

CHAPTER 1

INTRODUCTION

Background

1.1 On 7 December 2006, the Senate referred the provisions of the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 (the Bill) to the Standing Committee on Legal and Constitutional Affairs for examination and report by 7 February 2007.

1.2 The Bill amends the law relating to the investigation of criminal activity and the protection of witnesses, by amending six Acts. These are: the *Crimes Act 1914* (the Crimes Act); the *Australian Crime Commission Act 2002* (the ACC Act); the *Witness Protection Act 1994*; the *Customs Act 1901*; *Proceeds of Crime Act 2002*; and the *Mutual Assistance in Criminal Matters Act 1987*.

1.3 The most substantive of the amendments relate to the conduct of controlled operations, including use of assumed identities, the provision of delayed notification search warrants, and arrangements relating to the operation of the National Witness Protection Program.

1.4 Many of the amendments have as their genesis the recommendations of the Joint Working Group of the Standing Committee of Attorneys-General, and the Australasian Police Ministers' Council, and have as one of their aims the alignment of provisions between jurisdictions. In relation to controlled operations, the Minister for Justice and Customs had this to say in his Second Reading Speech:

Currently, the law in each of these areas differs significantly between jurisdictions and there is no provision for recognition in one jurisdiction of authorisations or warrants issued in another jurisdiction. Where an investigation crosses State or Territory borders, the need to obtain separate authorities in each jurisdiction can result in delays, loss of evidence and other impediments to effective investigation. There was a need to create a national set of investigative powers to facilitate seamless law enforcement across jurisdictions ... [e]ach State and Territory will enact these model laws. New South Wales, Victoria, Queensland and most recently Tasmania have implemented the model laws. The proposed amendments to the Crimes Act will bring the Commonwealth into line with the agreed national model.¹

1.5 In relation to delayed notification search warrants, the Minister informed the Senate that:

1 The Hon. Senator Chris Ellison, *Senate Hansard*, 29 November 2006, p.1.

[T]he bill will introduce a delayed notification search warrants scheme. This will enable police officers to get search warrants that will allow the covert entry and search of premises to prevent or investigate Commonwealth terrorism offences and a limited range of other serious Commonwealth offences, in cases where keeping the existence of an investigation confidential could be critical to its success. The scheme will add a covert investigative tool to the suite of tools police can use to investigate terrorism and other serious criminal offences. The warrants will allow the examination of physical evidence, such as a suspect's computer, diaries and correspondence, so that police can identify associates and obtain evidence. It will be a feature of the new scheme that police will have to give notice of the search without tipping off the suspected offenders that their activities are under investigation to the occupier of premises when operational sensitivities allow.²

1.6 Finally, in relation to changes to witness protection legislation, the Minister noted that:

The proposed amendments to the Witness Protection Act will respond to issues which have arisen in the operation of the National Witness Protection program and will increase the overall effectiveness of the Program. The amendments expand the Program so that the [Australian Federal Police] can provide protection and assistance to former participants in the Program and members of their families, and to witnesses in State or Territory matters where this is necessary to protect them.³

Conduct of the inquiry

1.7 The committee advertised the inquiry in *The Australian* newspaper on 12 December 2006, and wrote to 79 individuals and groups likely to be interested in the committee's deliberations inviting submissions. Details of the inquiry, the Bill, and associated documents were placed on the committee's website.

1.8 The committee received 13 submissions, which are listed at Appendix 1. All submissions were published on the committee website.

1.9 The committee held a public hearing in Canberra on 22 January 2007. A list of witnesses appearing at that hearing is at Appendix 2 and copies of the transcript for that hearing are available at <http://aph.gov.au/hansard>.

Acknowledgement

1.10 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

2 The Hon. Senator Chris Ellison, *Senate Hansard*, 29 November 2006, p.1.

3 The Hon. Senator Chris Ellison, *Senate Hansard*, 29 November 2006, p.1.

Note on references

1.11 References in this report are to individual submissions as received and not to bound volumes. Please also be advised that page numbers between proof and final Hansard transcripts may vary.

