

PARLIAMENTARY JOINT COMMITTEE ON THE
AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY
INQUIRY INTO THE INTEGRITY OF AUSTRALIA'S BORDER ARRANGEMENTS

Questions on Notice ACLEI

Senator Bilyk asked the following questions on notice following the hearing on 11 September 2020 for the inquiry into the integrity of Australia's border arrangements.

Questions 1 to 3: INVESTIGATIONS CLOSED SINCE 10 FEBRUARY 2020

1. *On the date that you took over as the Integrity Commissioner, how many ACLEI investigations were active?*
2. *Of those investigations:*
 - a. *How many have you completed since you became the Integrity Commissioner?*
 - b. *How many have been discontinued prior to completion?*
3. *In respect of each investigation that you have discontinued since you became the Integrity Commissioner, please provide the following information:*
 - a. *the date on which the investigation began;*
 - b. *the date on which you decided to discontinue the investigation;*
 - c. *the number of hearings held under section 82 of the LEIC Act over the course of the investigation;*
 - d. *the number of "investigation warrants" (as defined in the LEIC Act) that were sought over the course of the investigation;*
 - e. *the number of notices that were issued under section 75 of the LEIC Act over the course of the investigation;*
 - f. *the number of individuals interviewed over the course of the investigation;*
 - g. *the cost of the investigation (as at the date it was discontinued);*
 - h. *a short summary of the subject matter of the investigation, including the nature of the corruption allegation(s) and the agencies involved;*
 - i. *who did you consult with prior to deciding to discontinue the investigation (Note: Please provide a complete list – if necessary, people should be identified by their position title to protect confidentiality);*
 - j. *whether any of your investigators recommended that you continue the investigation (Note: the purpose of this question is to ascertain whether you decided to discontinue any investigations against the advice of one or more of your investigators – it is well understood that, in making a decision to discontinue an investigation, you would have had regard to a range of factors (including, but not limited to, the advice of your investigators)); and*
 - k. *why you decided to discontinue the investigation instead of completing it.*

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The answer to the honourable senator's questions 1 to 3 are as follows.

Background

The *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act) provides 2 mechanisms for the Integrity Commissioner to finalise ACLEI's investigation of a matter.

- a. Where ACLEI has completed its investigation into a corruption issue, the Integrity Commissioner must prepare a report on the investigation under s54 of the LEIC Act. An investigation is considered 'complete' when all realistic avenues of inquiry by ACLEI have been pursued.
- b. Where the Integrity Commissioner reconsiders how to deal with a corruption issue and decides to take no further action in relation to a corruption issue in 4 circumstances. The Integrity Commissioner can decide to take no further action under s42(3) where:
 - the issue is already being or will be investigated by another agency
 - the referral is frivolous or vexatious
 - the corrupt conduct is or will be the subject of proceedings before a court, or
 - further investigation of the corruption issue is not warranted having regard to all the circumstances, for example where there is insufficient evidence or where, following preliminary investigations, it becomes apparent that the relevant conduct was not undertaken by a person under ACLEI's jurisdiction.

These mechanisms, especially the ability to reconsider how to deal with a matter under s42, are important mechanisms to allow ACLEI to effectively and actively manage the use of its resources.

In 2019-20, ACLEI implemented a process of 90-day reviews of all ACLEI investigations. This process allows us to identify those matters where further investigation and investment of our resources is unlikely to result in us uncovering additional information relevant to a matter. The 90-day review process also allows us to identify matters which we might have thought were of sufficient significance to warrant an ACLEI-led investigation but, on further investigation, are more appropriately investigated by the agency. Regularly reviewing our investigations and identifying these matters early allows ACLEI to ensure our resources are put to the best use.

Where investigators form the view that an investigation should be finalised – either because the investigation is complete and a s54 report can be prepared or because they are of the view that the Integrity Commissioner should reconsider how to deal with the matter under s42 – the Executive Director Operations (or the person acting in that role) submits a minute to the Integrity Commissioner outlining the status of the investigation and actions taken to date, an assessment of the likely utility of continuing investigations and recommending an appropriate course of action – ie, preparation of a s54 report or reconsideration under s42 of the LEIC Act. These decision minutes are initially prepared by the Senior Investigator and Director of the Operations team responsible for the investigation before being considered and put forward to the Integrity Commissioner by the Executive Director Operations for her consideration.

In a case where the Integrity Commissioner decides to take no further action under s42(3) and additional information comes to light later on which is relevant to the investigation, ACLEI can

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commence a new investigation using the information and intelligence we obtained in the initial investigation.

Matters discontinued since 10 February 2020

Ms Jaala Hinchcliffe was appointed as Integrity Commissioner on 10 February 2020. On that date, 70 corruption issues were under investigation by ACLEI (either alone or jointly with a LEIC Act agency). Table 1 below shows the status of those investigations at 30 September 2020.

