



Australian Government
Australian Commission for
Law Enforcement Integrity

Investigation Report – Operation Pallinup

Operation Pallinup

An investigation into the potential involvement of an unknown officer at Sydney Airport in the importation of illegal tobacco

A report to the Attorney-General prepared under s 54 of the
Law Enforcement Integrity Commissioner Act 2006 (Cth)

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Investigation Reports published by the Integrity Commissioner
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About ACLEI Reports

The Law Enforcement Integrity Commissioner Act

1. The *Law Enforcement Integrity Commissioner Act 2006* (Cth) (LEIC Act) establishes the office of Integrity Commissioner, supported by a statutory agency, the Australian Commission for Law Enforcement Integrity (ACLEI).

The role of the Integrity Commissioner and ACLEI

2. The role of the Integrity Commissioner and ACLEI is to detect and prevent corrupt conduct and deal with corruption issues in designated agencies—presently the:
 - Australian Criminal Intelligence Commission (including the former Australian Crime Commission, the former National Crime Authority and the former CrimTrac Agency);
 - Australian Federal Police (including ACT Policing);
 - Australian Transaction Reports and Analysis Centre (AUSTRAC); and
 - Department of Home Affairs (including the Australian Border Force).
3. Other Australian Government agencies with law enforcement functions may be prescribed by regulation as being within the jurisdiction of the Integrity Commissioner.¹ At present those agencies include prescribed aspects of the:
 - Department of Agriculture, Water and the Environment (DAWE)
 - Australian Competition and Consumer Commission (ACCC)
 - Australian Prudential Regulation Authority (APRA)
 - Australian Securities and Investment Commission (ASIC);
 - Australian Taxation Office (ATO); and
 - Office of the Special Investigator (OSI).

Corrupt conduct

4. A staff member of a law enforcement agency 'engages in corrupt conduct' if the staff member:
 - abuses his or her office
 - perverts the course of justice, or
 - having regard to his or her duties and powers, engages in corrupt conduct of any other kind.
5. The Integrity Commissioner is to give priority to dealing with serious and systemic corruption.²

¹ *Law Enforcement Integrity Commissioner Act 2006* (Cth) s 5(1) (definition of 'law enforcement agency') (LEIC Act); *Law Enforcement Integrity Commissioner Regulations 2017* (Cth) s 7.

² *Ibid* s 6(1).

Dealing with corruption issues

6. A corruption investigation can commence in different ways:
 - the Minister may refer to the Integrity Commissioner an allegation or information that raises a corruption issue.
 - the head of a law enforcement agency within ACLEI's jurisdiction must notify the Integrity Commissioner of any allegation or information that raises a corruption issue which relates to that agency.
 - any person or government agency can refer to the Integrity Commissioner an allegation or information that raises a corruption issue. A referral may be anonymous, or on behalf of another person.
 - the Integrity Commissioner can commence an investigation on his or her own initiative.³
7. The Integrity Commissioner may decide to deal with the corruption issue in a number of ways:
 - have ACLEI investigate the corruption issue either alone or jointly with another government agency or an integrity agency for a State or Territory.
 - refer the corruption issue to the law enforcement agency to conduct its own investigation.
 - decide that an investigation is not warranted.
8. The Integrity Commissioner can decide to manage or oversee any investigation that has been referred to a law enforcement agency. If the law enforcement agency were not the Australian Federal Police (AFP), the Integrity Commissioner can also refer the issue to the AFP for investigation and may manage or oversee that investigation.⁴

Reports

9. After completing a corruption investigation, the Integrity Commissioner must prepare a report setting out:
 - a) the Integrity Commissioner's findings on the corruption issue; and
 - b) the evidence and other material on which those findings are based; and
 - c) any action that the Integrity Commissioner has taken, or proposes to take, under Part 10 in relation to the investigation; and
 - d) any recommendations that the Integrity Commissioner thinks fit to make and, if recommendations are made, the reasons for those recommendations.⁵
10. The Integrity Commissioner must give the report on the investigation to the Minister who administers the LEIC Act and a copy to the head of the law enforcement agency to which the corruption issue relates.⁶

³ Ibid ss 18–24 and 38.

