

# Chapter 1

## Introduction

### Terms of reference

1.1 On 15 May 2008, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity initiated an inquiry into state-based law enforcement integrity models pursuant to subsection 215(1)(d) of the *Law Enforcement Integrity Commissioner Act 2006*:

To report to both Houses of the Parliament on any change that the Committee thinks desirable:

- (iii) to the Integrity Commissioner's functions or powers; or
- (iv) to the procedures followed by the Integrity Commissioner; or
- (v) to ACLEI's structure

1.2 The terms of reference required the committee to examine the various Australian state-based law enforcement integrity agencies in order to inform possible changes to the governance structure and operational processes of the Australian Commission for Law Enforcement Integrity (ACLEI) to enhance its current operation and support the potential extension of ACLEI oversight to other Commonwealth agencies with a law enforcement function.

In particular the committee was required to examine and report on:

- (a) the responsibilities and powers of the various state law enforcement integrity agencies;
- (b) the organisational structures and internal governance arrangements of the various state law enforcement integrity agencies;
- (c) the governance structures that underpin the state law enforcement integrity agencies' relationships with external bodies including:
  - (i) state ombudsmen
  - (ii) parliamentary oversight committees
  - (iii) intelligence-gathering agencies
  - (iv) other relevant agencies
- (d) the legal rights and obligations of the various state law enforcement integrity agencies to investigate corruption issues involving law enforcement officers formally or informally seconded to national law enforcement agencies or participating in joint operations with national and/or state law enforcement bodies;

- (e) existing state corruption prevention programs;
- (f) the internal anti-corruption processes of the state law enforcement bodies and the protocols and processes in place for reporting corruption matters to their respective integrity agency;
- (g) the adequacy and applicability of existing state law enforcement integrity approaches to the structure and operations of ACLEI.

## **Background to ACLEI**

1.3 ACLEI was established by the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act). The LEIC Act commenced operation on 30 December 2006.

1.4 The Act established a new office of Integrity Commissioner, supported by a statutory agency, ACLEI.

1.5 The main purpose of ACLEI is to 'enhance the integrity of Commonwealth law enforcement agencies by providing independent and effective external investigation of possible instances of corruption' in those agencies.<sup>1</sup>

1.6 ACLEI's role is 'to detect, investigate and prevent corruption in law enforcement in Australian Government agencies that fall within its jurisdiction – currently the Australian Crime Commission and the Australian Federal Police'.<sup>2</sup> ACLEI also has jurisdiction over the National Crime Authority (NCA), which was the forerunner to the Australian Crime Commission (ACC). Other Commonwealth agencies are able to be brought within ACLEI's jurisdiction by regulation.<sup>3</sup>

1.7 ACLEI's outcome and output as designated in the 2007-2008 Portfolio Budget Statements are:

Outcome: Assurance that Australian Government law enforcement agencies and their staff act with integrity.

Output: Detect, investigate and prevent corruption in prescribed Commonwealth law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.<sup>4</sup>

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1 *Law Enforcement Integrity Commissioner Bill 2006*, 'Explanatory Memorandum', p. 1.

2 ACLEI, *Annual Report of the Integrity Commissioner 2006-07*, p. 1.

3 The Hon. Philip Ruddock MP, Attorney-General, *House of Representatives Hansard*, 29 March 2006, p. 9.

4 ACLEI, *Annual Report of the Integrity Commissioner 2007-2008*, p. 20.

1.8 ACLEI's appropriation for 2007-2008 was \$2.013m. In the 2008-2009 Budget ACLEI was allocated additional funding of \$7.5 million over four years.<sup>5</sup> In 2007-08 there were eight ongoing staff and six casual, temporary or seconded staff.<sup>6</sup>

### ***Australian Federal Police (AFP)***

1.9 The AFP is the primary law enforcement agency of the Australian Government. Its principal role is to enforce Commonwealth criminal law and protect Australian interests from crime within Australia and overseas.<sup>7</sup> As at 30 June 2008, the AFP employed 6598 staff, comprising 2855 Sworn Police Officers, 1341 Protective Service Officers and 2402 unsworn staff.<sup>8</sup>

1.10 The AFP Professional Standards Operations Monitoring Centre develops and monitors professional standards within the AFP including by overseeing and investigating complaints about the conduct of officers and staff. Minor complaints are handled by workplace managers and overseen by Professional Standards, and more serious complaints are investigated by Professional Standards. Complaints alleging corruption are notified by the AFP Commissioner to ACLEI.<sup>9</sup>

1.11 The AFP underwent considerable changes to its internal integrity arrangements in accordance with recommendations arising from a review of AFP professional standards by Justice William Fisher AO QC in 2002. The *Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006* repealed the *Complaints (Australian Federal Police) Act 1981* and amended the *Australian Federal Police Act 1979* to update the AFP's complaints and professional standards regime. In essence, the new system established a managerial model for professional standards to replace what was a legalistic and formal regime.