Table 1 Corruption issues under investigation by ACLEI (alone or jointly) at 10 February 2020 – Status at 30 September 2020

	ACIC	AFP	AUSTRAC	DAWE	Home Affairs	Total
Corruption issues under investigation by ACLEI at 10 February 2020						
• ACLEI alone investigation	0	1	1	0	20	22
• Joint ACLEI/LEIC Act agency investigation	3	14	0	5	26	48
Total ACLEI investigations	3	15	1	5	46	70
Corruption issue investigations closed since 10 February 2020						
• Discontinued – person not a staff member of a LEIC Act agency	0	0	0	0	1	1
• Reconsidered under s42 – further investigation not warranted in all the circumstances	0	2	1	0	13	16
• Investigation complete – awaiting s54 report/underway	1	1	0	0	12	14
Total ACLEI investigations closed	0	3	1	0	22	28

Further detail in relation to question 3 is at [Attachment A](#).

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Questions 4 to 45: OPERATION ANGOVE

Question 4

You note in paragraph 16 of your Investigation Report in respect of Operation Angove (“Investigation Report”) that the former Integrity Commissioner postponed the public hearings that had been scheduled to take place on 29 October to 1 November 2019.

- a. *Did ACLEI investigators ever interview the “key witness” referred to in paragraph 16? If not, why not?*
- b. *Did the “key witness” ever give evidence at a hearing held under section 82 of the LEIC Act? If not, why not?*
- c. *Who was the “key witness”? Note: If you cannot provide the name of the key witness, please provide a description of his or her position or former position (including, if relevant, the name of the person’s then-current or former employer)*
- d. *Why didn’t the former Integrity Commissioner re-schedule the public hearings?*

The answer to the honourable senator’s question is as follows.

Background

Under the LEIC Act and other legislation, ACLEI has access to significant coercive powers which it relies on to fully investigate corruption issues. In investigating a matter, investigators make decisions about the investigative tasks that need to be undertaken based on the information they have already gathered and the information they are trying to obtain. Not all investigations need all investigative tools to be used; some tools are only available when certain thresholds are met, for example warrant powers.

The s 54 Report in relation to Operation Angove (the Report) sets out the investigative tools ACLEI investigators used to investigate the 3 corruption issues that formed part of Operation Angove. The Integrity Commissioner determined publication of the information contained in the Report was in the public interest (see s 209 of the LEIC Act). The following responses are provided to assist the Committee in its consideration of the Report.

The key witness

The key witness was a former senior officer of the Australian Border Force (ABF). The key witness gave evidence before the former Integrity Commissioner at a private hearing convened under s82 of the LEIC Act. Subsequent public hearings which had been planned for 29 October to 1 November 2019 were postponed due to the unavailability of the key witness. ACLEI’s investigations continued, with the former Integrity Commissioner coming to the view that it was a matter for the new Integrity Commissioner to decide whether further hearings were necessary. Following the further investigations, including consideration of the information provided in response to the summons, the Integrity Commissioner determined that it was not necessary to hold further hearings (see paragraph 17 of the Report). As a result, it was not necessary to determine whether hearings would be held in public or in private.

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Question 5

Between 1 November 2019 and 2 April 2020, what progress was made in relation to Operation Angove? In particular, please provide details of:

- a. *how many individuals were interviewed by investigators over that period;*
- b. *how many hearings were held under section 82 of the LEIC Act over that period; and*
- c. *how many notices were issued under section 75 of the LEIC Act over that period.*

The answer to the honourable senator's question is as follows.

In the period 1 November 2019 to 2 April 2020, ACLEI:

- issued 19 s75 notices
- prepared for and held a private hearing in December 2019
- reviewed the large amount of documents provided in response to s75 notices and summonses
- requested and reviewed material from Home Affairs
- liaised with Home Affairs officials regarding visa arrangements with Crown and supported applications
- conducted airport visits and spoke to officials
- spoke with various potential witnesses
- contacted 233 limousine drivers
- interviewed another key witness.¹

Question 6

Prior to deciding on 2 April 2020 not to conduct any further hearings in relation to Operation Angove, who did you consult? Note: Please provide a complete list – if necessary, people should be identified by their position title to protect confidentiality

- a. *Did any of the investigators you consulted recommend that ACLEI conduct further hearings in relation to Operation Angove?*
- b. *Did the former Integrity Commissioner recommend that you schedule one or more further hearings – either private or public – in relation to Operation Angove? If so, please provide details.*

The answer to the honourable senator's question is as follows.

As set out in response to Questions 4 and 5, ACLEI's investigations continued following the postponement of the planned public hearings in October 2019, with the former Integrity Commissioner coming to the view that it was a matter for the new Integrity Commissioner to decide whether further hearings were necessary. The Integrity Commissioner received detailed verbal and written briefings

¹ In these responses, 'interview' has been taken to mean a recorded interview or the provision of a formal statement. It does not include people who appeared before a hearing under s82 of the LEIC Act or who may have provided information in the course of less-formal conversations, including over the phone or by email.

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from the Executive Director Operations and investigators responsible for Operation Angove, who recommended that she decide not to proceed with additional hearings. On the basis of the advice provided, the Integrity Commissioner determined that no further hearings were required. In making this determination, the Integrity Commissioner had regard to the advice of ACLEI investigators about the significant progress that had been made in relation to the investigation and that hearings were not required to obtain any further information to support the investigation.

