

PERFORMANCE MEASURES AND ACCOUNTABILITY OF OVERSIGHT AGENCIES

Organisation: Australian Commission for Law Enforcement Integrity
Name: Ms Marnie Gomes
Position: Assistant Director Strategic Support
Date Received: 28/02/2013



Australian Government

Australian Commission for
Law Enforcement Integrity

**Parliament of New South Wales
Joint Standing Committee on the
Ombudsman, the Police Integrity
Commission and the Crime
Commission**

*Inquiry into performance measures and
accountability of oversight agencies*

**Submission by the
Australian Commission for
Law Enforcement Integrity**

27 February 2013

1. Introduction

The Australian Commission for Law Enforcement Integrity (ACLEI) welcomes the opportunity to make a submission to the Parliament of New South Wales Joint Standing Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission *Inquiry into performance measures and accountability of oversight agencies*.

The nature of corruption is that it seeks to remain invisible and undetected. As with serious and organised crime, to which it is closely linked, it is also adaptable—it changes to take account of emerging opportunities or to circumvent new barriers. These factors make corruption difficult both to define and to measure.¹

To assist the Inquiry, this submission describes—in summary—how ACLEI's performance is measured.

2. How ACLEI's performance is measured

Annual reporting by Australian Government agencies is based on the 'outcome and programs' structure established in the Portfolio Budget Statements. The Statements—which are authorised by Ministers and published as part of the annual Federal Budget process²—specify the outcomes, strategy, program objectives and deliverables that government expects each agency to achieve in any given year.

By reporting performance against outcomes and program expectations, each agency demonstrates to the Parliament whether the funding it has received has been spent effectively and efficiently to achieve the Government's objectives.

ACLEI has one outcome and one program in 2012–13, as follows:

Outcome: Independent assurance to the Australian Government that Commonwealth law enforcement agencies and their staff act with integrity, by detecting, investigating and preventing corruption.

Outcome strategy: ACLEI will contribute to Outcome 1 by ensuring that corruption issues brought to the attention of the Integrity Commissioner are assessed in a timely manner and, where appropriate, investigated. ACLEI will also assist law enforcement agencies to maintain the integrity of their staff by contributing to corruption detection and prevention initiatives.

Program: Detect, investigate and prevent corruption in prescribed law enforcement agencies; assist law enforcement agencies to maintain and improve the integrity of staff members.

Program objective: ACLEI's program objective is to ensure that instances of corruption are identified and addressed, and that law enforcement agencies have appropriate measures in place to control corruption risks. In this way, ACLEI can provide independent assurance to the Australian Government about the integrity of prescribed law enforcement agencies.

¹ A "3-D" view of anti-corruption agencies—Presentation to the Australian Public Sector Anti-Corruption Conference, Fremantle, Western Australia, 16 November 2011, accessible at ACLEI's website www.aclei.gov.au.

² Refer www.budget.gov.au.

ACLEI Submission: Parliament of NSW
Inquiry into performance measures and accountability of oversight agencies
(February 2013)

The Portfolio Budget Statements also establish a set of 'deliverables' for each program administered. ACLEI's program deliverables in 2012–13 are:

- Corruption issues are promptly brought to the attention of the Integrity Commissioner for independent assessment and decision on how each issue should be dealt with (either by ACLEI, the agency to which the issue relates, or another agency).
- Where appropriate, ACLEI independently investigates corruption issues, giving priority to conduct that constitutes serious corruption or systemic corruption.
- Where appropriate, the Integrity Commissioner uses statutory intrusive and coercive information-gathering powers to assist investigations.
- ACLEI analyses and reports on patterns and trends in law enforcement corruption.
- ACLEI recommends changes to laws and to agency practices and procedures to improve integrity in law enforcement, and to detect and prevent corruption more effectively.
- ACLEI enhances corruption prevention initiatives, such as the assessment of corruption risk and raising awareness about corruption deterrence, thereby helping to build corruption-resistant work cultures.
- Staff members of law enforcement agencies are made aware that information about corruption can be referred with confidence to the Integrity Commissioner.

The Portfolio Budget Statements adopt a system of reporting performance information that is based on 'Key Performance Indicators' (KPIs), which link Program Objectives and Deliverables. ACLEI has seven KPIs.

Key Performance Indicator One

Indicator	Measures
The corruption notification and referral system is effective.	<ul style="list-style-type: none">• Law enforcement agencies notify ACLEI of corruption issues in a timely way.• Other agencies provide information about corruption issues to ACLEI.• ACLEI is seen as viable for reporting information about corruption.

Corrupt conduct can distort legitimate law enforcement objectives and undermine public confidence in the justice system. ACLEI is part of the Australian Government's integrity framework, and has a particular role in detecting and deterring possible corrupt conduct in Commonwealth law enforcement agencies. By having in place sound anti-corruption arrangements, public confidence in those agencies can be maintained.

ACLEI Submission: Parliament of NSW
Inquiry into performance measures and accountability of oversight agencies
(February 2013)

The effectiveness of the integrity system is demonstrated, in part, by the number of corruption issues notified by agency heads to the Integrity Commissioner. Since agency heads draw on a range of sources—audits, intelligence and internal reports—the information provided to ACLEI through notifications tends to be of high quality and actionable.

The preparedness of the agencies in ACLEI's jurisdiction to notify corruption issues to the Integrity Commissioner—and to share other information concerning corruption risks and indicators—indicates healthy and positive agency cultures that resist corruption.

Similarly, the referral of corruption issues direct to ACLEI by diverse sources—members of the public, 'whistleblowers' and other government agencies—demonstrates confidence that there will be an appropriate response to information or concerns about integrity.

