$48,935–\$52,815)	—	—	—	—	—
APS 2 (\$42,964–\$47,642)	—	—	—	—	—
APS 1 (\$37,962–\$41,957)	—	—	—	—	—
Total	11 (5)	6 (4)	0 (4)	3 (2)	20 (15)
	17 (9)		3 (6)		

Notes:

Figures in (brackets) are for staffing numbers at 30 June 2009.

\* temporary transfers: staff who are ongoing staff seconded from other government agencies

\*\* acting appointment

### Non-salary benefits

As was the case in the previous year, benefits available to all ACLEI staff during the period included an employee assistance program (including confidential professional counselling), salary packaging, free influenza vaccinations (including for the H1N1 swine flu virus), a reimbursement program for spectacles, and conference and study leave (discussed further under *Staff performance and development*). ACLEI also offered limited financial assistance for staff health and wellbeing activities and equipment.

During the reporting period, a number of staff used the employee assistance program, for assistance with professional and personal matters.

## Performance payments

ACLEI does not have a system of performance payments.

## Senior Executive remuneration

As a statutory officer, the salary and allowances of the Integrity Commissioner are determined by the Remuneration Tribunal. The Tribunal's determinations are published on its website [www.remtribunal.gov.au](http://www.remtribunal.gov.au).

The remuneration for the SES position of Executive Director at ACLEI is determined by the Integrity Commissioner, taking into account previous experience, qualifications and achievements, and comparisons with SES officers in other agencies. In November 2009, the Integrity Commissioner approved a revised SES Remuneration Policy to aid transparency in decisions about SES employment conditions.

The annual salary rate for the SES position at 30 June 2010 was \$152,654.

## Workplace agreements

At the beginning of the reporting period, the salaries and conditions of ACLEI staff were governed in three ways: by individual Australian Workplace Agreements (AWAs); Common Law Contracts; and the *Public Service Award 1998*, supplemented by determinations made by the Integrity Commissioner under section 24(1) of the *Public Service Act 1999*.

The variety of employment arrangements arose because of new workplace relations regulations that applied from February 2008, and the transition from AWAs to a Collective Agreement framework, in line with Government policy.

These employment arrangements were simplified during 2009–10, with the commencement of the ACLEI Collective Agreement, which came into effect on 31 August 2009.

The Collective Agreement covers all ACLEI staff below the level of SES. ACLEI's SES position of Executive Director is governed by a Common Law Contract.

## Security requirements

All ACLEI positions are Designated Security Assessment Positions. All employment at ACLEI is contingent on obtaining and maintaining a satisfactory security assessment, relevant to the employee's access to operational information. Currently, the minimum security requirement is 'Top Secret' for all ACLEI operational positions and 'Secret' for administrative staff.

Upon their commencement, ACLEI staff members are also required to submit a Declaration of Private Interests to the Integrity Commissioner and to update that declaration as their personal circumstances change. This requirement ensures that any potential conflicts of interest associated with ACLEI employment are identified and appropriate action is taken.

During 2010–11, the Integrity Commissioner intends to upgrade security requirements at ACLEI, to respond to the threat environment in which the agency and its partners operate.



## Staff performance and development

ACLEI's Program for Performance Improvement is a part of ACLEI's staff development and retention strategy. The Program provides the basis for managing the performance of staff, and for aligning individual efforts and development with the achievement of operational and business objectives. The Program is also integrated with ACLEI's business planning processes and links staff performance to incremental salary advancement.

Under the Program, ACLEI staff may identify preferred training and workplace development. In particular, staff are encouraged to undertake activity that aligns with the Australian Public Service Commission's Integrated Leadership System and contributes to development of generic leadership capabilities and foundation skills. The skills and knowledge gained by staff under the Program has supported ACLEI's development and growth over the reporting period.

During the year, staff attended a range of relevant training courses, conferences and mentoring sessions in line with performance assessment discussions held as part of the Program. For instance, ACLEI attended the Australian Public Sector Anti-Corruption Conference (APSACC) in Brisbane in July 2009 and the Corruption Prevention Network 2009 Annual Forum in Sydney in September.

In 2009–10, ACLEI also invested in targeted skills development for its operations staff. ACLEI investigative and intelligence staff undertook training in scientific content analysis of written statements, intelligence collection and analysis, and specific training in the tools and technologies available to them.

To enhance further ACLEI's specialist skill set, ACLEI—with the assistance of a private company—developed and delivered the *Behavioural Interviewing Skills Enhancement Program* (BISEP) during the reporting period. BISEP was designed to provide ACLEI's intelligence analysts and corruption investigators with specialist interviewing skills. More information about BISEP can be found under *Strengthening the integrity framework*, in Chapter Four of this report.

With a relatively small number of staff, it is critical that ACLEI maintains a multi-disciplinary, flexible and responsive workforce to enable the agency to manage fluctuating workflows and deal effectively with the types of corruption issues that arise in law enforcement. Towards the end of the reporting period, ACLEI was in the early stages of planning for the development of an agency learning and development strategy for staged implementation during 2010–11 and 2011–12. The ACLEI learning and development strategy will include a skills audit and gap analysis and is intended to achieve the following key goals:

- analysis of required competencies for detecting, investigating and preventing corrupt conduct;
- identification of existing staff skills and competencies that may be used more flexibly than at present;
- identification of target areas for ACLEI's development and for individual staff members; and
- development of a mandatory training program for all staff in core Australian Public Service skills and competencies, prioritising those that are most relevant to the ACLEI environment, such as security awareness, fraud control and ethics.

As part of ACLEI's staff development and retention strategy, staff may also be eligible for support under the Studies Assistance Policy. The Policy provides for access to study leave where formal study is relevant to the work of ACLEI and is either consistent with the individual's work responsibilities or assists with career development.

During 2009–10, study leave was granted to two staff members to assist them to undertake studies in law.

## Occupational Health and Safety (OH&S)

ACLEI is committed to providing a safe and secure workplace for staff and visitors. ACLEI's Corporate Services Section is responsible for developing and implementing the agency's Health and Safety Management Arrangements, in accordance with the *Occupational Health and Safety Act 1991* (the OH&S Act).

As part of these Arrangements, a Health and Safety Representative has been appointed and provided with appropriate training.

ACLEI's health and safety policies were investigated by Comcare in April 2010 as part of a national audit campaign. ACLEI's *Health and Safety Management Arrangements* were found to be compliant with the OH&S Act. In the report, the Comcare auditor commented positively on ACLEI's commitment to consultation with employees in the development of the Arrangements, and stated that there were adequate processes in place to review and vary the Arrangements and to resolve disputes.

As an organisation with less than 50 employees, ACLEI is not required to establish an OH&S Committee. Health and Safety issues are, however, addressed as a standing item once a month at a meeting of all agency staff. At all times, employees have direct access to the Health and Safety Representative as well as to Corporate Services staff.

During 2009–10, staff members were again provided with ergonomic workstation assessments and recommendations arising from those assessments were implemented.

No incidents were referred to Comcare Australia under the reporting requirements of section 68 of the OH&S Act, and no OH&S investigations were conducted during the reporting period.

In accordance with section 74(1)(f) (Certain matters to be included in annual reports) of the OH&S Act, ACLEI reports that there were no directions or notifications made relating to ACLEI under sections 29 (Provisional improvement notices), 45 (Power to direct in writing that workplace etc not to be disturbed), 46 (Power to issue prohibition notices) and 47 (Power to issue improvement notices) of the OH&S Act.

## Information technology

ACLEI and the Attorney-General's Department have a Memorandum of Understanding relating to ACLEI's Information and Communications Technology (ICT) requirements. The Memorandum of Understanding expired in June 2010. At the close of the reporting period, ACLEI and the Attorney-General's Department were in negotiations with a view to extending or renewing the agreement.

Under that agreement, ACLEI procures and owns necessary infrastructure and equipment, while the Department provides the Help Desk services, technical expertise, file backup and system security management that ACLEI requires for its operations. In addition, the Department provides assistance with ACLEI's electronic records management and hosting of the ACLEI web site.

This arrangement provides several advantages to ACLEI, including a high level of service provision at reasonable cost, access to the Department's full range of ICT expertise, access to high-level computer applications which otherwise would be cost-prohibitive, data backup and business continuity, and a high level of assurance with regard to ICT security.

### Infrastructure upgrade

In May 2010, as part of a scheduled asset replacement plan, ACLEI replaced and upgraded key elements of its ICT infrastructure and equipment. These elements included computers, printers and office machines, software platforms, electronic records management systems, and the implementation of a secure network in the operations facility.

In addition to ensuring that ACLEI is working from the most appropriate platforms, the upgrade takes account of ACLEI's specific information management and security needs in a changing operational environment. Accordingly, the new infrastructure has several features to enhance efficiency, information management and environmental performance. These features include the ability to scan documents direct to the network and an information management system that allows for easier filing, more efficient version control and more effective security access settings.

The ICT upgrade also included a number of enhancements to security infrastructure across ACLEI. For instance, computers which are left unattended lock within five minutes. Additionally, a 'follow me print' function ensures that documents sent for printing are not left on printers to be collected or viewed by unauthorised people. Instead, documents will print only when the sender physically attends the printer.

The environmental benefits of the upgrade are discussed further in *Environmental performance* later in this chapter.

### Electronic records management

ACLEI uses a segmented version of the Attorney-General's Department's Electronic Document Management System (EDMS), which the Department has created exclusively for ACLEI. As reported last year, technical difficulties have, in the past, prevented ACLEI from making the most effective use of the EDMS.

ACLEI's version of the EDMS was upgraded to solve these difficulties during the reporting period. To ensure compatibility, the roll-out to staff of the EDMS upgrade was timed to coincide with that of ACLEI's ICT infrastructure upgrade, in May 2010.

ACLEI has commenced creating new electronic records within the new EDMS environment and is planning for the back-capture of (previously created) corporate records.

Records relating to corruption issues are stored electronically on a separate case management system that is accessible only to operations staff and their supervisors. The case management system was also upgraded in May 2010.

### Secure ICT network

As reported last year, ACLEI successfully piloted a secure ICT network for operational use in 2008–09.

In May 2010, timed to coincide with the ICT infrastructure upgrade, ACLEI implemented the secure network for broad use by its investigations, intelligence and legal staff. The system allows ACLEI to create and store highly classified information and records, facilitates electronic communications between ACLEI investigators within the operations facility and allows secure data transfer with other agencies.

## Access to law enforcement databases

During 2009–10, ACLEI installed terminals for operational staff and taskforce members that enable access to certain law enforcement databases from ACLEI's secure operations facility. ACLEI will continue to develop its information-gathering capacity in this way in the coming year.

## Facilities management

Investigating law enforcement corruption issues requires not only specialist skills, but sophisticated facilities and infrastructure. Such facilities must support intelligence collection and analysis, communication with other agencies and the use of ACLEI's coercive, covert and intrusive information-gathering powers. Accordingly, ACLEI endeavours to ensure that its facilities remain appropriate to the type of high-end work upon which the Integrity Commissioner must focus.

## Secure operations facility

The new accommodation for ACLEI's legal, intelligence, investigation and seconded taskforce staff was completed and became operational in August 2009. More information about the secure operations facility can be found in Chapter Four of this report – *Strengthening integrity systems*.

ACLEI continues to upgrade the operational facility to match the task of investigating law enforcement corruption.

## Security

Due to the nature of ACLEI's work and the sensitivity of information held, ACLEI has physical security measures in place to protect ACLEI staff, information and assets. ACLEI operates under an Agency Security Plan which complies with the requirements of the *Australian Government Protective Security Manual*. Accordingly, ACLEI's security risks and measures are assessed regularly as part of ACLEI's Risk Management Plan.

ACLEI's new operations facility contains supplementary security measures, such as appropriate sound attenuation (so that classified information can be securely discussed within ACLEI premises) and a secure ICT network. Additionally, the Facility is divided into separate secure areas, requiring differing levels of access. A reception area contains lockable storage for visitors' mobile phones and other types of recording or communications devices which may not be carried into the secure premises. As an additional security measure, dual authorisation is required for access to the evidence room.

Before ACLEI occupied the facility, an *Australian Government Security Construction and Equipment Committee*-endorsed security consultant was engaged to inspect construction works, test physical security measures and ensure ACLEI's compliance with relevant Australian Government security requirements.

As a new security measure introduced in 2009–10, all mail items are scanned and opened in a contained environment before being brought onto ACLEI's premises.

## Other corporate issues

### Listing of file titles

ACLEI complies with Senate Order J.270, as amended on 3 December 1998 (J.265). Accordingly, ACLEI places indexed lists of file titles on the ACLEI website, excluding those file titles or parts of file titles that relate to internal administration or would disclose commercially confidential, personal, law enforcement or national security matters. The listings, produced twice yearly, are available at [www.aclei.gov.au](http://www.aclei.gov.au).

### Environmental performance

ACLEI employs energy saving methods to make the best use of resources, reduce energy consumption and promote sustainability. ACLEI has implemented a number of initiatives to ensure issues of environmental impact are addressed, as follows.

- ACLEI uses an 80–20 (80 per cent recycled–20 per cent new/virgin paper) for photocopying non-corporate documents and purchases recycled paper writing pads. Where possible, documents are printed or reproduced using both sides of the paper, and this is the default setting on all networked printers. Routine office procedures, such as leave approval and travel requisition, are performed electronically.
- The empty toner cartridges from the unclassified facsimile are recycled. All printer toner cartridges are recycled through the supplier. ACLEI uses waste recycling services for all unclassified paper waste.
- Preference is given to environmentally-friendly products when purchasing office supplies. Purchase or leasing of ‘Energy Star’ rated office machines and equipment is encouraged, as are machines with ‘power save’ features.
- ACLEI’s secure operations facility has low energy lighting installed throughout.
- Secure storage for bicycles is also provided for staff who choose to ride to work.
- Environmental impact is also considered when ACLEI implements new technologies or installs new equipment. For instance, as part of the upgrade of ACLEI’s ICT infrastructure in May 2010, a ‘follow-me print’ feature requires users to nominate before printing which print requests may be deleted, thereby reducing wastage. The new printers and personal computers have inbuilt five-minute sleep cycles to reduce energy consumption. In addition, during installation, ACLEI arranged to recycle all waste material, including all plastics and foam packaging.

### Commonwealth Disability Strategy

ACLEI is committed to its responsibilities under the *Disability Discrimination Act 1992* and the Commonwealth Disability Strategy.

The Commonwealth Disability Strategy sets out objectives for Commonwealth agencies to improve outcomes for people with disabilities through four common roles: *policy adviser, regulator, purchaser* and *provider*.

- In the role of *policy adviser*, ACLEI does not deliver any programs and does not have a role in this area.
- In the role of *regulator*, ACLEI is able to provide for people with disabilities who are directly affected by ACLEI investigations and the LEIC Act. For instance, were hearings to be held in public, provisions would be made to ensure that appropriate facilities are available for people

who are hearing-impaired or who may have access difficulties. Hearings held in private take account of the needs of individual witnesses. Similarly, were a summons or notice to produce to be issued to a person with a disability, ACLEI would take the appropriate action to ensure that the information is accessible to that person. ACLEI publishes additional information in relation to hearings, notices to produce and information handling on its website in accessible formats.

- In the role of *purchaser*, ACLEI has not purchased any goods or services with a direct impact on the lives of people with disabilities. Publicly available information on purchasing specifications may be accessed by people with disabilities and reports can be provided to people with disabilities on request.
- In the role of *provider*, ACLEI does not deliver services to people with disabilities. As one of ACLEI's roles is to receive information about possible corruption in law enforcement agencies from members of the public, ACLEI's website is designed to be accessible to as large a proportion of the community as possible and meets international accessibility standards. Individual communication with ACLEI can occur through a range of methods, including email, telephone, facsimile and in person. ACLEI does not presently have a TTY service.

The overarching framework contains an additional role, that of employer. Information in relation to the employer role is consolidated and reported in the Australian Public Service Commission's annual *State of the Service* report.

### State of the Service report

Section 44 of the *Public Service Act 1999* provides that the Public Service Commissioner must compile a report each year for presentation to the Parliament, that includes a report on the state of the Australian Public Service during the year. The *State of the Service* report draws on a range of information sources including a survey sent to all APS agencies employing 20 or more staff under the PS Act.

During the reporting period, ACLEI's overall staffing reached 20 people for the first time. Accordingly, ACLEI made its first contribution to the *State of the Service* report in 2009–10.

### Advertising and market research

ACLEI did not conduct any general advertising, market research, polling, direct marketing or any other form of advertising campaign during the reporting period.

### Internet presence

The ACLEI website, [www.aclei.gov.au](http://www.aclei.gov.au), provides information about ACLEI and the role of the Integrity Commissioner.

Inquiries about ACLEI, including reporting a corruption issue, can be sent to ACLEI by e-mail at [contact@aclei.gov.au](mailto:contact@aclei.gov.au).



## CHAPTER 9 ACCOUNTABILITY

This chapter describes ACLEI's external and internal accountability regimes.

PART 3

As an integrity agency, ACLEI is expected by Government, the public and law enforcement agencies to achieve high standards of ethics and practice. Maintaining confidence in the integrity and efficiency of ACLEI is essential to its role.

The powers and authority provided by Parliament to the Integrity Commissioner are substantial. A variety of safeguards ensure that these powers are used lawfully, fairly and appropriately. A number of these safeguards take the form of external checks, while others are administered by the Integrity Commissioner as head of ACLEI.

