



Australian Government

Australian Commission for
Law Enforcement Integrity

AUSTRALIAN PUBLIC SECTOR ANTI-CORRUPTION CONFERENCE

*Integrity partnership in action:
making investigations count in integrity reform*

Philip Moss, Integrity Commissioner

Joint presentation:

Australian Commission for Law Enforcement Integrity;

Australian Federal Police; and

Australian Customs and Border Protection Service

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CHECK AGAINST DELIVERY

[Acknowledgements]

Thank you, Michael Ahrens, for that kind introduction and to our APSACC hosts for the opportunity to speak today.

This morning's presentations focus on the contributions of three Federal agencies to an investigation into allegations that Commonwealth officials at Sydney International Airport were assisting with drug importations.

That investigation, which began in 2011 and is concluding at present, has resulted in the arrests of 23 people, including six Commonwealth officials. One of those officers has been sentenced to a seven-year jail term. In addition, 54 kilograms of pseudoephedrine has been seized, along with \$237,000 in cash and assets suspected to be the proceeds of crime.

Before I tell you more about the investigation, I would like to make some opening remarks that will put my later observations into context.

[Opening remarks]

The Australian Public Sector Anti-Corruption Conference is now in its fourth edition. It is also my fourth, all of which I have attended in my capacity as Integrity Commissioner, and the head of the Australian Commission for Law Enforcement Integrity—or ACLEI, as we call it.

Since 2007—which, incidentally was the year ACLEI commenced—APSACC has established itself as the principal Australian forum at which anti-corruption practitioners can come together to share their experiences and increase their knowledge. In some cases, APSACC is an important first experience for people wishing to learn more about anti-corruption theory or practice. ACLEI is pleased and proud to be a supporter of APSACC, and an active participant.

In those six-or-so years since 2007, the integrity landscape—if I may call it that—has changed significantly.

[More Integrity Commissions]

For instance, for the better, there are a number of new anti-corruption commissions—namely, in Tasmania (the Integrity Commission), Victoria (the Independent Broad-based Anti-corruption Commission) and South Australia (the Independent Commissioner Against Corruption)—the last two of which have commenced since the last APSAC conference, which was held in 2011 in Fremantle.

I know from my own experience that it takes some years to establish an agency to the point where the difference it makes is publicly known and measurable. Persistence is required. The three anti-corruption agencies I have referred to are well led and, in time—at the right time—I am confident they will make a significant contribution to their jurisdictions and to the national integrity landscape.

[Change in risk]

On another measure, the factors that may lead to corrupt conduct—certainly in a law enforcement context, but also in others—are manifesting more profoundly than has been the case for some while. In particular, the sheer potential profitability of corruption—driven in part by the high price Australians are prepared to pay for illicit drugs—is putting significant pressure on any agency with an involvement in border or drug law enforcement.

[Changes in approach]

On a third measure, I think a difference over those years is the sophistication of approach applied by Federal public sector agencies to detecting, disrupting and deterring corrupt conduct. My recent experience is that agency heads don't feel moved to hide their problems or their risks from external scrutiny.

More often than not, I see agencies on the front foot, looking actively for weaknesses, and partnering with ACLEI and other agencies, so that these key risks are not self-managed. Having regard to what we might loosely call the “bureaucrat's impulse to avoid a scandal and maintain a reputation”, this shift is significant, and—I hope—a continuing one.

On a related measure, the “bad apple” concept of investigation has almost completely gone. The principle of holding individuals to account is still important, yet agencies are as concerned with learning from shortcomings, knowing the full scale of their vulnerabilities, looking over the horizon at possible changes in risk, and strengthening their defences accordingly.

Of course, there is more to do and more for us to learn—yet we have made progress in developing approaches to fighting corruption that are effective, that bring lasting change, and that concentrate on some of the bigger harms to society. It is these topics that my colleagues will address in a few minutes.

