

**Parliamentary Joint Committee on the  
National Crime Authority**

**Inquiry Into The Australian Crime  
Commission Establishment Bill 2002**

**Submission No:7  
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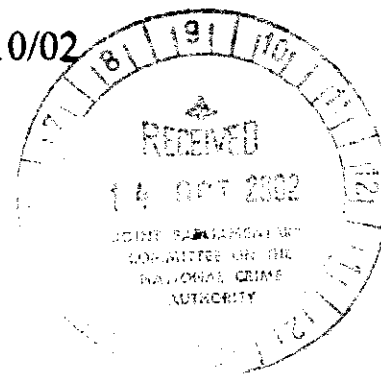
# ACLU AUSTRALIAN CIVIL LIBERTIES UNION

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Joint Committee on the National Crime Authority,  
Parliament House,  
Canberra,  
ACT 2600



Dear Sirs/Madams,

## N.C.A. Submission

The Australian Civil Liberties Union thanks you for inviting us to make a submission regarding the NCA and its legislation.

As civil libertarians, we are concerned by a growing trend, especially since "9/11", to use the excuse of "anti terrorism" to create increasingly repressive legislation and to seek to vote it into force, a trend which is occurring and has occurred in USA, UK and Australia, as well as other countries.

The cry of "anti-terrorism" seems to be used to "justify" the denial of basic civil liberties, especially to those labelled as "terrorists", ignoring the fact that even "terrorists" have rights, which should include "innocent until proven guilty" and should have it demonstrated by the State that they are guilty as charged. It should not be the task of the accused to prove themselves innocent. And there should be freedom from arbitrary arrest.

Yet many forms of legislation, including the "Proceeds of Crime" Bill, the ASIO bill, and others, have a platform of arbitrary sentencing without proof that a crime has been committed and dispense totally with "innocent until proven guilty" and often with "trial by jury", becoming

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increasingly rare in our system. The heritage of safeguards against arbitrary arrest and detention is being thrown in the trash can with apparent disregard.

The more power that is given to a government instrumentality, including the forthcoming ACC, (which is a much enlarged and combined version of the former NCA, Office of Strategic Crime Assessments (OSCA) and the Australian Bureau of Criminal Investigation), the more potential there is for abuse of power and, in the name of "fighting terrorism" can become a terrorist agency in itself. If the Australian government declares war on Iraq, in tandem with the United States and other governments, this is likely to be accompanied by real or false allegations of "increased terrorist activity" and more and more tightening of the screws, which will move to eliminate the few chances of freedom left in the system.

The new ACC will doubtless have a lot of power invested in it, but what precautions are there against abuse of power, and what degree of accountability will it have? Will considerations of "national security" be used as a device to deny information on its operations to the public? In the sheaf of information sent to ACLU, these considerations appear not to be mentioned or, if they exist at all, are very much "secondary" as a consideration. Yet, they should be of crucial importance and no amount of alleged "fighting terrorism" can ever justify removal of civil liberties or creation of a strong-arm organization that can become a facade for State terrorism.

In view of this, it would be of interest to discover what safeguards, if any, exist, against abuse of power and what penalties exist for any abuse of power. Also what safeguards exist to protect the rights of the individual?

Yours,

  
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