

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

Question No. 143

Senator Nettle asked the following question at the hearing on 13 February 2007:

Regarding the new *Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill*, this piece of legislation puts in place a new controlled operations regime which will allow Customs to apply to conduct controlled operations, including controlled operations jointly with the Australian Federal Police.

- a) Is it correct that, in these situations, the Commission has no power to investigate the actions of Customs officers?
- b) How does this operate in joint operations between Customs officers and AFP officers (i.e. where a complaint has been made in respect of a joint operation)? Would you have the power to investigate the AFP but not Customs in those circumstances?

The answer to the honourable senator's question is as follows:

The Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill does not alter the existing regime for the authorisation and participation of Customs officers in controlled operations. The existing *Crimes Act 1914* provisions allow Customs officers to apply to conduct a controlled operation, including a controlled operation jointly with the Australian Federal Police (AFP) (section 15J of the Crimes Act). Neither the existing provisions nor the Bill allow Customs officers to *authorise* a controlled operation.

The jurisdiction of ACLEI extends to investigating corruption issues that relate to the activities of the AFP and the ACC.

Subsection 10(1) of the LEIC Act provides that a person is to be regarded as an AFP staff member if the person is an employee of a government agency who has been seconded to the AFP pursuant to section 69D of the *Australian Federal Police Act 1975*. If a joint operation is being undertaken by people seconded to the AFP for that purpose, they will be subject to the jurisdiction of the Integrity Commissioner. The agency from which a person is seconded must be notified if the Integrity Commissioner is investigating the conduct of the secondee, and the Commissioner can refer the issue to that agency for investigation (section 29).