[Operation Heritage—a joint investigation of alleged corrupt conduct among officers of the Australian Customs and Border Protection Service at Sydney International Airport]

Let me turn now to the investigation at Sydney International Airport. This investigation is being conducted jointly by ACLEI and the Australian Customs and Border Protection Service—under the name *Operation Heritage*—and the Australian Federal Police (AFP)—under the name *Operation Marca*.

I hope you will understand—since several court proceedings are still underway, and I am yet to conclude my own findings in relation to the conduct of each individual—I must necessarily be circumspect in this forum.

As I noted in my interim report, which I published in June this year, the investigation reveals a concerning scenario. The conduct observed in Operation Heritage–Marca involved long-term collusion between a number of Australian Customs and Border Protection officers at Sydney International Airport, with the aim of importing illicit drugs.

So far as can be ascertained, a small number of officers commenced unauthorised importations of steroids in 2007. In the intervening years, this enterprise expanded to include more officers and the importation of the precursor drug pseudoephedrine, which is used in the manufacture of ecstasy.

Some officers apparently used their inside knowledge to defeat surveillance and interdiction systems. This knowledge included information about law enforcement techniques and systemic vulnerabilities.

They had privileged access to the secure border environment, and access to law enforcement databases.

By working together, they manipulated rosters and job placements, thereby increasing their capacity to facilitate larger importations of drugs.

They used their official positions and made use of friendships and other connections that they had developed at Sydney International Airport to gather information, and to cover their tracks.

Between 2007 and 2012, on a number of occasions, the network is suspected to have organised and facilitated numerous importations of border-controlled precursors from Thailand and Vietnam.

To date—following more than two years' investigation—five Customs and Border Protection Service officers have been arrested for a range of corruption and drug importation offences. As I said, one of these officers has since been convicted and sentenced to seven years in jail for his role in the scheme.

Another 18 people—including one baggage handler and an officer from the Department of Agriculture—have been arrested for suspected offences relating to the alleged conspiracy.

Further disruption of corrupt conduct has been achieved through 'code of conduct' investigations and other administrative procedures. A number of Customs and Border Protection officers have resigned while subject to these procedures.

[Causes—internal weaknesses]

By covertly observing the individuals over an extended period—and, in particular, by not jumping in too early to remove “bad apples”—the Operation Heritage–Marca team was able to form a picture of the whole network, and gain an understanding of its methods and the vulnerabilities they exploited.

The criminal conspiracy grew out of a confluence of circumstances, including a weak integrity culture and changes in the risk environment. These preconditions combined to permit a number of individuals to move from enabling one another's friends to exceed duty-free limits when arriving on overseas flights (in 2007), to the orchestrated importation of steroids and pseudoephedrine (until arrests commenced in August 2012).

Misplaced loyalties and deliberate compromise appears to have been the basis for the network, linking some border officials with each other and with organised crime.

Poor standards and a 'currency of favours' between staff allowed officers to engage colleagues in their activities.

A breakdown in supervision arrangements meant that concerns about suspicious conduct—when raised—were not adequately dealt with. In addition, no one area in

Customs and Border Protection had an overview of concerns being raised about individuals. This situation led to a lack of confidence amongst staff that wrongdoing would be noted or punished, and allowed poor standards of conduct to continue.

Furthermore, changes in the Customs and Border Protection operating model at Sydney International Airport, including a movement to intelligence-led processes and a “whole-of-airport” flexible staffing model, introduced new integrity risks and vulnerabilities. These risks—and their magnitude—were not appreciated at the time.

In short, Operation Heritage—Marca is a text-book illustration of what may happen when individuals take advantage of systemic vulnerabilities in a high-risk operating environment that lacks adequate safeguards, and which under-estimates risk.

[The bigger picture—pressure on the system]

It would be easy to conclude that all of this was the fault of Customs and Border Protection. Yet something more was—and still is—going on.

I mentioned a few moments ago the current pressure on border and law enforcement agencies, arising from their roles in repelling illicit drugs.

