

# RECOMMENDATIONS

## Recommendation 1

**4.35** The committee recommends that the Attorney General's Department revise and reissue the Explanatory Memorandum to the National Security Legislation Amendment Bill 2010 to clarify the reasons for including proposed sections 80.2A and 80.2B in Chapter 5 (Security of the Commonwealth) of the Criminal Code Act 1995.

## Recommendation 2

**4.36** The committee recommends that proposed subsection 80.3(3) of the National Security Legislation Amendment Bill 2010 be amended to remove the element of 'good faith' from the proposed defence.

## Recommendation 3

**4.37** The committee recommends that the Australian Law Reform Commission conduct a public inquiry into the pre charge detention regime. This review should examine, among other things, what period of pre charge detention is 'reasonably necessary' to balance the competing interests of criminal investigations and individuals' right to liberty, as well as a straightforward legislative framework for a pre charge detention regime.

## Recommendation 4

**4.38** In addition to Recommendation 3, the committee recommends that the pre charge detention regime set out in the National Security Legislation Amendment Bill 2010 be amended to limit the amount of time that a person can be held in pre charge detention by:

- retaining the investigation period as set out in proposed subsection 23DB(5) and proposed section 23DB(F) (a total of 24 hours);
- retaining the investigative dead time provisions as set out in proposed section 23DB but amending proposed subsection 23DB(11) to reflect a 3 day time limit; and
- retaining the down time provisions relevant to the particular needs of an accused as set out in proposed subsection 23DB(9).

## Recommendation 5

**4.39** In relation to the Parliamentary Joint Committee on Law Enforcement Bill 2010, the committee calls on the Attorney General to provide a ministerial direction or additional materials to explain the circumstances in which the Chief Executive Officer of the Australian Crime Commission and the Commissioner of

**the Australian Federal Police ought to proactively report matters to the Parliamentary Joint Committee on Law Enforcement.**

**Recommendation 6**

**4.40 Subject to the above recommendations, the committee recommends that the Senate pass the National Security Legislation Amendment Bill 2010 and the Parliamentary Joint Committee on Law Enforcement Bill 2010.**