CHAPTER 1

Introduction

- 1.1 On 19 September 2012, the Law Enforcement Integrity Legislation Amendment Bill 2012 (Bill) was introduced into the House of Representatives by the Minister for Justice, the Hon Jason Clare MP (Minister). On 20 September 2012, the Senate referred the Bill to the Legal and Constitutional Affairs Legislation Committee (committee) for inquiry and report by 20 November 2012. On 29 October 2012, the House of Representatives passed the Bill and, on 30 October 2012, the Bill was introduced into the Senate.
- 1.2 According to the Explanatory Memorandum (EM), the Bill introduces:
 - ...a range of measures to increase the resistance of Commonwealth law enforcement agencies to corruption and to enhance the range of tools available to law enforcement agencies to respond to suspected corruption.⁵
- 1.3 In introducing the proposed legislation, the Minister stated:

The vast majority of Commonwealth law enforcement officers are good, honest, hardworking people. But it is an unfortunate fact that criminals target law enforcement officers. Organised crime groups actively target our law enforcement officers because of the nature of the work that they do—and because of their access to sensitive information...There is no place for corruption in the public sector.⁶

Overview of the Bill

- 1.4 To achieve its intended objectives, the Bill contains three key measures:
- introduction of targeted integrity testing for staff members of the Australian Federal Police (AFP), the Australian Crime Commission (ACC), and the Australian Customs and Border Protection Service (Customs);
- extension of the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI), to include the Australian Transaction Reports and Analysis Centre, CrimTrac, and prescribed staff of the Department of Agriculture, Fisheries and Forestry; and

House of Representatives, *Votes and Proceedings*, No. 134-19 September 2012, p. 1822.

² *Journals of the Senate*, No. 114-20 September 2012, pp 3043-3044.

³ House of Representatives, *Votes and Proceedings*, No. 139-29 October 2012, p. 1905.

⁴ *Journals of the Senate*, No. 119-30 October 2012, p. 3191.

⁵ Explanatory Memorandum (EM), p. 1.

The Hon Jason Clare MP, Minister for Justice, *House of Representatives Hansard*, 19 September 2012, p. 11178. For similar comments, also see: the Hon Jason Clare MP, Minister for Justice, 'You don't have anything to fear if you don't have anything to hide', *Daily Telegraph*, 28 September 2012.

- enhancement of the powers of the Chief Executive Officer (CEO) of Customs, to deal with suspected cases of corrupt conduct, and to align those powers with the powers currently available to the AFP Commissioner and the CEO of the ACC.⁷
- 1.5 The Financial Impact Statement in the EM advises that two of the proposed key measures the introduction of targeted integrity testing and the enhancement of the CEO of Customs' powers will have no financial impact; however, to support its expanded jurisdiction, ACLEI will be provided with additional funding of \$1.5 million over two years (2013-2014 and 2014-2015).

Key provisions of the Bill

1.6 Submitters and witnesses to the inquiry raised concerns in relation to Part 1 of Schedule 1 of the Bill (introduction of targeted integrity testing) and Schedule 2 of the Bill (enhancement of the powers of the CEO of Customs). The committee's report therefore describes and considers only those proposed provisions. The EM sets out the provisions of the Bill in detail.

Introduction of targeted integrity testing

1.7 As the EM explains:

[Integrity tests are] operations designed to test whether a public official will respond to a simulated or controlled situation in a manner that is illegal or would contravene an agency's standard of integrity. For example, a test may involve the insertion of false information into a database to test whether an official, acting corruptly, may seek to unlawfully disclose that information to organised crime figures.⁹

1.8 Part 1 of Schedule 1 of the Bill is intended to give effect to recommendations made by the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, ¹⁰ by amending the *Crimes Act 1914* (Cth) (Crimes Act). ¹¹ The proposed amendments include the insertion of proposed new Part IABA—Integrity testing into the Crimes Act (integrity testing regime), to introduce an integrity testing regime for the AFP, the ACC, and Customs.

8 EM, p. 1.

⁷ EM, p. 1.

⁹ EM, p. 10.

¹⁰ Inquiry into Integrity Testing, November 2011, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=aclei_ctte/completed_inquiries/index.htm (accessed 21 September 2012).

¹¹ EM, p. 10.

Enhancement of the powers of the CEO of Customs

1.9 Schedule 2 of the Bill amends the *Customs Administration Act 1985* (Cth), to introduce a range of measures to increase the corruption resilience of Customs. ¹² These measures include enhanced powers for the CEO to make orders, including in respect of mandatory reporting, and the ability for authorised officers to require or direct drug and alcohol testing of Customs workers.

Conduct of the inquiry

- 1.10 The committee advertised the inquiry The Australian in on 26 September 2012. Details of the inquiry, including links to the Bill and associated documents. placed on the committee's website www.aph.gov.au/senate legalcon. The committee also wrote to a number of organisations and individuals, inviting submissions by 12 October 2012. Submissions continued to be accepted after that date.
- 1.11 The committee received 11 submissions, which are listed at Appendix 1. All submissions were published on the committee's website.
- 1.12 The committee held a public hearing on 1 November 2012 at Parliament House in Canberra. A list of witnesses who appeared at the hearing is at Appendix 2, and the *Hansard* transcript is available through the committee's website.

Acknowledgement

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

Note on references

1.14 References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcript.