

Chapter 1

Introduction

Terms of reference

1.1 On 14 May 2009 the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity (the committee) initiated an inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act) and its regulations, pursuant to the committee's duties set out in subsection 215(1)(d) of the LEIC Act.

1.2 In particular, the committee resolved to examine and report on:

- (a) Provisions for the extension of the Australian Commission for Law Enforcement Integrity's (ACLEI) jurisdiction including but not limited to:
 - (i) The merits or limits of extending ACLEI's jurisdiction to other Commonwealth departments and agencies with a law enforcement function and/or coercive powers;
 - (ii) an examination of the definition of 'law enforcement function' within the Act (section 5), including identification of the agencies to whom this definition applies;
 - (iii) the administrative and operational practicalities of restricting the Integrity Commissioner's jurisdiction to matters pertaining to an agency's law enforcement function;
 - (iv) the merits or limits of extending jurisdiction to other agencies by means of regulation or legislation; and
 - (v) the expansion of the Integrity Commissioner's anti-corruption education and prevention role to all Commonwealth departments and agencies.
- (b) administrative, policy, legislative and case law developments that may affect ACLEI's practices and/or legislation;
- (c) the adequacy of ACLEI's reporting requirements with respect to performance and to investigation outcomes as set out in the Act and associated regulations;
- (d) the strengths and the limits of the LEIC Act and regulations, and of other arrangements arising from the *Law Enforcement Integrity Commissioner (Consequential Amendments) Act 2006*; and

- (e) the resources required to perform the functions set out in the LEIC Act and, in particular, the resourcing implications of any extension of ACLEI's jurisdiction.

- 1.3 The terms of reference were drafted with reference to two main objectives:
- to fulfil legislative requirements that a review of the LEIC Act be undertaken; and
 - to give consideration to the expansion of ACLEI jurisdiction to other Commonwealth bodies with a law enforcement function.

Review of the LEIC Act

- 1.4 Section 223A of the LEIC Act requires that a review of the first three years of the operation of the Act be undertaken.

The possible expansion of ACLEI's jurisdiction

1.5 In February 2009, the committee reported on its inquiry into law enforcement integrity models. The terms of reference for the inquiry 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 ACLEI to enhance its current operation and support the potential extension of ACLEI oversight to other Commonwealth agencies with a law enforcement function. Following completion of that inquiry, the committee resolved to turn its attention to the question of ACLEI's jurisdiction.

1.6 ACLEI currently has jurisdiction over the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and the former National Crime Authority (NCA). In addition, as a result of the Australian Government's acceptance of a recommendation in the committee's interim report for this inquiry, the Australian Customs and Border Protection Service (Customs) was added to ACLEI's jurisdiction from January 2011. Other Commonwealth agencies are able to be brought under ACLEI's jurisdiction by regulation.

Two-stage reporting process

1.7 On 19 November 2009 the committee agreed to a two-staged reporting process and tabled an interim report in February 2010. The interim report enabled the committee to present findings of a more urgent nature, whilst allowing additional time for the committee to examine broader issues concerning the Commonwealth integrity system.

- 1.8 The interim report focused attention on the following two areas:
- the first part of a staged extension of ACLEI's jurisdiction; specifically, the proposal to bring Customs within the purview of ACLEI; and
 - proposed amendments to the LEIC Act to enhance its operation.

1.9 This report is the final report for the committee's inquiry. It addresses the following matters:

- a further extension to ACLEI's jurisdiction and the basis on which to determine the agencies that should be subject to the oversight of ACLEI;
- additional proposed amendments to the LEIC Act 2006; and
- the Commonwealth integrity framework, including gaps, areas of overlap, and possible measures for improvement.

Conduct of the inquiry

1.10 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.

1.11 The committee received a total of 24 submissions, 21 of which are published on the committee's website. Three submissions were received as confidential submissions. A list of submissions is contained at Appendix 1.

1.12 In addition, the committee held public hearings in Canberra on 14 August 2009, 23 October 2009 and 4 February 2010, and in Brisbane on 16 October 2009. Following the tabling of the interim report, the committee held further hearings in Canberra on 27 May 2010.

1.13 Following the 2010 Federal Election, the newly appointed committee re-adopted the terms of reference. Further hearings were held in Canberra on 11 February 2011 and 21 March 2011. The witnesses who appeared before the committee are listed in Appendix 2.

Structure of the report

1.14 This chapter provides a brief background to the inquiry.

1.15 Chapter 2 considers ACLEI's proposed 'tiered model for jurisdiction', which operates on the basis that the degree of oversight placed on an agency should be commensurate with the level of corruption risk.

1.16 Chapter 3 gives consideration to ACLEI and its relationship with other agencies in the integrity and accountability sphere. This chapter also discusses the broader Commonwealth integrity system and possible measures for strengthening integrity arrangements at the Commonwealth level.

Acknowledgements

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

