



Our Ref: RBGMM1292832

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26 May 2009

Mr Greg Smith SC MP  
Shadow Attorney General  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Smith,

**Re: Crimes (Forensic Procedures) Amendment Bill 2009**

Thank you for inviting the Law Society to comment on the *Crimes (Forensic) Procedures Amendment Bill 2009* (Bill).

The Law Society's Criminal Law and Juvenile Justice Committees (Committees) have reviewed the Bill and bring the following brief comments to your attention.

The Bill introduces a legislative scheme to govern the conduct of forensic procedures on children under 10 years of age. Presently, children under 10 are excluded from the provisions of the *Crimes (Forensic Procedures) Act 2000*. The Committees are of the view that extreme care must be taken in dealing with children in this context, and that a Children's Court Magistrate should hear applications for a child under 10 to undergo a forensic procedure.

In the Agreement in Principle Speech the Parliamentary Secretary comments that: "These orders are designed to assist in law enforcement activities. They do not aim to allow, nor do they empower, the police to investigate or act against children under 10 in any way." However, it is the experience of Committee Members that police constantly express frustration about not being able to charge very young children, especially in regional areas. It is of concern that the Bill does not contain any safeguards to prevent police accessing forensic material for the purpose of checking it against forensic material found at the scene of a crime after a child has turned 10.

The Committee suggests the following amendments:

1. The Bill should specify that only a specialist Children's Court Magistrate may make an order for the carrying out of a forensic procedure on a child under 10.
2. The Bill should contain a provision specifying that any forensic material taken from a child under 10 cannot be used in any way in the future against the child.

Yours sincerely,

  
Joseph Catanzariti  
President



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