



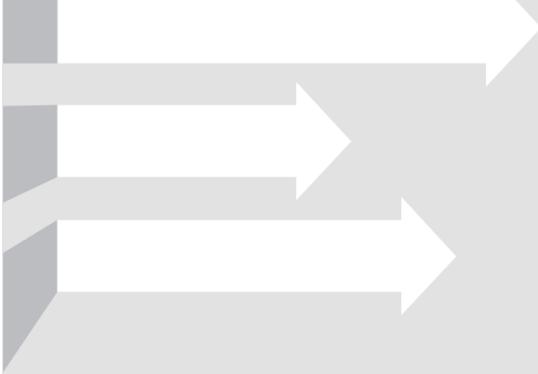
Australian Government
**Australian Commission for
Law Enforcement Integrity**

INVESTIGATION REPORT

**Operation Zeus — An investigation into alleged
corrupt conduct by an Australian Border Force
Officer to support the importation of illicit
tobacco**

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

Report 05/2020



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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 16 March 2017, the Australian Federal Police (AFP) referred information under s 23(1) of the LEIC Act. The AFP advised they had identified information indicating corrupt conduct by an unknown officer of the Australian Border Force (ABF).
15. This information was identified during an ongoing criminal investigation, which had identified the unknown ABF Officer was assisting a criminal syndicate by facilitating the importation of undeclared tobacco into Australia.

Jurisdiction

16. On 16 March 2017, the then Integrity Commissioner (Mr Michael Griffin AM) decided to investigate jointly with the AFP pursuant to ss 26(1)(a) and (2) of the LEIC Act. The corruption investigation was named 'Operation Zeus'. The then Integrity Commissioner was satisfied:
 - (a) The information strongly indicated an ABF Officer was facilitating the importation of a shipping container of illicit tobacco for a known organised crime syndicate. As an ABF Officer, they were a 'staff member of a law enforcement agency' as defined at s 10(2A) of the LEIC Act;¹⁰
 - (b) While no particular staff member was identified, this did not prevent the information from raising a corruption issue;¹¹ and
 - (c) The allegations were within the meaning of 'corruption issue' as defined by ss 6 and 7 of the LEIC Act, as it was conduct that involved the staff member abusing his or her office as a staff member of a law enforcement agency.
17. During the course of the investigation, the then Integrity Commissioner decided to also join the Department of Home Affairs (Home Affairs) to the ACLEI/AFP investigation pursuant to ss 26(1)(a) and (2) of the LEIC Act.

¹⁰ ABF officers who are APS employees are 'APS employees in the Immigration and Border Protection Department'.

¹¹ LEIC Act s 7(2), as at 16 March 2017.

Investigation

18. This investigation is an example of a strong joint investigation, where each of the three agencies contributed to the resolution of the matter.
19. The AFP's investigation (which was conducted jointly with other law enforcement agencies) focused on the movement of the shipping container and the activities of the syndicate. The AFP information indicated the alleged importation of illicit tobacco was to be in a shipping container originating from Vietnam. ACLEI provided operational support to the AFP as required.
20. The ACLEI and Home Affairs aspect of the investigation focused on the identification of the ABF officer providing information to the criminal syndicate.
21. As a result of extensive enquiries by ACLEI and Home Affairs, Craig Eakin (Mr Eakin) was identified as the ABF Officer. Mr Eakin commenced employment with the Australian Customs and Border Protection Service (ACBPS), the Australian Border Force's predecessor, on 7 September 1998. Prior to his arrest on 8 August 2017, he was working as a Senior Border Force Officer in Cargo Examinations NSW.
22. Mr Eakin was identified as a result of his multiple unlawful accesses to various ABF computer systems. Between March and June 2017, he accessed these systems to obtain specific information that had been sought by the criminal syndicate.
23. Mr Eakin was providing the information to Person A. Person A had been employed with the ACBPS between 24 September 2001 and 22 October 2015. Person A's role was to provide information and instructions from the syndicate to Mr Eakin, so he could perform unauthorised searches on ABF systems to identify a suitable company to facilitate an undetected importation and to monitor the container to identify when it would be safe to collect.
24. Between 3 and 5 July 2017, Mr Eakin conducted searches on various ABF computer systems and provided information to Person A about the customs status of a sea cargo container of illicit tobacco which arrived at Port Botany, Sydney, on 4 July 2017. The searches conducted by Mr Eakin indicated that he was actively monitoring the arrival and clearance status of the container.
25. On 18 July 2017, Person A and Mr Eakin met. Person A gave Mr Eakin a bag containing \$100,000, which was seized the next day under warrant.
26. Search warrants were executed by the AFP and ACLEI on 8 August 2017 on Mr Eakin's and Person A's residences and on Mr Eakin's workspace. A search warrant was executed on an additional property of Mr Eakin on 10 August 2017.