Question 7

Between 2 April 2020 and 4 June 2020, what progress was made in relation to Operation Angove? In particular, please provide details of:

- a. *how many individuals were interviewed by investigators over that period;*
- b. *how many hearings were held under section 82 of the LEIC Act over that period; and*
- c. *how many notices were issued under section 75 of the LEIC Act over that period.*

The answer to the honourable senator's question is as follows.

During April and May 2020, ACLEI investigators spoke to an additional 130 limousine drivers and commenced preparation of a final report to the Integrity Commissioner to support a recommendation that ACLEI's investigation be completed and a report under s54 be prepared. No hearings under s82 were held or notices issued under s75 during this time.

Question 8

In total, how many people were formally interviewed over the course of Operation Angove?

- a. *How many of those individuals were current employees of Crown or a related entity at the time the interview took place?*
- b. *How many of those individuals were former employees of Crown or a related entity at the time the interview took place?*
- c. *How many of those individuals were current employees of Border Force at the time the interview took place?*
- d. *How many of those individuals were former employees of Border Force at the time the interview took place?*
- e. *How many of those individuals were current employees of Home Affairs (excluding Border Force) at the time the interview took place?*
- f. *How many of those individuals were former employees of Home Affairs (excluding Border Force) at the time the interview took place?*

The answer to the honourable senator's question is as follows.

One person, a former ABF employee, was formally interviewed during the course of Operation Angove. ACLEI investigators spoke with a number of other current ABF staff – for example, to gather information relating to Off Terminal Clearance processes at Melbourne and Perth airports.

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Based on the information received, there was no evidence that Crown employees were involved in the corruption of staff within ACELI's jurisdiction. As such, no Crown employees were interviewed.

Question 9

Please provide a complete list of:

- a. *the 12 government agencies and 19 companies that notices were issued to under section 75 of the LEIC Act (as referred to in paragraph 15 of your report); and*
- b. *for each of those agencies or companies, the number of notices that were issued.*

The answer to the honourable senator's question is as follows.

Thirty-six notices were issued under s75 of the LEIC Act. Section 75 notices require a person to provide ACELI with information or documents specified in the notice. It would not be appropriate to disclose further details of the notices issued beyond those details which are disclosed in the Report.

Question 10

Other than the notice referred to in paragraph 140 of your report, how many of the notices issued under section 75 were issued to Crown or one of Crown's related entities? In respect of each notice issued to Crown or one of Crown's related entities, what information was sought?

The answer to the honourable senator's question is as follows.

In total, 3 notices under s75 were issued to Crown requesting information relevant to the investigation, including those matters set out in paragraph 140 of the Report.

Question 11

Of the 367 people who were contacted to determine whether they had information which would assist the investigation:

- a. *How many were current or former employees of Crown or a related entity of Crown?*
- b. *How many were current or former employees of Border Force?*
- c. *How many were current or former employees of Home Affairs?*
- d. *How many were limousine drivers?*

The answer to the honourable senator's question is as follows.

As noted in paragraph 15 of the Report, ACELI contacted 367 people to determine whether they had information which would assist the investigation. This was in addition to those people who were served with summonses or notices under the LEIC Act and the people referred to in paragraphs 83 and 132 of the Report. This included:

- 363 limousine drivers, who were subcontractors for Crown
- one former ABF employee

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- a number of current and staff of other relevant agencies.

Question 12

How many times did ACLEI meet with Crown over the course of Operation Angove?

The answer to the honourable senator's question is as follows.

ACLEI had a variety of communications with representatives of Crown, including face to face, phone and email and Crown were served with 3 notices under s75 of the LEIC Act.

Questions 13 and 14

13. *Did anyone ever decline to be interviewed by ACLEI over the course of Operation Angove? If so, how many people?*

14. *In respect of each individual who declined to be interviewed:*

- Was the person ultimately interviewed?*
- Was the person a current or former employee of Crown?*
- Was the person a current or former employee of Border Force?*
- Was the person a current or former employee of Home Affairs?*

The answers to the honourable senator's questions 13 and 14 are as follows.

One person declined to speak with ACLEI during the course of the investigation. The person was the whistleblower referred to by Mr Wilkie MP in the House of Representatives on 30 July 2019 (see paragraph 139 of the Report). The person's identity remains unknown.

CORRUPTION ISSUE 1

Question 15

In paragraph 19 of your report, you refer to "a former Crown employee, turned whistleblower" who spoke to the 60 Minutes program.

- Did ACLEI contact that former Crown employee? If not, why not?*
- Did ACLEI conduct a formal interview with that former Crown employee? If not, why not?*

The answer to the honourable senator's question is as follows.

ACLEI did not contact the former Crown employee, who ACLEI understands is based offshore. We considered the material provided by the whistleblower in the 60 Minutes program and the Sydney Morning Herald article in undertaking the investigation as set out in pages 11-26 of the Report.

