

# Australia's national security suffers from 'rubber stamp' syndrome

By Dr Tony Murney

In July of this year the United Kingdom's (UK) Parliamentary Intelligence and Security Committee exposed deep seated national security flaws in an "[explosive](#)" report documenting performance failures in the post 9/11 period.



This raised the spectre of failings in our own national security policies driven by similar fears, panic and bias to those of the UK.

It appears that Australia's premier oversight body, the Parliamentary Joint Committee on Intelligence and Security (PJCIS), has been unable or unwilling to detect and correct such failings here.

It seems to the interested observer that national security has become citizens vs government. But why has the PJCIS allowed such deterioration in the relationships?

The need for balanced and impartial scrutiny of executive government is absolutely critical in the formulation of national security policy. This is because the principal sources of advice are also major beneficiaries of funding largesse and increased political power derived by over-stating national security threats.

Unlike other areas of government, these agencies can obfuscate their reasoning and hide claimed "facts" behind layers of security classification which are all too often designed to protect "official's secrets" and their private interests rather than protecting "official secrets" and the nation's interests. The shameful home-ransacking affair of journalist Smethurst and *ABC* HQ raids are cases in point.

A close look at the record of the PJCIS is not promising. It has become known in observer circles as the "Rubber Stamp" because of its propensity to endorse the implementation of executive government policy, no (meaningful) questions asked.

Things have gone so far in this direction that many in civil society now suspect the PJCIS is not only subservient to executive government but has also become captive within Australia to the nation's intelligence and security agencies, and outside Australia to the broader "five eyes" intelligence community of foreign powers.

The committee's record on excessive counter terrorism legislation speaks for its self with tranche after tranche [stripping rights and freedoms](#) from ordinary Australians despite two decades of empirical evidence indicating the [threat from terrorism in Australia was low](#). Critical submissions from civil society have been patently ignored by the committee as the national intelligence and security circus has played out unabated for 20 years without a ring master.

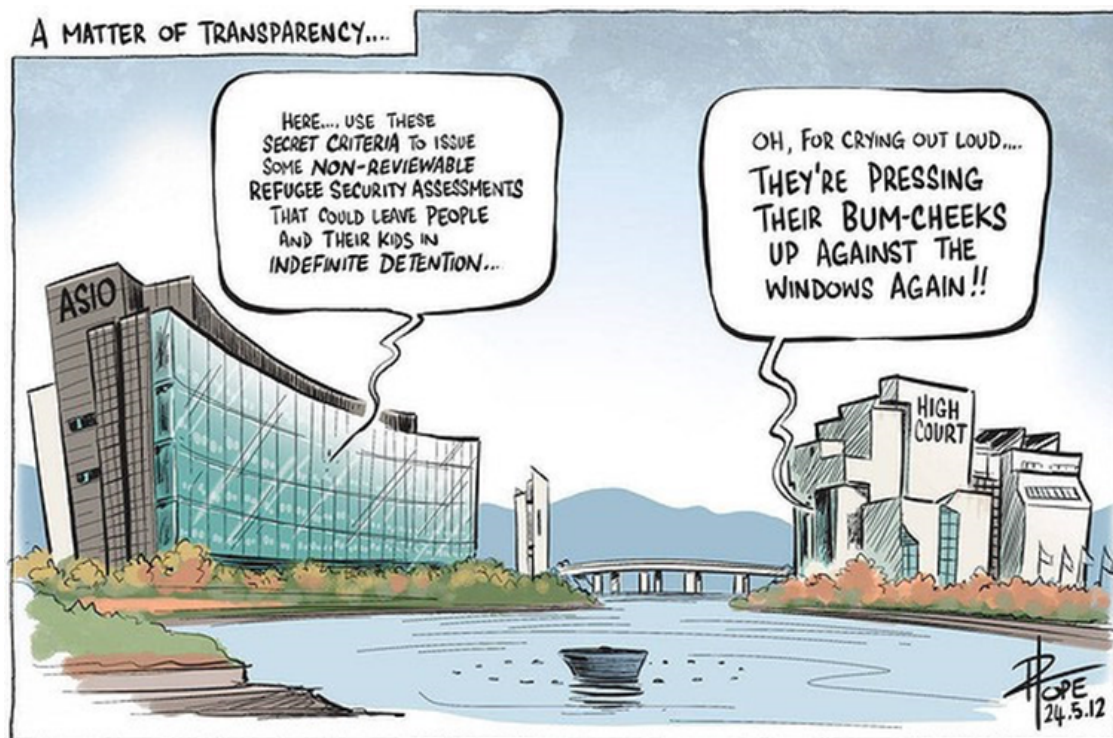
## They got it wrong before – what’s the next challenge?

