

**Joint Committee on the Australian Commission for Law Enforcement Integrity:
Inquiry into the Jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI):
Submission from Transparency International Australia 13 May 2014**

Transparency International is the global coalition against corruption. Transparency International Australia (TIA) welcomes the opportunity to make a brief submission in relation to ACLEI's jurisdiction. TIA would also welcome the opportunity to participate in any public hearings which the Committee may undertake.

The desirability and feasibility of extending ACLEI's jurisdiction

TIA supports the point made in the ACLEI submission to this inquiry, that law enforcement may be only one of a number of functions and services delivered by an agency, administrative staff and other employees and contractors support, or have access to, the agency's law enforcement functions, information, decision-making powers, staff and systems. These staff may be 'soft targets' and are as attractive and vulnerable to subversion or coercion as law enforcement personnel.

For these reasons, TIA supports the extension of ACLEI's jurisdiction to include the entire Department of Agriculture, the entire Department of Immigration and Border Protection, and also ASIC, the Attorney-General's Department and the Australian Taxation Office.

An activity-based or jurisdiction-based approach to ACLEI's jurisdiction, and budgetary implications

TIA notes that the jurisdiction-based approach has previously been used in extending ACLEI's jurisdiction, and that this has been accompanied by an appropriate increase in budgetary resources and may have also involved the transfer of some personnel to ACLEI. TIA believes this jurisdiction-based approach is preferable to the establishment of an activity-based approach which, although it has some superficial attraction, would result in greater risk of inadequate financial and personnel resourcing for ACLEI.

Other matters

TIA wishes to take this opportunity to express its continued concern that the Australian Government's multi-agency approach to promoting integrity and fighting corruption is fragmented and misconceived.

It relies on the voluntary co-operation of an existing network of Commonwealth agencies with greater or less focus on the promotion of integrity and addressing non-criminal misconduct and various forms of corruption at national and international levels. As this Committee itself noted in its *Report on the Integrity of overseas Commonwealth law enforcement operations* (June 2013), the current approach is characterised by a series of 'scandals' and issues which come to light (AWB and Securency, for example), sometimes followed by reforms. TIA agrees that this reactive approach leads to ad hoc measures rather than a systematic approach to promoting integrity and addressing corruption across the Commonwealth government. The Committee highlighted the need for a pro-active, preventative approach which recognizes and manages the precursors to corruption and provides for integrity oversight.

There are important gaps in the existing multi-agency network, notably at the Ministerial, Parliamentary and Judicial levels. The absence of a national anti-corruption agency means that there is no single body charged with drawing together diverse multi-agency activities into a framework which can provide a focus for education and prevention activities and independent investigation of allegations of misconduct and corruption across the entire public sector. This proposal complements rather than undermines the multi-agency approach. Under this model, ACLEI would be the primary agency focusing on law enforcement integrity.

An alternative and less radical approach would be to nominate an existing agency to lead the whole of government policy on promotion of integrity and addressing corruption, as well as having some capacity to

support greater operational co-ordination of relevant Commonwealth departments and agencies. This leadership role could encompass the development of more comprehensive requirements in relation to agency reporting, plus a remit to assess and recommend steps to plug the gaps in existing anti-corruption oversight. TIA notes that the Attorney-General's Department currently leads the Commonwealth IDC on anti-corruption, which meets quarterly to discuss the co-ordination and management of anti-corruption initiatives. The Attorney-General's Department has a longstanding role in fraud control co-ordination as well as law enforcement co-ordination. The other possible lead agency, the Australian Public Service Commission, covers only APS agencies, which is too narrow a focus.

TIA therefore also **recommends** that the Committee consider:

- the establishment of an independent National Integrity and Anti-Corruption Commission which covers all Commonwealth public sector employment and activities, including Ministers, Members of Parliament and the judiciary, and whose activities span education, prevention and investigation
- as an interim measure, formalising the Attorney-General's Department role as the lead anti-corruption policy agency, with a clear mandate to lead the whole-of-government approach to anti-corruption.
- extending the existing multi-agency Commonwealth integrity regime to include more robust and independent risk analysis, education and prevention, corruption resistance building, investigation and reporting requirements at agency level.
- Confirming adequate funding and resources to ACLEI to perform its key oversight function