Question 16

With respect to the allegations in the Sydney Morning Herald article entitled "Border Force official worked for Crown junket agent, fugitive" (referred to in paragraph 20 of your report):

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- a. *Did ACLEI contact the “senior Australian migration official” referred to in that article? If not, why not?*
- b. *Did ACLEI formerly interview the “senior Australian migration official” referred to in that article? If not, why not?*
- c. *Did ACLEI contact the “Crown senior manager” who pushed the Australian consulate to overturn a visa decision? If not, why not?*
- d. *Did ACLEI formerly interview the “Crown senior manager” who pushed the Australian consulate to overturn a visa decision? If not, why not?*

The answer to the honourable senator’s question is as follows.

As part of our investigation, we reviewed the Home Affairs emails and visa processing notes for each of the applications referred to in the Home Affairs emails quoted in the Sydney Morning Herald. Details of this part of our investigation is set out on pages 19 to 26 of the Report. On review of the relevant emails and visa processing notes, it was determined that there was no corrupt conduct on the part of either the ‘senior Australian migration official’ or the ‘Crown senior manager’. Given this, ACLEI did not contact the ‘senior Australian migration official’ or the ‘Crown senior manager’ referred to in the article.

Question 17

In paragraph 25 and elsewhere in your report, you refer to the fact that there was a ‘single point of contact’ within Home Affairs who liaised with Crown on visa application issues.

- a. *How many Home Affairs’ officials who had acted as – or worked as part of, or alongside, the team that acted as – the “single point of contact” for Crown did ACLEI contact?*
- b. *How many Home Affairs’ officials who had acted as – or worked as part of, or alongside, the team that acted as – the “single point of contact” for Crown did ACLEI formally interview?*

The answer to the honourable senator’s question is as follows.

The 60 Minutes program and the Sydney Morning Herald article referred to an emergency channel that Crown had with Australian Consular officials. ACLEI identified a single point of contact that Crown had with DIAC Guangzhou within documentation provided to the investigation by Home Affairs. ACLEI’s identification of this single point of contact and consideration of it is set out in pages 12-14 of the Report. ACLEI did not contact any Home Affairs’ officials who had acted as – or worked as part of, or alongside, the team that acted as – the ‘single point of contact’ for Crown.

Question 18

In paragraph 34 you write:

While Home Affairs provided evidence of the arrangement with Crown through internal documentation and correspondence, the investigation was not provided with a memorandum of understanding or exchange of letters between Home Affairs and Crown which set out the terms of the agreement between Home Affairs and Crown. This is an issue that goes to administration,

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rather than corruption. However, the lack of documentation as to agreements or arrangements may create a corruption risk if the terms of the arrangement are not clearly understood by those staff who are implementing them or are ill-defined and therefore capable of manipulation.

- a. *Did ACLEI collect any evidence about whether the agreements or arrangements between Crown and Home Affairs were “clearly understood by those staff who are implementing them”? If so, what evidence?*
- b. *Did ACLEI check whether the agreements or arrangements were “ill-defined”? If so, how did you check? If not, why not?*
- c. *How many of the staff currently – or formerly – responsible for implementing the agreements or arrangements between Home Affairs and Crown did ACLEI speak to? If so, how many?*
- d. *How many of the staff currently – or formerly – responsible for implementing the agreements or arrangements between Home Affairs and Crown did ACLEI formally interview? If so, how many?*

The answer to the honourable senator’s question is as follows.

ACLEI obtained a range of Home Affairs’ emails and internal briefing documents relating to the Crown-supported visa applications, including the processes used by staff at the Consulate between 2003 and 2011. ACLEI also spoke to one of the officials who had been responsible for overseeing the implementation of the arrangements. This is set out in detail at pages 12 to 14 of the Report, including quotes from a Home Affairs document dated 2011, which described how the arrangement operated from 2003 onwards.

However, Home Affairs was unable to provide the investigation with formal documentation setting out the terms of the arrangement in place between Home Affairs and Crown between 2003 and 2011. The reference in paragraph 34 of the Report to terms of an arrangement being ‘ill-defined’ relates to the potential corruption risk created by the absence of formal documentation of such agreements.

Question 19

In paragraph 43 you write:

Of the 53 Crown-supported visa applications that were refused, 10 were granted visas within 12 months. Of the 26 Crown-supported visa applications that were withdrawn, 11 were granted visas within 12 months.

- a. *Of the 53 Crown-supported visa applications that were refused, how many of the applicants re-applied for visas within 12 months?*
- b. *Of the 26 Crown-supported visa applications that were withdrawn, how many of the applicants re-applied for visas within 12 months?*
- c. *In respect of the 10 visa applications that were approved after being refused, did ACLEI interview any of the officials involved in the decision to approve those applications? If not, why not?*
- d. *In respect of the 11 visa applications that were approved after being withdrawn, did ACLEI interview any of the officials involved in the decision to approve those applications? If not, why not?*

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The answer to the honourable senator's question is as follows.

In total 16 applicants re-applied for visas within 12 months. Of those, 6 were refused a second time.

Three applicants re-applied for visas within 12 months. Of those, 2 were refused and one was withdrawn.

