

Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity

Inquiry into the integrity of overseas law enforcement operations

RESPONSE FROM

THE DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

Pursuant to a request from the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, the following information is submitted by the Department of Immigration and Citizenship (DIAC) for consideration in the inquiry into the integrity of overseas law enforcement operations.

The information below is in response to eight areas against which specific information was sought by the Committee Chair, Dr Ms Melissa Park MP, in her letter of 6 February 2012 to the Secretary, Mr Andrew Metcalfe AO.

1. The types of overseas operations in which officers participate, including joint operations that may involve officers of other Commonwealth agencies or officers of other nations. This may include capacity building operations that may include integrity/anti-corruption measures.

The types of overseas operations involving DIAC vary around the world, depending on the specific risks in that country. Departmental staff may be posted overseas in a specialist role (for example, integrity, operations, airline liaison, forensic document examination, anti-people smuggling/trafficking) or may be located in Australia and travel overseas for the relevant operation only. While most staff overseas work in an Australian mission, Airline Liaison Officers (ALOs) are based in the relevant overseas airport.

Australia has a number of Memorandum of Understandings (MOUs) in place with foreign government agencies regarding joint working/information sharing arrangements. For example, Australia has a number of MOUs with Five Country Conference members (comprising Australia, UK, USA, Canada and New Zealand) around people smuggling, border control, information and intelligence sharing, and best practice. An MOU on training, immigration cooperation and disrupting irregular migration is currently being considered between DIAC and United Arab Emirate authorities.

Examples of the types of operations in which staff overseas participate include visa fraud and integrity, capacity building, people trafficking and people smuggling, and emergencies, as follows.

Visa fraud and integrity

Departmental staff work with other Australian agencies on a range of immigration activities aimed at preventing and detecting visa and citizenship fraud, and safeguarding program integrity.

For example:

- the Department of Foreign Affairs and Trade (DFAT) may provide DIAC with advice on security issues as they affect the delivery of immigration services and the conduct of DIAC, for example, planning integrity site visits, counter operations, and the delivery of Third Person Notes (TPNs).
- DFAT and the Australian Federal Police (AFP) may be advised of passengers who are interdicted by DIAC whilst attempting to travel to Australia where passport offences may have been committed.
- DIAC may provide other agencies (such as AusAID) with training and/or support where a visa program they sponsor shows higher levels of fraud or non-compliance.
- DIAC and the AFP share information where offences may have been committed, for example, drug smuggling, commercial fraud or child sex offences.
- DIAC may provide information on airport security information to the Department of Infrastructure and Transport to assist that organisation with its risk assessments.
- DIAC works with the Attorney General's Department on visa applications involving inter-country adoption programs, and Australia's immigration requirements for children who are adopted outside inter-country programs. DIAC also liaises with that Department regarding visitors who may be controversial and/or have links to prohibited groups.
- DIAC may conduct checks to verify the genuineness of a visa or citizenship applicant's claims (for example, contact the Australian Taxation Office to verify the eligibility of a Partner visa applicant to marry, or contact Centrelink to assess an applicant's dependency).

DIAC staff work closely with immigration and law enforcement staff from other countries. These may be restricted to members of the Five Country Conference, or open to a wider range of countries, including the host government. Such work includes:

- the monitoring of flights at the airport in countries for which the post is responsible, with the aim of detecting and preventing any improperly documented passengers from travelling to Australia or other countries. This work is performed by ALOs or by other Australia-based (A-based) staff at post if there is no ALO. Officers are also able to assist airport staff as required during these exercises
- joint investigations into and reporting on fraud in the host country. These are generally targeted at a particular concern, for example, passport integrity, applicants who meet a certain risk profile, and undeclared migration agents
- attending information-sharing meetings on the latest trends and integrity issues in the host country or a third country for which post is responsible (anti-fraud groups, joint working groups on border management/trans-national crime, Bali process, Colombo Regional Immigration Liaison Officer Network, Nairobi Immigration Liaison team, Shanghai International Liaison Officers Group)
- attending and presenting at conferences where irregular people movement is discussed and immigration intelligence is shared
- planning and conducting joint integrity visits
- liaison regarding drug smuggling
- conducting joint training exercises for officers from those countries (for example, fraud detection, documents, impostors, interviewing techniques)