27. Mr Eakin and Person A were arrested and charged by the AFP on 8 August 2017.
28. Mr Eakin pled guilty to:
- Receiving a bribe by a Commonwealth public official contrary to s 141.1(3) of the *Criminal Code* (Cth), and
 - Aid and abet the importation of tobacco products knowing of an intent to defraud revenue contrary to s 11.2(1) of the *Criminal Code* (Cth) in combination with s 233BABAD(1) of the *Customs Act 1901* (Cth).
29. On 2 August 2019, he was sentenced to four years imprisonment with a non-parole period of two years. Mr Eakin appealed his sentence and on 11 November 2020, the Supreme Court of New South Wales allowed the appeal and resented Mr Eakin to an aggregate term of imprisonment of 3 years and 6 months with a non-parole period of 2 years.
30. In related civil proceedings commenced by the AFP under the *Proceeds of Crime Act 2002* (Cth), the Supreme Court of New South Wales ordered forfeiture to the Commonwealth of several properties belonging to Mr Eakin in Belmore River, NSW, seized cash and account funds, and 27 items comprising farm machinery, shipping containers, quad bikes, tractors, mulchers and related equipment. The gross value of assets forfeited to the Commonwealth was approximately \$1.8 million.
31. Person A pled guilty to:
- Bribery of a public official contrary to s 141.1(1) of the *Criminal Code* (Cth);
 - Aid and abet the importation of tobacco products knowing of an intent to defraud the revenue contrary to s 11.2(1) of the *Criminal Code* (Cth) in combination with s 233BABAD(1) of the *Customs Act 1901* (Cth); and
 - Dealing in proceeds of crime greater than \$100,000 contrary to s 400.4(1) of the *Criminal Code* (Cth).
32. On 24 December 2019, they were sentenced, on appeal, to four years and six months imprisonment, with a non-parole period of two years and six months.

Findings

33. I am required under s 54 of the LEIC Act to provide my findings on the corruption issue.

34. On the basis of the evidence and material collected through this investigation, I am reasonably satisfied:
- (a) The ABF officer was Mr Craig Eakin; and
 - (b) In his capacity as a staff member of the ABF, Mr Eakin engaged in conduct that abused his office by conducting unauthorised searches of ABF systems in order to provide information to a criminal syndicate to facilitate the importation of illicit tobacco products.
35. Accordingly, I find that Mr Eakin engaged in corrupt conduct as defined in s 6 of the LEIC Act

Action under Part 10 of the LEIC Act

36. As this investigation was conducted jointly with the AFP and the Department of Home Affairs, I do not propose to take any action under Part 10 of the LEIC Act with the evidence or information obtained under this investigation.
37. Mr Eakin was suspended, without pay, from his employment on 8 August 2017, the day the search warrant was executed at his residence. His employment was terminated on 28 November 2019.

Corruption Prevention Observation

38. Operation Zeus provides an example of how personal and professional relationships may evolve in ways that compromise the integrity of a workplace and facilitate inappropriate and illegal behaviour. Over recent years, ACLEI has uncovered multiple examples of the deliberate targeting of current and former employees of law enforcement agencies by criminal entities. In July 2018, ACLEI published a fact sheet to assist jurisdictional agencies to identify the grooming of their staff members.
39. The investigation also demonstrated how ABF Officers' access to various computer systems can give rise to corruption risks. The investigation revealed officers can obtain information which is not in accordance with the execution of their duties and without being noticed by fellow employees or supervisors. In March 2020, ACLEI published a fact sheet titled 'Unauthorised disclosure of information' to assist jurisdictional agencies to identify and address these issues.

40. On 25 June 2020, the Secretary of Home Affairs wrote to me to advise that while he agreed in principle with my observations, Home Affairs have already implemented, and are further progressing, a number of the strategies identified in ACLEI's 'Unauthorised disclosure of information' fact sheet. The Secretary of Home Affairs advised Home Affairs had:
- Recently endorsed their 'Integrity Strategy 2025'. A key objective of that strategy is increased early intervention and the proactive management of integrity risks, supported by tailored communications, training and awareness for staff in response to identified risks and concerns;
 - Commenced a communications campaign, consistent with the 'Integrity Strategy 2025' to remind staff of their obligations when accessing Home Affairs information; and
 - Is developing a strengthened internal policy on access to Departmental systems and information to provide greater clarity on when officers can and cannot access systems and information, and clearly articulate the consequences for non-compliance. This policy will place an emphasis on managers taking reasonable management action in relation to suspected non-compliance, so as to immediately mitigate operational risks.

Recommendations

41. I do not make any recommendations as a result of this corruption investigation.
42. On 7 July 2020 I provided my report to the Attorney-General pursuant to s 54 of the LEIC Act. Following the completion of my report, pursuant to s 209 of the LEIC Act I considered whether it was in the public interest to disclose information about this investigation.
43. I decided it was in the public interest to publish my report at the conclusion of Mr Eakin's sentence appeal. Following the delivery of the appeal judgement on 11 November 2020, this is the version of the s 54 report of the investigation I have decided is in the public interest to disclose.



Jaala Hinchcliffe
Integrity Commissioner

6 July 2020