Australia is an attractive market for transnational criminal enterprises. A strong economy, well-established domestic distribution networks, and a big demand for a broad range of illicit drugs mean Australians are willing to pay a relatively high price for those drugs, compared to the global average.

Accordingly, the profits at stake can be significant. One estimate is that the Australian illicit drug market is worth as much as \$7 billion annually.

The opportunity for lucrative illicit profits increases the probability that organised crime groups may seek to compromise law enforcement officers in order to enlist their help in defeating border controls. Indeed, the more effective the border control, the greater the incentive to find a corrupt pathway.

The money on offer also increases the risk that law enforcement officers themselves may seek to import illicit substances, particularly if they feel confident in their ability to defeat whatever systems are in place to prevent such activity from occurring.

Plainly, this situation is serious, yet not one we are unprepared to combat.

[The Integrity Partnership]

If I may change direction slightly, it is relevant to mention something about ACLEI and its operating model.

ACLEI was established following the discovery of a serious instance of corrupt conduct at the Australian Crime Commission in 2004, an incident which drew contemporary policy attention to heightened corruption risk in Commonwealth law enforcement. The risk flowed from the danger that corrupt insiders might form collaborations with organised criminal groups, a relationship that ACLEI has since described as “the corruption handshake”

ACLEI’s enabling legislation was enacted in 2006, and ACLEI commenced in 2007 with the AFP and Australian Crime Commission (ACC) as the first agencies subject to its jurisdiction. The Australian Customs and Border Protection Service was added in January 2011. Three more Commonwealth agencies—the Australian Transaction Reports and Analysis Centre (AUSTRAC), the CrimTrac Agency, and various border aspects of the Department of Agriculture—commenced as part of the jurisdiction in July this year.

ACLEI has access to similar powers given to other Australian integrity agencies, including the ability for the Integrity Commissioner to hold coercive information-gathering hearings and issue notices to produce. When a warrant is in place, ACLEI may also use surveillance devices, intercept telecommunications, and conduct searches or controlled operations, and—more recently—integrity testing.

An important aspect of ACLEI's model is the "integrity partnership", which recognises that the Commonwealth's law enforcement anti-corruption system is not vested wholly in ACLEI. Rather, it is a combination of the commitment and participation of all of the agencies in jurisdiction, with the organising principles of ACLEI's establishing legislation as its framework.

The integrity partnership facilitates a collaborative relationship between integrity agency and jurisdiction, to achieve enduring integrity outcomes. The Australian Federal Police also has an important role, since it has responsibilities independent of ACLEI, for the investigation of Commonwealth crimes. Over time, the integrity partnership model has:

- built trust between partners;
- encouraged a deeper understanding of corruption risk; and
- affirmed a commitment to a strong integrity framework.

This integrity partnership was the basis for Operation Heritage–Marca and was critical to the operation's effectiveness, and to translating an investigation into enduring integrity reforms. It is also the basis for a number of other investigations that ACLEI is undertaking with its various partners.

[Conclusion]

In a moment, I'll hand over to my fellow panellists.

Deputy Commissioner Andrew Colvin will describe the significant support the Australian Federal Police provided to the investigation and to the Customs and Border Protection integrity reform process. He will also reflect on some of the lessons learned from the 'corruption handshake' method of investigating corruption and criminal issues in tandem. Andrew led the AFP's engagement in Operation Heritage-Marca with skill and passion, and I am pleased he could be here today to relay his experiences.

Then Mike Pezzullo, the Chief Executive Officer of the Australian Customs and Border Protection Service, will turn the focus to the significant reform program that is underway at Customs and Border Protection, demonstrating how the lessons learned from the investigation are driving program delivery and workforce change.

At the end of the presentations, we would be glad to take questions from the floor.

I will conclude for now by recognising Mike Pezzullo and his predecessor, Michael Carmody, who displayed the utmost professionalism in allowing the joint investigation to take its course. Their patience was rewarded by the success of the operation, which needed time to identify the hard-to-detect members of the network and collect evidence about their activities.

I thank them sincerely for their resolve.

[Ends]