- provision of joint funding with host countries to access host country databases containing passport/ID card details
- requests to the host government officials to verify documents and claims (for example, host country police, births deaths marriages, investigation bureau, defence force)
- liaison with local police where an offence has been committed, for example, the sale of fraudulent visa labels. Local police may prosecute the offender
- liaison with other missions where DIAC staff become aware that a visa applicant has previously applied for visas to another country
- where appropriate, the provision of details of criminal deportees from Australia to the host country (where the person is a citizen and/or has a right of entry).

DIAC also works closely with a range of international organisations. For example, a number of overseas posts have a MOU tasking a third party (for example, the International Organisation for Migration (IOM)) to conduct site visits on the post's behalf. This is generally where travel to another country is too high risk for DIAC staff to travel there). The Department also works closely with IOM and the United Nations High Commission on Refugees to manage the post's offshore humanitarian program.

DIAC staff may conduct courtesy calls on local officials from immigration, passports, Interpol/police, Births Deaths and Marriages equivalent, adoption board, airlines, airport security, and border authorities in the host country. This relationship building allows departmental staff to later request assistance from local officials with document verification. Discussion often includes the procedures, laws and requirements followed by the local officials. DIAC staff may also have the opportunity to observe work conducted by local officials. Such participation assists departmental officers in identifying any weaknesses and to identify relevant visa applications for further checking.

DIAC staff regularly conduct targeted checking of visa and citizenship applications which match an identified profile. This profile may have been identified through prior non-compliance, allegations and information from other countries as well as local media. Results are forwarded to relevant DIAC areas including staff at post, as well as onshore processing and policy areas. Where other agencies/governments are not involved in the operation, DIAC staff may share appropriately vetted information with other Australian agencies/foreign governments as appropriate.

Capacity building

DIAC provides funding to overseas governments for the purchase of equipment to assist in the management of integrity risks. The Department also provides equipment for use in airports, border checkpoints and government offices (eg. document examination equipment and visa labels).

DIAC staff provide training to host and third country immigration staff, police, passport staff, border staff, airlines, agents, panel doctors, and on a range of issues to international organisations such as the United Nations High Commission on Refugees and providers of the International English Language Testing System. These issues include:

- irregular migration
- document examination
- anti-corruption
- collection and analysis of immigration data

- immigration intelligence and intelligence analysis
- investigations
- advanced passenger processing/assessment
- document security features (generally focusing on Australian documents)
- impostor detection and facial image analysis
- border capabilities/strengthening
- integrating immigration capabilities
- threats and risks
- visa and citizenship integrity
- Australian visa and citizenship requirements, expectations and entry requirements
- fraud awareness.

DIAC staff, through capacity building programs, may be embedded with local agencies to provide ongoing assistance.

Training may be delivered solely by DIAC staff, or jointly with officers from other countries.

DIAC may also participate in livelihood assistance programs for returnees and displaced persons.

People Trafficking and People Smuggling

DIAC is a member of a number of working groups dealing with people smuggling and trafficking and participates regularly in relevant fora and conferences. This may include liaison with local anti-people trafficking organisations in relevant countries.

DIAC participates in whole-of-government work to address people smuggling, for example, through joint intelligence collection efforts with DFAT and the AFP, in accordance with AFP/DIAC people trafficking referral protocols.

Emergencies

DIAC provides support and assistance to DFAT during emergencies (for example, identity and evacuation of Australian citizens and/or permanent residents during natural disasters or war).

2. The number of officers and locations where officers are based overseas, or are deployed to operate overseas for significant periods.

The table on the following page provides A-based staff numbers at all overseas posts (including operational and integrity staff, and Airline Liaison Officers) as at 31 December 2011.

