

Subject: follow-up questions
Date: Thursday, 13 November 2014 5:21:47 PM

Dear James,

During our evidence this afternoon (G+T Centre of Public Law), the Committee asked a couple of questions for us to follow-up.

We have nothing to add on the issue of declaring classes of Australian persons for the purposes of intelligence operations overseas.

The Committee also asked if we could verify the references in footnote 19 of our submission (p 4).

That sentence was paraphrasing the following quotes from the Independent Monitor's 2012 report, in which he refers to control orders in the following terms:

- Page 6: "They are striking because of their provision for restraints on personal liberty without there being any criminal conviction or even charge"
- Page 26: "It should be a matter of concern that COs can be imposed on a terrorist suspect without following the normal criminal law process of arrest, charge and prosecution. As a matter of principle and policy, restraints on the liberty of a person charged and pending trial should be a question of remand or bail and nothing else."

Those quotes clearly demonstrate concern with a civil order that places restraints on a person's liberty without a finding of criminal guilt. This analysis fed into his ultimate recommendation on the control order legislation (p 44), where he recommends that the regime either be repealed or established as one that requires a previous finding of criminal guilt.

Regards,

Keiran Hardy