### Parliamentary Joint Committee on ACLEI

Part 14 of the LEIC Act establishes the Parliamentary Joint Committee on ACLEI (the Committee). The duties of the Committee include to:

- monitor and review the Integrity Commissioner's performance of his or her functions;
- report to both Houses of Parliament, with such comments as it thinks fit, on any matter connected with the performance of the Integrity Commissioner's functions or relating to ACLEI that the Committee considers should be directed to the attention of Parliament;
- examine each annual report, as well as any special reports, and report to the Parliament on any matter appearing in, or arising out of, any of those reports;
- examine trends and changes in law enforcement in so far as they relate to corruption, and corruption or integrity generally in Commonwealth government agencies with law enforcement functions; and
- report to the Parliament on any changes that the Committee thinks desirable to the Integrity Commissioner's functions or powers, the procedures followed by the Integrity Commissioner or ACLEI's structure.

The Committee's website is [www.aph.gov.au/Senate/committee/aclei\\_ctte/](http://www.aph.gov.au/Senate/committee/aclei_ctte/).

## Membership

The LEIC Act provides that the Committee shall consist of 10 members, namely, five members of the Senate appointed by the Senate, and five members of the House of Representatives appointed by that House.

At the commencement of 2009–10, the Committee's Chair was Ms Melissa Parke MP and the Deputy Chair was Senator the Hon. David Johnston. Other members were Senators Carol Brown, Doug Cameron, Steve Fielding and Stephen Parry, Mr Darren Chester MP, Mr Chris Hayes MP and the Hon. Sussan Ley MP. One position was vacant.

During the reporting year, the Hon. David Johnston and the Hon. Sussan Ley left the Committee and the Hon. Bob Debus MP and Mr Michael Keenan MP joined. Senator Concetta Fierravanti-Wells became the Deputy Chair in May 2010 to replace Senator Johnston.

## Committee Briefings

With limited exception, the Integrity Commissioner must give to the Parliamentary Joint Committee on ACLEI information it requests about an investigation. With the leave of the Committee, this information may be provided in private to protect the reputations of individuals against unfair exposure to criticism, or to protect against the compromise of ongoing investigations.

From time to time, the Committee invites the Integrity Commissioner to attend private meetings for the purposes of providing briefings to the Committee, and to answer questions. The Integrity Commissioner was not asked to provide any private briefings to the Committee during 2009–10.

## Examination of the 2008–09 Annual Report

One of the Committee's duties is to examine each year the Integrity Commissioner's annual report.

On 11 March 2010, the Integrity Commissioner and other ACLEI staff appeared as witnesses at a public hearing held as part of the Committee's examination of the 2008–09 annual report. The Committee's report of the examination was presented to the Parliament in May 2010. A copy of that report can be obtained from the Committee's website

The Committee commented that, over the course of 2008–09, ACLEI had established itself as an important player in the broader policy environment and as an integral part of the Commonwealth integrity system. The Committee made no formal recommendations, but suggested that consideration be given for amendments to the LEIC Act to give the Integrity Commissioner greater capacity to prohibit the disclosure of information and protect the integrity of investigations.

## Senate Estimates

Estimates of government expenditure are referred to Senate committees as part of the annual Budget cycle. This opportunity to examine the operations of government plays a key role in the parliamentary scrutiny of the executive.

ACLEI responds to the Senate Standing Committee on Legal and Constitutional Affairs.

The Integrity Commissioner appeared before the Senate Committee on 25 May 2010 and subsequently answered two questions on notice. The proceedings of Senate Committee hearings and responses to questions on notice are published on the Parliament of Australia website, [www.aph.gov.au](http://www.aph.gov.au).



## Process accountability

Many of ACLEI's powers require the prior approval of an external authority, usually a Judge, a Federal Magistrate or a nominated Member of the Administrative Appeals Tribunal. Examples include:

- a search warrant (section 108 of the LEIC Act or Part 3–5 of the *Proceeds of Crime Act 2002*);
- a warrant to use or retrieve a data surveillance device, a listening device, an optical surveillance device or a tracking device (*Surveillance Devices Act 2004*);
- a warrant to intercept telecommunications or access stored communications (*Telecommunications (Interception and Access) Act 1979*); and
- an order that a person deliver his or her passport to the Integrity Commissioner (section 97 of the LEIC Act) or for an arrest warrant following a failure to surrender a passport (section 99 of the LEIC Act).

The Integrity Commissioner may give authorised ACLEI officers the authority to exercise other powers granted by law. In such cases, the relevant legislation also authorises the Commonwealth Ombudsman to inspect records relating to the authorisation and other matters surrounding the exercise of the power. In some circumstances, the admissibility of the evidence collected through the exercise of a power may also be subject to review in a court. Examples include:

- controlled operations (Part 1AB of the *Crimes Act 1914*); and
- emergency authorisations to use or retrieve surveillance devices (*Surveillance Devices Act 2004*).

Some laws applying to ACLEI also provide that the use of some powers must be reported to the Attorney-General or the Minister for Home Affairs and Justice, as appropriate, and in some cases to the Parliament. These powers include:

- a warrant to use or retrieve a data surveillance device, a listening device, an optical surveillance device or a tracking device (*Surveillance Devices Act 2004*);
- a warrant to intercept telecommunications or access stored communications (*Telecommunications (Interception and Access) Act 1979*);
- controlled operations (Part 1AB of the *Crimes Act 1914*);
- assumed identities (Division 6, Part 1AC of the *Crimes Act 1914*); and
- witness identity protection certificates (Division 2, Part IACA of the *Crimes Act 1914*).

In combination, these requirements ensure that the granting of powers and authorities is subject to a rigorous process that provides safeguards against their misuse.

Within ACLEI, the exercise of intrusive powers is restricted to a person specifically authorised by the Integrity Commissioner. Under the LEIC Act, such a person must be a staff member of ACLEI whom the Integrity Commissioner considers has suitable qualifications or experience, or who is also a member of an Australian police force; or, if the person is not an ACLEI staff member, a member of the Australian Federal Police.

As an additional safeguard, relevant legislation also provides for a range of offences for making false statements to obtain warrants or authorisations, and executing warrants without authorisation.

## Judicial review

The authorities and powers of ACLEI and the Integrity Commissioner are generally open to review before the courts, as with any other government agency exercising law enforcement powers. However, an ACLEI staff member is not liable to civil proceedings in relation to an act done, or omitted to be done, in good faith in the exercise of the staff member's powers or duties (section 222 of the LEIC Act). Similarly, an ACLEI staff member may not be compelled to give evidence in third party court proceedings (section 211).

During the reporting year, one application was made under the *Administrative Decisions (Judicial Review) Act 1977* relating to a matter arising under the LEIC Act. On 17 March 2010, an injunction was granted to Nationwide News Pty Ltd by the Federal Court of Australia, preventing the release of a draft report into a joint ACLEI/Office of Police Integrity investigation. This investigation concerned an operational security breach, namely the apparent unauthorised disclosure to *The Australian* newspaper of information relating to a counter-terrorism operation, Operation Neath. By Consent Orders, made on 31 March 2010, ACLEI was released from the injunction.

## Commonwealth Ombudsman

The Commonwealth Ombudsman contributes to ACLEI's accountability in three important ways: independent investigation of complaints about ACLEI, 'own motion' investigation into matters of administration concerning ACLEI, and monitoring ACLEI's compliance with legislation relating to use of certain intrusive and covert powers.

### Complaint handling

A person dissatisfied with ACLEI can complain to the Integrity Commissioner. Should the matter remain unresolved, the person may refer the complaint to the Commonwealth Ombudsman who will decide how the matter will be handled.

One complaint about ACLEI was investigated by the Commonwealth Ombudsman during the reporting period. The Commonwealth Ombudsman recommended that the Integrity Commissioner review the priority of two related investigations and expedite their finalisation. Accordingly, the Integrity Commissioner appointed a consultant to assist in the completion of the two investigation reports.

### Own motion investigations

The Commonwealth Ombudsman may also decide to inquire into matters of administration on his or her own motion. In doing so, the Ombudsman may use the coercive information-gathering powers provided for in the Ombudsman Act. The Ombudsman can provide an investigation report to the Prime Minister, and may also decide to make an investigation report public.

No own motion investigations involving ACLEI were notified to the Integrity Commissioner by the Commonwealth Ombudsman during the reporting period.

### Inspections and monitoring

ACLEI's use of certain intrusive or covert powers is subject to the inspection and monitoring of the Commonwealth Ombudsman. Inspections are made at least annually, and the Ombudsman may also inspect ACLEI's records at any time. The Ombudsman is required to report annually to the Parliament on the comprehensiveness and adequacy of ACLEI's records relating to the use of these powers.

The records that are subject to inspection relate to powers exercised under the following Acts:

- *Surveillance Devices Act 2004*;
- *Telecommunications (Interception and Access) Act 1979*; and
- Part 1AB of the *Crimes Act 1914* (controlled operations).

In addition, section 218 of the LEIC Act requires the Commonwealth Ombudsman to provide at least once a year a briefing to the Parliamentary Joint Committee on ACLEI about the Integrity Commissioner's involvement in controlled operations. The Committee meets in private for this purpose.

In 2009–10, ACLEI's records were subject to inspection by the Ombudsman relating to the use of powers under the *Telecommunications (Interception and Access) Act 1979*. At the close of the reporting year, the Ombudsman's report has not been published.

## Auditor-General

The Auditor-General is responsible under the *Auditor-General Act 1997* for providing auditing services to the Parliament and public sector agencies such as ACLEI. The ANAO supports the Auditor-General, who is an independent officer of the Parliament.

As well as financial audits, the ANAO may conduct performance audits of selected areas of public administration. The ANAO has recourse to extensive powers of access to Commonwealth documents and information to support its role.

ACLEI was not subject to performance audit by the Auditor-General in the reporting period.

## Freedom of Information

The *Freedom of Information Act 1982* (the FOI Act) governs rights of access to information in the possession of the Australian Government and its authorities. Significant amendments to the FOI Act will commence on 1 November 2010, and information about these changes can be found on the website of the Department of the Prime Minister and Cabinet, [www.dpmc.gov.au](http://www.dpmc.gov.au).

In the reporting year, ACLEI received two requests for access to documents under the FOI Act, and no requests for correction or amendment.

See Appendix Four for ACLEI's *Freedom of Information Statement*, made under section 8 of the FOI Act.

## Internal accountability

The Integrity Commissioner expects ACLEI to maintain high standards in investigation practice and accountability. This principle has guided the continued development of policies and practices during the year. In addition to the measures described in this section, Chapter Eight of this report summarises ACLEI's corporate and financial accountability controls.

## Coercive powers

The Integrity Commissioner maintains procedures for ACLEI's use of coercive information-gathering powers and seeks to communicate expectations to people who may receive a summons or 'notice to produce'.

Accordingly, the Integrity Commissioner publishes a comprehensive set of 'Practice Notes' on ACLEI's website. These Notes, which are amended from time to time, set out the Integrity Commissioner's procedures for conducting hearings, whether in private or in public, including the rights of witnesses and their legal counsel.

During 2009–10, a set of 'Production Guidelines' was also published on ACLEI's website. These Guidelines are intended to inform a person, or their legal counsel, of their rights and obligations when they receive a 'notice to produce' documents, information or things under section 75 or section 76 of the LEIC Act.

Also in 2009–10, the Integrity Commissioner published a set of 'Information Guidelines' on ACLEI's website. The 'Information Guidelines' set out some of the statutory and procedural considerations used when deciding how ACLEI obtains, handles, uses or disseminates information in the exercise of the Integrity Commissioner's functions under the LEIC Act.

## Operational procedures

The Integrity Commissioner has made it a priority to establish clear policy and procedures to guide ACLEI's work, to set appropriate standards, and to communicate expectations.

ACLEI has in place guidelines which cover all of ACLEI's operational activities, including dealing with evidence, informant handling and witness protection, controlled operations and physical and technical surveillance. The guidelines take into account the experience of similar agencies and guidance provided by prosecutorial authorities. They also comply with the Australian Government Investigation Standards.

ACLEI regularly reviews and refines its operational policies and procedures to ensure that best practice is maintained. These reviews are conducted both formally, through post-investigation and assessment analysis, and informally, as the use of a broader range of investigation methods leads to operational learnings. Accordingly, in 2009–10, ACLEI implemented new guidelines that arose from a 2008–09 review of operational policies.

Also during 2009–10, ACLEI obtained and exercised warrants to use intrusive information-gathering powers in its own right for the first time. These occasions are noted in Chapter Five, under *Use of information-gathering powers*. As a result, operational policies and guidelines were updated to ensure that ACLEI's independent exercise of these powers meets all legislative requirements.

## Performance reviews and monitoring

Maintaining confidence in the integrity and efficiency of ACLEI is important to the achievement of ACLEI's objectives.

ACLEI recognises the need to adhere to operating procedures approved by the Integrity Commissioner and to demonstrate the responsible exercise of the powers that are provided for in legislation. All proposals to use ACLEI's coercive information-gathering and intrusive law enforcement powers must be approved by the Integrity Commissioner. Each decision is accompanied by a contemporaneous record of the decision and the reasons for it.

ACLEI regularly reviews the use and storage of information sourced from government and other external databases to ensure that internal safeguards are adequate and that staff adhere to them.

During 2009–10, ACLEI commenced quarterly exhibit-handling inspections by the Executive Director. These inspections provide the Integrity Commissioner and external stakeholders with assurance about the integrity of the chain of evidence relating to corruption issues under investigation.

There is also a need to learn from key operations, make assessments about how well ACLEI performed in response, and to address any shortcomings in ACLEI's performance. Accordingly, ACLEI conducts post investigation and assessment analysis which informs changes in policy and practice.

The deployment (or redeployment) of resources within ACLEI is actively managed through regular reviews.

### Privacy management

The Integrity Commissioner recognises the importance of appropriate handling of personal information. For instance, ACLEI's investigations may attract publicity and have the potential to have a significant impact upon individuals associated with an investigation, regardless if corrupt conduct were to be found. Unauthorised releases of information may result in unfair harm to the reputations of witnesses, or even risk their physical security.

Accordingly, the Integrity Commissioner published 'Information Guidelines' to ACLEI's website in 2009–10, which take account of ACLEI's law enforcement and commission-of-inquiry characters.

To ensure that ACLEI continues to maintain best practice in relation to the handling of personal and other sensitive information, on advice from ACLEI's Audit Committee, the Integrity Commissioner asked Deloitte to undertake an internal audit during 2009–10 of ACLEI's performance. At the close of the reporting period, the audit findings had not been presented.

### Inculcating ethical standards

As an integrity agency, ACLEI sets high standards with regard to operational security and ethical behaviour. Consistent with ACLEI's understanding of corruption prevention, a mixture of methods are employed to achieve high ethical standards. The measures include technology-based assurance, background checking, supervision and reinforcement of values and obligations, as follows.

- All ACLEI positions are Designated Security Assessed Positions.
- The confidentiality requirements for ACLEI staff at section 207 of the LEIC Act are brought to the attention of staff at the commencement of employment or secondment to ACLEI. So too are the relevant provisions of the *Public Service Act 1999*, including the Australian Public Service (APS) Values (section 10) and APS Code of Conduct (section 13) and related misconduct procedures. These obligations are reinforced on a regular basis.
- Individual staff performance plans, developed under ACLEI's Program for Performance Improvement, help to ensure that each staff member adheres to policies and standards.
- A designated ethics contact officer in ACLEI acts as a point of contact for staff for the Australian Public Service Commission's Ethics Advisory Service and is available to provide assistance and advice if required.

- A comprehensive set of Agency Policy Advices includes policies that underpin ACLEI's commitment to ethical standards such as conflicts of interest, harassment in the workplace, acceptance of gifts and benefits, breaches of the APS Code of Conduct, 'whistleblowing', outside employment, access to personal records, and approved use of identity cards and badges. Agency Policy Advices are reviewed and updated as necessary. For instance, one of the Agency Policy Advices developed in 2009–10 sets out the responsibilities of ACLEI staff in relation to the Australian Government lobbying code of conduct.
- Other fraud avoidance strategies, such as protections against misuse of ACLEI's corporate credit cards, are managed through the *Chief Executive's Instructions*, which were comprehensively reviewed in 2009–10. In addition, the ACLEI Audit Committee and internal audit provider have a role in scrutinising ACLEI's practices and performance relating to accountability.

## Integrity assurance measures

The LEIC Act recognises that, from time to time, there may be a need to investigate allegations or information about possible corrupt conduct relating to a member of ACLEI's staff.

For instance, the LEIC Act establishes a mechanism whereby the Minister can arrange for these 'ACLEI corruption issues' to be investigated independently by a Special Investigator, using the same powers that are available to the Integrity Commissioner.

The *Law Enforcement Integrity Commissioner Regulations 2006* (regulation 22(e)) prescribe that a summary of any investigation relating to an ACLEI corruption issue that is concluded during the year is to be published in the Integrity Commissioner's annual report.

No ACLEI corruption issue was notified to the Minister during 2009–10.



# **PART FOUR**

# Financial Statements







## INDEPENDENT AUDITOR'S REPORT

To the Minister for Home Affairs

### Scope

I have audited the accompanying financial statements of the Australian Commission for Law Enforcement Integrity for the year ended 30 June 2010, which comprise: a Statement by the Integrity Commissioner; Income Statement; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Schedule of Contingencies and Notes to and forming part of the Financial Statements, including a Summary of Significant Accounting Policies.

### *The Responsibility of the Commissioner for the Financial Statements*

The Integrity Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards (which include the Australian Accounting Interpretations). This responsibility includes establishing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Agency's preparation and fair presentation of the

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financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the Integrity Commissioner, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

#### ***Independence***

In conducting the audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

#### **Auditor's Opinion**

In my opinion, the financial statements of the Australian Commission for Law Enforcement Integrity:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including the Australian Commission for Law Enforcement Integrity's financial position as at 30 June 2010 and its financial performance and cash flows for the year then ended.

