



Australian Government
Attorney-General's Department
Criminal Justice Division

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25 May 2004

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28 MAY 2004

Senate Standing C'ttee
for the Scrutiny of Bills

Ms Janice Paull
Acting Secretary
Senate Standing Committee for the Scrutiny of Bills
Suite SG – 49
Parliament House
CANBERRA ACT 2600

Dear Ms Paull

ENTRY AND SEARCH PROVISIONS IN COMMONWEALTH LEGISLATION

Thank you for your letter of 8 April 2004, seeking the views of the Attorney-General's Department on the Government's response to the Senate Standing Committee's *Fourth Report of 2000: Entry and Search Provisions in Commonwealth Legislation*. My comments are based on the views of the Criminal Law Branch of the Attorney-General's Department.

The Government's response notes that:

Guidelines setting out the [criminal law] policy as at mid-1999 formed part of the Attorney-General's Department's submission to the Scrutiny Committee. The guidelines are currently being revised. (page 2)

In February 2004 a revised 'Guide to Framing Commonwealth Offences, Civil Penalties and Enforcement Powers' (the Guide) was issued by authority of the Minister for Justice and Customs, and was subsequently promulgated to Commonwealth agencies to give them a clear appreciation of the Commonwealth's preferred position on fundamental aspects of criminal law policy and principles. A copy of the Guide is attached for your convenience and it is also available on the Attorney-General's Department website at www.ag.gov.au/crimlawguide.

The Guide seeks to consolidate policy, principles and precedent relevant to the framing of Commonwealth offences, civil penalties and enforcement provisions, including entry, search and seizure powers. It draws on a broad range of source material, including:

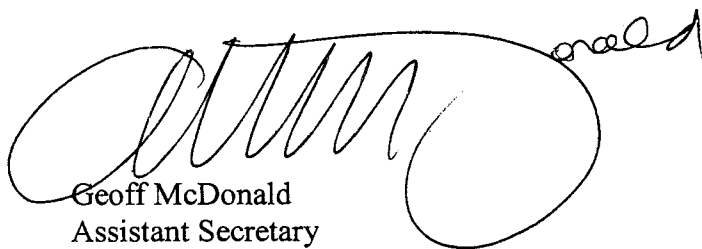
- Commonwealth legislation
- Model Criminal Code Reports
- Australian Law Reform Commission Reports
- Senate Scrutiny of Bills Committee material including 'Alert Digests' and 'Reports', and
- Senate Regulations and Ordinances Committee material including 'Annual Reports'.

I anticipate that promulgation of the Guide will result in significant improvements in the legislation approval process. In particular, it will help all those involved in the development of legislative proposals identify significant criminal law and civil penalty issues early in the process, allowing sufficient time to resolve them.

I commend the Guide to the Committee.

Any queries about the Guide should be directed to Karen Bishop in the Attorney-General's Department, who can be contacted on 6250 5604.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. McDonald', written over a large, faint oval shape.

Geoff McDonald
Assistant Secretary
Criminal Law Branch

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