



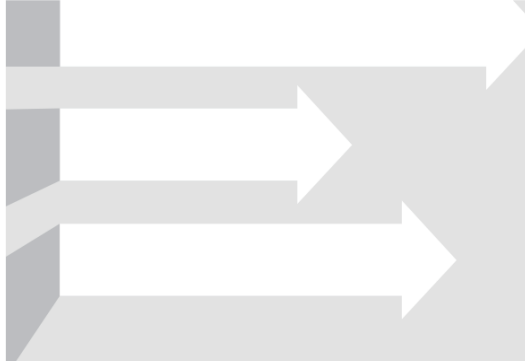
Australian Government
**Australian Commission for
Law Enforcement Integrity**

INVESTIGATION REPORT

**Operation Maven—
An investigation into the potential involvement of
staff members of Customs in the importation of
prohibited imports**

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

Report 02/2020



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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);
 - Department of Home Affairs (including the Australian Border Force); and
 - prescribed aspects of the Department of Agriculture, Water and the Environment.¹
3. Other Australian Government agencies with law enforcement functions may be prescribed by regulation as being within the jurisdiction of the Integrity Commissioner.

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

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

- having regard to his or her duties and powers, engages in corrupt conduct of any other kind.²
5. The Integrity Commissioner is to give priority to dealing with serious and systemic corruption.

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

² Ibid s 6(1).

³ Ibid ss 18–24 and 38.

⁴ Ibid ss 26–30.

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

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

⁵ Ibid ss 54(1)–(2).

⁶ Ibid s 55.

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

⁸ (1965) 112 CLR 517, 521.

⁹ (2017) 91 ALJR 262, 268 [14]–[18].

Summary of the Investigation

Referral

14. On 19 November 2014, the AFP referred the following information under s 23(1) of the LEIC Act:
- (a) An off-duty AFP member had overheard a phone conversation involving a person staying at the same accommodation;
 - (b) The off-duty AFP member heard statements to the following effect:
“I have people in customs and I know how to get around inspections as product comes into the country”
“I know there have been trust issues, but I know I can trust you and I know that I can trust [Person B]”
“I can fly to Thailand with [Person B] and meet you, you can try the product and see if it is to your standard”
“The product is of high quality, you will be happy with it, and with [Person B] help we can organise a shipment”
 - (c) The off-duty AFP member believed that the person was organising the importation of drugs from Thailand; and
 - (d) There were two vehicles at the accommodation, the registered owner of which—‘Person A’—is listed in law enforcement holdings in relation to the import of prohibited imports¹⁰ and supply of dangerous drugs.¹¹

¹⁰ See *Customs Act 1901* (Cth) and *Customs (Prohibited Imports) Regulations 1956* (Cth).

¹¹ See *Drugs Misuse Act 1986* (Qld).

Jurisdiction

15. On 10 December 2014, the then Acting Integrity Commissioner (Mr Robert Cornall AO) decided to investigate. The corruption investigation was named 'Operation Maven'. The then Acting Integrity Commissioner was satisfied:
- (a) The allegations were within ACLEI's jurisdiction because the reference to 'people in customs' may have been a reference to staff members of the Australian Customs and Border Protection Service (Customs).¹² At the time of the referral, a staff member of Customs was a 'staff member of a law enforcement agency';¹³
 - (b) While no particular staff member was specified or identified (notwithstanding the possibility that Person B was a staff member), this did not prevent the information from raising a corruption issue;¹⁴ and
 - (c) The allegations fell within the meaning of 'corruption issue' as defined by s 7 of the LEIC Act. The information raised the possibility that one or more staff members of Customs may have used their position to assist in the import of prohibited imports linked to the supply of dangerous drugs. The then Acting Integrity Commissioner was satisfied that, if such conduct was engaged in by a staff member of Customs, that staff member may have 'engaged in corrupt conduct' pursuant to s 6 of the LEIC Act.¹⁵

Investigation

16. In the initial stages of Operation Maven, ACLEI investigators sought to:
- (a) identify any associations between Person A and staff members of Customs;
 - (b) determine the identity of Person B, thereby confirming whether they were a staff member of Customs; and
 - (c) develop an understanding of the import and drug supply-related activities of Person A, including their associates, to determine whether it would be necessary for a staff member of Customs to be involved.

¹² On 1 July 2015, Customs was abolished by the *Customs and Other Legislation Amendment (Australian Border Force) Act 2015* (Cth): sch 2, item 1. However, the LEIC Act (as in force immediately before 1 July 2015) continues to apply in relation to Customs: sch 6, item 90.

¹³ LEIC Act ss 5(1) and 10(2A), as at 10 December 2014.

¹⁴ *Ibid* s 7(2), as at 10 December 2014.

¹⁵ *Ibid* ss 6(1)(a), (c), and 7(1)(a), as at 10 December 2014.