Australian National Audit Office



Simon Kidman  
Executive Director

Delegate of the Auditor-General  
Canberra

30 September 2010

**STATEMENT BY THE INTEGRITY COMMISSIONER**

In my opinion, the attached financial statements for the year ended 30 June 2010 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Order made under the *Financial Management and Accountability Act 1997*, as amended.



Philip Moss  
Integrity Commissioner

30 September 2010

**STATEMENT OF COMPREHENSIVE INCOME for the Australian Commission for Law Enforcement Integrity**  
*for the period ended 30 June 2010*

	Notes	2010 \$'000	2009 \$'000
<b>EXPENSES</b>			
Employee benefits	3A	2,291	1,770
Supplier expenses	3B	1,626	1,029
Depreciation and amortisation	3C	385	194
Finance costs	3D	8	-
Write-down and impairment of assets	3E	12	-
<b>Total expenses</b>		<b>4,322</b>	<b>2,993</b>
<b>LESS:</b>			
<b>OWN-SOURCE INCOME</b>			
Gains			
Other	4A	30	30
<b>Total gains</b>		<b>30</b>	<b>30</b>
<b>Total own-source income</b>		<b>30</b>	<b>30</b>
<b>Net cost of (contribution by) services</b>		<b>(4,292)</b>	<b>(2,963)</b>
Revenue from Government	4B	4,127	2,821
<b>Surplus (Deficit) attributable to the Australian Government</b>		<b>(165)</b>	<b>(142)</b>
<b>OTHER COMPREHENSIVE INCOME</b>			
Changes in asset revaluation reserve		-	-
<b>Total other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income (loss) attributable to the Australian Government</b>		<b>(165)</b>	<b>(142)</b>

The above statement should be read in conjunction with the accompanying notes.

**BALANCE SHEET for the Australian Commission for Law Enforcement Integrity**  
*as at 30 June 2010*

	Notes	2010 \$'000	2009 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	5A	84	62
Trade and other receivables	5B	3,423	4,312
<b>Total financial assets</b>		<u>3,507</u>	<u>4,374</u>
<b>Non-Financial Assets</b>			
Land and buildings	6A	358	369
Property, plant and equipment	6B,C	516	336
Intangibles	6D,E	15	40
Other	6F	11	28
<b>Total non-financial assets</b>		<u>900</u>	<u>773</u>
<b>Total Assets</b>		<u>4,407</u>	<u>5,147</u>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	7A	385	543
Other	7B	70	135
<b>Total payables</b>		<u>455</u>	<u>678</u>
<b>Provisions</b>			
Employee provisions	8A	561	399
Other	8B	159	151
<b>Total provisions</b>		<u>720</u>	<u>550</u>
<b>Total Liabilities</b>		<u>1,175</u>	<u>1,228</u>
<b>Net Assets</b>		<u>3,232</u>	<u>3,919</u>
<b>EQUITY</b>			
<b>Parent Entity Interest</b>			
Contributed equity		3,848	4,370
Reserves		-	-
Retained surplus (accumulated deficit)		(616)	(451)
<b>Total parent entity interest</b>		<u>3,232</u>	<u>3,919</u>
<b>Total Equity</b>		<u>3,232</u>	<u>3,919</u>

The above statement should be read in conjunction with the accompanying notes.

**STATEMENT OF CHANGES IN EQUITY for the Australian Commission for Law Enforcement Integrity**  
*for the period ended 30 June 2010*

	Retained earnings		Asset revaluation reserve		Contributed equity/capital		Total equity	
	2010	2009	2010	2009	2010	2009	2010	2009
	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>Opening balance</b>								
Balance carried forward from previous period	(451)	(309)	-	-	4,370	3,620	3,919	3,311
Adjustment for errors	-	-	-	-	-	-	-	-
Adjustment for changes in accounting policies	-	-	-	-	-	-	-	-
<b>Adjusted opening balance</b>	<b>(451)</b>	<b>(309)</b>	-	-	<b>4,370</b>	<b>3,620</b>	<b>3,919</b>	<b>3,311</b>
<b>Comprehensive income</b>								
Other comprehensive income	-	-	-	-	-	-	-	-
Surplus (Deficit) for the period	(165)	(142)	-	-	-	-	(165)	(142)
<b>Total comprehensive income</b>	<b>(165)</b>	<b>(142)</b>	-	-	-	-	<b>(165)</b>	<b>(142)</b>
of which:								
Attributable to the Australian Government	(165)	(142)	-	-	-	-	(165)	(142)
<b>Transactions with owners</b>								
<b>Contributions by owners</b>								
Appropriation (equity injection)	-	-	-	-	-	750	-	750
<b>Distributions to owners</b>								
Returns of capital	-	-	-	-	-	-	-	-
Other - extinguishment of depreciation funding	-	-	-	-	(522)	-	(522)	-
<b>Sub-total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(522)</b>	<b>750</b>	<b>(522)</b>	<b>750</b>
Transfers between equity components	-	-	-	-	-	-	-	-
<b>Closing balance as at 30 June</b>	<b>(616)</b>	<b>(451)</b>	-	-	<b>3,848</b>	<b>4,370</b>	<b>3,232</b>	<b>3,919</b>
<b>Closing balance attributable to the Australian Government</b>	<b>(616)</b>	<b>(451)</b>	-	-	<b>3,848</b>	<b>4,370</b>	<b>3,232</b>	<b>3,919</b>

The above statement should be read in conjunction with the accompanying notes.

**CASH FLOW STATEMENT for the Australian Commission for Law Enforcement Integrity**  
*for the period ended 30 June 2010*

	Notes	2010 \$'000	2009 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		3,938	2,520
Net GST received		109	97
Other		-	188
<b>Total cash received</b>		<u>4,047</u>	<u>2,805</u>
<b>Cash used</b>			
Employees		2,122	1,629
Suppliers		1,444	1,265
Net GST paid		266	95
Receipts returned to the Official Public Account (section 31 FMA Act)		75	-
<b>Total cash used</b>		<u>3,907</u>	<u>2,989</u>
<b>Net cash from (used by) operating activities</b>	9	<u>140</u>	<u>(184)</u>
<b>INVESTING ACTIVITIES</b>			
<b>Cash received</b>			
Proceeds from sales of property, plant and equipment		-	-
<b>Total cash received</b>		<u>-</u>	<u>-</u>
<b>Cash used</b>			
Purchase of property, plant and equipment		835	2
<b>Total cash used</b>		<u>835</u>	<u>2</u>
<b>Net cash from (used by) investing activities</b>		<u>(835)</u>	<u>(2)</u>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Contributed equity		717	65
<b>Total cash received</b>		<u>717</u>	<u>65</u>
<b>Cash used</b>			
Repayment of borrowings		-	-
<b>Total cash used</b>		<u>-</u>	<u>-</u>
<b>Net cash from (used by) financing activities</b>		<u>717</u>	<u>65</u>
<b>Net increase (decrease) in cash held</b>		<u>22</u>	<u>(121)</u>
Cash and cash equivalents at the beginning of the reporting period		62	183
Effect of exchange rate movements on cash and cash equivalents at the beginning of the reporting period		-	-
<b>Cash and cash equivalents at the end of the reporting period</b>	5A	<u>84</u>	<u>62</u>

The above statement should be read in conjunction with the accompanying notes.

**SCHEDULE OF COMMITMENTS for the Australian Commission for Law Enforcement Integrity**  
*as at 30 June 2010*

	2010 \$'000	2009 \$'000
<b>BY TYPE</b>		
<b>Commitments receivable</b>		
GST recoverable on commitments	75	108
<b>Total commitments receivable</b>	<u>75</u>	<u>108</u>
<b>Commitments payable</b>		
<b>Other commitments</b>		
Operating leases	826	1,170
Other	6	24
<b>Total other commitments</b>	<u>832</u>	<u>1,194</u>
<b>Net commitments by type</b>	<u>757</u>	<u>1,086</u>
<b>BY MATURITY</b>		
<b>Commitments receivable</b>		
One year or less	39	37
From one to five years	36	71
Over five years	-	-
<b>Total commitments receivable</b>	<u>75</u>	<u>108</u>
<b>Commitments payable</b>		
<b>Operating lease commitments</b>		
One year or less	426	390
From one to five years	400	780
Over five years	-	-
<b>Total operating lease commitments</b>	<u>826</u>	<u>1,170</u>
<b>Other Commitments</b>		
One year or less	6	18
From one to five years	-	6
Over five years	-	-
<b>Total other commitments</b>	<u>6</u>	<u>24</u>
<b>Net commitments by maturity</b>	<u>757</u>	<u>1,086</u>

NB: Commitments are GST inclusive where relevant.

**Operating Leases**

**Lease for Office Accommodation**

The period for the office accommodation lease is still current and an option to renew is not available.  
 Lease payments are subject to annual increase of 4.95%.

**Agreement for the provision of motor vehicles to senior executive officers**

No contingent rental exists. There are no renewal or purchase options available to the Agency.

**Other Commitments**

Service payments are subject to annual CPI variation. The initial period of the contract is still in place and may be renewed for a period of 12 months upon notification from the Agency to the service provider within 3 months of the termination date of the initial period.



**SCHEDULE OF CONTINGENCIES for the Australian Commission for Law Enforcement Integrity**  
*as at 30 June 2010*

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The Agency has no Contingent Assets or Liabilities as at 30 June 2010.

**SCHEDULE OF ASSET ADDITIONS for the Australian Commission for Law Enforcement Integrity**  
*for the period ended 30 June 2010*

**The following non-financial non-current assets were added in 2009-10:**

	Buildings \$'000	Other property, equipment plant & \$'000	Intangibles \$'000	Total \$'000
By purchase - appropriation equity	159	185	-	344
By purchase - appropriation ordinary annual services	-	198	-	198
By purchase - donated funds	-	-	-	-
By purchase - other	-	-	-	-
By finance lease	-	-	-	-
Assets received as gifts/donations	-	-	-	-
From acquisition of entities or operations (including restructuring)	-	-	-	-
<b>Total additions</b>	<b>159</b>	<b>383</b>	<b>-</b>	<b>542</b>

**The following non-financial non-current assets were added in 2008-09:**

	Buildings \$'000	Other property, equipment plant & \$'000	Intangibles \$'000	Total \$'000
By purchase - appropriation equity	178	119	-	297
By purchase - appropriation ordinary annual services	-	-	-	-
By purchase - donated funds	-	-	-	-
By purchase - other	151	-	-	151
By finance lease	-	-	-	-
Assets received as gifts/donations	-	-	-	-
From acquisition of entities or operations (including restructuring)	-	-	-	-
<b>Total additions</b>	<b>329</b>	<b>119</b>	<b>-</b>	<b>448</b>

### Note 1: Summary of Significant Accounting Policies

#### 1.1 Objectives of the Australian Commission for Law Enforcement Integrity

The Australian Commission for Law Enforcement Integrity is an Australian Government controlled entity. The objective of the Australian Commission for Law Enforcement Integrity is to detect, investigate and prevent corrupt conduct in the Australian Crime Commission and the Australian Federal Police.

The Agency is structured to meet the following outcome:

Outcome 1: Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity by detecting, investigating and preventing corruption.

Agency activities contributing toward these outcomes are classified as departmental. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by the Agency in its own right.

Departmental activities are identified under one Program. One Program is identified for Outcome 1.

Program 1.1: Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.

The Agency has not conducted any administered activities during the year.

The continued existence of the Agency in its present form and with its present program is dependent on Government policy and on continuing appropriations by Parliament for the Agency's administration and programs.

#### 1.2 Basis of Preparation of the Financial Statements

The financial statements are required by section 49 of the *Financial Management and Accountability Act 1997* and are general purpose financial statements.

The Financial Statements have been prepared in accordance with:

- Finance Minister's Orders (or FMO) for reporting periods ending on or after 1 July 2009; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The financial statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

The financial statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMO, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured.

However, assets and liabilities arising under Agreements Equally Proportionately Unperformed are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an accounting standard, income and expenses are recognised in the statement of comprehensive income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

### 1.3 New Australian Accounting Standards

#### **Adoption of New Australian Accounting Standard Requirements**

No accounting standard has been adopted earlier than the application date as stated in the standard.

The new standards, amendment to standards and interpretations which have been issued will have no material impact for the current reporting period.

#### **Future Australian Accounting Standard**

The new standards, revised standards, interpretations or amendments issued by the Australian Accounting Standards Board prior to the signing of the statement by the Chief Executive Officer, are expected to have no material financial impact on the entity for future reporting periods.

### 1.4 Revenue

#### **Revenue from Government**

Amounts appropriated for departmental outputs for the year (adjusted for any formal additions and reductions) are recognised as revenue when the Agency gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned.

Appropriations receivable are recognised at their nominal amounts.

#### **Resources Received Free of Charge**

Resources received free of charge are recognised as revenue when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

#### **Other Types of Revenue**

No other types of revenue were received during the year.

### 1.5 Gains

#### **Resources Received Free of Charge**

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised as gains at their fair value when the asset qualifies for recognition, unless received from another Government agency or authority as a consequence of a restructuring of administrative arrangements (Refer to Note 1.6).

#### **Sale of Assets**

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

### **1.6 Transactions with the Government as Owner**

#### **Equity Injections**

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) are recognised directly in contributed equity in that year.

#### **Restructuring of Administrative Arrangements**

Net assets received from or relinquished to another Australian Government agency or authority under a restructuring of administrative arrangements are adjusted at their book value directly against contributed equity.

#### **Other Distributions to Owners**

The FMO require that distributions to owners be debited to contributed equity unless in the nature of a dividend.

### **1.7 Employee Benefits**

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of the end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

#### **Leave**

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of the Agency is estimated to be less than the annual entitlement for sick leave.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that will apply at the time the leave is taken, including the Agency's employer superannuation contribution rates, to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by reference to the work of an actuary as at 30 June 2010. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

**Superannuation**

Staff of the Australian Commission for Law Enforcement Integrity are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS accumulation plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. This liability is reported by the Department of Finance and Deregulation as an administered item.

The Australian Commission for Law Enforcement Integrity makes employer contributions to the employee superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government of the superannuation entitlements of the Agency's employees. The Australian Commission for Law Enforcement Integrity accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June represents outstanding contributions for the final fortnight of the year.

**1.8 Leases**

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

**1.9 Borrowing Costs**

All borrowing costs are expensed as incurred.

**1.10 Cash**

Cash and cash equivalents includes cash on hand, cash held with outsiders, demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value. Cash is recognised at its nominal amount.



### 1.11 Financial Assets

The Australian Commission for Law Enforcement Integrity classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss; and
- loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition.

Financial assets are recognised and derecognised upon trade date.

#### **Effective Interest Method**

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, where appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

#### **Financial Assets at Fair Value Through Profit or Loss**

Financial assets are classified as financial assets at fair value through profit or loss where the financial assets:

- have been acquired principally for the purpose of selling in the near future;
- are a part of an identified portfolio of financial instruments that the Agency manages together and has a recent actual pattern of short-term profit-taking; or
- are derivatives that are not designated and effective as a hedging instrument.

Assets in this category are classified as current assets.

Financial assets at fair value through profit or loss are stated at fair value, with any resultant gain or loss recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest earned on the financial asset.

#### **Loans and Receivables**

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

#### **Impairment of Financial Assets**

Financial assets are assessed for impairment at the end of each reporting periods.

- *Financial assets held at amortised cost* - if there is objective evidence that an impairment loss has been incurred for loans and receivables or held to maturity investments held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the statement of comprehensive income.

· *Available for sale financial assets* - if there is objective evidence that an impairment loss on an available-for-sale financial asset has been incurred, the amount of the difference between its cost, less principal repayments and amortisation, and its current fair value, less any impairment loss previously recognised in expenses, is transferred from equity to the statement of comprehensive income.

· *Financial assets held at cost* - if there is objective evidence that an impairment loss has been incurred the amount of the impairment loss is the difference between the carrying amount of the asset and the present value of the estimated future cash flows discounted at the current market rate for similar assets.

### 1.12 Financial Liabilities

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities.

Financial liabilities are recognised and derecognised upon 'trade date'.

#### **Financial Liabilities at Fair Value Through Profit or Loss**

Financial liabilities at fair value through profit or loss are initially measured at fair value. Subsequent fair value adjustments are recognised in profit or loss. The net gain or loss recognised in profit or loss incorporates any interest paid on the financial liability.

#### **Other Financial Liabilities**

Other financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

Other financial liabilities are subsequently measured at amortised cost using the effective interest method, with interest expense recognised on an effective yield basis.

The effective interest method is a method of calculating the amortised cost of a financial liability and of allocating interest expense over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash payments through the expected life of the financial liability, or, where appropriate, a shorter period.

Supplier and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

### 1.13 Contingent Liabilities and Contingent Assets

Contingent liabilities and contingent assets are not recognised in the balance sheet, but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an asset or liability in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain and contingent liabilities are disclosed when settlement is greater than remote.

### 1.14 Financial Guarantee Contracts

Financial guarantee contracts are accounted for in accordance with AASB 139 *Financial Instruments: Recognition and Measurement*. They are not treated as a contingent liability, as they are regarded as financial instruments outside the scope of AASB 137 *Provisions, Contingent Liabilities and Contingent Assets*.



1.15 Acquisition of Assets

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transfer or agency's accounts immediately prior to the restructuring.

1.16 Property, Plant and Equipment

Asset Recognition Threshold

Purchases of property, plant and equipment are recognised initially at cost in the balance sheet, except for purchases costing less than \$2,000.00, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This approach is particularly relevant to 'make good' provisions in property leases taken up by the Australian Commission for Law Enforcement Integrity where there exists an obligation to restore the property to its original condition. These costs are included in the value of the Australian Commission for Law Enforcement Integrity's leasehold improvements with a corresponding provision for the 'make good' recognised.

