



Submission No 78

Inquiry into potential reforms of National Security Legislation

Organisation: Mr Gino Capone

Sent: Saturday, 18 August 2012 2:59 PM
To: Committee, PJCIS (REPS)
Subject: RE: Inquiry into potential reforms of National Security Legislation

Dear Mr Secretary,

Firstly, I echo The Greens in their position that *“[t]he public has not been given enough time to make submissions to the Committee’s Inquiry into potential reforms of National Security Legislation. The complexity, and far-reaching consequences of the proposals in the 6-page Terms of Reference warranted much wider consultation with the Australian community.*

Several of the proposals this inquiry could mandate greatly expanded surveillance powers in this country. The case has not been adequately made by the government as to why these powers are needed.”

But I particularly am concerned that the case for these surveillance powers assumes that all Australians are suspects, not citizens. At what point in our history did the investigation and prosecuting of crimes become transformed into pre-emptive, all-spectrum surveillance of the citizenry?

The proposals before the Committee amount to an arbitrary and unrelenting intrusion into the privacy of all individuals and as the right to privacy is a fundamental requirement for providing for a person’s freedom, these proposals are a removal of freedom from the people of Australia. Further still, the removal of freedom from an individual is nothing less than the imprisonment of that individual as a suspect and is how the proposals before the Committee must be viewed. These proposals amount to the confinement of each member of society within a virtual prison bounded by the surveillance systems the committee is considering and may endorse.

The right of individuals against arbitrary intrusions of their freedom from malevolent governing powers was first enshrined in the Magna Carta and include that only through due process of law shall the freedom of each citizen be constrained and that government shall be accountable to the people. These proposals before the Committee seek to make the people accountable to the government through intruding upon their privacy and placing each person under surveillance. The Committee is considering nothing less than repealing the beneficial provisions of Magna Carta, the ideals and values this document represents and its importance as a constitutional foundation to the Commonwealth of Australia.

There is nothing more private than the personal communications, interactions and transactions an individual undertakes throughout the course of his or her life and while such temporally transient occurrences may not historically be considered of as property, once the temporal transience is removed and these occurrences are rendered enduring by recording they must be considered the very Private Property of the individuals and participants active in their creation, if privacy and freedom is to be preserved. Yet the proposals before the Committee call for appropriating the property of these recordings of private communications and transactions to the Government and its agencies. These are simply and morally the private property of the people falling under the surveillance technologies suggested to be imposed and the arbitrary appropriation of such by the Government into its own databases contravenes any standards of due process.

Where causeless restraint is not observed by Government in relation to the citizenry there is instead tyranny. Therefore, I implore the Committee to reassert its moral responsibility for protecting individual property rights in the efforts of the Government to maintain a public commons that supports the livelihood of

the citizenry while preserving our freedom, be that in the virtual space of the Internet or in the physical world.

Sincerely,

Gino Capone