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The Chair (Senator Ian Macdonald)  
Senate Legal and Constitutional Affairs Legislation Committee  
PO Box 6100  
Parliament House Canberra ACT 2600

By email: <mailto:legcon.sen@aph.gov.au>

Dear Chair,

**Re: the Australian Crime Commission Amendment (Criminology Research) Bill 2016 [Provisions]**

Civil Liberties Australia (CLA) re-presents to this inquiry our submission that we made a year ago. No material circumstances have changed from that time, other than that the government failed to enact the 2015 bill even after a hurried report from this committee. CLA does not support the abolition of the Australian Institute of Criminology and its merging with the Australian Crime Commission. The two organisations have antithetical philosophies, especially around transparency and evidence-based work (as opposed to mere ‘intelligence’) and the AIC’s independence will be fatally compromised if it is brought within the national security community.

Our submission discusses our concerns with the abolition of the AIC, but this entire process raises two other issues of significant concern: the precedent set by the defunding of the AIC and the haste with which Senate Committees are being conducted.

CLA notes that the AIC has already been de-funded and its staff moved. This is despite the failure of the Parliament to pass the Government’s previous bill. We also note that this is the second such institution to be treated this way: the Office of the Australian Information Commissioner was stripped of funding when the Parliament refused to abolish the office. That the Government defied Parliament in this way shows a contempt for Parliament and for the rule of law in Australia. Its treatment of the AIC shows the same level of respect.

As the Senate cannot, under the Constitution, introduce money/Budget bills to restore funding to the AIC, the Senate should consider censuring the Government its practice of defunding institutions that the Parliament expressly wishes to continue in existence. Continuation of this practice constitutes a genuine threat to Australian democracy. Consider: Parliament would never pass a law to defund the Federal or Family Court of Australia; but what action would it take if the Government defunded it in a budget bill or reduced its funding to such a level as to compromise its continued operation? Likewise, the Senate and Parliament itself receive their funding through Budget measures introduced by the Government of the day. What actions will the Committee and Senate recommend so that future Governments respect the continued existence of key institutions and parliamentary procedure?

We note that the SLACALC report was tabled in November 2015 and that the government had at least six months, from Nov 2015 to May 2016 when parliament was dissolved, to pass the bill into law. That the government did not do so indicates that the haste with which the SLACALC held its initial inquiry was unjustified. That haste was such that the committee’s report says: “1.3 Due to the short timeframe in which the committee was required to report on this matter, it did not invite written submissions”. Not inviting submissions is anti-democratic and makes a

mockery of the Senate's role as a House of Review.

CLA believes that such unwarranted haste has become the norm for any committee inquiry into security- or police-related legislation. We believe it is obvious that the parliament needs to adopt a 'Blue Paper' (blue for security/police) system, akin to the well-known White and Green Paper process that allows for months, and sometimes over a year, of debate when major strategic and philosophical issues are being debated in other areas of national activity.

Citizens' liberties and freedoms, and access to government information, should not be treated in any lesser way than how consideration is given to the proposed armaments for the nation's defence forces. Indeed, in the absence of a Charter of Rights in Australia, it is clear that the freedom of citizens from excessive legislation – and the rights of Australians – should receive more consideration than is currently given, and more than is given to strategic defence and infrastructure matters. While equipment and structures are used intermittently, and come and go, all citizens live day-by-day under the rights and liberties legislated by Parliament...or, as in more recent times, through traditional freedoms, openness and transparency reduced by Parliament through excessive and unwarranted changes as in the case of emasculating the independence of the Australian Institute of Criminology, for no profit to the nation.

Promises made by executive management during the previous inquiry have not been fully implemented as outlined, so far as we are aware, which must call into question whether they ever will be. We see no reason to believe we were mistaken in any of our comments and criticisms made 12 months ago: the AIC should remain, or revert to being, a separate body.

Yours truly,

Dr Kristine Klugman OAM  
President

27 October 2016

### **Appendix:**

We note that the AIC has apparently ceased to exist in practice:

All AIC staff were transferred to the Australian Crime Commission on 8 October 2015.  
The 2015–16 average staffing level figure is the number up to the date of the machinery of government change.

– AIC portfolio budget statements 2016-17

Given that the AIC has had no staff, and apparently no board during 2015-16, we suggest the committee inquires into how the AIC has met statutory obligations which have not been removed by any law passed in 2016.

Is the person currently described as Director and Chief Executive of the AIC meeting all his obligations under the Criminology Research Act 1971 and the Financial Management and Accountability Act 1997? Did he do so in the 2015-16 financial year?

Attached: Copy of submission by Civil Liberties Australia, resubmitted for the committee's further consideration.