Revaluations

Fair values for each class of asset are determined as shown below:

Asset class	Fair value measured at
Leasehold improvements	Depreciated replacement cost
Infrastructure, plant and equipment	Market selling price

Following initial recognition at cost, property plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations are conducted with sufficient frequency to ensure that the carrying amounts of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depends upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments are made on a class basis. Any revaluation increment is credited to equity under the heading of asset revaluation reserve except to the extent that it reverses a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit. Revaluation decrements for a class of assets are recognised directly in the surplus/deficit except to the extent that they reverse a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date is eliminated against the gross carrying amount of the asset and the asset restated to the revalued amount.

**Depreciation**

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful lives to Australian Commission for Law Enforcement Integrity using, in all cases, the straight-line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	<b>2010</b>	<b>2009</b>
Leasehold Improvements	<b>Lease term</b>	Lease term
Furniture	<b>5 years</b>	5 years
Infrastructure	<b>5 years</b>	5 years
Equipment	<b>3 years</b>	3 years

**Impairment**

All assets were assessed for impairment at 30 June 2010. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if the Australian Commission for Law Enforcement Integrity were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

**Derecognition**

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

**1.17 Intangibles**

The Australian Commission for Law Enforcement Integrity's intangibles comprise internally developed software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of the Australian Commission for Law Enforcement Integrity's software are 3 years (2008-09: 3 years).

All software assets were assessed for indications of impairment as at 30 June 2010.

**1.18 Taxation / Competitive Neutrality**

The Agency is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

**Note 2: Events After the Reporting Period**

There are no events after the balance sheet date which have the potential to affect significantly the ongoing structure and financial activities of the Agency.

**Note 3: Expenses**

	2010 \$'000	2009 \$'000
<b>Note 3A: Employee Benefits</b>		
Wages and salaries	1,842	1,396
Superannuation:		
Defined contribution plans	94	73
Defined benefit plans	167	141
Leave and other entitlements	188	160
<b>Total employee benefits</b>	<b>2,291</b>	<b>1,770</b>

**Note 3B: Suppliers****Goods and services**

Business operating expenses	219	141
Information communication technology	437	236
Professional and legal	312	255
Travel and employee development	269	211
Other	3	7
<b>Total goods and services</b>	<b>1,240</b>	<b>850</b>

Goods and services are made up of:

Provision of goods – related entities	-	1
Provision of goods – external parties	132	103
Rendering of services – related entities	482	272
Rendering of services – external parties	626	474
<b>Total goods and services</b>	<b>1,240</b>	<b>850</b>

**Other supplier expenses**

Operating lease rentals – external parties:		
Minimum lease payments	378	175
Workers compensation expenses	8	4
<b>Total other supplier expenses</b>	<b>386</b>	<b>179</b>
<b>Total supplier expenses</b>	<b>1,626</b>	<b>1,029</b>

**Note 3C: Depreciation and Amortisation****Depreciation:**

Leasehold Improvements	169	14
Furniture	62	39
Infrastructure	106	43
Equipment	23	71
<b>Total depreciation</b>	<b>360</b>	<b>167</b>

**Amortisation:**

Intangibles:		
Computer Software	25	27
<b>Total amortisation</b>	<b>25</b>	<b>27</b>
<b>Total depreciation and amortisation</b>	<b>385</b>	<b>194</b>

**Note 3: Expenses (continued)**

	2010	2009
	\$'000	\$'000
<b>Note 3D: Finance Costs</b>		
Unwinding of discount	8	-
<b>Total Finance Costs</b>	<u>8</u>	<u>-</u>

**Note 3E: Write-Down and Impairment of Assets**

Asset write-downs from:

Write-down of property, plant and equipment	12	-
<b>Total write-down and impairment of assets</b>	<u>12</u>	<u>-</u>

**Note 4: Income**

	2010	2009
	\$'000	\$'000
<b>REVENUE</b>		

**Note 4A: Other Gains**

Resources received free of charge

	30	30
<b>Total other gains</b>	<u>30</u>	<u>30</u>

**REVENUE FROM GOVERNMENT**

2010	2009
\$'000	\$'000

**Note 4B: Revenue from Government**

Appropriations:

Departmental outputs	4,127	2,821
<b>Total revenue from Government</b>	<u>4,127</u>	<u>2,821</u>

**Note 5: Financial Assets**

	2010 \$'000	2009 \$'000
<b>Note 5A: Cash and Cash Equivalents</b>		
Cash on hand or on deposit	84	62
<b>Total cash and cash equivalents</b>	<b>84</b>	<b>62</b>
<b>Note 5B: Trade and Other Receivables</b>		
<b>Good and Services:</b>		
Goods and services - related entities	-	-
Goods and services - external parties	-	-
<b>Total receivables for goods and services</b>	<b>-</b>	<b>-</b>
<b>Appropriations receivable:</b>		
For existing outputs	3,081	4,055
<b>Total appropriations receivable</b>	<b>3,081</b>	<b>4,055</b>
<b>Other receivables:</b>		
GST receivable from the Australian Taxation Office	342	185
Other	-	72
<b>Total other receivables</b>	<b>342</b>	<b>257</b>
<b>Total trade and other receivables (gross)</b>	<b>3,423</b>	<b>4,312</b>
<b>Less impairment allowance account:</b>		
Other	-	-
<b>Total impairment allowance account</b>	<b>-</b>	<b>-</b>
<b>Total trade and other receivables (net)</b>	<b>3,423</b>	<b>4,312</b>
<b>Receivables are expected to be recovered in:</b>		
No more than 12 months	3,423	4,312
More than 12 months	-	-
<b>Total trade and other receivables (net)</b>	<b>3,423</b>	<b>4,312</b>
<b>Receivables are aged as follows:</b>		
Not overdue	3,154	4,116
Overdue by:		
0 to 30 days	37	42
31 to 60 days	29	28
61 to 90 days	18	22
More than 90 days	185	104
<b>Total receivables (gross)</b>	<b>3,423</b>	<b>4,312</b>

**Note 6: Non-Financial Assets**

	2010	2009
	\$'000	\$'000
<b>Note 6A: Land and Buildings</b>		
Leasehold improvements:		
Fair value	554	218
Work in progress	-	178
Accumulated depreciation	(196)	(27)
<b>Total leasehold improvements</b>	<u>358</u>	<u>369</u>
<b>Total land and buildings</b>	<u>358</u>	<u>369</u>

No indicators of impairment were found for land and buildings.

**Note 6B: Property, Plant and Equipment**

Furniture		
Fair value	314	172
Work in progress	-	30
Accumulated depreciation	(136)	(75)
<b>Total Furniture</b>	<u>178</u>	<u>127</u>
Infrastructure		
Fair value	365	187
Work in progress	-	86
Accumulated depreciation	(163)	(83)
<b>Total Infrastructure</b>	<u>202</u>	<u>190</u>
Equipment		
Fair value	299	159
Accumulated depreciation	(163)	(140)
<b>Total Equipment</b>	<u>136</u>	<u>19</u>
<b>Total property, plant and equipment</b>	<u>516</u>	<u>336</u>

No indicators of impairment were found for property, plant and equipment.

**Note 6: Non-Financial Assets****Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment 2009-2010**

	Leasehold Improvements \$'000	Furniture \$'000	Infrastructure \$'000	Equipment \$'000	Total \$'000
<b>As at 1 July 2009</b>					
Gross book value	396	202	273	159	1,030
Accumulated depreciation and impairment	(27)	(75)	(83)	(140)	(325)
<b>Net book value 1 July 2009</b>	<b>369</b>	<b>127</b>	<b>190</b>	<b>19</b>	<b>705</b>
Additions:					
By purchase	158	115	129	140	542
By finance lease	-	-	-	-	-
By donation/gift	-	-	-	-	-
From acquisition of entities or operations (including restructuring)	-	-	-	-	-
Revaluations and impairments recognised in other comprehensive income	-	-	-	-	-
Revaluations recognised in the operating result	-	-	-	-	-
Impairments recognised in the operating result	-	-	-	-	-
Reversal of impairments recognised in the operating result	-	-	-	-	-
Assets held for sale or in a disposal group held for sale	-	-	-	-	-
Depreciation expense	(169)	(62)	(106)	(23)	(360)
Other movements	-	-	-	-	-
Disposals:					
From disposal of entities or operations (including restructuring)	-	-	-	-	-
Other	-	(2)	(11)	-	(13)
<b>Net book value 30 June 2010</b>	<b>358</b>	<b>178</b>	<b>202</b>	<b>136</b>	<b>874</b>
<b>Net book value as of 30 June 2010 represented by:</b>					
Gross book value	554	314	365	299	1,532
Accumulated depreciation	(196)	(136)	(163)	(163)	(658)
	<b>358</b>	<b>178</b>	<b>202</b>	<b>136</b>	<b>874</b>

**Note 6C (Cont'd): Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment 2008-2009**

	Leasehold Improvements \$'000	Furniture \$'000	Infrastructure \$'000	Equipment \$'000	Total \$'000
<b>As at 1 July 2008</b>					
Gross book value	67	166	190	159	582
Accumulated depreciation and impairment	(13)	(36)	(40)	(69)	(158)
<b>Net book value 1 July 2008</b>	<b>54</b>	<b>130</b>	<b>150</b>	<b>90</b>	<b>424</b>
Additions:					
By purchase	178	33	86	-	297
By finance lease	-	-	-	-	-
By donation/gift	-	-	-	-	-
From acquisition of entities or operations (including restructuring)	-	-	-	-	-
Revaluations and impairments recognised in other comprehensive income	-	-	-	-	-
Revaluations recognised in the operating result	-	-	-	-	-
Impairments recognised in the operating result	-	-	-	-	-
Reversal of impairments recognised in the operating result	-	-	-	-	-
Reclassification	-	3	(3)	-	-
Assets held for sale or in a disposal group held for sale	-	-	-	-	-
Depreciation expense	(14)	(39)	(43)	(71)	(167)
Other movements	-	-	-	-	-
Make-good	151	-	-	-	151
Disposals:					
From disposal of entities or operations (including restructuring)	-	-	-	-	-
Other	-	-	-	-	-
<b>Net book value 30 June 2009</b>	<b>369</b>	<b>127</b>	<b>190</b>	<b>19</b>	<b>705</b>
<b>Net book value as of 30 June 2009 represented by:</b>					
Gross book value	396	202	273	159	1,030
Accumulated depreciation	(27)	(75)	(83)	(140)	(325)
	<b>369</b>	<b>127</b>	<b>190</b>	<b>19</b>	<b>705</b>



**Note 6: Non-Financial Assets**

	2010	2009
	\$'000	\$'000
<b>Note 6D: Intangibles</b>		
Computer software:		
Purchased	79	79
<b>Total computer software (gross)</b>	<u>79</u>	<u>79</u>
Accumulated amortisation	(64)	(39)
<b>Total computer software (net)</b>	<u>15</u>	<u>40</u>
<b>Total intangibles</b>	<u>15</u>	<u>40</u>

No indicators of impairment were found for intangible assets.

**Note 6: Non-Financial Assets****Note 6E: Reconciliation of the Opening and Closing Balances of Intangibles 2009-2010**

	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2009</b>		
Gross book value	79	79
Accumulated amortisation and impairment	(39)	(39)
<b>Net book value 1 July 2009</b>	<b>40</b>	<b>40</b>
Additions:		
By purchase	-	-
Internally developed	-	-
By finance lease	-	-
From acquisition of entities or operations (including restructuring)	-	-
Revaluations and impairments recognised in other comprehensive income	-	-
Revaluations recognised in the operating result	-	-
Impairments recognised in the operating result	-	-
Reversal of impairments recognised in the operating result	-	-
Amortisation	(25)	(25)
Other movements	-	-
Disposals:		
From disposal of entities or operations (including restructuring)	-	-
Other	-	-
<b>Net book value 30 June 2010</b>	<b>15</b>	<b>15</b>
<b>Net book value as of 30 June 2010 represented by:</b>		
Gross book value	79	79
Accumulated amortisation and impairment	(64)	(64)
	<u>15</u>	<u>15</u>

**Note 6E (Cont'd): Reconciliation of the Opening and Closing Balances of Intangibles 2008-2009**

	Computer software purchased \$'000	Total \$'000
<b>As at 1 July 2008</b>		
Gross book value	79	79
Accumulated amortisation and impairment	(12)	(12)
<b>Net book value 1 July 2008</b>	<b>67</b>	<b>67</b>
Additions:		
By purchase	-	-
Internally developed	-	-
By finance lease	-	-
From acquisition of entities or operations (including restructuring)	-	-
Revaluations and impairments recognised in other comprehensive income	-	-
Revaluations recognised in the operating result	-	-
Impairments recognised in the operating result	-	-
Reversal of impairments recognised in the operating result	-	-
Amortisation	(27)	(27)
Other movements	-	-
Disposals:		
From disposal of entities or operations (including restructuring)	-	-
Other	-	-
<b>Net book value 30 June 2009</b>	<b>40</b>	<b>40</b>
<b>Net book value as of 30 June 2009 represented by:</b>		
Gross book value	79	79
Accumulated amortisation and impairment	(39)	(39)
	<u>40</u>	<u>40</u>

**Note 6: Non-Financial Assets**

	2010 \$'000	2009 \$'000
<b>Note 6F: Other Non-Financial Assets</b>		
Prepayments	11	28
<b>Total other non-financial assets</b>	<b>11</b>	<b>28</b>

All other non-financial assets were current assets.

No indicators of impairment were found for other non-financial assets.

**Note 7: Payables**

	2010 \$'000	2009 \$'000
<b>Note 7A: Suppliers</b>		
Trade creditors and accruals	331	542
Operating lease rentals	54	1
<b>Total supplier payables</b>	<b>385</b>	<b>543</b>

Supplier payables expected to be settled within 12 months:

Related entities	245	57
External parties	121	485
<b>Total</b>	<b>366</b>	<b>542</b>

Supplier payables expected to be settled in greater than 12

Related entities	-	-
External parties	19	1
<b>Total</b>	<b>19</b>	<b>1</b>
<b>Total supplier payables</b>	<b>385</b>	<b>543</b>

Settlement is usually made within 30 days.

**Note 7B: Other Payables**

Salaries and wages	56	131
Superannuation	6	2
Other	8	2
<b>Total other payables</b>	<b>70</b>	<b>135</b>

Total other payables are expected to be settled in:

No more than 12 months	70	135
More than 12 months	-	-
<b>Total other payables</b>	<b>70</b>	<b>135</b>

**Note 8: Provisions**

	2010	2009
	\$'000	\$'000

**Note 8A: Employee Provisions**

Leave	561	399
<b>Total employee provisions</b>	<b>561</b>	<b>399</b>

Employee provisions are expected to be settled in:

No more than 12 months	305	148
More than 12 months	256	251
<b>Total employee provisions</b>	<b>561</b>	<b>399</b>

**Note 8B: Other Provisions**

Provision for restoration obligations	159	151
<b>Total other provisions</b>	<b>159</b>	<b>151</b>

Other provisions are expected to be settled in:

No more than 12 months	-	-
More than 12 months	159	151
<b>Total other provisions</b>	<b>159</b>	<b>151</b>

	Provision for restoration \$'000	Total \$'000
<b>Carrying amount 1 July 2009</b>	<b>151</b>	<b>151</b>
Additional provisions made	-	-
Amounts used	-	-
Amounts reversed	-	-
Unwinding of discount or change in discount rate	8	8
<b>Closing balance 2010</b>	<b>159</b>	<b>159</b>

The Agency currently has one agreement for the leasing of premises which have provisions requiring the Agency to restore the premises to their original condition at the conclusion of the lease. The Agency has made a provision to reflect the present value.

**Note 9: Cash Flow Reconciliation**

	2010 \$'000	2009 \$'000
<b>Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement</b>		
<b>Cash and cash equivalents as per:</b>		
Cash flow statement	84	62
Balance sheet	<u>84</u>	<u>62</u>
<b>Difference</b>	<u>-</u>	<u>-</u>
<b>Reconciliation of net cost of services to net cash</b>		
Net cost of services	(4,292)	(2,963)
Add revenue from Government	<u>4,127</u>	<u>2,821</u>
<b>Adjustments for non-cash items</b>		
Depreciation / amortisation	385	194
Net write down of non-financial assets	<u>12</u>	<u>-</u>
<b>Changes in assets / liabilities</b>		
(Increase) / decrease in net receivables	(349)	(254)
(Increase) / decrease in prepayments	16	3
Increase / (decrease) in employee provisions	162	149
Increase / (decrease) in supplier payables	136	(256)
Increase / (decrease) in other payable	(65)	89
Increase / (decrease) in other provisions	8	151
Increase / (decrease) in GST payable	-	-
Increase / (decrease) in accrued expenses	-	(118)
<b>Net cash from (used by) operating activities</b>	<u>140</u>	<u>(184)</u>

**Note 10: Contingent Liabilities and Assets****Quantifiable Contingencies**

At 30 June 2010, the Agency had no quantifiable contingencies.  
(2009: No quantifiable contingencies).

**Unquantifiable Contingencies**

At 30 June 2010, the Agency had no unquantifiable contingencies.  
(2009: No unquantifiable contingencies).

**Significant Remote Contingencies**

The Agency has no remote contingencies.