A-based staff numbers at overseas posts as at 31 December 2011	
Overseas post	A-based staff
Amman	5
Ankara	2
Apia	0
Athens	0
Auckland	1
Bali	1
Bangkok	9
Beijing	5
Beirut	2
Belgrade	2
Berlin	3
Brasilia	2
Buenos Aires	0
Cairo	2
Colombo	4
Dhaka	2
Dili	1
Dubai	7
Geneva	1
Guangzhou	6
Hanoi	3
Harare	0
Ho Chi Minh City	4
Hong Kong	4
Honiara	0
Islamabad	3
Jakarta	8
Kabul	2
Kuala Lumpur	6
London	5
Madrid	0
Manila	6
Mexico City	0
Moscow	3
Nairobi	4
New Delhi	9
Nicosia	0
Noumea	0
Nuku Alofa	0
Ottawa	2
Phnom Penh	2
Pohnpei	0
Port Louis	0
Port Moresby	3
Port Vila	0
Pretoria	6
Rangoon	0
Riyadh	0

A-based staff numbers at overseas posts as at 31 December 2011 (continued)	
Overseas post	A-based staff
Santiago	3
Seoul	1
Shanghai	6
Singapore	4
Suva	4
Taipei	0
Tarawa	0
Tehran	2
Tel Aviv	0
Tokyo	0
Vienna	0
Vientiane	0
Washington	2
Zagreb	0
Total Staff	147
Total Locations	40

3. The numbers and locations of overseas locally engaged staff.

The table below provides LE staff numbers at all overseas posts during the month of December 2011 (information provided by DFAT).

LE staff numbers at overseas posts during the month of December 2011	
Overseas post	LE Staff
Amman	24
Ankara	12
Apia	3
Athens	3
Auckland	10
Bali	3
Bangkok	28
Beijing	42
Beirut	14
Belgrade	13
Berlin	33
Brasilia	13
Buenos Aires	4
Cairo	19
Colombo	18
Dhaka	12
Dili	2
Dubai	28
Geneva	1
Guangzhou	58
Hanoi	17
Harare	2
Ho Chi Minh City	35
Hong Kong	34

LE staff numbers at overseas posts during the month of December 2011 (continued)	
Overseas post	LE Staff
Honiara	2
Islamabad	14
Jakarta	35
Kabul	0
Kuala Lumpur	19
London	65
Madrid	5
Manila	37
Mexico City	3
Moscow	20
Nairobi	21
New Delhi	126
Nicosia	2
Noumea	2
Nuku Alofa	3
Ottawa	27
Phnom Penh	10
Pohnpei	1
Port Louis	3
Port Moresby	14
Port Vila	2
Pretoria	30
Rangoon	3
Riyadh	2
Santiago	16
Seoul	10
Shanghai	87
Singapore	12
Suva	15
Taipei	5
Tarawa	1
Tehran	16
Tel Aviv	7
Tokyo	5
Vienna	6
Vientiane	2
Washington	16
Zagreb	1
Total Staff	1073
Total Locations	61

4. Whether there are any significant amounts of funding provided to host countries in the form of grants, contracts, or other arrangements.

DIAC does not provide any funding directly to host governments in the form of grants, contracts or other arrangements.

DIAC works bilaterally with many countries to strengthen relationships, enhance managed migration strategies and develop technical capacity. Some of these activities could be conceived as contributing to 'law enforcement'.

There is a strong focus on working in partnership with international organisations, such as IOM, the United Nations High Commission on Refugees and the United Nations Office on Drugs and Crime. For example, in 2010-11, some sixty percent of departmental assistance was delivered through IOM and the United Nations High Commission on Refugees.

DIAC's capacity building budget in 2011-12 is \$33.8 million. The capacity building program strengthens the migration and border management capabilities of governments in the Asia-Pacific, Middle East and Africa. The majority of this funding is distributed across enhanced migration management, border management systems development, assistance with identity management and document examination, immigration intelligence initiatives, support for regional forums, and English language training. DIAC staff directly deliver training in investigations, intelligence analysis, document examination and facial recognition.

Capacity building helps facilitate bona fide people movements and stabilise regional populations while preventing and deterring irregular movements, including people smuggling and trafficking, in our region and in source and transit countries.