17. Between December 2014 and February 2015, ACLEI investigators analysed information in relation to Person A sourced from:
 - (a) law enforcement holdings;
 - (b) open sources; and
 - (c) information obtained under the *Telecommunications (Interception and Access) Act 1979* (Cth).
18. On 21 January 2015, the then Integrity Commissioner issued a notice under s 75 of the LEIC Act to the person responsible for the accommodation mentioned in the referral. The information received confirmed that Person A was staying there at the time of the overheard conversation.
19. This analysis did not identify any associations between Person A and a staff member of Customs. However, it did identify civilian associates of Person A, including potential candidates for Person B.
20. These investigative activities resulted in a better understanding of Person A's operations and suggested ongoing interest from Queensland Police Service (QPS) in the drug-supply aspect of those activities. ACLEI investigators subsequently met with QPS and confirmed this interest.
21. On 13 February 2015, the then Integrity Commissioner (Mr Michael Griffin AM) decided to investigate the corruption issue jointly with QPS. A Joint Task Force was established with ACLEI focusing on the corruption aspect and QPS on the import and supply of dangerous drugs aspect.
22. From April 2015, ACLEI commenced physical surveillance of Person A, their associates, and their joint activities.
23. On 7 May 2015, the then Integrity Commissioner issued two notices under s 75 of the LEIC Act to financial institutions to obtain information into accounts controlled by Person A, in order to identify any transactions which might lead to a staff member of Customs, as well as improve ACLEI's understanding of Person A's business, activities, and identify unexplained wealth.
24. These efforts continued to build intelligence on Person A and their associates. The investigation uncovered that Person A was coordinating an operation that involved the import of substances which were then used to manufacture and supply synthetic cannabis. The investigation identified the methodologies used in these operations, including those used to avoid detection. However, no associations with staff members of Customs were identified.
25. On 19 June 2015, ACLEI met with the Australian Crime Commission (ACC) to discuss them joining the joint investigation due to Person A's synthetic cannabis operations.

26. On 29 June 2015, the then Integrity Commissioner decided to investigate jointly with both QPS and the ACC.
27. ACLEI obtained movement records for Person A and their known associates and an alert was put in place to notify ACLEI of their return to Australia. On 3 September 2015, Person A was searched on their return to Australia, resulting in a download of an associate's phone.
28. Information derived from this aspect of the investigation:
 - (a) confirmed travel by Person A to Thailand with associates—none of which were staff members of Customs—per the referral;
 - (b) confirmed that Person A was organising and conducting importing activities from Asia; and
 - (c) suggested that Person A's methods of avoiding border controls were based on concealment of imports rather than assistance from insiders.
29. The Joint Task Force agreed that further investigation was unlikely to result in the identification of additional leads. It was therefore agreed to move into the resolution phase of the investigation.
30. On 29 February and 1 March 2016, ACLEI assisted in the execution search warrants issued to QPS, primarily for the purpose of obtaining evidence of drug-related offences. Charges were subsequently laid against four of Person A's associates.
31. The resolution activities did not identify evidence of corrupt conduct by a staff member of a law enforcement agency.

Findings

32. On the basis of the evidence and material collected and analysed in the course of Operation Maven as described above:
 - (a) No association between Person A and a staff member of Customs was identified;
 - (b) Person B was likely a civilian associate of Person A who was involved in the import and supply operations and was known to have travelled with Person A to Asia;
 - (c) The techniques used by Person A and their associates to evade border controls relied on concealment and did not require the assistance of a corrupt staff member of Customs;

- (d) The reference to 'people in customs' in the referral was most likely a reference to a civilian associate of Person A with a sophisticated knowledge of importing and exporting, such as a customs broker or experienced importer. Additionally or alternatively, the statement could have been exaggeration in the course of organising a business deal.
33. Accordingly, I make no findings of corruption in relation to Operation Maven.
34. While no corrupt conduct was identified, ACLEI assisted the ACC to develop their intelligence holdings, including specific information about the production, marketing and supply of psychoactive substances in Australia.
35. The Department of Home Affairs was also alerted to a new method of concealment of illicit substances relating to the emerging synthetic drug supply chain from South East Asia and China.

Action under Part 10 of the LEIC Act

36. The then Integrity Commissioner did not take any actions under pt 10 of the LEIC Act and I do not propose to take any such actions.
37. The nature of the joint investigation meant that QPS had relevant evidence to commence prosecutions. QPS referred four individuals for prosecution for breaches of Queensland criminal law.
38. This resulted in one individual being convicted for drug-related offences. Charges against the other three individuals were withdrawn.

Recommendations

39. I do not make any recommendations as a result of this corruption investigation.



Jaala Hinchcliffe
Integrity Commissioner

11 May 2020