

# RECOMMENDATIONS

## Recommendation 1

**2.29** The committee recommends that the Australian Crime Commission be required to, without delay, develop and implement a consistent and reliable method for its examiners to promptly and securely record their reasons for decision as required by Part II Division 2 Subsections 28(1A) and 29(1A) of the *Australian Crime Commission Act 2002*.

## Recommendation 2

**2.30** The committee recommends that the amendment made to Part II Division 2 Subsections 28(1A) and 29(1A) of the *Australian Crime Commission Act 2002* by the *Australian Crime Commission Amendment Act 2007* be repealed but that those subsections be amended to ensure that the reasons for the decision must be recorded in writing before the issuing of a summons or notice.

## Recommendation 3

**2.63** The committee recommends that Part II Division 2 Subsections 28(8) and 29(5) of the *Australian Crime Commission Act 2002* be repealed.

## Recommendation 4

**2.84** The committee recommends that Part II Division 2 Subsection 29B(4) of the *Australian Crime Commission Act 2002* be amended to include the Commonwealth Ombudsman.

## Recommendation 5

**3.59** The committee notes that Sections 10 and 12 of the *Australian Crime Commission Amendment Act 2007* deems certain summonses and notices valid thereby protecting any prosecution based on those summonses and notices. The committee recommends that:

- the same practice be adopted in relation to summonses and notices issued subsequent to the *Australian Crime Commission Amendment Act 2007* until now;
- but that henceforth, in line with Recommendation 2, the practice of retrospectively recording reasons for the issue of summonses and notices be immediately discontinued and that Sections 10 and 12 of the *Australian Crime Commission Amendment Act 2007* be repealed.

### **Recommendation 6**

**3.102** The committee recommends that the *Australian Crime Commission Act 2002* be amended to include the statutory definition of contempt and the statutory power of referral, plus ancillary provisions, proposed as clauses 34A and 34B in the *National Crime Authority Legislation Amendment Bill 2000* (except that the referral be to the Federal Magistrates Court) for matters arising under Section 30 of the *Australian Crime Commission Act 2002*.

### **Recommendation 7**

**3.110** As a corollary of Recommendation 6, or as an alternative thereto, the committee urges the Commonwealth Attorney-General to negotiate with the judiciary an expedited judicial process for matters referred by the Australian Crime Commission under Part II Division 2 Section 30 of the *Australian Crime Commission Act 2002*.

### **Recommendation 8**

**4.26** The committee recommends that Part IV Section 61A of the *Australian Crime Commission Act 2002* be amended to require the Minister to cause an independent review of the operation of the *Australian Crime Commission Act 2002* every five years with the first review to be undertaken no later than 1 January 2011.

### **Recommendation 9**

**4.30** The committee recommends that the Commonwealth Ombudsman be required to inspect records made by the Australian Crime Commission examiners to ensure full compliance with Part II Division 2 Sections 28 and 29 of the *Australian Crime Commission Act 2002* and that the Ombudsman report annually to the Parliament on this matter.

### **Recommendation 10**

**4.31** The committee recommends that at least once in each year the Commonwealth Ombudsman be required to provide a briefing to the Parliamentary Joint Committee on the Australian Crime Commission about the Australian Crime Commission's exercise of the coercive powers under Part II Division 2 Sections 28 and 29 of the *Australian Crime Commission Act 2002* and that Part III Section 55AA of the *Australian Crime Commission Act 2002* be amended accordingly.