Australia contributes to international efforts by engaging with regional partners to target people smuggling, and assisting governments to effectively manage the movement of people across their borders.

5. Whether there have been any different or increased corruption risks that have been identified arising from issues potentially including different cultural attitudes to corruption in host countries.

There are conduct issues and corruption risks that are more prevalent in the overseas environment. These include issues arising from different cultural attitudes, ethical values and perceptions about the behaviour of public servants. For this reason, there exists an even greater emphasis that DIAC staff working overseas are aware of, and adhere to, their statutory obligations under the APS Values and Code of Conduct.

The way APS staff behave while on duty overseas reflects directly on the good reputation of Australia. Section 13(12) of the *Public Service Act 1999* states that APS staff must "while on duty overseas, at all times behave in a way which upholds the good reputation of Australia".

As an official representative of Australia, an employee may be the most visible Australian presence in the host country even when they are off duty. The term "at all times" means that behaviour overseas which is seemingly unrelated to the performance of duties may be subject to the Code of Conduct, where there is a real connection between the conduct and its effect on the workplace. This element of the Code of Conduct applies to both DIAC staff on overseas postings; and DIAC staff travelling overseas on official business.

Some other corruption risks specific to the overseas context include the possible abuse of diplomatic privileges, financial dealings overseas (including the prevalence of black markets in some locations), the increased risks associated with debts and gambling, and differing local laws governing drug and alcohol use.

While DIAC staff overseas are expected to show respect and sensitivity in relation to the differing cultures and customs of the host country, cultural deference is not a defence when those customs are in conflict with the APS Values and the Code of Conduct. DIAC staff must be aware that actions such as gift giving and hospitality which may otherwise be considered acceptable in the host country may also be perceived as corrupt behaviour.

These sorts of pressures within the overseas context do create a corruption risk that requires careful management, and any activity deliberately designed to circumvent local rules for personal gain will result in disciplinary action by the Department. Such dealings are an immediate threat to the integrity of DIAC's presence at post and represent a potential corruption risk to the mission in general.

LE staff are a particularly high risk group for allegations of corruption, particularly when their cultural values may be in conflict with the APS Code of Conduct. As such, local A-based staff conduct regular training sessions and set a good example for this category of employee to follow in order to minimise these risks.

Continuous education assists in developing a strong anti-corruption culture. One-off induction training on commencement at posts is complemented with ongoing training, regular reminder emails, team discussions and leadership by example.

6. Whether there are any additional measures in place to mitigate corruption risks in overseas operations.

Overseas posts are staffed by a mix of Australian citizens, local citizens, and citizens of third countries.

DIAC's A-based staff are posted overseas for periods of up to three years to manage DIAC's operations and staff at each post. They ensure departmental programs are implemented overseas in line with Australian Government expectations and priorities, including relevant legislation. Some high-risk or sensitive programs or visa and citizenship applications are managed and processed by A-based staff.

Locally Engaged Designate (LED) positions are occupied by Australian citizens who are not necessarily employed with DIAC in Australia. They may also be occupied by nationals of other countries, most commonly from New Zealand, UK, USA and Canada. LED staff may undertake higher risk, sensitive or more complex work, and particularly where there are integrity concerns with local staff performing certain duties.

Locally Engaged (LE) staff, on the other hand, are employed by DFAT to undertake work for DIAC. Most are delegated to make visa decisions under the *Migration Act 1958*. The ability to use these delegations is usually administratively restricted (for example, in higher risk countries, some LE staff make no visa decisions, whereas others only make decisions regarding temporary entry to Australia). Departmental systems allow for access to be restricted to a person's role, and is amended as required. In addition to routine visa

processing, LE staff primarily undertake client service, integrity and administrative tasks. They also provide local knowledge and language skills at relatively low cost.

DIAC maintains a network of Australian Migration Integrity Officers (MIOs) overseas who are responsible for overseeing integrity and fraud control frameworks. Australian MIOs are generally located in areas where there is the risk of higher levels of fraud and non-compliance with visa conditions. These locations also often have a higher risk of corruption.