⁴ Ibid ss 26–30.

⁵ Ibid ss 54(1)–(2).

⁶ Ibid s 55.

Standard of proof

11. The Integrity Commissioner makes findings about whether a person has engaged in corrupt conduct, based on the balance of probabilities. Those findings may not be the same as those that would be made by a court deciding on criminal guilt beyond a reasonable doubt.
12. Before making a finding, the Integrity Commissioner is required to be 'reasonably satisfied', based on relevant facts, that the corrupt conduct occurred and that the corrupt conduct was within the meaning of the LEIC Act.
13. In considering whether or not the Integrity Commissioner is 'reasonably satisfied' of relevant facts, the Integrity Commissioner applies the reasoning set out in *Briginshaw v Briginshaw*,⁷ *Rejtek v McElroy*,⁸ and *Re Day*.⁹

⁷ (1938) 60 CLR 336, 361–62 (Dixon J).

⁸ (1965) 112 CLR 517, 521.

⁹ (2017) 91 ALJR 262, 268 [14]–[18].

Preface to the public version of Investigation Report

14. This investigation report is a report on Operation Pallinup, a corruption investigation into the potential involvement of an unknown officer at Sydney airport in the importation of illegal tobacco.
15. Operation Pallinup commenced on 18 December 2019. The investigation sought to determine the identity of the unknown officer at Sydney airport.
16. After extensive enquiries, the investigation did not establish any link between identified businesses and any members of staff of a law enforcement agency under ACLEI's jurisdiction.
17. Following this, I prepared my investigation report on Operation Pallinup pursuant to s 54 of the LEIC Act and undertook a procedural fairness process as required by s 51 of the LEIC Act on 25 October 2021.
18. I made no findings of corruption in relation to Operation Pallinup as no person within ACLEI's jurisdiction was identified.
19. On 14 December 2021, I gave the Attorney-General and the Secretary of Home Affairs my finalised investigation report on Operation Pallinup in accordance with s 55 of the LEIC Act.
20. I then considered whether it was in the public interest to publish the investigation report on Operation Pallinup under s 209 of the LEIC Act.
21. This is the version of the investigation report I have decided is in the public interest to disclose.



Jaala Hinchcliffe
Integrity Commissioner
9 March 2022

Summary of the Investigation

Notification

22. On 12 November 2019, the Secretary of the Department of Home Affairs notified the then Integrity Commissioner (Mr Michael Griffin AM) of a possible corruption issue in relation to the importation of a container of illegal tobacco. The notification advised that the Integrity and Professional Standards Branch (I&PS) of the Department had received from the NSW Police Force (NSWPF), information reported to it on 23 May 2019 via Crime Stoppers that an unknown officer at Sydney Airport had been paid \$100,000 to 'get the container through Customs, without being detected'.
23. The information contained in that referral included reference to a coffee shop trading at a particular location in Sydney.

Jurisdiction

24. Following a period of assessment, on 18 December 2019 the then Integrity Commissioner decided to investigate. The corruption investigation was named 'Operation Pallinup'. The then Integrity Commissioner was satisfied:
 - a. The notification was within ACLEI's jurisdiction because of the reference to a unknown officer at Sydney airport, which could reasonably be assumed to refer to a member of the Australian Border Force (ABF), being a member of staff of a law enforcement agency under ACLEI's jurisdiction;
 - b. While no particular staff member was specified or identified this did not prevent the information from raising a corruption issue¹⁰; and
 - c. The allegation fell within the meaning of 'corruption issue' as defined by s 7 of the LEIC Act. The information raised the possibility that a member of ABF may have used their position to assist with the importation of illegal tobacco. The then Integrity Commissioner was satisfied that, if such conduct occurred, that staff member may have 'engaged in corrupt conduct' pursuant to s 6 of the LEIC Act.