**Note 11: Senior Executive Remuneration****Note 11A: Remuneration expense in relation to senior executive employment**

	2010 \$'000	2009 \$'000
The number of senior executives who received total remuneration of:		
less than \$145,000*	-	-
\$145,000 to \$159,999	1	-
\$160,000 to \$174,999	-	1
\$175,000 to \$189,999	-	-
\$190,000 to \$204,999	-	-
\$205,000 to \$219,999	-	-
\$220,000 to \$234,999	-	-
\$235,000 to \$249,999	-	-
\$250,000 to \$264,999	-	-
\$265,000 to \$279,999	-	-
\$280,000 to \$294,999	-	-
\$295,000 to \$309,999	-	-
\$310,000 to \$324,999	-	-
\$325,000 to \$339,999	-	-
\$340,000 to \$354,999	1	1
\$355,000 to \$369,999	-	-
\$370,000 to \$384,999	-	-
<b>Total</b>	<b>2</b>	<b>2</b>

\* Senior executive with acting arrangements or part year service are excluded where remuneration is less than \$145,000.

For the purpose of this note disclosure remuneration includes:

- (a) Salary (including payment for leave taken)
- (b) Movement in annual leave and long service leave provisions
- (c) Superannuation (post-employment benefits)
- (d) Motor vehicle and other allowances
- (e) Reportable fringe benefits

**Total expense recognised in relation to Senior Executive employment**

	\$	\$
Short-term employee benefits		
Salary (including annual leave taken)	379,006	402,032
Movement in annual leave provisions	(8,970)	8,214
Other <sup>1</sup>	62,221	49,317
<b>Total Short-term employee benefits</b>	<b>432,257</b>	<b>459,563</b>
Superannuation (post-employment benefits)	52,935	54,364
Movement in long service leave provisions	11,095	10,108
<b>Total</b>	<b>496,286</b>	<b>524,036</b>

**Notes**

1. "Other" includes motor vehicle, other allowances and reportable fringe benefits.

During the year, the entity paid no termination benefits to senior executives (2008-09: nil).

**Note 11B: Senior Executive Remuneration****Note 11B: Salary Packages for Senior Executives**

Average annualised remuneration packages for substantive Senior Executives as at 30 June:

	As at 30 June 2010			As at 30 June 2009		
	No. SES	Base salary (including annual leave)	Total remuneration package <sup>1</sup>	No. SES	Base salary (including annual leave)	Total remuneration package <sup>1</sup>
Total remuneration package:						
less than \$145,000*	-	-	-	-	-	-
\$145,000 to \$159,999	-	-	-	-	-	-
\$160,000 to \$174,999	-	-	-	1	126,940	167,981
\$175,000 to \$189,999	-	-	-	-	-	-
\$190,000 to \$204,999	1	152,654	197,552	-	-	-
\$205,000 to \$219,999	-	-	-	-	-	-
\$220,000 to \$234,999	-	-	-	-	-	-
\$235,000 to \$249,999	-	-	-	-	-	-
\$250,000 to \$264,999	-	-	-	-	-	-
\$265,000 to \$279,999	-	-	-	-	-	-
\$280,000 to \$294,999	-	-	-	-	-	-
\$295,000 to \$309,999	-	-	-	-	-	-
\$310,000 to \$324,999	-	-	-	-	-	-
\$325,000 to \$339,999	-	-	-	-	-	-
\$340,000 to \$354,999	-	-	-	1	285,513	344,860
\$355,000 to \$369,999	1	294,742	355,210	-	-	-
\$370,000 to \$384,999	-	-	-	-	-	-

**Notes**

1. The total remuneration package includes:

- (a) Agreed base salary (including annual leave)
- (b) Motor vehicle allowance
- (c) Superannuation (post-employment benefits)

Long service leave is excluded as entitlement to this is not certain until 10 years of service is reached.

Table 11B includes substantive senior executives' remuneration packages as at 30 June. As at 30 June 2010 this included:

- (a) the Law Enforcement Integrity Commissioner (2008-2009: 1)

**Major differences between Note 11A and 11B**

Note 11A discloses senior executive remuneration based upon:

- (a) Actual salary paid during the year (including payment for leave taken)
- (b) Movement in annual leave and long service leave provisions (including revaluations of provisions)
- (c) Superannuation (post-employment benefits)
- (d) Motor vehicle and other allowances
- (e) Reportable fringe benefits.

These amounts may differ to the remuneration package disclosed in Note 11B depending upon, the amount of leave taken during the year, part-year service, periods of leave without pay, acting arrangements, changes to base salary, salary for superannuation purposes and allowances during the year, and revaluations of employee provisions.

Note 11A includes acting arrangements and part-year service where the \$145,000 threshold was reached during the year.

Note 11B reflects only substantive senior executive packages in existence as at 30 June.



**Note 12: Remuneration of Auditors**

	2010	2009
	\$'000	\$'000

Financial statement audit services were provided free of charge to the Agency.

The fair value of the services provided was:

Financial Statement Audit	30	30
	<u>30</u>	<u>30</u>

No other services were provided by the Auditor-General.

**Note 13: Financial Instruments**

	2010	2009
	\$'000	\$'000

**Note 13A: Categories of Financial Instruments****Financial Assets**

Loans and receivables:

Cash and cash equivalents	84	62
Trade and other receivables	-	72

<b>Total</b>	<u>84</u>	<u>134</u>
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<b>Carrying amount of financial assets</b>	<u>84</u>	<u>134</u>
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**Financial Liabilities**

At amortised cost:

Payables - suppliers	385	543
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<b>Total</b>	<u>385</u>	<u>543</u>
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<b>Carrying amount of financial liabilities</b>	<u>385</u>	<u>543</u>
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**Note 13B: Net Income and Expense from Financial Assets**

There is no net income/expense from financial assets in 2009-10.  
(2008-09: no net income/expense from financial assets).

**Note 13C: Net Income and Expense from Financial Liabilities**

There is no net income/expense from financial liabilities in 2009-10.  
(2008-09: no net income/expense from financial liabilities).

**Note 13D: Fair Value of Financial Instruments**

The Agency's aggregate net fair values of the identified financial instruments are the same as their carrying amounts (as disclosed in Note 14A).

**Note 13: Financial Instruments****Note 13E: Credit Risk**

The Agency has endorsed policies and procedures for debt management (including the provision of credit terms), to reduce credit risk. In most instances, debtors for the Agency are other Government entities and therefore represent minimal credit risk.

The carrying amount of financial assets, net of impairment losses, reported in the balance sheet represents the Agency's maximum exposure to risk.

The following table illustrates the Australian Commission for Law Enforcement Integrity's gross exposure to credit risk, excluding any collateral or credit enhancements.

	2010 \$'000	2009 \$'000
<b>Financial assets</b>		
Loans and receivables		
Cash and cash equivalents	84	62
Trade and other receivables	-	72
<b>Total</b>	<b>84</b>	<b>134</b>
<b>Financial liabilities</b>		
At amortised cost		
Payables - suppliers	385	543
<b>Total</b>	<b>385</b>	<b>543</b>

The Agency holds no collateral to mitigate against credit risk.

**Credit quality of financial instruments not past due or individually determined as impaired**

	Not past 2010 \$'000	Not past 2009 \$'000	Past due 2010 \$'000	Past due 2009 \$'000
Loans and receivables				
Cash and cash equivalents	84	62	-	-
Trade and other receivables	-	31	-	41
<b>Total</b>	<b>84</b>	<b>93</b>	<b>-</b>	<b>41</b>

**Ageing of financial assets that were past due but not impaired for 2010**

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Trade and other receivables	-	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Ageing of financial assets that were past due but not impaired for 2009**

	0 to 30 days \$'000	31 to 60 days \$'000	61 to 90 days \$'000	90+ days \$'000	Total \$'000
Trade and other receivables	-	-	-	41	41
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>41</b>	<b>41</b>

**Note 13F: Liquidity Risk**

The Agency's financial liabilities only include payables. Any exposure to liquidity risk is based on the notion that the Agency will have difficulty in meeting its obligations associated with financial liabilities. This possibility is highly unlikely due to appropriation funding, internal processes and procedures put in place to ensure there are appropriate resources to meet the Agency's financial obligations.

**Maturities for non-derivative financial liabilities 2010**

	On demand \$'000	within 1 year \$'000	1 to 2 years \$'000	2 to 5 years \$'000	> 5 years \$'000	Total \$'000
At amortised cost						
Payables - suppliers	385	-	-	-	-	385
<b>Total</b>	<b>385</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>385</b>

**Maturities for non-derivative financial liabilities 2009**

	On demand \$'000	within 1 year \$'000	1 to 2 years \$'000	2 to 5 years \$'000	> 5 years \$'000	Total \$'000
At amortised cost						
Payables - suppliers	543	-	-	-	-	543
<b>Total</b>	<b>543</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>543</b>

**Note 13G: Market Risk**

The Agency does not participate in any transactions in foreign currencies and as such is not exposed to market risk as a result of changes in exchange rates. The Agency also only has indirect exposure to interest rates and as such the impact on suppliers costs is not significant.

**Note 14: Appropriations****Table A1: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Ordinary Annual Services Appropriations**

Particulars	Departmental outputs		Total	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Balance brought forward from previous period ( <i>Appropriation Acts</i> )	3,415	3,285	3,415	3,285
<i>Appropriation Act</i>				
Appropriation Act (No. 1, 3&5) 2009-2010 as passed	4,127	2,821	4,127	2,821
Appropriations reduced ( <i>Appropriation Act</i> sections 10, 11&12)	-	-	-	-
Advance to the Finance Minister ( <i>Appropriation Act</i> section 13)	-	-	-	-
Reductions in previous Acts under subsection 14(1) of <i>Appropriation Act</i> (No.3) 2009-2010	(522)	-	(522)	-
<i>FMA Act</i> :				
Repayments to the Commonwealth ( <i>FMA Act</i> section 30)	7	8	7	8
Appropriations to take account of recoverable GST ( <i>FMA Act</i> section 30A)	202	128	202	128
Relevant agency receipts ( <i>FMA Act</i> s 31)	159	180	159	180
Transfer of agency functions ( <i>FMA Act</i> s 32)	-	-	-	-
<b>Total appropriation available for payments</b>	<b>7,388</b>	<b>6,402</b>	<b>7,388</b>	<b>6,402</b>
Cash payments made during the year (GST inclusive) <sup>1</sup>	4,127	2,987	4,127	2,987
Balance of authority to draw cash from the Consolidated Revenue Fund for ordinary annual services appropriations and as represented by:	3,261	3,415	3,261	3,415
Cash at bank and on hand	10	-	10	-
Departmental appropriations receivable	2,973	3,230	2,973	3,230
Net GST payable (to)/from ATO	278	185	278	185
Adjustments under s 101.13 of the Finance Minister's Orders not reflected above	-	-	-	-
<b>Total as at 30 June</b>	<b>3,261</b>	<b>3,415</b>	<b>3,261</b>	<b>3,415</b>

Departmental and non-operating appropriations do not lapse at financial year-end. However, the responsible Minister may decide that part or all of a departmental or non-operating appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament. The Agency was required to reduce departmental appropriations during the 2009-10 financial year by \$522,000.00 for extinguishment of depreciation funding. (2008-09: The Agency was not required to reduce departmental appropriations)

<sup>1</sup> Total cash payments made during the year includes \$214,000 (GST inclusive) for annual rolling asset replacement.

**Note 14: Appropriations****Table B1: Acquittal of Authority to Draw Cash from the Consolidated Revenue Fund for Other than Ordinary Annual Services Appropriations**

Particulars	Non – operating		Total	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
Balance brought forward from previous period ( <i>Appropriation Acts</i> )	887	140	887	140
<i>Appropriation Act:</i>				
<i>Appropriation Act (No. 2, 4 &amp; 6) 2009-2010 as passed</i>	-	750	-	750
<i>Appropriations reduced (Appropriation Act sections 12, 13 &amp; 14)</i>	-	-	-	-
<i>Advance to the Finance Minister (Appropriation Act section 15)</i>	-	-	-	-
<i>FMA Act:</i>				
<i>Repayments to the Commonwealth (FMA Act section 30)</i>	-	-	-	-
<i>Appropriations to take account of recoverable GST (FMA Act section 30A)</i>	64	-	64	-
<i>Transfer of agency functions (FMA Act s 32)</i>	-	-	-	-
<b>Total appropriations available for payments</b>	<b>951</b>	<b>890</b>	<b>951</b>	<b>890</b>
Cash payments made during the year (GST inclusive)	705	3	705	3
Balance of authority to draw cash from the consolidated revenue fund for other than ordinary annual services appropriations and as represented by:	246	887	246	887
Cash at bank and on hand	74	62	74	62
Departmental appropriation receivable	108	825	108	825
Net GST payable (to)/from ATO	64	-	64	-
Adjustments under s101.13 of the Finance Minister's Orders not reflected above	-	-	-	-
<b>Total as at 30 June</b>	<b>246</b>	<b>887</b>	<b>246</b>	<b>887</b>

**Note 15: Compensation and Debt Relief**

	2010	2009
	\$	\$
<b>Departmental</b>		
No payments were made during the reporting period (2009: no payments were made).	-	-

**Note 16: Reporting of Outcomes**

There is only one outcome for this Agency as detailed in Note 1.1.

**Note 16A: Net Cost of Outcome Delivery**

	Outcome 1		Total	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
<b>Expenses</b>				
Departmental	4,322	2,993	4,322	2,993
<b>Total</b>	<b>4,322</b>	<b>2,993</b>	<b>4,322</b>	<b>2,993</b>
<b>Income from non-government sector</b>				
Departmental				
Activities subject to cost recovery	-	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Other own-source income</b>				
Departmental	30	30	30	30
<b>Total</b>	<b>30</b>	<b>30</b>	<b>30</b>	<b>30</b>
<b>Net cost/(contribution) of outcome delivery</b>	<b>4,292</b>	<b>2,963</b>	<b>4,292</b>	<b>2,963</b>

Outcomes 1 is described in Note 1.1. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget Outcome. Refer to Chapter Three – *Performance Overview*, Table Ten: Expenses and Resources for Outcome 1 of this Annual Report.

**Note 16B: Major Classes of Departmental Expense and Income by Outcomes**

	Outcome 1		Total	
	2010 \$'000	2009 \$'000	2010 \$'000	2009 \$'000
<b>Departmental Expenses:</b>				
Employee benefits	2,291	1,770	2,291	1,770
Suppliers	1,626	1,029	1,626	1,029
Depreciation and amortisation	385	194	385	194
Finance costs	8	-	8	-
Write-down and impairment of assets	12	-	12	-
<b>Total</b>	<b>4,322</b>	<b>2,993</b>	<b>4,322</b>	<b>2,993</b>
<b>Departmental Income:</b>				
Income from government	4,127	2,821	4,127	2,821
Other non-taxation revenue	30	30	30	30
<b>Total</b>	<b>4,157</b>	<b>2,851</b>	<b>4,157</b>	<b>2,851</b>

Outcome 1 is described in Note 1.1. Net costs shown include intra-government costs that were eliminated in calculating the actual Budget outcome.

## **PART FIVE**

# Appendices

**Appendix 1** Papers and presentations by the Integrity Commissioner and ACLEI staff

**Appendix 2** Additional statistics

**Appendix 3** Changes to ACLEI's operating environment

**Appendix 4** Freedom of Information statement

**Appendix 5** Consultancy services





# APPENDIX 1

## PAPERS AND PRESENTATIONS BY THE INTEGRITY COMMISSIONER AND ACLEI STAFF

The following presentations were made during 2009–10 by the Integrity Commissioner, Mr Philip Moss, or by senior ACLEI staff:

PUBLISHED ARTICLES	
<i>Corruption: matching measures to risks*</i> , keynote address to the inaugural Canberra meeting of the Corruption Prevention Network (June 2009), published in abridged form in <i>The Canberra Times</i> ' supplement, <i>The Public Sector Informant</i> , as <i>Keeping the Faith: How to guard against corruption</i>	7 July 2009
PUBLIC PRESENTATIONS	
Signing of the Memorandum of Understanding for International Cooperation on Combating Corruption with the Corruption Eradication Commission (KPK) of the Republic of Indonesia*	27 July 2009
Third Conference of States Parties to the United Nations Convention Against Corruption, Expert Consultation on Corruption Prevention, Doha, Qatar: <i>Australia's approach to fighting corruption: the case of ACLEI*</i>	11 November 2009**
Institute of Chartered Accountants (ACT), Forensic Accounting Special Interest Group: <i>Bloodhounds and Watchdogs</i>	14 May 2010
PRESENTATIONS TO OTHER AUDIENCES	
Opening of ACLEI's operations facility – address*	2 December 2009
Australian Customs and Border Protection Service senior executives: <i>Managing Integrity in a Law Enforcement Environment</i>	24 March 2010
Australian Customs and Border Protection Service, Integrity and Professional Standards	2 occasions**
Regional Assistance Mission to the Solomon Islands: <i>Major Investigation Management Workshop (Integrity Investigations)</i> , hosted by the AFP	2 occasions**
National Intelligence Community training for future leaders <i>Professionalism and ethics in the National Intelligence Community</i> (panel)	2 occasions
Interagency Integrity Investigators Program, hosted by the AFP (panel)	6 May 2010
'Pearls in Policing' international conference for police commissioners and law enforcement agency leaders on the subject of police legitimacy and public trust	12 June 2010

PRESENTATIONS TO THE AFP	
Recruit courses	2 occasions**
Lateral transfer courses (former State and Territory police officer induction to the AFP)	2 occasions**
Airport Uniform Police program	14 occasions** (3 by the Integrity Commissioner)
AFP Professional Standards Induction training	3 occasions**
AFP Professional Standards Forum	1 occasion
PRESENTATIONS TO THE ACC	
Presentations to the ACC management group	1 occasion
Ethics Awareness Sessions (Canberra <sup>#</sup> & Sydney)	2 occasions
Ethics Awareness Sessions (Melbourne)	2 occasions**

\* Presentations marked with a single asterisk are available on ACLEI's website, [www.aclei.gov.au](http://www.aclei.gov.au).

\*\* These presentations were made by the Executive Director or other senior ACLEI staff.

