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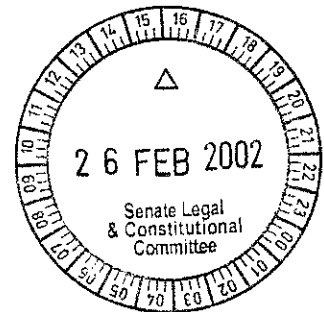


<b>To:</b>	Ms Pauline Moore
<b>Organisation:</b>	Senate Legal and Constitutional Committee
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<b>From:</b>	Office of the Federal Privacy Commissioner
<b>Date:</b>	26 February 2002
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<b>Subject:</b>	Provisions of the Proceeds of Crime Bill 2001

Please find attached a letter from the Federal Privacy Commissioner in response to a request for comment on the above matter. I might also point out that this office has provided comment on the Commonwealth DPP's Guidelines for the conduct of compulsory examinations under this Act.

Regards

Luke Walton



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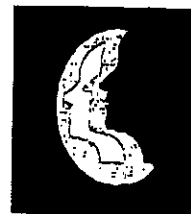
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Our reference: 2002/111 LW

Ms Pauline Moore  
Secretary  
Senate Legal and Constitutional Committee  
Parliament House  
CANBERRA ACT 2600

Dear Ms Moore

***PROVISIONS OF THE PROCEEDS OF CRIME BILL 2001***

Thank you for the opportunity to comment to the Senate Legal and Constitutional Legislation Committee on the *Provisions of the Proceeds of Crime Bill 2001* (the Bill).

I note that this is an important piece of legislation with significant privacy implications. Privacy is clearly perceived by the Australian community as an issue of fundamental importance, but at the same time it is recognised as not being an absolute right. The challenge is to properly balance privacy interests with our other interests, rights and responsibilities as members of a civil society.

I support the policy intent of taking steps to deprive criminals of the proceeds of crime and therefore the attendant need for legislation to ensure this occurs in an effective manner. I am also concerned, however, to ensure that individuals' privacy is carefully considered and balanced in the casting of such legislation. This legislation will give the Commonwealth substantial new powers to gather personal information from a number of sources, including information on accounts held by financial institutions. For these reasons it is important to ensure that the collection, use and disclosure of personal information does not unduly interfere with the privacy rights of individuals in delivering on the policy intent of the legislation. Accordingly, I encourage the Committee to carefully consider the necessity of these new powers, as well as the need to ensure robust oversight and accountability provisions in respect of the agencies that exercise them.

I believe it is important that information handling practices by law enforcement agencies and regulators in the context of this legislation are consistent with the privacy obligations set out in the *Privacy Act 1988*, which in the case of Commonwealth agencies, for example, involves adherence to the Information Privacy Principles. I therefore strongly support clear oversight of the new provisions and in this regard I am encouraged by the current direction of the legislation which provides for the judicial oversight.

Thank you once again for the opportunity to comment on the Bill. The contact person in my office for this matter is Luke Walton who can be contacted on (02) 9284 9793 or at [LukeWalton@privacy.gov.au](mailto:LukeWalton@privacy.gov.au).

Yours sincerely

Malcolm Crompton  
Privacy Commissioner  
26 February 2002