

# ADDITIONAL COMMENTS BY THE AUSTRALIAN LABOR PARTY

1.1 The Australian Labor Party (Labor) Senators agree with the committee's majority report and broadly endorse the committee's comments and recommendations. However, the Labor Senators wish to make some additional comments in relation to a number of issues – ACLEI's limited jurisdiction, the implementation of the Fisher Review and the impact of the new Australian Federal Police (AFP) professional standards system on 'AFP appointees'.

## **Law Enforcement Integrity Commissioner Bill 2006**

1.2 The Labor Senators consider that ACLEI's jurisdiction, as currently proposed in the Law Enforcement Integrity Commissioner Bill 2006, is too limited. We strongly question how the Federal Government will enhance the Commonwealth's anti-corruption capacities if ACLEI's oversight role is restricted to the AFP and the Australian Crime Commission (ACC). Other Commonwealth law enforcement agencies and agencies with major law enforcement functions should be regarded as relevant. Such agencies include, but are certainly not limited to, the Australian Customs Service, the Australian Taxation Office, the Australian Securities and Investments Commission and the Australian Transaction Reports and Analysis Centre (Austrac). These agencies increasingly wield powers that have previously been characterised as police powers – for example, the power of arrest and the use of search warrants. Rather than the 'specialist brief' proposed, Labor agrees with Dr A.J. Brown who argued that ACLEI should be given a 'broad mandate to uncover maladministration or corruption wherever found'.<sup>1</sup>

## **Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006**

1.3 First, the Labor Senators note that the Law Enforcement (AFP Professional Standards and Related Measures) Bill 2006 implements the majority – in whole or in part – of the 2003 Fisher Report's recommendations with respect to AFP professional standards.<sup>2</sup> In relation to recommendation 23, Labor notes and supports the proposed Government amendment to clarify the law around the AFP Commissioner's

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1 Dr A.J. Brown, *Submission 8 (Attachment B)*, p. 92.

2 The Attorney-General's Department stated that the Bill implements recommendations 1, 2, 4, 5, 6, 8, 10, 11, 13, 14, 18, 19, 20, 21 and 22. It implements recommendations 7, 9 and 15 with some variation. Recommendations 3 and 17 will be implemented by administrative action. Recommendations 12, 16 and 23 will be implemented in part by the Bill and in part by administrative action (Attorney-General's Department, *Submission 11*, Answers to Questions on Notice, Question 15).

'assignment of duties' power in section 40H of the *Australian Federal Police Act 1979*.<sup>3</sup>

1.4 Second, the new complaints and professional standards system is supported by the Labor Senators and is long overdue, however we believe that the committee's comments and recommendations do not go far enough to protect of the rights of 'AFP appointees' (particularly since the Bill gives a lot of discretion to AFP management to make certain decisions to correct behaviour of the AFP appointee involved). We do recognise the undertaking by AFP Commissioner Mick Keelty to address the use of this managerial discretion in the AFP's internal guidelines on the professional standards framework, however, Labor believes more needs to be done.

1.5 Labor believes in instances where punitive or pecuniary effects are a consequence of disciplinary action some method of review would be appropriate to avoid unjust or disproportionate outcomes

**Senator Patricia Crossin**

**Senator Linda Kirk**

**Deputy Chair**

**Senator Joseph Ludwig**

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3 Attorney-General's Department, *Submission 11*, Answers to Questions on Notice, Question 15 – Attachment A, p. 15.