<sup>#</sup> This session was attended by the Chair of the Parliamentary Joint Committee on ACLEI, Melissa Parke MP, and member of the Committee, Senator Stephen Parry, and members of the Parliamentary Joint Committee on the ACC.





# APPENDIX 2

## ADDITIONAL STATISTICS

The *Law Enforcement Integrity Commissioner Regulations 2006* set out the particulars that are required to be included in the annual report. The relevant statistics are presented in the following pages.

**Notes to the additional statistics**

- 1. The statistics presented here represent corruption issues. Just because corruption issues have been brought to the Integrity Commissioner’s notice, it should not be inferred that each one will have substance.
- 2. The definition of the ACC in the following tables includes members and former members of the ACC who may also have been members of the former NCA.
- 3. Numbers appearing in (brackets) are for previous reporting period, 1 July 2008 to 30 June 2009.
- 4. ‘OOJ’ means ‘out of ACLEI’s jurisdiction’, that is, the information provided does not relate to the ACC, the AFP or the former NCA.

PART 5

### Regulation 17

Prescribed particulars relating to corruption issues notified to the Integrity Commissioner by heads of law enforcement agencies under section 19, during 2009–10.

#### Regulation 17(a), (b) and (c)

Type and number of corruption issues received during 2009–10, by corruption class, as assessed upon receipt.

	ACC	AFP	FORMER NCA	TOTAL
Abuse of office [s 6(1)(a)]	8 (5)	19 (5)	0 (0)	27 (10)
Pervert the course of justice [s 6(1)(b)]	0 (0)	2 (2)	0 (0)	2 (2)
Corruption of any other kind [s 6(1)(c)]	3 (4)	8 (12)	0 (0)	11 (16)
Did not raise a corruption issue within the meaning of the LEIC Act	0 (0)	0 (2)	0 (0)	0 (2)
<b>Total</b>	<b>11 (9)</b>	<b>29 (21)</b>	<b>0 (0)</b>	<b>40 (30)</b>

## Regulation 17(d) and (e)

Reasons for taking no further action

	ACC	AFP	FORMER NCA	TOTAL
Issue not identified as 'significant' under s 20: Integrity Commissioner satisfied that ACLEI involvement not warranted [s 22 (1)]	0 (1)	10 (9)	0 (0)	10 (10)
<b>CORRUPTION ISSUE IDENTIFIED AS 'SIGNIFICANT' UNDER SECTION 20:</b>				
Integrity Commissioner arranged for State integrity agency to investigate [s 29(6)(b)]	0 (1)	0 (0)	0 (0)	0 (1)
Integrity Commissioner satisfied that another agency should investigate [s 31(4)(a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referral of allegation or information is frivolous or vexatious [s 31(4)(b)]	0 (0)	0 (0)	0 (0)	0 (0)
Conduct to which the issue relates has been, is or will be subject of proceedings before a court [s 31(4)(d)]	0 (0)	0 (0)	0 (0)	0 (0)
Investigation not warranted in all the circumstances [s 31(4)(e)]	3 (0)	0 (0)	0 (0)	3 (0)
<b>ANY ISSUE:</b>				
After further assessment, did not raise a corruption issue within the meaning of the LEIC Act	0 (2)	0 (0)	0 (0)	0 (2)
<b>Total</b>	<b>3 (4)</b>	<b>10 (9)</b>	<b>0 (0)</b>	<b>13 (13)</b>

## Regulation 17(f)

Investigations managed by Integrity Commissioner

	ACC	AFP	FORMER NCA	TOTAL
Managed investigations [s 26(1)(b)(i) or 26(1)(d)]	0 (0)	0 (0)	0 (0)	0 (0)
Investigations undertaken by AFP and managed by ACLEI [s 26(1)(c)(i)]	0 (0)	N/A	0 (0)	0 (0)
<b>Total</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (0)</b>

Regulation 17(g)

Investigations overseen by Integrity Commissioner

	ACC	AFP	FORMER NCA	TOTAL
Investigations overseen [s 26(1)(b)(ii) or 26(1)(e)]	0 (0)	1 (0)	0 (0)	1 (0)
Investigations by AFP about ACC overseen by ACLEI [s 26(1)(c)(ii)]	0 (0)	N/A	0 (0)	0 (0)
<b>Total</b>	<b>0 (0)</b>	<b>1 (0)</b>	<b>0 (0)</b>	<b>1 (0)</b>

Other ways by which section 19 notifications were dealt with

	ACC	AFP	FORMER NCA	TOTAL
ACLEI investigation [s 26(1)(a)]	2 (1)	0 (0)	0 (0)	2 (1)
Joint investigation [s 26(2)]	1 (1)	1 (1)	0 (0)	2 (2)
Unsupervised investigation conducted by referring agency [s 26 (1)(b)(iii)]	0 (0)	6 (1)	0 (0)	6 (1)
Unsupervised investigation conducted by the AFP [s 26(1)(c)(iii)]	0 (1)	N/A	0 (0)	0 (1)
Direction to notifying agency to investigate [s 22(2a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referrals to other government agencies (see Regulation 21)	0 (0)	0 (0)	0 (0)	0 (0)
Under assessment at close of reporting period	5 (2)	10 (10)	0 (0)	15 (12)
<b>Total</b>	<b>8 (5)</b>	<b>17 (12)</b>	<b>0 (0)</b>	<b>25 (17)</b>

## Regulation 18

Prescribed particulars relating to corruption issues raised by allegations or information referred to the Integrity Commissioner under section 18 (by the Minister) and section 23 (by other people) during 2009–10.

### Regulation 18(a), (b) and (c)

Type and number of corruption issues received during 2009–10, by corruption class, as assessed upon receipt

	ACC	AFP	FORMER NCA	OOJ	TOTAL
Abuse of office [s 6(1)(a)]	1 (1)	8 (3)	0 (0)	2 (0)	11 (4)
Pervert the course of justice [s 6(1)(b)]	1 (1)	2 (2)	0 (0)	1 (0)	4 (3)
Corruption of any other kind [s 6(1)(c)]	1 (2)	15 (4)	0 (0)	0 (0)	16 (6)
Did not raise a corruption issue within the meaning of the LEIC Act	0 (1)	1 (3)	0 (0)	8 (4)	9 (8)
<b>Total</b>	<b>3 (5)</b>	<b>26 (12)</b>	<b>0 (0)</b>	<b>11 (4)</b>	<b>40 (21)</b>

### Regulation 18(d) and (e)

Reasons for taking no further action

	ACC	AFP	FORMER NCA	OOJ	TOTAL
Integrity Commissioner satisfied that another agency should investigate [s 31(4)(a)]	0 (0)	1 (0)	0 (0)	N/A	1 (0)
Referral of allegation or information is frivolous or vexatious [s 31(4)(b)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
Conduct to which the issue relates has been, is or will be subject of proceedings before a court [s 31(4)(d)]	0 (0)	0 (0)	0 (0)	N/A	0 (0)
Investigation not warranted in all the circumstances [s 31(4)(e)]	0 (0)	4 (0)	0 (0)	N/A	4 (0)
After further assessment, did not raise a corruption issue within the meaning of the LEIC Act	0 (2)	10 (9)	0 (0)	7 (4)	17 (15)
<b>Total</b>	<b>0 (2)</b>	<b>15 (9)</b>	<b>0 (0)</b>	<b>7 (4)</b>	<b>22 (15)</b>

## Other ways that section 18 and 23 referrals were dealt with

## Investigations managed by Integrity Commissioner

	ACC	AFP	FORMER NCA	TOTAL
Managed investigations [s 26 (1)(b)(i) or 26 (1)(d)]	0 (0)	0 (0)	0 (0)	0 (0)
Investigations by AFP about ACC managed by ACLEI [s 26 (1)(c)(i)]	0 (0)	N/A	0 (0)	0 (0)
<b>Total</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (0)</b>

## Investigations overseen by Integrity Commissioner

	ACC	AFP	FORMER NCA	TOTAL
Investigations overseen [s 26(1)(b)(ii) or 26(1)(e)]	0 (0)	0 (1)	0 (0)	0 (1)
Investigations by AFP about ACC overseen by ACLEI [s 26 (1)(c)(ii)]	0 (0)	N/A	0 (0)	0 (0)
<b>Total</b>	<b>0 (0)</b>	<b>0 (1)</b>	<b>0 (0)</b>	<b>0 (1)</b>

## Other methods of handling

	ACC	AFP	FORMER NCA	OOJ	TOTAL
ACLEI investigation [s 26(1)(a)]	0 (0)	1 (0)	0 (0)	0	1 (0)
Joint investigation [s 26(2)]	0 (0)	1 (0)	0 (0)	0	1 (0)
Unsupervised investigation conducted by referring agency [s 26 (1)(b)(iii)]	0 (0)	3 (0)	0 (0)	0	3 (0)
Unsupervised investigation conducted by the AFP [s 26(1)(c)(iii)]	0 (1)	N/A	0 (0)	0	0 (1)
Referrals to other government agencies [see Regulation 21]	0 (0)	0 (0)	0 (0)	0	0 (0)
Under assessment at close of reporting period	3 (2)	6 (2)	0 (0)	4	13 (4)
<b>Total</b>	<b>3 (3)</b>	<b>11 (2)</b>	<b>0 (0)</b>	<b>4</b>	<b>18 (5)</b>

## Regulation 19

Own initiative investigations [s 38] commenced during 2009–10

	ACC	AFP	FORMER NCA	TOTAL
Corruption of any other kind [s 6(1)(c)]	0 (0)	1 (0)	0 (0)	<b>1 (0)</b>

## Regulation 20

Corruption issues investigated by the Integrity Commissioner (including joint investigations).

### Regulation 20(a), (c) and (d)

Type and number of corruption issues investigated during 2009–10 (including joint investigations and investigations carried forward from previous years)

	ACC	AFP	FORMER NCA	TOTAL
<b>INVESTIGATIONS COMMENCED DURING 2009–10</b>				
Abuse of office [s 6(1)(a)]	3	4	0	7
Pervert the course of justice [s 6(1)(b)]	0	1	0	1
Corruption of any other kind [s 6(1)(c)]	1	3	0	4
<b>Subtotal</b>	<b>4</b>	<b>8</b>	<b>0</b>	<b>12</b>
<b>INVESTIGATIONS COMMENCED DURING 2008–09 AND ACTIVE IN 2009–10</b>				
Abuse of office [s 6(1)(a)]	2	0	0	2
Pervert the course of justice [s 6(1)(b)]	0	0	0	0
Corruption of any other kind [s 6(1)(c)]	0	2	0	2
<b>Subtotal</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>4</b>
<b>INVESTIGATIONS COMMENCED DURING 2007–08 AND ACTIVE IN 2009–10</b>				
Abuse of office [s 6(1)(a)]	2	1	0	3
Pervert the course of justice [s 6(1)(b)]	0	0	0	0
Corruption of any other kind [s 6(1)(c)]	1	1	0	2
<b>Subtotal</b>	<b>3</b>	<b>2</b>	<b>0</b>	<b>5</b>
<b>INVESTIGATIONS COMMENCED DURING 2006–07 AND ACTIVE IN 2009–10</b>				
Abuse of office [s 6(1)(a)]	0	0	0	0
Pervert the course of justice [s 6(1)(b)]	1	0	0	1
Corruption of any other kind [s 6(1)(c)]	0	0	0	0
<b>Subtotal</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Total</b>	<b>10</b>	<b>12</b>	<b>0</b>	<b>22</b>

Regulation 20(b)

Investigations concluded during 2009–10

	ACC	AFP	FORMER NCA	TOTAL
Investigations completed by the Integrity Commissioner during 2009–10 (reports to the Minister)	3 (1)	0 (0)	0 (0)	3 (1)
Investigations discontinued after reconsideration [s 42]	0 (0)	1 (2)	0 (0)	1 (2)
<b>Total</b>	<b>3 (1)</b>	<b>1 (2)</b>	<b>0 (0)</b>	<b>4 (3)</b>

Regulation 21

Corruption issues referred to government agencies for investigation.

Regulation 21(a), (e) and (f)

Referrals made to other government agencies during 2009–10

	ACC	AFP	FORMER NCA	TOTAL
Referral to ‘home agency’ [s 29(6)(a)]	0 (0)	0 (0)	0 (0)	0 (0)
Referral to State or Territory integrity agency [s 29(6)(b)]	0 (1)	0 (0)	0 (0)	0 (1)
<b>Total</b>	<b>0 (1)</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (1)</b>

Regulation 21(c) and (d)

Type and number of corruption issues that were referred to a government agency for investigation during 2009–10.

	ACC	AFP	FORMER NCA	TOTAL
Abuse of office [s 6(1)(a)]	0 (1)	0 (0)	0 (0)	0 (0)
Pervert the course of justice [s 6(1)(b)]	0 (0)	0 (0)	0 (0)	0 (0)
Corruption of any other kind [s 6(1)(c)]	0 (0)	0 (0)	0 (0)	0 (0)
<b>Total</b>	<b>0 (1)</b>	<b>0 (0)</b>	<b>0 (0)</b>	<b>0 (1)</b>

Regulation 21(b)

Number of government agency investigations completed during 2009–10.

	ACC	AFP	FORMER NCA	TOTAL
Completed investigations	1 (0)	0 (0)	0 (0)	1 (0)

Regulation 21(g)

Summary of outcomes of investigations that were referred to a government agency, and that were completed during 2009–10

CORRUPTION ISSUE NUMBER 65	OUTCOME
(i) Any recommendations made by the government agency	The investigating government agency was of the view that there is insufficient evidence to establish that the subject of the allegation engaged in the alleged conduct. No recommendations were made in this case.
(ii) Any action taken as a result of the investigation	The investigating government agency provided evidence, obtained during the investigation, to the home (State Police) agency of the person who had been subject of the allegations. The person had been seconded to the ACC, where the actions alleged against him had been said to have taken place, but had since returned to the home agency.
(iii) If any disciplinary proceedings, criminal proceedings or civil penalty proceedings resulting from the investigations were commenced – the outcomes of the proceedings	No disciplinary, criminal or civil penalty proceedings were commenced.



Regulation 22

Part 12 of the LEIC Act includes provisions for dealing with allegations or information raising corruption issues that relate to ACLEI staff, known as ‘ACLEI corruption issues’.

Regulation 22(a), (c) and (d)

Type and number of ACLEI corruption issues investigated during 2009–10

	INVESTIGATED BY:		
	INTEGRITY COMMISSIONER	SPECIAL INVESTIGATOR	TOTAL
Abuse of office [s 6(3)(a)]	0 (0)	0 (0)	0 (0)
Pervert the course of justice [s 6(3)(b)]	0 (0)	0 (0)	0 (0)
Corruption of any other kind [s 6(3)(c)]	0 (0)	0 (1)	0 (1)
Total	0 (0)	0 (1)	0 (1)

Regulation 22(b)

Investigations of ACLEI corruption issues completed during 2009–10

	TOTAL
Investigations completed during 2009–10 (reports to the Minister)	0 (1)

Regulation 23 – Section 149 certificates

Section 149 certificates may be issued by the Attorney-General on the grounds that, if the information were disclosed, it would prejudice the security, defence or international relations of the Commonwealth, prejudice the effectiveness of law enforcement agencies, the proper performance of the ACC, an investigation, fair trial, a person’s life or physical safety or disclose the identity of a confidential source, amongst other reasons (section 149, LEIC Act) .

	TOTAL
Section 149 certificates issued by the Attorney-General	0 (0)



# APPENDIX 3

## CHANGES IN ACLEI'S OPERATING ENVIRONMENT

ACLEI seeks to keep aware of developments in government policy, legislation, case law and administrative review that may affect agency practices and procedures. These matters are reported below.

### Policy and legislative reform

#### Commonwealth Organised Crime Strategic Framework

On 25 November 2009, the Attorney-General, the Hon. Robert McClelland MP, and the Minister for Home Affairs (now Minister for Home Affairs and Justice), the Hon. Brendan O'Connor MP, launched the Commonwealth Organised Crime Strategic Framework. The Framework identifies the key threats from organised crime and coordinates a whole of government response to address them.

One of the challenges noted in the Framework is that organised criminal networks may engage in infiltration, corruption and the use of facilitators as tactics to undertake and conceal their illicit activities. The staffs of law enforcement agencies and other areas of the public sector are identified as being at risk of such attempts.

In the 2010 Federal Budget, the Australian Government allocated an additional \$38.5 million to implement the Framework, and create a 'Fusion Centre', administered by the ACC, to enhance intelligence sharing between government agencies.

A copy of the Framework can be found on the Attorney-General's Department website at: [www.ag.gov.au/www/agd/agd.nsf/Page/Publications\\_OrganisedCrime](http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_OrganisedCrime).

#### Federal audit of police capabilities

On 18 December 2009 the Minister for Home Affairs (now Minister for Home Affairs and Justice), the Hon Brendan O'Connor MP, released the Federal Audit of Police Capabilities, *New Realities: National Policing in the 21st Century (Federal Audit of Police Capabilities)* (the Beale Report), and outlined the Government's response to the recommendations of the Audit.

The Beale Report noted that policing is a central component of national security and a potential major contribution that Australia can make to the security and development of the region. In addition, the report noted also that national cooperation between the Commonwealth, States and Territories is essential in providing an effective and efficient response to terrorism and serious and organised crime.

In relation to corruption in law enforcement, the report noted the high corruption risks faced by agencies that are tasked with protecting the Australian economy, businesses and individuals from serious and organised crime, and observed that some areas of work are more susceptible to corruption than others. The report supported the role of ACLEI as part of the overall integrity regime of the ACC and the AFP and as a key corruption-detection and deterrence measure.