Investigation

25. In the initial stages of Operation Pallinup, ACLEI investigators sought to determine the identity of the unknown officer at Sydney International Airport referred to in the notification.
26. Using information provided by I&PS, ACLEI investigators were able to identify two business (Business A and Business B) and the directors of those business who are well known to law enforcement for involvement in illicit tobacco.
27. The identification of Business A and Business B enabled the interrogation of the Integrated Cargo System (ICS). The period between 1 January and 30 June 2019 was determined to be the relevant period for this interrogation.
28. Those enquiries focused on identifying containers that were associated with these businesses as a starting point to determining whether those containers had been subject to unusual interest by either ABF members or the Department of

¹⁰ LEIC Act ss 7(2).

Agriculture, Water and Environment (DAWE) staff members who undertake quarantine checks and if so, by whom.

29. A number of containers in relation to Business B were identified from this process. No containers associated with Business A were identified. ACLEI investigators then conducted further checks to determine whether any containers had been targeted by either the ABF or DAWE for profiling and/or examination, using records of access to ICS. No access to ICS was identified by any ABF or DAWE officer at Sydney airport (the location of the original allegation).
30. However, some ICS accesses by officers that work in other border related sites were identified. Further analysis was then conducted to determine if any ABF and/or DAWE member had improperly accessed information in ICS relating to the identified containers. This process was inconclusive and further avenues of enquiry were conducted.
31. These additional enquiries did not establish any link between the persons associated with Business A and B and any ABF and/or DAWE staff members.
32. However, analysis undertaken in Operation Pallinup did identify a person extensively recorded in law enforcement indices for their likely involvement in facilitating illicit importations, who had accessed the ICS in relation to the containers of interest. These accesses are recorded on ICS audits as being made by a customs broking business. This person was not registered as a Customs Broker.
33. ACLEI investigators concluded that it is likely that this person is the unknown 'customs officer' mentioned in the referral.
34. A review of ACLEI investigations (completed and on-going) into corruption allegations within the ABF over the last two year period revealed that corruption within the supply chain and cargo logistics environment (often referred to as 'Trusted Insiders') is an enduring theme encountered during ACLEI investigations and a persistent risk to the integrity of the Australian border.
35. That review identified 20 ACLEI Investigations, where supply chain corruption, was either confirmed or suspected.
36. Notifications and referrals to ACLEI which allege the involvement of unnamed persons colloquially referred to as customs or border officials or law enforcement personnel require intensive investigative effort to attempt to identify the person/s to whom the allegations relate. These investigations are inherently difficult and time consuming and can result in an inability to identify any person under ACLEI's jurisdiction to whom the allegations relate.
37. As a result of this investigation, ACLEI has disseminated Information Reports to relevant law enforcement partners to assist with the ongoing detection of illegal tobacco importations.

Findings

38. On the basis of the material collected and analysed in the course of Operation Pallinup as described above:
 - a. No association between Business A and Business B and any staff member of Home Affairs, ABF and DAWE was identified.

- b. The reference to an 'unknown officer at Sydney Airport' in the notification was most likely a reference to a civilian with access to ICS, such as a customs broker.
39. Accordingly, I make no findings of corruption in relation to Operation Pallinup as no person within ACLEI's jurisdiction has been identified.



Jaala Hinchcliffe
Integrity Commissioner

14 December 2021

Attachment A

Submission by Home Affairs

Initiatives in relation to issues identified, since the events were alleged to have taken place

The Integrity Commissioner commented that a review of ACLEI investigations (completed and on-going) into corruption allegations within the ABF over the last two year period revealed that corruption within the supply chain and cargo logistics environment (often referred to as 'Trusted Insiders') is an enduring theme encountered during ACLEI investigations and a persistent risk to the integrity of the Australian border.

Since 2019, the ABF has established a national operation (JARDENA) to address vulnerabilities within the supply chain system that are exploited by criminal enterprises and to make the supply chain hostile to criminality. It is known that transnational, serious and organised crime (TSOC) groups place a high value on suborning persons who occupy legitimate positions in the supply chain, to assist them in facilitating their criminal activities across the border. Recent operational activity, particularly Australian Federal Police (AFP) Special Operation IRONSIDE has provided the ABF with a steady flow of intelligence uncovering hundreds of trusted insiders operating within the supply chain. Along with our partner agencies, the ABF, through Operation JARDENA will be acting upon this intelligence.