



OFFICE OF THE  
CHIEF EXECUTIVE

Our Ref: 08/96522

Senator George Campbell  
Chair  
Parliamentary Joint Committee on the  
Australian Commission for Law Enforcement Integrity  
Parliament House  
CANBERRA ACT 2600

Dear Senator Campbell

### **INQUIRY INTO LAW ENFORCEMENT INTEGRITY MODELS**

I refer to your letter of 29 May 2008 in which you invited the Australian Crime Commission (the ACC) to make a submission to your Committee's inquiry into law enforcement integrity models.

### **Background**

The functions of the ACC are set out in section 7A of the *Australian Crime Commission Act 2002* (Cth). The ACC has the following functions:

- (a) to collect, correlate, analyse and disseminate criminal information and intelligence and to maintain a national database of that information and intelligence;
- (b) to undertake, when authorised by the Board, intelligence operations;
- (c) to investigate, when authorised by the Board, matters relating to federally relevant criminal activity;
- (d) to provide reports to the Board on the outcomes of those operations or investigations;
- (e) to provide strategic criminal intelligence assessments, and any other criminal information and intelligence, to the Board;
- (f) to provide advice to the Board on national criminal intelligence priorities;
- (g) such other functions as are conferred on the ACC by other provisions of this Act or by any other Act.

In performing its functions the ACC may second Australian Federal Police (AFP) and state and territory police officers and staff of Commonwealth, state and territory agencies. Secondments to the ACC are authorised under sections 49 and 58 of the ACC Act. AFP and state and territory police officers and staff of Commonwealth, state and territory agencies may also participate in ACC operations/investigations or ACC Board-approved task forces. The latter category are not seconded officers.

Under section 10(2) of the *Law Enforcement Integrity Commissioner Act 2006* (Cth) ACLEI has jurisdiction over:

- (a) CEO of the ACC;
- (b) ACC Examiners;
- (c) ACC Public Service Act staff;
- (d) Consultants engaged under subsection 48(1) of the ACC Act;
- (e) Secondees;
- (f) General Counsel appointed under section 50 of the ACC Act Act.

ACLEI does not have jurisdiction over staff from other agencies who are participating in ACC operations/investigations or ACC-Board approved task forces and who are not seconded to the ACC under sections 49 and 58 of the ACC Act.

## **TERMS OF REFERENCE**

The ACC makes the following comments in relation to the Terms of Reference (ToRs)

### **ToRs (a), (b) and (c)**

In general the ACC has no comment to make on the state-based integrity agencies in relation to their responsibilities and powers, their organisational structures and internal governance arrangements or their relationships with external bodies.

### **ToR (d)**

With the introduction of ACLEI, the ACC is required to notify ACLEI of corruption issues involving seconded officers. If the ACC refers a corruption issue relating to a seconded officer to ACLEI, the ACC will also advise the home force of the referral.

If the ACC becomes aware of a corruption issue involving a law enforcement officer participating in an investigation/operation or task force, the ACC will refer the matter to the officer's home force. The principal reason for this policy is that the ACC does not have the resources to investigate corruption issues and the existing state-based agencies, either the integrity agencies or the police forces themselves, are much better equipped to undertake such

investigations. The ACC is also of the opinion that investigations of corruption issues should be, and appear to be, undertaken independently of the ACC.

The ACC is aware that state-based law enforcement agencies have statutory requirements for reporting misconduct and corruption issues to their respective integrity agencies.

The ACC has always provided full co-operation to the state-based integrity agencies or police forces for investigations. The ACC does not see any legal impediments to providing full cooperation to the state-based agencies for corruption investigations.

The ACC believes the legislation which allows ACLEI to cooperate with state-based agencies to investigate corruption issues has strengthened the ability to investigate corruption issues.

#### **ToR (e)**

Staff of state-based agencies who are seconded to the ACC or work on ACC investigations/operations or task forces remain subject to the disciplinary and corruption prevention regimes of the home state. For instance, if a state agency conducts random drug tests, then staff of that agency working at the ACC can be drug tested.

The ACC is generally aware of the corruption prevention programs of the integrity agencies and has asked for assistance from the integrity agencies during the introduction of corruption prevention strategies into the ACC. However these are one-off arrangements and the ACC has no formal arrangements with the integrity agencies in relation to corruption prevention programs. The ACC has recently strengthened its professional standards capability and intends to build better relationships with the integrity agencies in relation to corruption prevention.

#### **ToR (f)**

The ACC is not able to provide detailed comments on the internal anti-corruption processes of the state law enforcement agencies other than to say that where the ACC has been required to report suspected corruption matters, the processes have been satisfactory. The ACC's MOUs with state law enforcement agencies specify procedures for reporting suspected misconduct or corrupt activity. The introduction of ACLEI means that suspected corruption by seconded officers must be reported to ACLEI.

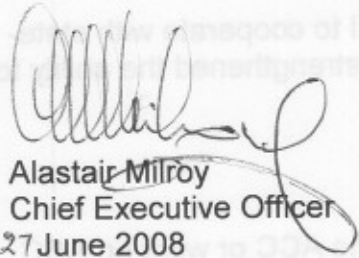
The dual reporting regime does not cause any concern for the ACC. The ACC's ability to second officers or to have officers from other jurisdictions working in investigations/operations or task forces is a strength of the ACC model. The advantages of the cooperative arrangements for countering serious and organised crime far outweigh the occasional requirement for dual reporting of corruption issues.

**ToR (g)**

The state law enforcement integrity agencies generally have two main streams - investigations and corruption prevention and education. The ACC believes that ACLEI should have a similar model.

Should your office require further information can they please contact the ACC's Manager Professional Standards and Compliance, Mr Brad Morgan, on (02) 6243 6733.

Yours sincerely



Alastair Milroy  
Chief Executive Officer

27 June 2008