The report made 110 findings and 40 recommendations relating to a wide range of topics including the capabilities, operating arrangements and governance of the AFP, budgets and programs, aviation security, international deployments and law enforcement interoperability across the Commonwealth. In response, the Australian Government adopted all but one of the recommendations, including the implementation, over 5 years, of a fully sworn AFP capability at Australia's 11 major airports, replacing the current mixed commonwealth/state model.

ACLEI's approach to targeting corruption risk in the agencies in its jurisdiction is informed by the findings of the Beale report.

### Inquiry into law enforcement integrity models

On 23 February 2009, the Chair of the Parliamentary Joint Committee on ACLEI, Ms Melissa Parke MP, tabled in Parliament the report into the Committee's *Inquiry into law enforcement integrity models*. The Committee made eight recommendations in relation to ACLEI's resourcing levels, capabilities, external relationships and the misconduct reporting arrangements of the ACC and the AFP. The Integrity Commissioner welcomed the Committee's report as an important contribution to strategic policy in the field of law enforcement oversight.

The Inquiry had examined the various law enforcement integrity models in operation across Australia to inform possible changes to ACLEI's governance structure, operational processes and legislative environment.

The Government response to the Committee's recommendations was tabled in the Senate on 21 June 2010. The Government agreed to two of the eight recommendations and agreed in principle to a further three. The remaining three recommendations were noted.

The Government agreed to the Committee's recommendation that the Australian Government undertake a review of ACLEI's funding levels as a matter of urgency. Accordingly, the Attorney-General's Department will work with ACLEI to review its business practices and funding structure, drawing on the outcomes of the Parliamentary Joint Committee on ACLEI *Inquiry into the operation of the LEIC Act*. This review is expected to occur during 2010–11.

The Government also agreed to the recommendation that the existing obligations on employees of Commonwealth law enforcement agencies to report misconduct be reviewed, including whether there are sufficient measures in place to support whistleblowers.

The report, submissions, hearing transcripts and Government response can be found on the Committee's website, [www.aph.gov.au/Senate/committee/aclei\\_ctte/](http://www.aph.gov.au/Senate/committee/aclei_ctte/).

### Inquiry into the Law Enforcement Integrity Commissioner Act

In May 2009, the Parliamentary Joint Committee on ACLEI commenced a statutory inquiry into the operation of the LEIC Act. In its Interim Report, tabled in the Parliament in February 2010, the Committee made 11 recommendations, including that, as an immediate measure, the Australian Customs and Border Protection Service be brought into ACLEI's jurisdiction.

In July 2010, the Prime Minister, the Hon. Julia Gillard MP, agreed to the Committee's recommendation.

The Inquiry lapsed with the dissolution of Parliament for the 2010 general election, but it is anticipated that the new Committee will re-establish the Inquiry in late 2010.

The interim report, submissions, and hearing transcripts can be found on the Committee's website, [www.aph.gov.au/Senate/committee/aclei\\_ctte/](http://www.aph.gov.au/Senate/committee/aclei_ctte/).

## Reform of the Privacy Act

The final report of the Australian Law Reform Commission's (ALRC) review of the *Privacy Act 1988* was released publicly in August 2008. The ALRC accepted that special circumstances existed in ACLEI's case to recommend to the Attorney-General that the Integrity Commissioner's exemption from the Privacy Act should continue. The ALRC also considered that ACLEI should develop information-handling guidelines in conjunction with the Office of the Privacy Commissioner.

In total, the ALRC report made 295 recommendations. On 14 October 2009, Senator the Hon. Joe Ludwig publicly released the Government's first stage response, outlining the Government's position on 197 of the ALRC's recommendations, including commitments to develop a single set of Privacy Principles and redraft and update the structure of the Privacy Act.

The finalisation of ACLEI's draft Agency Policy Advice on *Handling of Personal Information* has been postponed pending the outcomes of the present Government review of the Privacy Principles and the structure of the Privacy Act. In the interim, the Integrity Commissioner has released 'Information Guidelines', which set out some of the statutory and procedural considerations used when deciding how ACLEI obtains, handles, uses or disseminates information in the exercise of the Integrity Commissioner's functions under the LEIC Act.

The exposure draft of the new Australian Privacy Principles was released in June 2010. Further reforms to the Privacy Act will be released for public consultation in stages.

## Public sector whistleblowing protections

The House of Representatives Standing Committee on Legal and Constitutional Affairs tabled its report *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector* in Parliament on 23 February 2009. The report made 26 recommendations in relation to the introduction of a Public Interest Disclosure Bill.

The Australian Government tabled its response to the report on 17 March 2010. The Government agreed to 10 of the 26 recommendations, and agreed in principle to a further 11. The Government response is being used to develop public interest disclosure legislation.

ACLEI has had consultations with the Department of the Prime Minister and Cabinet about ACLEI's role in the proposed public interest disclosure regime and anticipates further discussions once draft legislation is available.

The report, hearing transcripts, ACLEI's two submissions to the Inquiry, and the Government response can be found on the Committee's website at [www.aph.gov.au/laca](http://www.aph.gov.au/laca).

## Crimes Legislation Amendment (Serious and Organised Crime) Acts

The *Crimes Legislation Amendment (Serious and Organised Crime) Act 2010* and the *Crimes Legislation Amendment (Serious and Organised Crime) Act (No. 2) 2010* were passed in February 2010. These Acts contain a range of measures to assist law enforcement agencies to fight serious and organised crime. In many instances, the amendments also strengthen existing arrangements to detect, investigate and deter corruption.

The new measures include:

- introducing new criminal offences targeting those involved in organised crime;
- strengthening criminal asset confiscation and anti-money laundering regimes;
- requiring individuals suspected of possessing unexplained wealth to demonstrate that it was acquired lawfully;
- broadening access to telecommunications interception for the investigation of organised crime offences;
- providing protection for undercover law enforcement officers who infiltrate criminal organisations;
- redefining money laundering, bribery and drug importation offences;
- strengthening search and seizure powers and the ability of law enforcement officers to access electronic data;
- extending criminal liability to individuals who jointly commit a Commonwealth offence;
- improving the operation and accountability of the Australian Crime Commission, including by enhancing the ACC's powers to deal with uncooperative witnesses, clarifying procedural powers for issuing summonses and notices to produce, and requiring regular, independent review of the ACC; and
- increasing protection for current and former participants and officers under the National Witness Protection Program.

In addition, the Crimes Legislation Amendment Act (No. 2) strengthens Australia's anti-corruption arrangements by increasing penalties for the offences of bribery of a foreign public official (section 70.2 of the *Criminal Code Act 1995*) and bribery of a Commonwealth public official (section 141.1 of the Criminal Code).

## National Security Legislation Amendment Bill 2010

In March 2010, the *National Security Legislation Amendment Bill 2010* was introduced into the Parliament and referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry and report.

Among a number of amendments, the Bill proposed allowing inquiries by the Inspector-General of Intelligence and Security (at the direction of the Prime Minister) to cover Commonwealth departments and agencies that are not members of the Australian Intelligence Community. The amendment arises from a recommendation made by the Hon. John Clarke QC in his report of the *Inquiry into the circumstances of the arrest of Dr Mohamed Haneef*.

The Bill lapsed with the dissolution of the Parliament in July 2010, but was reintroduced in September 2010.

## National Integrity Commissioner Bill 2010

In March 2010, Senator Bob Brown introduced a private member's Bill, the *National Integrity Commissioner Bill 2010*, which proposed the establishment of a National Integrity Commission to bring together and co-locate the independent oversight functions for:

- a new statutory office of National Integrity Commissioner, whose role would be to investigate and prevent misconduct and corruption in all Commonwealth departments, agencies, federal parliamentarians and their staff;
- the present role of the Integrity Commissioner under the LEIC Act, which is to detect, investigate and prevent corrupt conduct in the ACC and the AFP; and
- a second new office of Independent Parliamentary Advisor, whose role would be to provide advice to Ministers and other parliamentarians on conduct, ethics and matters of propriety.

It was proposed that the National Integrity Commission would operate in the Federal jurisdiction and would not replace or over-ride state legislation. The Bill also included a provision for the Australian Capital Territory and the Northern Territory to contract the National Integrity Commission to operate in respect of their jurisdictions, in the same way that the Commonwealth Ombudsman acts as the Australian Capital Territory Ombudsman.

The Bill, which was based substantially on the LEIC Act, lapsed with the dissolution of Parliament in July 2010. The Bill was reintroduced into the Senate in September 2010.

## Crimes Legislation Amendment Bill 2010

The *Crimes Legislation Amendment Bill 2010* was introduced into the Parliament in June 2010, but lapsed with the dissolution of the 42nd Parliament for the 2010 general election.

The Bill proposed new arrangements to strengthen the ability of the ACC to deal decisively with instances of serious misconduct and corrupt conduct. For more information, see *Anti-corruption policy* in Chapter Four – *Strengthening Integrity Systems*.

In September 2010, the Bill was reintroduced for consideration by the 43rd Parliament.

Relevant decisions of courts and administrative tribunals

ACLEI was not a party to any matters decided by the courts or tribunals this year. However, a number of court decisions were relevant to ACLEI’s practice and procedures. These decisions, and their effect, are summarised in the table below.

DECISION	WAS ACLEI A PARTY?	EFFECT ON ACLEI
<i>C Incorporated v Australian Crime Commission</i> [2010] FCAFC 4	No	Whether in issuing a notice or summons, the Integrity Commissioner has a responsibility to have regard to the nature of the power being exercised and its potential impact on the recipient of a notice or summons. Whether, to fulfil this responsibility, the Integrity Commissioner might sometimes need to make further inquiries as to relevant matters. Whether there may be circumstances where the Integrity Commissioner needs to take account of the availability of the required information from other sources.
<i>GG v Australian Crime Commission</i> [2010] FCAFC 15	No	Whether, if the Integrity Commissioner records reasons for a decision to issue a summons or a notice to produce and the reasons contain errors that suggest inattention to detail, in some cases such errors might cause doubt whether the Integrity Commissioner has turned his or her mind to the correct issues.
<i>Australian Crime Commission v OK</i> [2010] FCAFC 61	No	Whether the LEIC Act permits the Integrity Commissioner at a hearing to require answers to questions directly related to the subject matter of a charge pending against the witness. Whether the answer to this question is affected by the Integrity Commissioner insulating the hearing from the prosecution process by using his or her powers to exclude persons from the hearing, and to prohibit publication of information about the hearing and the evidence given there.



# APPENDIX 4

## FREEDOM OF INFORMATION STATEMENT

Section 8 of the *Freedom of Information Act 1982* (the FOI Act) requires each Australian Government agency to publish information about the way it is organised, its powers, the kinds of decisions it makes, the documents it holds, the way members of the public can obtain access to these documents, and any arrangements for members of the public to participate in the policy formulation or administration of the agency.

The ACLEI annual report explains the organisation, functions and powers of the Integrity Commissioner and ACLEI. This statement supplements that general information to meet the requirements of section 8 of the FOI Act. It is correct at 30 June 2010.

To assist members of the public, this information also appears on the ACLEI website which is updated as relevant information changes.

### What is ACLEI?

The *Law Enforcement Integrity Commissioner Act 2006* (the LEIC Act) establishes the office of Integrity Commissioner. The Integrity Commissioner is supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI).

The Integrity Commissioner is the head of ACLEI, which consists of investigative, legal, policy and corporate personnel. The Integrity Commissioner and ACLEI are based in Canberra.

The Integrity Commissioner is a statutory officer appointed under the LEIC Act. ACLEI staff members are employed under the *Public Service Act 1999*.

### Functions and decision-making powers

The Integrity Commissioner's role is to detect, investigate and prevent corrupt conduct in law enforcement agencies. Presently, those agencies subject to the scrutiny of the Integrity Commissioner under the LEIC Act are the Australian Crime Commission, the Australian Federal Police and the former National Crime Authority. Others agencies may be added from time to time by Regulation.

The Integrity Commissioner also has a role to maintain and improve the integrity of staff members of law enforcement agencies, and to process intelligence on corruption in law enforcement.



The Integrity Commissioner may investigate a ‘corruption issue’ relating to a present or former staff member of a law enforcement agency. The Integrity Commissioner may do so on notification of a corruption issue by the head of a law enforcement agency, or referral by the Minister, the Commonwealth Ombudsman, or another government agency (Commonwealth, State or Territory). The Integrity Commissioner can also investigate information raising a corruption issue referred by a member of the public, or commence an investigation on his or her own initiative.

The Integrity Commissioner may decide not to investigate or act on referrals or notifications.

The LEIC Act confers information-gathering powers on the Integrity Commissioner for the purpose of corruption investigations, such as the power to compel an individual or agency to produce documents, or to examine witnesses under oath or affirmation.

Through the *Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006*, various other covert and intrusive powers are available to the Integrity Commissioner.

The Integrity Commissioner can investigate in private and can also hold public hearings.

Investigations may result in recommendations for prosecution being referred to relevant agencies. The Integrity Commissioner may also make public reports, and in some cases is compelled to do so by the LEIC Act.

The Integrity Commissioner can also make recommendations to the Minister on legislative and administrative action that may be needed or desirable to prevent corruption and preserve integrity in law enforcement agencies.

## Information held by ACLEI

The Integrity Commissioner holds information related to:

- assessments, investigations and inquiries, including information about corruption issues; correspondence and records of consultations with people providing information, with agencies and other information sources; records related to ACLEI’s use or proposed use of coercive, covert and intrusive powers for investigative purposes; background material; records of conversations; analysis and advice; and reports;
- legal matters, including legal documents, opinions, advice and representations;
- policy matters, including minutes of meetings, research, administrative and operational guidelines;
- administrative matters, including the Integrity Commissioner’s role as the head of an Australian Government agency with a particular set of responsibilities, and in terms of the development or implementation of administrative process, policy or legislation; and
- corporate and management matters, including staffing, contracting and financial records, and information about asset management.

A list of ACLEI’s files, prepared in accordance with an Order of the Senate, can be found on the ACLEI website, **[www.aclei.gov.au](http://www.aclei.gov.au)**.

Also presented on ACLEI’s website are a number of publicly available documents, including: media releases; speeches; submissions; hearings, notices and information guidelines; and public reports of investigations.

## FOI requests

### General process

Enquiries about information held by ACLEI can be made to ACLEI in writing, by telephone or by email.

### Viewing documents on site

Given the restricted-access environment in which ACLEI operates, a person wishing to view documents held by ACLEI must first contact ACLEI's FOI Co-ordinator.

### Exemptions

The FOI Act recognises that it may not be in the public interest to release all information held by a government agency. Therefore, the FOI Act provides a number of exemptions to the general requirement to release documents. For this reason, it is possible that not every request for release of information can be fully, or even partially, met.

### Consultation with others

Many of the documents held by ACLEI will have come either from members of the public or from a person or agency subject to investigation, and may be speculative in nature or carry an expectation that the document will remain in-confidence. Some documents may be internal working documents that contain expressions of opinion that may change or that should not be disclosed publicly.

For these reasons, it may be necessary to give affected people or agencies an opportunity to comment on some FOI requests, or to transfer some or all of an FOI request to an affected agency. This practice is common in many Australian Government agencies, and is consistent with the principles of procedural fairness, privacy and the FOI Act. The practice also recognises that there may be cases where another agency is better placed to make an informed decision about a document's content and context.

## Making a formal FOI application

The application must:

- be made in writing;
- provide enough information for ACLEI to identify the documents sought;
- specify a name and an address within Australia for notices to be sent; and
- be accompanied by a \$30 application fee, unless a remission of fee is applied for.

## FOI applications should be sent to:

The FOI Co-ordinator  
 Australian Commission for Law Enforcement Integrity  
 GPO Box 305  
 CANBERRA ACT 2601  
  
 Tel: (02) 6229 9300  
 Fax: (02) 6230 7341  
 Email: [contact@aclei.gov.au](mailto:contact@aclei.gov.au)

## Fees and charges

An application fee of \$30 applies to all requests made under the FOI Act and there may be further charges for processing applications.

There is a separate fee of \$40 for applications for an internal review of an FOI decision.

Cheques and money orders are to be made payable to the Australian Commission for Law Enforcement Integrity.

### Processing charges

Further charges for the processing of an FOI request may also apply, including:

- charges for locating documents at \$15 per hour;
- charges for agency decision-making and consultation time at \$20 per hour; and
- charges in relation to the provision of access (eg: 10c per photocopy, \$6.25 per half hour supervised inspection and special rates for special services such as tape transcription or computer output);

Requests for personal information may incur a maximum charge of two hours for locating documents and a further two hours for decision making time. Full rates for the provision of access apply.

### Exemption or remission of fees

A person seeking an exemption or remission of fees should make a request in writing and provide sufficient evidence for the FOI Coordinator to consider the request.

In deciding whether to reduce or not to impose a charge, the decision-maker must, among other factors, take into account financial hardship for the applicant and whether the giving of access to the documents is in the general public interest.

An FOI request will not be processed until the application fee for an FOI request is paid, or a decision is made regarding an application to remit the application fee.

### Deposits

When a deposit has been sought or a charge imposed, no further action will be taken by ACLEI until payment is received.

## Review of decisions

The FOI Act provides three forms of review for a person who is dissatisfied with the response to his or her application:

- internal review by the agency to which the FOI application was made;
- complaint to the Commonwealth Ombudsman about a decision, a delay in providing information, or any other aspect of the agency's handling of the FOI request; and
- appeal to the Administrative Appeals Tribunal (AAT) about an adverse internal review decision made by the agency.

If you seek a review of an FOI decision that ACLEI has made, ACLEI recommends that, in the first instance, you discuss your needs with the FOI Co-ordinator.

If you are not satisfied with the outcome of an internal review, you can complain to the Commonwealth Ombudsman or seek review from the AAT.

## FOI Act reform

The Australian Government has reviewed the FOI Act with the aim of promoting a pro-disclosure culture across the Government and building a stronger foundation for more openness in government.