With Islamic terrorism becoming increasingly passé in the absence of any of the predicted mass casualty events, the national security community has almost overnight discovered right-wing terrorism and Chinese espionage as new threats to Australia: these claims the committee appears to have ‘swallowed hook, line and sinker’.

At the risk of appearing cynical, anyone who has been around for a while knows that right-wing extremism has been a feature of Australian society since at least the [1930s](#) and can in no way be seen as a “new” source of threat. As for Chinese espionage, ASIO’s repeated attempts to ‘bug’ the under-construction Chinese Embassy in Canberra in the 1990s would indicate China has also been on ASIO’s radar for a long time.

Mike Burgess, the new Director General of Security running ASIO, seems to be recycling old threats so that when one goes cold, another magically appears as he rattles his beggar’s cup to keep precious tax dollars flowing into the coffers of our intelligence and security agencies whilst keeping them at the core of government.

In a related, if not coordinated move, the head of the newly-renamed Australian Signals Directorate (ASD), Rachel Noble, set about establishing the basis for her own assault on the rights and freedoms of Australian citizens by claiming, in what was described as a [landmark speech](#), that “[not all Australians are the good guys](#)”. This is a populist justification for shifting the ASD role from an external focus to an internal one where it can be used to spy on Australian citizens and extend the reach of what many in civil society fear is an emerging police state.



*Cartoon caption: The extent to which the security apparatus and executive government have thumbed their noses at integrity, trust and transparency is well captured in this David Pope cartoon social commentary (Canberra Times), which explains how the courts are not even permitted to examine secret ASIO assessments used to "jail" asylum-seeking refugees on remote islands purposely chosen to be far from the nation's conscience.*

Apart from being gender exclusive, this flawed claim fails to establish how many domestic bad “guys” she sees as a threat and it misrepresents the diverse population of 25 million Australians in simplistic binary terms which is both divisive and inaccurate.

Given that the empirically definable number of domestic bad “guys” referred to by Ms Noble is likely to be miniscule in comparison to the total population, why would we risk the privacy of all Australian citizens by expanding ASD’s role as proposed by Home Affairs/Border Force Minister Peter Dutton?

It will be interesting to see how the committee responds to such claims.

It seems that the community is being deluged by intelligence and security claimants rushing into the limelight in unparalleled numbers over recent months with the heads of the Australian Federal Police, the Australian Crime Commission and the Australian Transaction Reports and Analysis Centre combining in a first-ever joint appearance at the National Press Club in July 2020.

Their appearances sing off the same song sheet as those of Mr Burgess and Ms Noble.

All these appearances seek to put human faces to intelligence and security agencies, who describe “serious” threats and seek to disarmingly shape public audiences towards acceptance of their increased roles in society.

Either they have all experienced a *road to Damascus* conversion moment towards openness and transparency at the same time...or we are witnessing a charm offensive by normally publicity shy or obscure officials.

This type of behaviour, though rare for the more secretive agencies, is not new to the *Canberra bubble*, indeed it became known as “the formula” for many years in closed circles within one major department of the government where new and disconcerting threats were “discovered” and promoted to reinforce calls on the public purse. This is done by taking low-likelihood, serious-consequence scenarios and representing them as having an increased likelihood (weapons of mass destruction in Iraq is a notable example).

After several more or less successful iterations, officials became wary of what they saw as the *Chicken Little trap* when it was pointed out that, based on previous prognosis, Australia should already be deep in calamity and that a dangerous skepticism was building which could undermine their credibility.

They had the common sense to dilute use of “the formula” at that point. The question is, will the intelligence and security agencies know when to step back or will they fall into the *Chicken Little trap* with their credibility in shreds?

### **Why is the PJCIS failing?**

If bureaucratic strategies, such as the “the formula”, are so well known, why does the PJCIS not seem able to identify the pattern? Why is there such a great disparity between the views presented by civil society and the findings of the PJCIS? The answer can be found in three factors which have undoubtedly undermined the work of the Committee.