As set out in the Report, ACLEI conducted this part of the investigation by reviewing visa processing notes made by the decision makers contemporaneously with their decisions. A number of these records of decisions have been included in the report (see paragraph 44). ACLEI did not interview the decision makers referred to in questions 16(c) and (d). The decisions reviewed by ACLEI were made by staff who would have processed hundreds of visa applications. Investigators determined that due to the volume of matters, coupled with the time elapsed since these visa applications were assessed (2011 – 2015), the ability of those staff to recall their reasoning could have been impaired.

Question 20

Did ACLEI review the bank records of any Home Affairs' officials who played a role in assessing, and approving, Crown-supported visa applications? If so, how many?

The answer to the honourable senator's question is as follows.

ACLEI did not review the bank records of Home Affairs officials as there was no evidence of corrupt conduct to meet the thresholds of suspicion necessary for international crime cooperation processes.

Questions 21 and 22

21. *In paragraphs 57 and 58 of your report, you refer to the five visa applicants referred to in an email from an Australian migration official dated 13 November 2015 (as reported in the Sydney Morning Herald). You write:*

The five visa applicants named in the email applied for visitor visas on 24 August 2015 and all were granted visas the next day. At the time of application, integrity system checks identified information relevant to the risk profile for all five visa applicants which resulted in the following case note:

The applicant is linked through an agent, authorised person or organisation to multiple instances of fraud and non-compliance, some of which are recent. Although this application is associated with Crown, caution is advised and increased checks recommended.

We sought further information from Home Affairs in relation to the processing of these applications to determine whether increased checks were undertaken as recommended by the case note. The investigation was advised by Home Affairs that there is evidence of local integrity checks and checks of the Movement Alert List (MAL) in relation to these five applications. All of these visa applications were also individually assessed before they were granted on 25 August 2015.

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- a. *Did ACLEI obtain any evidence about how long it usually took – from the time of application to the time of decision – Australian officials to process applications for visitor visas from Guangzhou? If not, why not? If so, how long did it usually take?*
- b. *Did ACLEI obtain any evidence about how long it usually took – from the time of application to the time of decision – Australian officials to process applications for visitor visas from Guangzhou where caution had been advised “and increased checks recommended”? If not, why not? If so, how long did it usually take?*
- c. *Did ACLEI ask Home Affairs how it was possible for Home Affairs to conduct “increased checks” as recommended in the case note within 24 hours (noting that the increased checks were recommended on 24 August and the visa applications approved the next day)? If so, what was Home Affairs’ response? If not, why not?*
- d. *Precisely what “local integrity checks” were conducted in relation to those five applications?*
- e. *Did ACLEI ask Home Affairs for the names of the officials who had “individually assessed” the five visa applications? If not, why not?*
- f. *Did ACLEI interview any of the officials who had “individually assessed” the five visa applications? If not, why not?*

22. *In paragraph 62 of your report, you write that “[f]rom our review of the processing of these applications, there is evidence that checks were undertaken in the original grant of the visas”. Other than being advised by Home Affairs that there was evidence of this (as referred to in paragraph 58), what evidence did ACLEI have to corroborate the advice from Home Affairs that checks were undertaken in the original grant of the visas?*

The answers to the honourable senator’s questions 21 and 22 are as follows.

Home Affairs provided ACLEI with information about the average time taken to process visitor visa applications during 2013-14. At that time, 70% of applications lodged in mainland China were granted within 5 days. ACLEI did not obtain any evidence about the length of time to process applications for visitor visas where increased checks were recommended.

In relation to the applications mentioned in paragraphs 57 and 58 of the Report, Home Affairs provided ACLEI with case notes which detail the specific integrity checks undertaken in relation to each application. These notes also showed that, in addition to all local, Operational Integrity System and Movement Alert List checks being undertaken, 2 of the applicants were interviewed by the decision maker.

The names of visa decision makers are recorded on Home Affairs’ Integrated Client Service Environment (ICSE) Offspring. The decision maker in this case would have processed hundreds of visa applications. Coupled with the time elapsed since these visa applications were assessed, ACLEI investigators determined that the person’s ability to recall the reasoning for their decisions would have been hindered.

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Questions 23 to 25

23. *With respect to the processing of the visa for “Chinese National A” (and noting that at paragraph 75 you write that the written record of the decision was deficient in a number of respects):*
- a. *Did ACLEI identify the names of any of the officials responsible for processing Chinese National A’s visa application? If not, why not?*
 - b. *Did ACLEI contact any of the officials responsible for processing Chinese National A’s visa application? If not, why not?*
 - c. *Did ACLEI formally interview any of the officials responsible for processing Chinese National A’s visa application? If not, why not?*
24. *With respect to the processing of the visa for “Chinese National B”:*
- a. *Did ACLEI identify the names of any of the officials responsible for processing Chinese National B’s visa application? If not, why not?*
 - b. *Did ACLEI contact any of the officials responsible for processing Chinese National B’s visa application? If not, why not?*
 - c. *Did ACLEI formally interview any of the officials responsible for processing Chinese National B’s visa application? If not, why not?*
25. *In paragraph 83 of your report, you say that ACLEI contacted the former Chief Migration Officer who was based in Guangzhou from 15 September 2014 to 17 November 2017. You also say that the former Chief Migration officer “advised the investigation that they had very little direct knowledge of the visa processing and relied on their team of officers to complete the applications”.*
- a. *Did ACLEI ever ask for a list of the officers who processed visa applications in Guangzhou from 15 September 2014 to 17 November 2017? If not, why not?*
 - b. *Did ACLEI contact any of the officers responsible for processing visa applications in Guangzhou from 15 September 2014 to 17 November 2017? If not, why not?*
 - c. *Did ACLEI formally interview any of the officers responsible for processing visa applications in Guangzhou from 15 September 2014 to 17 November 2017? If not, why not?*

The answers to the honourable senator’s questions 23 to 25 are as follows.

