



Our ref: 20/591

27 July 2020

Mr Craig Kelly MP
Chair
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: le.committee@aph.gov.au

Dear Mr Kelly

Inquiry into criminal activity and law enforcement during the COVID-19 pandemic

I write in relation to the Parliamentary Joint Committee on Law Enforcement *Inquiry into criminal activity and law enforcement during the COVID-19 pandemic*. While I do not intend to make a formal submission, I offer the following observations that may assist the Committee's consideration.

The office of the Integrity Commissioner, and the Australian Commissioner for Law Enforcement Integrity (ACLEI), are established by *the Law Enforcement Integrity Commissioner Act 2006* (Cth) (LEIC Act) to investigate and prevent corrupt conduct in Commonwealth law enforcement agencies. I have attached a brief overview of our role for the information of the Committee. In effect, we are both an oversight agency and a very small law enforcement agency in our own right.

The COVID-19 pandemic does not appear to have impacted on the reporting of corruption issues to ACLEI. I have not seen a decrease in the number of matters referred or notified to my office. I have also not observed a change in the types of reports received that could be attributed to the influence of the pandemic or changes in the way staff work. However, I recognise that given the secretive nature of corrupt conduct, changes in types of matters reported to my office might not be identifiable until some time into the future.

ACLEI has continued to undertake investigations during the pandemic, including while working off site. ACLEI has managed any limitations imposed by the pandemic, including:

- A limited ability to hold coercive hearings which has resulted in the need to consider other ways of engaging witnesses. This has included informal interviews conducted by phone or video
- Limits on the ability to travel, which has been managed by co-cooperation with partner agencies in the relevant jurisdictions
- Having staff working from home has impacted the ability to have regular operational team meetings, however teams have made good use of electronic communications methods for specific investigations in order to remain connected. In addition, staff have adopted a flexible approach with most able to attend the office for specific tasks.

I am available to answer any questions should you wish, and can be contacted directly on [redacted]. Alternatively, you may contact Luci Atkinson, Executive Director Secretariat on [redacted].

Yours sincerely

Jaala Hinchcliffe
Integrity Commissioner

Overview of the role of the Integrity Commissioner and ACLEI

The role of the Integrity Commissioner and ACLEI

The role of the Integrity Commissioner and ACLEI is to detect and prevent corrupt conduct and deal with corruption issues in Commonwealth law enforcement agencies.

We do this through four key activities:

- We receive and assess notifications of alleged corrupt conduct by members of Commonwealth law enforcement agencies
- We conduct investigations into serious and systemic corrupt conduct
- We support our partner law enforcement agencies to detect corrupt conduct and perform their own investigations and
- We prevent corruption through engagement, support and identification of vulnerabilities.

The Commonwealth law enforcement agencies in our jurisdiction

The five Commonwealth law enforcement agencies in our jurisdiction are:

- 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.

Other Australian Government agencies with law enforcement functions may be prescribed by regulation as being within our jurisdiction.

Corrupt conduct

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
- having regard to his or her duties and powers, engages in corrupt conduct of any other kind.

Section 16 of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act) provides that the Integrity Commissioner is to give priority to dealing with serious and systemic corruption.

Dealing with corruption issues

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.

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.

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.

Reports

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.

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.