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Australian Government

**Australian Customs and
Border Protection Service**

**Department of Immigration
and Border Protection**

Parliamentary Joint Committee inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity

Joint submission: Australian Customs and Border Protection Service and the Department of Immigration and Border Protection

The Australian Customs and Border Protection Service (ACBPS) and the Department of Immigration and Border Protection (DIBP) provide the following comments in response to the Parliamentary Joint Committee's invitation to make a submission to the inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI).

ACLEI's primary role is to investigate law enforcement-related corruption issues, giving priority to serious and systemic corruption. On this basis ACBPS and DIBP support the extension of ACLEI's jurisdiction to those agencies whose functions include law enforcement responsibilities.

The functions of the Department of Agriculture and DIBP include border-related law enforcement responsibilities and the exercise of powers that are potentially open to corruption. For this reason ACBPS and DIBP are of the view that, at a minimum, the law enforcement functions of these agencies should be subject to ACLEI's jurisdiction.

The consolidation of ACBPS with DIBP from 1 July 2015 will create a new DIBP, part of which will be a new Australian Border Force. The Australian Border Force will be a single frontline operational border agency with statutory responsibilities, enforcing our customs and immigration laws and drawing together the operational border, investigations, compliance, detention and enforcement functions of the two existing agencies. The Australian Border Force will have border-related law enforcement responsibilities, exercising powers potentially open to corruption. On this basis, the Australian Border Force should be subject to ACLEI's jurisdiction.

The consolidated DIBP will contain the policy, regulatory and corporate functions of the combined agencies. Consideration as to how ACBPS and DIBP will be consolidated and which roles are best placed within the Australian Border Force is currently being worked through. During this process, the functions of the consolidated DIBP will be defined allowing a clearer view to be formed as to whether, given ACLEI's role and purpose, there is value in the new DIBP also being subject to ACLEI's jurisdiction.

In general terms, ACBPS and DIBP are of the view that, for ACLEI to be able to provide independent assurance to government about the integrity of staff in law enforcement agencies, it is important that ACLEI's jurisdiction is based on a jurisdiction-based model. ACBPS and DIBP

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consider the existing jurisdiction-based approach as the preferred approach given the inherent difficulties in designing and managing an activities-based approach. An activities-based approach creates challenges in securing a shared view of the boundaries of each activity, and in developing and maintaining a detailed understanding across government of how other law enforcement agencies undertake a particular activity. A jurisdictional-approach allows ACLEI to investigate law enforcement-related corruption issues unimpeded by artificial delineations around a particular activity.

ACLEI's purpose is to understand corruption and prevent it. It is vitally important to the integrity of agencies with law enforcement responsibilities that the parameters of ACLEI's jurisdiction are not blurred and that investigations are not limited by artificial boundaries. ACBPS and DIBP consider the current jurisdiction-based approach provides a clear and unambiguous jurisdiction that supports ACLEI in detecting corruption, rather than simply responding to it.

ACBPS and DIBP consider it appropriate that ACLEI is funded through the budget. This will limit any perception of bias or undue influence from agencies coming within ACLEI's jurisdiction. In this regard, it is of note that budget appropriation was made for ACLEI through the recent Government decision on reform measures for ACBPS.