MIOs overseas also have a role in capacity building with officials from the host country. As stated above, such capacity building may include the provision of funding and training to the host country to mitigate corruption.

The risk of corruption is monitored by DIAC staff onshore and by A-based staff offshore.

Visa and citizenship caseloads processed offshore are routinely audited by staff overseas and in Australia to ensure legislative obligations and policy requirements are met. Any discrepancies or concerns are investigated.

DIAC staff onshore and A-based staff offshore also work closely with DFAT and DIAC's Workplace Relations and Conduct Section (WRCS) to manage (and formally investigate where appropriate) any real or emerging conduct issues.

A-based staff attend a comprehensive training course before being placed overseas. The course includes training on the APS Values, Code of Conduct and overseas staff management arrangements. Sessions include discussions on the risk of corruption and how to best mitigate those risks, and are designed to enhance and raise staff awareness of professional ethics and values through the practical application of the APS Values and Code of Conduct.

Further Code of Conduct and Ethics training is also regularly conducted for all staff whilst overseas to reinforce appropriate standards. The requirement to abide with the Code of Conduct is generally stated in staff performance agreements. Ethics training is tailored to local issues, and scenario-based to guide staff through the range of short ethical dilemma scenarios that may be faced at overseas posts. The scenarios are provided in DIAC's Immigration Dilemmas: Ethics, APS Values and Leadership (IDEAL) toolkit which is designed to encourage and facilitate discussions between leaders and teams about appropriate responses to ethical dilemmas.

The WRCS is responsible for developing APS Code of Conduct training for offshore staff. A training package specific to the overseas environment is provided to all A-based staff who provide training to LE staff on a regular basis. Training is also provided to staff participating in induction and refresher Code of Conduct, ALO training, Overseas Training and Fundamentals of Supervision courses. Training formats include face-to-face and eLearning.

WRCS investigators also provide follow-up training to offshore staff when attending overseas posts to undertake investigations. WRCS also supports A-based staff by coordinating one-on-one briefings prior to deployment in order to outline the specific challenges they may face relevant to their postings.

7. Whether there have been any corruption incidents in overseas operations, including officers based overseas, Australian based officers while they were overseas, or locally engaged staff.

The table on the following page outlines the number of allegations received in financial years 2009-10 and 2010-11, and the first half of 2011-12 (that is, as at 31 December 2011) in the overseas environment, and their outcome.

No allegations involving A-based staff have been received during these periods, while a total of 92 allegations involving LE staff were made.

Of those 92, 72 were unsubstantiated, three were referred either internally or to an external agency, six were not investigated, and in six cases, the LE staff member resigned before an investigation was completed. Only two allegations involving LE staff were substantiated during this time.

Description	Financial Year					
	2009-10		2010-11		1 July to 31 December 2011	
	A-based	LE staff	A-based	LE staff	A-based	LE staff
Allegations received during period		33		39		20
Finalised investigations						
- Substantiated		1		1		
- Unsubstantiated		29		29		14
- Referral (internal)				2		
- Referral (external)		1				
- Not investigated		2		2		2
- Resigned from DIAC				5		1
- Investigation suspended						2
On-going investigation						1

8. Whether the rate of occurrence of corruption incidents in overseas operations is greater on a pro-rata staff number basis than within Australia.

The table below outlines the number of staff both onshore and offshore and the respective number of allegations made during financial years 2009-10 and 2010-11.

	2009-10			2010-11		
	Staff	Allegations	Substantiated	Staff	Allegations	Substantiated
Overseas (A-based staff)	125	0	0	130	0	0
Overseas (LE staff)	1001	33	1	994	39	1
Overseas total	1126	33	1	1124	39	1
Australia total	6998	4	0	7885	12	0

In the period 1 July 2009 to 30 June 2011, two cases involving corruption overseas were substantiated, while in Australia there were no substantiated cases of corruption. However, two cases are currently under investigation by the AFP.

Overseas occurrences, therefore, equated to 0.088 per cent and 0.089 per cent of staff in 2009-10 and 2010-11 respectively.