Key Performance Indicator Two

Indicator	Measures
ACLEI assesses all notifications and referrals of corruption issues in a timely way.	<ul style="list-style-type: none">• Upon receipt, ACLEI assesses information about corruption to determine how each issue should be dealt with.• Credible information about corruption is prioritised.• Risks relating to the operating context of law enforcement agencies are taken into account and, in appropriate circumstances, mitigation strategies are agreed with the agency concerned.• Decisions are communicated to affected agencies in a timely way.

Timeliness in assessing information is one measure that appropriate action is being taken, and is a basis for confidence in the integrity system.

Some assessments are time-critical because target identification and opportunities for real-time evidence collection may rely on a prompt response from ACLEI. Timeliness in completing these assessments is also important in order to allow the relevant agency to respond to any operational risks that may be raised by corruption issues.

ACLEI Submission: Parliament of NSW
Inquiry into performance measures and accountability of oversight agencies
(February 2013)

Key Performance Indicator Three

Indicator	Measures
ACLEI's investigations are conducted professionally and efficiently, and add value to the integrity system.	<ul style="list-style-type: none">• Investigations adhere to the Integrity Commissioner's Investigation Guidelines.• ACLEI investigations are properly managed.• Investigation reports provided to the minister are of high quality.• Advice is provided to the minister in a timely way.

Independent assurance to the Australian Government about the integrity of Commonwealth law enforcement agencies and their staff is achieved primarily through investigation reports made by the Integrity Commissioner to the Minister, and through any briefings concerning sensitive issues.

The purpose of investigation reports and briefings is to ensure that the Minister is informed about developing trends and any concerns about corrupt conduct that may challenge public confidence in law enforcement agencies or require a policy or legislative reaction.

Fair practices, objective decision-making, and high-quality products all foster confidence in ACLEI. As a result, ACLEI's investigations must be well managed, solutions-oriented and constructive, and aim to achieve sustained improvements to the integrity system.

ACLEI uses covert and intrusive investigation methods and has access to sensitive law enforcement information. Accordingly, careful management and evaluation of investigations ensure that these government resources are directed appropriately and efficiently.

Key Performance Indicator Four

Indicator	Measures
ACLEI monitors corruption investigations conducted by law enforcement agencies.	<ul style="list-style-type: none">• All agency corruption investigation reports provided to ACLEI for review are assessed for intelligence value and completeness.• ACLEI liaises regularly with the agencies' professional standards units.

The Integrity Commissioner may refer corruption issues for internal investigation by the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act) agencies—presently the ACC, Customs and Border Protection or the AFP—or ask the AFP to investigate corruption issues relating to the other two agencies. At the conclusion of such an investigation, the agency head provides a report to the Integrity Commissioner, who may make recommendations and comments concerning the investigation or outcome.

ACLEI Submission: Parliament of NSW
Inquiry into performance measures and accountability of oversight agencies
(February 2013)

ACLEI's scrutiny of these investigation reports provides a basis for confidence that internal investigations are conducted with propriety, and is a safeguard to ensure that agency heads engage their responsibility for the integrity of their own staff. Regular communication between ACLEI and agency professional standards units also enables agencies to keep ACLEI informed about corruption risks and allows ACLEI to focus its efforts on investigations where independence is required or the use of coercive powers under the LEIC Act would be necessary.

In these ways, ACLEI adds value to the agencies' own efforts to manage corruption risks and indicators.

Key Performance Indicator Five

Indicator	Measures
ACLEI contributes to policy development and law reform in accountability and corruption prevention relating to law enforcement.	<ul style="list-style-type: none">• Each investigation addresses corruption risk and, where warranted, makes recommendations for improvement in corruption prevention or detection measures.• Submissions that relate to corruption prevention or enhancing integrity may be made to government or in other relevant forums.

Government policy settings influence the corruption-deterrence environment, and may affect the threat environment (for instance, when new law enforcement methods or powers are introduced, new corruption risks or opportunities can arise).

Accordingly, an important function of the Integrity Commissioner is to advise the Australian Government and the Parliament about patterns and trends in corruption risks in law enforcement, and to recommend any changes to law and policy or to agency practices and procedures that may be desirable.

Key Performance Indicator Six

Indicator	Measures
Staff members of law enforcement agencies are made aware of ACLEI's role.	<ul style="list-style-type: none">• Marketing and other awareness-raising activities are in place, including joint initiatives with other agencies.• Targeted presentations about integrity are made to diverse audiences.

Raising awareness about ACLEI's role communicates to staff members of law enforcement agencies the Australian Government's commitment to building a corruption-resistant law enforcement culture, and helps to engage them and instil shared values.

ACLEI Submission: Parliament of NSW
Inquiry into performance measures and accountability of oversight agencies
(February 2013)

This effort helps to create a law enforcement culture in which individuals, particularly supervisors and potential whistleblowers, are able to recognise the indicators of corrupt behaviour and are willing to report information appropriately.

Outreach also gives support to those initiatives which are already in place or that are contemplated by the LEIC Act agencies.

Key Performance Indicator Seven

Indicator	Measures
ACLEI handles personal information appropriately.	<ul style="list-style-type: none">Regular privacy audits are undertaken to ensure compliance with legal obligations and better practice policy for information-handling.

ACLEI's detection and investigation roles rely on the collection of sensitive law enforcement and other information. Accordingly, ACLEI has been granted significant powers to gather information relating to possible corrupt conduct.

Since agencies and other informants are more willing to share information with ACLEI if they were confident that it would be handled appropriately, ACLEI needs robust security and integrity measures in place in order to remain a trusted and effective guard against corruption.