

Chair  
Privileges Committee  
Parliament of Australia  
CANBERRA ACT 2600

*Australia Day 2013*

Dear Chair

We seek the Privileges Committee's guidance as to the rights and responsibilities that people and organisations making submissions to Parliamentary Committees have in relation to the publishing of their submissions on the relevant Committee website, and of the rights/responsibilities of Committees. We understand that it is the right of Parliament/Committees to decide what shall be published, but that should be accompanied, Civil Liberties Australia believes, by a responsibility for fairness and balance by the Committees. There should be guidelines to avoid inappropriate censorship, and an appeal mechanism, CLA believes.

Over decades, a clear protocol and practice has evolved that material that is 'legal' – not obviously factually in error, not defamatory, not pornographic, etc – is approved for publication for the benefit of the widest possible dissemination of consultative materials. It is a benefit to some organisation, such as ours, to have some submissions published. We always formally note when we make submissions that we give our permission, if it is needed and appropriate, for the submission to be published. As we did in the case in question (see below),

What rights, then, do personal or organisational submitters have when a Committee refuses – quite clearly inappropriately – to publish a supplementary submission, which effectively censors the communication and consultation process and, as here, censors CLA? We would add: "wrongly, and for no good reason" in this case, as the censored material is directly drawn from Hansard reporting. We have appealed to the Committee, but to no effect.

A supplementary submission of Civil Liberties Australia has been censored because part of the submission paraphrased accurately an earlier statement to another Parliamentary Committee and attributed the statement accurately to the correct speaker appearing before that Committee, as reported in Hansard. When we protested the lack of publishing our supplementary submission to the Chair of the Committee, he acknowledged to us that the Committee Secretariat had researched our paraphrased reporting of the statement with the original Hansard report, and found it to be entirely accurate.

The supplementary submission of CLA has not been posted on the Committee's website because it contains material (the person's statement, recorded in Hansard) that the

Committee believes is deleterious to the repute of the person, the CEO of a major Australian agency. However, what was contained in our supplementary submission is a fair reporting of what was said, and who said it, in Parliament (before a Committee) and reported in Hansard.

We believe that the non-publishing Committee has moved into dangerous territory when it decides to act as a censor to inappropriately “protect” a person for the statements on oath made in Parliament and formally recorded in Hansard. The Committee has effectively censored publication of material/information from Hansard, and the accurate linking of the material with the speaker. The issue in question – both the substance of what was said and the name/position of the speaker – is fundamentally important to civil liberties and human rights in Australia, particularly in the realm of misuse of “intelligence” by Australian crime and intelligence agencies. CLA believes that, by not publishing our supplementary submission online, the Committee is effectively biasing public understanding of the issue at the core of the Committee’s deliberations on “Gathering and use of criminal intelligence”.

Your advice would be appreciated as to how we might proceed to have our supplementary submission published on the Committee website, and as to what guidance your Committee will provide for Parliamentary Committees in future in the important area of Committee rights and responsibilities, publishing online, and censoring of submissions.

Yours sincerely

Dr Kristine Klugman OAM  
President

Below: Copy of the Supplementary Submission (defining “intelligence/criminal intelligence” as requested By Senator Fiona Nash at a hearing of the Parliamentary Committee on Law Enforcement into “Gathering and use of criminal intelligence”).

The reason the Committee has given CLA for acting as censor is contained in the second half of the second paragraph (as paraphrased from Hansard) under the words: “We comment further on the above:...” (NOTE: RELEVANT WORDS HAVE BEEN REDACTED FOR POSTING ON CIVIL LIBERTIES AUSTRALIA WEBSITE but you can be informed by going to [parliamentary Hansard](#))



**(Copy of original)**

SUPPLEMENTARY submission...at the request of Senator Nash

Senator Nash asked for a definition of “intelligence” or, in the context of the discussion at the time “criminal intelligence”. Civil Liberties Australia had already provided its definition of “intelligence” – from a subsequent web search, it would appear the CLA definition is the best available anywhere in the world. We repeat it here:

**What is intelligence? Firstly, it is not evidence...if it were, it would called evidence.**

**Intelligence is a broad sweep of guess, speculation, scuttlebutt, gossip, suspicion, hypothesis... A centralized database of intelligence is a most dangerous tool to the innocent and those not part of the power elite of the nation.**

We comment further on the above:

The more that “intelligence” – this poor relation of fact – gets circulated, the wishy-washer it is at the edges. The less reliable it is, the more fuzzy it becomes, and the more dangerous that it gets things wrong: wrong person, wrong emphasis, wrong link...leading to potentially severe miscarriages of justice...some that you, me or the victim will never even know about, which is what is most perfidious about this type of “intelligence”, or “criminal intelligence”.

Because it is just “intelligence”, swapped behind the scenes, with no-one able to monitor and check its accuracy, it can do enormous damage without ever being formally “used” in any traceable way. A wink or a nod can do as much damage, if not more, than an adverse formal finding: at least the formal finding can be challenged.

*(The redacted text below represents what the Parliamentary Committee doesn't want known, but you can read [parliamentary Hansard](#) to be informed )*

The [REDACTED] M [REDACTED] gave an example: banker going into pub/restaurant where crime figures were meeting. [REDACTED] would dob in the banker to the bank chief executives/board, simply because the banker happened to enter a building at the same time as a crime meeting was occurring.

**CLA believes any secret holdings of information should be subject to audit four times a year by an independent monitoring group of average Australians, which changes annually...and does not include police, security people, and the like.**

For further assistance to Senator Nash, the following material from external sources is provided.

In formal terms, probably the truest definition of “intelligence” is provided by Australia’s Defence Intelligence Organisation, in explaining what its intelligence analysts do:

DIO Defence Intelligence Organisation

Role of Intelligence Analysts

*Their task is to study and evaluate information from a variety of sources, such as satellite surveillance, foreign newspapers and broadcasts, social media and human contacts. This information can often be incomplete, contradictory and vary widely in terms of reliability.*

<http://www.defence.gov.au/dio/general-intelligence.shtml>

– downloaded 5 October 2012

Other definitions which may assist Senator Nash’s understanding include:

**Criminal Intelligence** is information compiled, analyzed, and/or disseminated in an effort to anticipate, prevent, or monitor criminal activity. [1] [2] [3]

The United States Army Military Police defines criminal intelligence in more detail; **criminal intelligence** is information gathered or collated, analyzed, recorded/reported and disseminated by law enforcement agencies concerning types of **crime**, identified criminals and known or suspected criminal groups.[4]

It is particularly useful when dealing with **organized crime**. Criminal intelligence is developed by using **surveillance**, **informants**, **interrogation**, and **research**, or may be just picked up on the "street" by individual **police** officers.

– Wikipedia: Criminal Intelligence, downloaded 1730 01 Oct 2012

There are many definitions of Criminal Intelligence Analysis in use throughout the world.

The one definition agreed in June 1992 by an international group of twelve European INTERPOL member countries and subsequently adopted by other countries is as follows:

*The identification of and provision of insight into the relationship between crime data and other potentially relevant data with a view to police and judicial practice.*[5]

5. International Police (INTERPOL) (2010). Retrieved from <http://www.interpol.int/Public/cia/default.asp>

ENDS

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