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The Parliament of the Commonwealth of Australia

# Advisory Report:

## **Crimes Legislation Amendment (Powers and Offences) Bill 2011**

House of Representatives  
Standing Committee on Social Policy and Legal Affairs

February 2012  
Canberra

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## Membership of the Committee

**Chair**            Mr Graham Perrett MP

**Deputy Chair**   Ms Judi Moylan MP

**Members**        Mr Shayne Neumann MP

Dr Sharman Stone MP

Mr Ross Vasta MP

Ms Laura Smyth MP

Ms Michelle Rowland MP (to 07/02/12)

Mr Mike Symon MP (from 07/02/12)

## Committee Secretariat

Secretary	Dr Anna Dacre
Inquiry Secretary	Mrs Pauline Cullen (until 15/02/2012)
Research Officer	Ms Alicia Lin





## Inquiry information

On Wednesday 23 November 2011, the Hon Brendan O'Connor MP, Minister for Home Affairs and Justice, introduced the *Crimes Legislation Amendment (Powers and Offences) Bill 2011* (the Bill) into the House of Representatives.

On Thursday 24 November 2011, the Selection Committee referred the Bill to the House Standing Committee on Social Policy and Legal Affairs for inquiry.

The Committee received 10 submissions on the Bill. A list of the submissions is at Appendix A. Copies of the submissions have been placed on the Committee's website.

A public hearing was held in Canberra on Friday 10 February 2012. A list of witnesses who appeared before the Committee at the hearing is at Appendix B.





## List of abbreviations

ACC	Australian Crime Commission
ACC Act	<i>Australian Crime Commission Act 2003 (Cth)</i>
ACLEI	Australian Commission for Law Enforcement Integrity
AFP	Australian Federal Police
ALRC	Australian Law Reform Commission
ALRC Report	<i>Australian Law Reform Commission's 2006 Report: Same Crime, Same Time: Sentencing of Federal Offenders</i>
Customs	Australian Customs and Border Protection Service
CEO	Chief Executive Officer
Crimes Act	<i>Crimes Act 1914 (Cth)</i>
Criminal Code	<i>Criminal Code Act 1995 (Cth)</i>
Cth	Commonwealth
Customs	Customs and Border Protection Service
DNA	Deoxyribonucleic acid
DNA Review	<i>DNA Forensic Procedures: Further Independent Review of Part 1D of the Crimes Act 1914 Review</i>
DPP Act	<i>Director of Public Prosecutions Act 1986 (Cth)</i>
Law Council	Law Council of Australia

LEIC Act	<i>Law Enforcement Integrity Act 2003 (Cth)</i>
NCIDD	National Criminal Investigation DNA Database
PI Regulations	Customs (Prohibited Import) Regulations 1956 Cth
POC Act	<i>Proceeds of Crime Act 2002 (Cth)</i>
Privacy Act	<i>Privacy Act 1988 (Cth)</i>
Privacy Commissioner	Officer of the Privacy Commissioner
RLI	Rule of Law Institute
The Bill	Crimes Legislation Amendment (Powers and Offences) Bill 2011
The Taskforce	Criminal Assets Confiscation Taskforce



# List of recommendations

## Schedule 1

### Recommendation 1

The Committee recommends that Schedule 1 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 be passed by the House of Representatives.

## Schedule 2

### Recommendation 2

The Committee recommends the amendment of Item 27 in Schedule 2 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 to insert, in section 59 AB of the *Australian Crime Commission Act 2002* (Cth), similar protections and wording as that contained in section 25A(9) of the *Australian Crime Commission Act 2002* (Cth).

### Recommendation 3

The Committee recommends that the Attorney-General undertake an audit of investigative and coercive powers available to security and law enforcement agencies in order to identify the full scope of powers available to those agencies, with a view to:

- comprehending the extent to which an individual's right to privacy can be abrogated; and
- ascertaining whether recent or any further expansion of those powers is necessary or justified.

The audit report should be provided to the Attorney-General and to this Committee by 1 October 2012.

### Schedule 3

#### Recommendation 4

The Committee recommends that Schedule 3 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 be passed by the House of Representatives.

### Schedule 4

#### Recommendation 5

The Committee recommends that Schedule 4 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 be passed by the House of Representatives.

### Schedule 5

#### Recommendation 6

The Committee recommends that Schedule 5 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 be passed by the House of Representatives.

### Schedule 6

#### Recommendation 7

The Committee recommends that Schedule 6 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 be passed by the House of Representatives.

### Schedule 7

#### Recommendation 8

The Committee recommends the amendment of Item 12 in Schedule 7 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011 to remove the retrospective application by deleting the word *before* in section 2(a).

This would ensure that amendments made in this Schedule to abolish automatic parole would only apply to persons sentenced after commencement.

#### Recommendation 9

The Committee recommends that the Australian Government give further consideration to establishing a Federal parole board.

### Schedule 8

#### Recommendation 10

The Committee recommends that the Minister for Justice provide an explanation to the House of Representatives regarding the need for the retrospective application of amendments proposed in Schedule 8 of the Crimes Legislation Amendment (Powers and Offences) Bill 2011.