The names of visa decision makers are recorded in visa processing notes on Home Affairs’ ICSE Offspring. These notes were provided to ACLEI in relation to relevant decisions. Home Affairs also provided ACLEI a list of Principal Migration Officers and Senior Migration Officers based in Guangzhou since 2010. ACLEI was also able to ascertain the names of the officers involved in processing visa applications from the visa processing notes recorded on Home Affairs’ ICSE Offspring.

ACLEI investigators did not contact the decision makers responsible for processing those visa applications. Given the time elapsed since the visa applications were assessed, and the fact that the decision makers would have made hundreds of similar visa decisions, investigators determined the officials’ ability to recall the reasoning for their decisions would have been hindered.

The agreement between Home Affairs and Crown ceased on 27 September 2016.

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CORRUPTION ISSUE 2

Question 26

In paragraphs 92 and 93 of your report, you note that “investigators requested copies of policies and procedures regarding off-terminal clearance at Melbourne and Perth international airports from Home Affairs” and that “[w]e did not receive information from ABF Officers at Perth International Airport”.

- a. Why wasn't that information provided?*
- b. Did investigators follow up with ABF Officers at Perth International Airport when the information was not provided?*
- c. What steps did investigators take to obtain the requested information?*
- d. Did you or your predecessor use the powers of the Integrity Commission to require ABF Officers at Perth International Airport to provide that information?*
- e. Did you, your predecessor or anyone at ACLEI raise the failure of ABF Officers to respond to the request with senior ABF officials? If not, why not?*

The answer to the honourable senator's question is as follows.

In responding to this question, we have identified a typographical error in paragraph 92 of the report. The reference to Perth International Airport should be Sydney International Airport. As a consequence, the first sentence of paragraph 93 has been removed from the report. The request for information was not followed up further with ABF staff at Sydney International Airport because, as the investigation progressed, the investigation focused on reviewing off terminal processes and clearances at Melbourne International Airport, as this was the airport referred to in Mr Wilkie's speech and because Crown VIPs did not regularly enter Australia through Sydney International Airport.

Question 27

In paragraph 109 of your report, you note that Home Affairs provided ACLEI with flight numbers and manifests for inbound Crown private charter flights arriving at Melbourne International Airport for the periods of 1 January 2015 to 22 August 2016 and 1 January 2017 – 26 August 2019.

- a. Why were those periods selected?*
- b. Did ACLEI request flight numbers and manifests for inbound Crown private charter flights arriving at Melbourne International Airport for the period of 23 August 2016 to 31 December 2016? If not, why not?*
- c. Why didn't Home Affairs provide a list of flight numbers and manifests for inbound Crown private charter flights arriving at Melbourne International Airport for the period of 23 August 2016 to 31 December 2016?*
- d. Did ACLEI request flight numbers and manifests for inbound Crown private charter flights arriving at Perth International Airport? If so, why isn't this mentioned in your report? If not, why not?*

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The answer to the honourable senator's question is as follows.

ACLEI investigators requested flight numbers and associated manifests for Crown private jets for the period of 1 January 2017 to 26 August 2019, to ascertain whether any current staff of jurisdictional agencies were travelling on these flights.²

Home Affairs provided ACLEI with data from 1 January 2015 to 22 August 2016 to assist with our investigation. Investigators focused on flights in 2016 prior to the arrangement with Crown coming to an end in September 2016.

ACLEI did not request additional flight numbers and manifests for inbound Crown private charter flights arriving at Melbourne International Airport for the period of 23 August 2016 to 31 December 2016, as Home Affairs formally ceased the agreement with Crown on 27 September 2016.

ACLEI did not request flight numbers and manifests for inbound Crown private charter flights arriving at Perth International Airport, as off-terminal clearance of aircrafts are uncommon for Perth and most are processed through the main terminal.

Question 28

In paragraph 118 of your report, you write that “[o]f the seven ABF Aircraft Boarding Checklists requested for this aspect of the investigation, Home Affairs were only able to provide three”.

- a. *Why wasn't Home Affairs able to provide the other four Checklists?*
- b. *What steps did Home Affairs take to locate the other four Checklists?*
- c. *In respect of which of the seven flights listed in paragraph 114 were Checklists not provided?*

The answer to the honourable senator's question is as follows.

ABF Aircraft Boarding Checklists were not provided in relation to 4 flights arriving at Melbourne between May and August of 2016. Home Affairs advised that they were unable to locate the Checklists. In response, we have made observations at paragraph 130 concerning the corruption risk that can be created by lack of adequate record keeping.

Question 29

In paragraph 119 of your report, you write that:

A request was made to Home Affairs for internal Assessment and Response Team emails to ascertain why they did not attend the off-terminal clearance. Home Affairs was unable to locate the information requested.

- a. *What was Home Affairs' explanation for being unable to locate the information requested?*
- b. *Did ACLEI request the names of the Assessment and Response Team? If not, why not?*

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- c. *Did ACLEI interview any of the Assessment and Response Team to ascertain why the Team did not attend the off-terminal clearance? If not, why not?*

The answer to the honourable senator's question is as follows.

Home Affairs advised that it had been unable to locate the emails as the emails may have been incorrectly titled in the department's records management system. In response, we have made observations at paragraph 130 concerning the corruption risk that can be created by lack of adequate record keeping.

ACLEI investigators did not interview any of A&R Team in relation to any of the flights under review. The A&R Team perform baggage searches and issue infringement notices on both commercial and private aircraft. Team members would have processed hundreds of flights during the period being considered. Coupled with the fact that the flights occurred in 2016, investigators determined that this would have hindered their ability to recall specific flights.

Questions 30 to 35

30. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHCCV arrived at Melbourne Airport on 7 March 2016? If not, why not?*
31. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHCCD arrived at Melbourne Airport on 14 March 2016? If not, why not?*
32. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHCCX arrived at Melbourne Airport on 14 May 2016? If not, why not?*
33. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHCCD arrived Melbourne Airport on 17 May 2016? If not, why not?*
34. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHOCV arrived at Melbourne Airport on 09 June 2016? If not, why not?*
35. *Did ACLEI formally interview any of the Border Force officials who were involved in the off-terminal clearance process in respect of flight number VHCCD arrived at Melbourne Airport on 26 July 2016? If not, why not?*

The answers to the honourable senator's questions are as follows.

As set out in paragraph 108 of the Report, this aspect of the investigation was conducted by reviewing ABF records regarding off-terminal clearance arrivals at Melbourne International Airport to determine whether policies and procedures put in place by ABF and Home Affairs were being followed. ACLEI investigators did not formally interview any of the ABF officials involved in the off-terminal clearance process in respect of the flight numbers referred to in question 30 to 35. These officers would have

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processed hundreds flights during the period being considered. Coupled with the fact that the flights occurred in 2016, investigators determined that this would have hindered their ability to recall specific flights.

Question 36

In paragraph 120 of your report, you say that off-terminal clearance documentation was not provided for one of the 39 private charter flights (including 16 Crown private charter flights) arriving at Melbourne and Essendon Airports from January 2019 to September 2019. Was that a Crown private charter flight?

The answer to the honourable senator's question is as follows.

Yes, it was a Crown private charter flight.

Question 37

In paragraph 127 of your report, you say that:

The Assessment and Response Team attended four of the 15 flights where they were notified of a positive check or alert in relation to a passenger or crew member. The Assessment and Response Team are not required to attend whenever there is a positive check or alert but need to make an assessment of whether attendance is required. It may have been entirely appropriate that the team only attended those four flights. However, due to the gaps in the documentation that Home Affairs were able to provide in relation to the assessment made by the team, we are not able to comment further on the adequacy of those decisions.

- a. Noting the gaps in the documentation, did ACLEI contact any member of the Assessment and Response Teams that were notified of a positive check or alert in relation to a passenger or crew member on the 15 flights referred to in this paragraph? If not, why not?*
- b. Noting the gaps in the documentation, did ACLEI formally interview any member of the Assessment and Response Teams that were notified of a positive check or alert in relation to a passenger or crew member on the 15 flights referred to in this paragraph? If not, why not?*

The answer to the honourable senator's question is as follows.

ACLEI did not contact any member of the A&R Teams that were notified of a positive check or alert in relation to a passenger or crew member on the 15 flights referred to in this paragraph 127. The A&R Teams would have processed hundreds of flights during the relevant period. Coupled with the fact that the flights occurred in 2016, investigators determined that this would have hindered their ability to recall specific flights.

Question 38

In paragraph 139 of your report, you say that the whistleblower referred to in Mr Wilkie's speech on 30 July 2019 refused to speak to ACLEI officers and "his identity remains unknown". To clarify, does his identity remain unknown to ACLEI?

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The answer to the honourable senator's question is as follows.

The whistleblower's identity remains unknown to ACLEI. The former Integrity Commissioner wrote to Mr Wilkie to request that he share the whistle-blower's identity with ACLEI, so investigators could speak with him and offer him the protections available in the LEIC Act. The whistleblower declined to speak to ACLEI officers and his identity was never confirmed.

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Questions 39 and 40

39. *During what period did the former ABF staff member work for the Junket Agent while, simultaneously, being employed by ABF?*
40. *How much was the former ABF staff member paid for the work he did for the Junket Agent? And why isn't this detail included in your report?*

The answer to the honourable senator's questions 39 and 40 are as follows:

As noted in paragraph 163 of the Report, the former ABF staff member worked for the Junket Agent from September to November 2017 and was paid \$1000 per day for each day that they worked by the agent.

