



VICTORIAN COUNCIL FOR CIVIL LIBERTIES

31 May 2010

Executive Officer
Victorian Parliament Law Reform Committee
Parliament House
Spring St
East Melbourne, 3002

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Dear Sir/Madam,

**Inquiry into Arrangements for Security and
Security Information Gathering for State Government
Construction Projects**

Liberty Victoria welcomes the opportunity to make a submission to this inquiry.

A number of press reports have alleged that State Government Departments and instrumentalities have co-operated with Victoria Police in gathering information on protesters against construction projects for which the Departments and instrumentalities are responsible: see, e.g. *Stateline*, ABC1 television, 16 April 2010.

It has also been alleged that there are agreements between Government Departments, private developers of infrastructure projects and Victoria Police which impose on the Government and the private developer obligations to gather and to pass on to Victoria Police information about protestors: see, e.g. P Austin, *The Age*, 5 December 2009.

Liberty Victoria has received extracts from a document which appears to be an agreement between Victoria Police, the Secretary to the Department of Sustainability and Environment and AquaSure Pty Ltd entitled "Standard Operating Procedures; Demonstrations – Protest action". A copy is attached.

This document relates to the desalination plant in Gippsland and bears out the allegations made in the press. Paragraph 4.8 of this document appears to impose an obligation on both the Department and the company to provide "intelligence" to Victoria Police about possible protest action. No distinction appears to be drawn in this respect between lawful and unlawful protest action. Clause 4.6 envisages the involvement of the Security Intelligence Group, the police anti-terror unit.

The authenticity of this document has not been established. Liberty Victoria would welcome action by the committee to determine whether the document is authentic. It also recommends that the committee request production by the Government of all similar documents.

The document does bear out the allegations that have been made in the media, including allegations of spying by officers of Government instrumentalities on the lawful activities of

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people who have engaged in peaceful and predominantly lawful protest against Government infrastructure projects.

Liberty Victoria is not concerned about the rights and wrongs of these projects. But it is concerned about the rights of citizens to protest peacefully against such projects. Those rights are enshrined in the Charter of Human Rights and Responsibilities Act 2006, esp s 13 (right to privacy), s 15 (freedom of expression), s 16 (freedom of assembly) and s 18 (right to take part in public life).

Liberty considers that arrangements like those in the enclosed document infringe those rights. In so far as Government Departments and instrumentalities are involved in those arrangements, they may well be in breach of their obligation under s 38 of the Charter to act in a manner compatible with human rights.

Whether or not there have been breaches of s 38 of the Charter, the response of arrangements of this kind is a massive overreaction to the relatively low level threat posed by protestors against these projects. It is difficult to imagine why the police anti-terror unit should be involved in these arrangements.

Furthermore, if Government Departments and instrumentalities have been gathering personal information about protestors there is a serious question whether this has resulted in breaches of the Information Privacy Act 2001. Under Privacy Principle 1.2 of that Act, a Government body may not collect personal information unless it is “necessary for one or more of its functions or activities”. Privacy Principle 1.2 restricts the collection of information to “lawful and fair means” and prohibits collection of personal information “in an unreasonably intrusive way”.

If press reports about spying on the activities of protestors are true there would appear to have been breaches of these principles, exposing the Government to complaint and possible legal action and damages.

Liberty urges the committee to investigate these matters thoroughly and report on whether there have been breaches of the Information Privacy Act.

I thank the committee for the opportunity to raise these matters and trust it will accord them appropriate consideration.

Yours faithfully,



Michael Pearce SC
President