The first is **structural bias** in the weight accorded to submissions from government agencies as opposed to civil society. This bias is most evident in differences between the number of submissions from government agencies as opposed to civil society and the proportions from each of these two groups provided with the opportunity to make in-person representations to the committee and to engage in further Q & A dialogue with its members.

The common pattern is for all or most government agencies (up to 100%) making submissions to be called before the committee to give evidence whilst it is usual for only a proportion of civil society entities to be called, especially where there are larger numbers of submissions from this group. Civil society entities are regularly capped at a similar number to that of government agencies, seemingly to fit in with one-day type hearings.

The discrepancy, in terms of entities making submissions, is often something in the order of three or four government agency submissions, for example the AFP, ASIO and the Department of Home Affairs, whilst there may be in excess of 20 or 30 from civil society.

For this process to be equal and without proportionate bias, 100% of civil society entities would need to be called to give evidence if 100% of government agencies are provided with the opportunity. This practice is, therefore, disproportionately biased in favour of government entities with civil society being disadvantaged and many its entities effectively gagged by committee practice.

This practice also disadvantages tax-paying entities relative to tax-absorbing entities which is a reversal of democratic relationships as those who provide the funds from the community have less influence than those paid to work for them.

There are exceptions to this pattern where powerful industry lobbies or state government agencies are involved, such as during the recent media and metadata inquiries, or alternatively where inquiries, such as the declaration of terrorist groups, attract little public interest.

The second factor affecting the committee’s performance lies in **its composition**.

Formal provisions for composition relate to only the balance between the House of Representatives (six members) and the Senate (five members) with a requirement that the majority of members be from the Government. Unfortunately, this does not guarantee a

representation reflective of the composition of the Parliament as a whole with the committee currently made up of exclusively Liberal and Labor Party members.

The Greens, One Nation and all other crossbenchers have been excluded, to such an extent that the committee has been described as a “[closed shop](#)”, with even the National Party now being ‘booted’ out of the room. Because of this policy, the committee represents only 85% of the Australian Parliament.

This jerrymander of the committee’s composition silences important constituencies in the Parliament and dangerously narrows the range of debate on matters of national importance involving the rights and freedoms of all Australian citizens. Many of the excluded Members and Senators hold strong views on the diminution of Australian rights and freedoms and have argued strenuously that much of the legislation “rubber stamped” by the committee supports the dangerous evolution of a police state.

The third factor shaping the committee’s performance is **Labor’s declaration of bilateralism** on national security policy.

This is a perverse position for a parliamentary opposition to adopt because it amounts to a complete abrogation of responsibility, with Labor refusing to publicly debate national security policies proposed by the government. This singular act undermines a fundamental principle of the Westminster system of government by diminishing parliamentary opposition in this critical area of national public affairs.

Labor’s public position, that it does not want to politicise national security, fails the common sense test because national security is already highly politicised and it is well known that Labor has, to date, been prepared to abandon principle in favour of party-political success over national security matters.

Labor's approach is to avoid being "wedged" on security matters by the Coalition. But, if avoiding being wedged means you have abandoned your principles, how much is there left for Australians to vote for?

### **Where to from here?**

Any one of these three factors alone would be serious but together they are devastating for the development and maintenance of rational, national security policy.

When the long-term rights and freedoms of Australian citizens are taken away, the national security debate transitions from one of balance designed to preserve the Australian way of life to one which undermines it.

More critically, it is time for opposition members on the committee to start earning their pay by thoroughly testing policies proposed by executive government and serving the interests of Australian citizens rather than vested interests within the bureaucracy.

There is little point in the Australian government berating China about authoritarianism when it is doing the same thing to Australian citizens.

The Australian Government is now, for example, engaged in mass surveillance, secret trials (agents J and K, and Bernard Collaery), harassment of journalists, and punitive treatment of whistle blowers. Just as in China, the government evades ethical questions of right and wrong using tautological claims that its actions are legal on the basis of laws passed in the face of fierce civil society resistance.

The irony of this paradox should not be lost on Australian citizens. It has apparently disappeared entirely from the deliberations of the PJCIS.

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\* Tony Murney is an independent security sector reform advisor. He was an executive officer in the AFP with 12 years experience leading different facets of strategic planning in the International Deployment Group (IDG), ACT Policing and later on secondment to the Australian Civil Military Centre. He is a member of CLA. *Article date: 200912*