Question 41

Did ACLEI interview the "friend" who – according to the evidence of the ABF staff member (referred to in paragraph 165) – introduced the ABF staff member to the Junket Agent? If not, why not?

The answer to the honourable senator's question is as follows.

Yes.

Question 42

In paragraph 162 of your report, you write that the former ABF staff member "gave a full and frank account of their relationship with the Junket Agent". How do you know the account was full and frank?

The answer to the honourable senator's question is as follows.

The former ABF staff member answered all the questions posed to them, which was corroborated by the evidence obtained by ACLEI.

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Question 43

Did ACLEI obtain the former ABF staff member's phone records to ascertain whether he had been in contact with other ABF staff members who were deployed at airports or who had specialist knowledge of clearance processes? If not, why not?

The answer to the honourable senator's question is as follows.

It is an offence under the *Telecommunications (Interception and Access) Act 1979* to use or disclose any information which would reveal the existence of a telecommunications data authorization. As such ACLEI is not able to confirm or deny whether telecommunications data was accessed as part of this investigation.

Question 44

In paragraph 162 of your report, you say that the former ABF staff member was interviewed voluntarily and was not cautioned.

- a. Why wasn't the former ABF staff member cautioned?*
- b. Why didn't ACLEI require the former ABF staff member to attend a private hearing?*

The answer to the honourable senator's question is as follows.

The former ABF staff member was not cautioned because they were not under suspicion of having committed any criminal offence. As the former ABF staff member provided the information to the investigation voluntarily, there was no need to use a coercive power, such as the hearing power, to obtain the information.

Question 45

In respect of the trips referred to in paragraph 163 of your report:

- a. How many times, in total, did the ABF staff member accompany the Junket Agent on overseas trips and where were those trips to?*
- b. In respect of each overseas trip:*
 - i. Did the ABF staff member fly economy, business or first class?*
 - ii. Who paid the ABF staff member's travel costs and how much were they?*
 - iii. How long was the trip?*
 - iv. What work did the ABF staff member perform for the Junket Agent on the trip?*

Question 46

The former ABF staff member accompanied the Junket Agent on 2 overseas trips: in September/October 2017 to Japan (10 days) and June 2018 to Vanuatu (3 days). On both occasions, they flew together on board a private jet paid for by the Junket Agent.

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As noted in paragraph 165 of the Report, during the trip to Japan the former ABF staff member acted as the Junket Agent's personal assistant - carrying bags and organising restaurants.

During the trip to Vanuatu, the former ABF staff member was not working for the Junket Agent but accompanied him to facilitate a meeting with a casino owner who was a friend of the former ABF staff member.

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Attachment A – Details relating to ACLEI investigations reconsidered under s42 since 10 February 2020³

Ref	(a) Date Open	(b) Date Closed	(c) s82 Hearings	(d) Warrants	(e) s75 Notices	(f) Individuals interviewed ⁴	(h) Agency/ allegation	(j) Recommend to Continue Y/N	(k) Reason for Discontinuation
1	16/05/2016	24/03/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
2	25/05/2016	24/08/2020	0	0	1	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
3	7/10/2016	24/03/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
4	16/02/2017	29/06/2020	0	0	6	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
5	19/04/2017	30/06/2020	0	0	17	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
6	7/07/2017	25/05/2020	0	0	1	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
7	3/08/2017	20/07/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
8	17/08/2017	3/07/2020	0	0	0	1	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
9	4/10/2017	21/04/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
10	26/02/2018	20/07/2020	0	0	2	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
11	23/07/2018	29/06/2020	0	0	0	0	AUSTRAC, Corruption vulnerability examination	N	Further investigation not warranted having regard to all the circumstances
12	17/08/2018	14/05/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
13	9/04/2019	10/08/2020	0	0	12	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
14	16/05/2019	10/03/2020	0	0	0	0	Home Affairs, Abuse of Office	N	Further investigation not warranted having regard to all the circumstances
15	8/10/2019	27/08/2020	0	0	1	2	AFP, Corruption of any other kind	N	Further investigation not warranted having regard to all the circumstances

³ In relation to Senator Bylick's request for information about the costs of each investigation, and noting the age of these matters, we are unable to provide cost information. As noted in evidence to the Committee, while we have started to collect data to begin to calculate costs, we need to undertake further work to refine the model.

⁴ 'Interview' can have a variety of meanings in a law enforcement context. While ACLEI would speak with a range of people throughout the course of an investigation, in this case, 'interview' has been taken to mean a conversation with a suspect or person of interest where allegations were put.

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Ref	(a) Date Open	(b) Date Closed	(c) s82 Hearings	(d) Warrants	(e) s75 Notices	(f) Individuals interviewed ⁴	(h) Agency/ allegation	(j) Recommend to Continue Y/N	(k) Reason for Discontinuation
16	25/10/2019	5/08/2020	0	0	3	0	AFP, Corruption of any other kind	N	Further investigation not warranted having regard to all the circumstances