A number of the reforms to the FOI Act will commence on 1 November 2010. Information about these and subsequent changes can be found on the website of the Department of the Prime Minister and Cabinet, [http://www.dpmc.gov.au/consultation/foi\\_reform/index.cfm](http://www.dpmc.gov.au/consultation/foi_reform/index.cfm).

The reforms include the establishment of an Information Commissioner, supported by two other statutory officers—the Privacy Commissioner and the FOI Commissioner—and changes to FOI fees and charges and to review processes.

The ACLEI Freedom of Information Statement will be amended to reflect the reforms and will be made available on the ACLEI website, [www.aclei.gov.au](http://www.aclei.gov.au).



# APPENDIX 5

## CONSULTANCY SERVICES

ACLEI engages consultants on an *ad hoc* basis to provide professional and specialist services when necessary. Consultancies entered into this way are generally short term in nature and relatively low in value. Some other consultancy contracts, such as for the provision of internal audit services, may be for longer periods and extend over several financial years.

The Commonwealth Procurement Guidelines provide that consultants are selected by advertisement, panel arrangements or selective tendering. ACLEI's security requirements and the specialist nature of the consultancy work often means that consultants must be sourced direct. When the work is more general in nature ACLEI will, where possible, access consultants through an open tender or panel selection process.

During 2009–10, ACLEI entered into two new consultancy contracts involving total actual expenditure of \$70,000.00 (including GST). Both consultancy contracts exceeded \$10,000 in value (GST inclusive) in 2009–10 and are reported below accordingly.

As is apparent, ACLEI awarded no consultancy contracts of a value of \$100,000 or more.

PART 5

CONSULTANT NAME	DESCRIPTION	CONTRACT PRICE (GST INCLUSIVE)	SELECTION PROCESS <sup>(1)</sup>	JUSTIFICATION <sup>(2)</sup>
A S Blunn	Investigation: finalisation and reporting	\$35,000.00	Direct sourcing	C
A S Blunn	Assessment review	\$35,000.00	Direct sourcing	C
Deloitte Touche Tohmatsu <sup>(3)</sup>	Provision of internal audit services	\$70,000.00	Panel – Attorney-General's Department	C

(1) Explanation of selection process terms drawn from the *Commonwealth Procurement Guidelines* (December 2008):

Open Tender: A procurement procedure in which a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders. Public tenders are generally sought from the Australian Government AusTender internet site.

Select Tender: A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. This procurement process may only be used under certain defined circumstances.

Direct Sourcing: A form of restricted tendering, available only under certain defined circumstances, with a single potential supplier or suppliers being invited to bid because of their unique expertise and/or their special ability to supply the goods and/or services sought.

Panel: An arrangement under which a number of suppliers, initially selected through an open tender process, may each supply property or services to an agency as specified in the panel arrangements. Quotes are sought from suppliers that have prequalified on the agency panels to supply to the government. This category includes standing offers and supplier panels where the supply of goods and services may be provided for a pre-determined length of time, usually at a pre-arranged price.

(2) Justification for decision to use consultancy:

A – skills currently unavailable within agency

B – need for specialised or professional skills

C – need for independent research or assessment

(3) ACLEI utilised the ‘Provision of internal audit services’ contract held by the Attorney-General’s Department in September 2007. This consultancy contract has not been previously reported as a ‘consultant’ within ACLEI’s annual report. The amount shown is for the life of the contract, namely from September 2007 to July 2010.



## **PART SIX**

# Aids To Access

Acronyms used in this report

Compliance index

Alphabetical index





# ACRONYMS USED IN THIS REPORT

<b>ACC</b>	Australian Crime Commission
<b>ACLEI</b>	Australian Commission for Law Enforcement Integrity
<b>AD(JR) Act</b>	<i>Administrative Decisions (Judicial Review) Act 1977</i>
<b>AFP</b>	Australian Federal Police
<b>AFPA</b>	Australian Federal Police Association
<b>ALRC</b>	Australian Law Reform Commission
<b>ANAO</b>	Australian National Audit Office
<b>APS</b>	Australian Public Service
<b>APSACC</b>	Australian Public Sector Anti-Corruption Conference
<b>AWA</b>	Australian Workplace Agreement
<b>BISEP</b>	Behavioural Interviewing Skills Enhancement Program
<b>CEIs</b>	Chief Executive’s Instructions
<b>CEO</b>	Chief Executive Officer
<b>CPGs</b>	Commonwealth Procurement Guidelines
<b>EDMS</b>	Electronic Document Management System
<b>FMA Act</b>	<i>Financial Management and Accountability Act 1997</i>
<b>FOI</b>	Freedom of Information (as in, FOI Act)
<b>GST</b>	Goods and Services Tax
<b>IDG</b>	International Deployment Group (AFP)
<b>ICT</b>	Information and Communication Technology
<b>KPI</b>	Key Performance Indicator
<b>KPK</b>	Corruption Eradication Commission of the Republic of Indonesia (Komisi Pemberantasan Korupsi)
<b>LEIC Act</b>	<i>Law Enforcement Integrity Commissioner Act 2006</i>
<b>LEIC Regulations</b>	<i>Law Enforcement Integrity Commissioner Regulations 2006</i>
<b>NCA</b>	National Crime Authority
<b>OH&amp;S</b>	Occupational Health and Safety (as in, OH&S Act)
<b>OOJ</b>	Out of jurisdiction
<b>PEFO</b>	Pre-Election Economic and Fiscal Outlook
<b>PRS</b>	Professional Standards (AFP)
<b>RAMSI</b>	Regional Assistance Mission to the Solomon Islands
<b>SES</b>	Senior Executive Service

# COMPLIANCE INDEX

This guide relates to the report's compliance with the *Law Enforcement Integrity Commissioner Act 2006*, the *Law Enforcement Integrity Commissioner Regulations 2006* and the *Requirements for Annual Reports* as provided by the Joint Committee of Public Accounts and Audit (June 2010).

	Page
<b>AIDS TO ACCESS</b>	
Letter of transmittal	iii
Table of contents	vi–vii
Index	172–5
List of figures and tables	viii
Acronyms	168
Glossary	50
ACLEI contact details	ii
Internet homepage	ii
<b>REVIEW BY AGENCY HEAD</b>	
Commissioner's review	3–7
Summary of significant issues and developments	2
Outlook for 2010–11	6–7
<b>ORGANISATIONAL OVERVIEW</b>	
Role and functions	8–13
Organisational structure	13
<b>REPORT ON PERFORMANCE</b>	
Outcome and program structure	16–7
Review of performance	6
Discussion and analysis of performance against KPIs	17–25
Narrative discussion and analysis of performance	32–49; 50–66
Trend information	51–4
Factors, events or trends influencing departmental performance	25
Contribution of risk management in achieving objectives	18–9; 58–9
<b>FINANCIAL PERFORMANCE</b>	
Financial Statements	104–140
Overview and analysis of financial performance	26–9
Summary resource tables by outcomes	29
Significant changes from the prior year or from budget	26–7
Developments since the end of the financial year affecting operations or future financial results	26–7

	Page
<b>CORPORATE GOVERNANCE</b>	
Corporate governance practices	78–83
Senior executive and responsibilities	85
Corporate and operational planning	78–9
Operational and financial risk management	82–3
Compliance with Commonwealth Fraud Control Guidelines	83
Ethical standards	98–101
Remuneration policy concerning SES officers	87
<b>EXTERNAL SCRUTINY</b>	
Significant developments in external scrutiny	153–8
Judicial decisions and decisions of administrative tribunals	158
Reports by Parliamentary Joint Committee on ACLEI	154–5
Ombudsman inspections and investigations	97–8
Special investigations [Part 12, LEIC Act]	101
<b>HUMAN RESOURCE MANAGEMENT</b>	
Effectiveness in managing and developing human resources	85
Staffing statistics	86
Workforce planning, staff turnover and retention	85–6
Employment arrangements	87
Performance pay	87
Training and development	88
Occupational Health and Safety	89
<b>ASSETS MANAGEMENT</b>	
Assessment of effectiveness of assets management	N/A
<b>PURCHASING</b>	
Purchasing policy	83–4
Consultancy services and contracts	84
Competitive tendering and contracting	84
Contracts exempt from AusTender	84
Absence of provisions in contracts allowing access by the Auditor-General	84
<b>OTHER MATTERS</b>	
Commonwealth Disability Strategy	92–3
Freedom of Information activity report	98
Freedom of Information statement	157–161
Ecologically sustainable development and environmental performance	92
Advertising and market research	93
Grant programs	85

	Page
<b>LEIC ACT REQUIREMENTS</b>	
Statistics pursuant to LEIC Regulations [s 201(2)(a)]	144–152
Significant issues in law enforcement affecting integrity [s 201(2)(b)]	73–5
Patterns and trends in corruption [s 201(2)(c)]	70–5
Recommendations for changes to laws of the Commonwealth [s 201(2)(d)(i)]	None
Recommendations for changes to administrative practices of Commonwealth government agencies [s 201(2)(d)(ii)]	69
Prosecutions [s 201(2)(e)]	66
Confiscation proceedings [s 201(2)(f)]	66
AD(JR) Act applications [s 201(2)(g)]	97
Other court proceedings involving the Integrity Commissioner [s 201(2)(g)(ii)]	None
Summary of investigation outcomes [reg 20(e)]	67–9
ACLEI corruption issues [reg 22(e)]	101
<b>CORRECTIONS</b>	
Material errors in previous annual report	163

# ALPHABETICAL INDEX

	Page
<b>A</b> Accountability	94–101
ACLEI agency overview	8–13
functions and decision-making powers	159–160
investigations	58–60
procedure	54–5, 99
promoting	37
purpose	3, 157
review of	7
role	8–9
strategic emphasis	7, 33
Acronyms	168
Acting Integrity Commissioner	85
Advertising and market research	93
Anti-corruption initiatives	43–5
Anti-corruption policy	38–43
Assessments pending	62
Audit Committee	79–80
Auditor-General	80, 98, 104–5
Australian and New Zealand Police Integrity Leadership Forum	6, 36, 45
Australian Crime Commission (ACC)	34
Australian Customs and Border Protection Service	7, 26–7
Australian Federal Police (AFP)	35
Australian Federal Police Association (AFPA)	44
Australian Public Sector Anti-Corruption Conference (APSACC)	44
Aviation and maritime security measures, Inquiry into	39–40
Awareness of ACLEI, law enforcement staff	23–4, 37
<b>B</b> Behavioural Interviewing Skills Enhancement Program (BISEP)	31, 88
‘Building block approach’	3
Business continuity arrangements	83
Business planning	82
<b>C</b> Chester, MP Darren	39, 95
Chief Executive Instructions	81
Civil actions	12
Coercive information gathering powers	64–5
internal accountability	99
Commonwealth and Law Enforcement Ombudsman	6, 36–7, 97–8
complaint handling	97
inspections and monitoring	97–8
own motion investigations	97
Commonwealth Disability Strategy	92–3

	Page
Commonwealth Organised Crime Strategic Framework	5, 153
Commonwealth secrecy laws	40–1
Concluded issues	62
Consultancy services	164–5
Consultants	84
Contracting	84
exempt contracts	84
Cooperative research	46
Corporate management	78–93
Corporate projects	79
Corruption	70–5
deterrence regime	73
indicators	73–5
issues	2, 50–3, 56–7, 62
investigations	4–5
patterns and trends	70–5
reporting	iv
resistance to, building	2, 37–8
risks, approach	71
risks, understanding	32–3, 71–3
‘Corruption: Matching measures to risk’ (article)	38, 142
Corruption notification system	17–18
Corruption Prevention Network	38, 44
<i>Crimes Legislation Amendment Bill</i>	42, 157
<i>Crimes Legislation Amendment (Serious and Organised Crime) Act 2010</i>	73, 156
<b>D</b> ‘Direct use indemnity’	12
Disciplinary actions	12, 59
Discretionary grants	85
Dissemination of information	59–60
<b>E</b> East Timor	49
Electronic Records Management	90
Environmental performance	92
Ethical standards	100–101
<b>F</b> Facilities improvement	4, 25, 30, 79, 91
Facilities management	91
File title listing	92
Financial performance	26–9
Financial processes management	83–5
Financial statements	83, 103–140
Financial summary	26
Fraud control	42, 83
Freedom of Information	98
requests	159–63

	Page
<i>Freedom of Information Act 1982</i> reform	163
Freedom of Information Statement	159
Future directions	6–7
extended jurisdiction	7, 26–7
<i>Law Enforcement Integrity Commissioner Act 2006</i> , operation of	6, 154
<b>G</b> Governance practices	79–83
Government agency investigations	11–2, 60–1
Graduate Certificate in Integrity Studies	45
<b>H</b> ‘Hotline’	32
Human resources management	85–9
<b>I</b> Indonesia	31, 48
Informants, approach to	9–10
Information, quality of	4–5
Information-gathering powers	11, 64–5
Information technology	89–91
Infrastructure upgrade	90
Integrity	13, 20–1, 38
improving	13, 20–1
presentations about	38
Integrity assurance measures	101
Integrity Commissioner	10–13
independence	10
responsibilities and powers	10–13
Integrity framework, developments in	75
Integrity partnerships	5–6, 33–7
two-level approach	5, 60
Integrity studies	45
Integrity testing	42
Internal accountability	98–101
coercive powers	99
Internal audit	81
financial controls, of	81–2
sensitive information	81
Internal investigations, monitoring of	11–2, 21–2, 60–1
International engagement	46–9
Internet presence	93
Intrusive information-gathering powers	65
Investigation reports	12, 67–9
Investigations	58–60
allegations, nature of	59
conduct of	20–1
dissemination during	59
options	10–11

	Page
Investigative skills	31, 88
Issues carried forward	62–3
<b>J</b> Joint investigations	58–9
Judicial review	97
Jurisdiction	3, 7, 34
agencies in	3, 34
extension of	7, 26–7
<b>K</b> Komisi Pemberantasan Korupsi (KPK)	31, 48
<b>L</b> Law enforcement database access	91
<i>Law Enforcement Integrity Commissioner Act 2006</i>	6, 9, 39, 154–5
inquiry into	39, 154–5
Law enforcement integrity models inquiry	154
Law enforcement operational model	72–3
Law reform, contribution to	22–3, 38–43
Legal practice	32
Legal proceedings	66
Legal services expenditure	84
Legislative reform	154–6
Lifestyle anomalies	74
<b>M</b> Management structure confidence	74
Maritime security measures	39–40
McClelland, Hon. MP Robert	5, 153
Moss, Mr Philip	3
<b>N</b> National Integrity Commissioner Bill	157
National intelligence community, the	36
Nationwide News Pty Ltd, challenge by	25, 97
Non-salary benefits	86
Notifications	51
<b>O</b> Occupational Health and Safety (OH&S)	89
O'Connor, Hon. MP Brendan	2, 5, 153
Operating environment, changes in	153–6
court and tribunal decisions, relevant	156
Operational capability	4, 30–2
Operational environment	32–3
Operational procedures	99
Operations facility	4, 25, 30, 79, 91
Organisational review	85
Organisational structure	13
Organised crime	5, 7, 32–3, 71–5
links to	75



	Page
Outcome	8, 16
net cost	29
progress towards	16–25
<b>P</b> Parke, MP Melissa	39, 95, 143
Papers and presentations	142–3
Papua New Guinea	48
Parliamentary Joint Committee on ACLEI	6–7, 94–5
annual report examination	95
briefings	95
inquiries	6, 7, 39, 154
membership	95
Parry, Senator Stephen	42, 95, 143
Patterns and trends	70–5
<i>Pearls in Policing</i> conference	33
Performance	4, 6, 17–25
factors influencing	25
financial	26–9
indicators	17–25
Performance payments	87
Performance reviews and monitoring	99
Personal information, handling of	24–5, 99
Planned outcomes	16
Police capabilities federal audit	71, 153
Police integrity agency research forum	45
Policy development, contribution to	22–3, 38–43
Policy reform	153–4, 155
Powers	
coercive information-gathering	64–5
intrusive information-gathering	65
investigative	11
search warrants	4, 65
telecommunications interception warrants	4, 31, 65
<i>Privacy Act 1988</i> , reform of	155
Privacy management	24–5, 100
Procedure	54–5
Process accountability	95–6
Program	16
Program deliverables	17
Program objective	16
Prosecutions	12, 66
Proust Review, the	43, 75
‘Public trust and confidence in police’ workshop	46
Purchasing	83–4

	Page
<b>R</b>	
Reassessments	53
Recommendations, previous	69
Referrals	52
Reports	12, 20–1, 67–9
Research Partnerships	45–6
‘Resistance to Corruption’ report	37
Resource statement	28
Resources	2, 26–7
Risk management	82
<i>Royal Commissions Act 1902</i> , review of	41
<b>S</b>	
Secure ICT Network	90
Secure operations facility	4, 25, 30, 79, 91
Security	91
Senate Estimates	95
Senior Executive remuneration	87
Senior Executive Service	85
Solomon Islands	35, 49
Staff, additional	26–7, 31, 85
Staff performance and development	88
Staff remuneration	86–7
Staff security requirements	87
Staffing profile	85–6
State integrity agencies	6, 35–6, 58–9
Statistics	144–52
<b>T</b>	
Telecommunications interception	4, 31, 64–5
Tendering process	83, 84
exempt contracts	84
Threat environment	72
Timeliness	18–19
Transparency international	43
<b>U</b>	
Unauthorised disclosure of information	74
United Nations Convention Against Corruption	47
<b>V</b>	
Victorian integrity system review	43, 75
<b>W</b>	
Warrants, new	4, 31, 64–5
Whistleblower protections	9–10, 23–4
inquiry into	40, 155
Workload	53–7
Workplace agreements	87