### ***Australian Crime Commission (ACC)***

1.12 The ACC is Australia's national criminal intelligence and investigation agency. It works with other national, state and territory law enforcement agencies to counter serious and organised crime. As at 30 June 2008, the ACC employed 585 staff.<sup>10</sup>

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5 Parliamentary Joint Committee on the Australian Commission for Law enforcement Integrity, *Examination of the Annual Report of the Integrity Commissioner 2006-07*, p. 23.

6 ACLEI, *Annual Report of the Integrity Commissioner 2007-08*, p. 65.

7 AFP, *Annual Report 2007-08*, p. 9.

8 AFP, *Annual Report 2007-08*, p. 16.

9 AFP, *Professional Standards*, 4 June 2008, <http://www.afp.gov.au/about/complaints/standards.html> (accessed 27 January 2009).

10 Excluding contractors and resources provided by other jurisdictions but including staff seconded to the ACC from other agencies. ACC, *Annual Report 2007-08*, p. 94.

1.13 The ACC has an internal professional standards program that is focused on aligning ACC practices and policies with its integrity goals. It also deals with complaints of misconduct made against ACC staff. As ACC employment is under the *Public Service Act 1999*, the Australian Public Service Code of Conduct<sup>11</sup> applies to ACC employees, including to staff formally seconded from other agencies.

1.14 Complaints concerning seconded police officers are usually referred to the officer's home force. Any corruption issues involving seconded officers are notified to ACLEI, and the ACC will notify the home force of the referral to ACLEI.<sup>12</sup> ACLEI does not have jurisdiction over staff from state and territory agencies participating in joint ACC operations or other ACC-Board approved task forces who have not been seconded to the ACC.<sup>13</sup>

### **Conduct of the inquiry**

1.15 The committee advertised the inquiry in *The Australian* newspaper and on the committee's website. In addition, the committee wrote to a number of organisations inviting submissions.

1.16 The committee received 23 submissions, 20 of which were published on the committee's website. Three submissions were classified as confidential. A list of submissions is contained at Appendix 1.

1.17 In addition, the committee held public hearings in Canberra, Melbourne, Brisbane, Perth and Sydney. The witnesses who appeared before the committee are listed in Appendix 2.

### **Structure of the report**

1.18 The report comprises five chapters. This chapter provides background to the inquiry.

1.19 Chapter 2 outlines existing law enforcement integrity arrangements in Australia. This includes an overview of the external integrity models in place across the states, and an overview of the internal integrity arrangements of the state police services that provided evidence to the inquiry.

1.20 Chapter 3 focuses attention on the 'building block' approach adopted to establish ACLEI and discusses various issues that relate to this approach and to the building blocks required for an integrity agency to fulfil its functions effectively.

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11 *Public Service Act 1999*, s. 13.

12 ACC, *Submission 5*, pp. 2-3.

13 ACC, *Submission 5*, p. 2. Sections 29 and 30 of the LEIC Act outline how the Integrity Commissioner may deal with corruption issues that relate to the conduct of seconded employees. However, this does not cover 'informal' secondees. This is discussed in chapter 5.

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1.21 Chapter 4 discusses other dominant themes or issues that emerged during the course of the inquiry. It looks at various aspects of the state models and broader research on anti-corruption, which provide helpful lessons and opportunities for the development of ACLEI.

1.22 Chapter 5 outlines the committee's conclusions and recommendations for change.

### **Acknowledgements**

1.23 The committee wishes to express its appreciation to all parties that contributed to the conduct of this inquiry, whether by making a written submission, by attendance at a hearing or, as in many cases, by making both written and oral submissions.

1.24 The committee is also grateful to the members of the Queensland Parliamentary Crime and Misconduct Committee (PCMC) who met privately with the committee to discuss the parliamentary oversight role: Mr Paul Hoolihan MP (Chair), Mrs Christine Smith MP and Mrs Liz Cunningham MP. Thanks are extended to Mr Stephen Finnimore and Ms Renee Easten, PCMC secretariat, for their role in organising this meeting.

1.25 The opportunity to inspect the NSW Police Integrity Commission's hearing facilities during the course of the inquiry enabled the committee to gain a greater appreciation of the significance of the hearing room in corruption investigations and corruption prevention, and the resources required to set up and maintain such a facility. Accordingly, the committee would like to thank Mr John Pritchard, Commissioner of the Police Integrity Commission, and Mr Digby Morrison, Mr Allan Kearney, Mr James Flood and Ms Gabrielle Wanner for taking the time to brief the committee and demonstrate the audio-visual features of the hearing room.

### **Note on references in this report**

1.26 References to Committee Hansard are to the proof Hansard. Page numbers may vary between the proof and the official Hansard transcript.