STRATEGIC ANALYSIS AUSTRALIA

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Fear of being quoted is no basis for censoring the Parliament and public debate

NOT a Submission to the Parliamentary Joint Committee Inquiry into the operation and effectiveness of the behaviour codes

Thank you for the opportunity to make this submission into this important inquiry. {And thank you also for your advice that you have rejected this submission, while accepting its counterpart, from the assembled Public Service Secretaries, which proposes censoring how Parliamentary hearings are publicised and discussed.)

The inquiry has unexpectedly turned into something with importance to Australian democracy far beyond the internal operation of Parliament House as a workplace for the elected representatives, employees and staff who work there.

This is because of the intervention of the collected Commonwealth Departmental Secretaries in their extraordinary submission to the inquiry (Submission 11) setting out measures they propose to control how officials are questioned when appearing before Parliament, along with proposals to control how what officials say and do when testifying before Parliament can be used in public communication and public debate.

The Secretaries, writing collectively as the "Secretaries Board" appear to conflate rigorous questioning of Australian Public Servants who appear before inquiries with bullying. Their submission, while purporting to support the rigour and scrutiny that forensic questioning by our elected representatives provides, seeks to constrain and undermine this by characterising such questioning as not showing sufficient respect for themselves and other members of the Senior Executive Service of the Commonwealth public service.

The root cause of what the Secretaries are so concerned about is a simple one: the words, performances and behaviour of public servants appearing in open Parliamentary hearings. This material, when seen by members of the public on various media, including social media, has resulted in the officials being criticised and at times ridiculed. But it is not the act of disseminating this material that is the cause of the alleged problems, it is the material itself. Without the embarrassing words and poor performance, the public criticism would not occur.

Improved performance by our public service officials and open, honest answers to forensic questioning, are the right remedies here. It is extraordinary, for example, that it takes 4 months to get a simple "No" in answer to a question about whether the NSW Police were consulted before the Defence Department decided to sell a facility the police use, with a further lengthy period of questioning 4 months later (one hour into the parliamentary hearing on 4 September 2026) finally winkling out the answer which should have been provided by the official months earlier. (In this case, no one was consulted by Defence prior to its decision about that particular facility or other facilities, so the answer was obvious from the start.)

This type of performance by officials is not unusual, but it is the problem. The problem is not members of the public reacting badly to hearing of it.

The alleged harm is underwhelming balanced against the value of an open Parliament

Reading the Secretaries' Board submission, it is striking to note that the examples they give of disrespectful questioning of public officials are:

"There have been instances, including in Senate Estimates proceedings, in which the conduct of committee hearings has not been appropriately respectful nor fair to Official Witnesses. For example, the Board is aware of examples where individual public servants have been accused of engaging in criminal conduct, of being racist, of gross violations of human rights and of engaging in acts deliberately intended to harm others. Officials have been accused of being 'weak' for implementing government policies. It is not uncommon for public servants to be accused of 'hiding' things, 'covering up' for the government, or 'being a liar'."

If these are the worst of the problems that the collective leadership of the Public Service have been able to assemble, they are an underwhelming problem set. The problems they identify in conduct of inquiries are a natural and expected part of a rigorous and effective democracy. They are examples of debate, questioning and discussion which occur in many vigorous debates or conversations inside or outside Parliament, where some level of controversy, difference and dispute are part of human interaction. They simply do not meet a level of harm or even controversy to be the basis for extraordinary measures to control Parliament or to extend beyond the Parliament itself to control Parliamentarians' and the public's use of officials' testimony provided in open hearings.

And yet, these examples are then the foundation for the Secretaries Board to claim that this is sufficiently damaging and harmful to individual officials (and even, apparently, to the broader Public Service who are apparently exposed to damage by reading about or seeing such material….) that measures must be put in place to control both questioning in Parliament and dissemination of officials' testimony in media.

As the Committee knows, however, there are existing rules and guidelines for the conduct of Parliamentary inquiries and hearings, as a well as guidelines for the obligations on and treatment of official witnesses appearing before Parliamentary Committees. These existing rules and guidelines are more than sufficient to ensure proceedings are respectful, but they are also designed to allow the rigorous questioning and scrutiny that an open Parliament in a democracy is built upon. So, even accepting the problems the Secretaries Board identifies are sufficiently serious to warrant any intervention, they have existing remedies.

In short, there are no grounds for officials who appear before Parliament to have any additional protections to those in operation now, and no grounds for such officials' testimony to be controlled or treated any differently to anyone else's evidence before a Parliamentary inquiry once it is given.

The members of the Secretaries Board of the Australian Public Service are seeking entitlements for themselves and other members of the Senior Executive Service which are extraordinary. It is hard not

to see this as based on a level of expected deference from Parliamentarians and the public that casts doubt on the notion they consider themselves public servants, in the sense of serving the public or the Parliament.

Fear of being quoted is no basis for proposals to limit reporting of public officials' evidence in open parliamentary hearings.

Overreach: officials' proposals to control proceedings and publication

The Secretaries set out a far-reaching set of proposed controls on Parliamentarians' use of official witnesses' testimony and evidence provided in open hearings. These should be rejected in full.

They propose:

"If the Parliament were not inclined to prevent the use of this evidence on social media, guidance could be developed to encourage parliamentarians to:

- present excerpts in full and in a manner that accurately reflects the substance of proceedings
- share information in a manner that respects the purpose of the committee and the capacity in which an official presents evidence;
- avoid misleading editing practices – i.e. videos should not be edited, and captions should not be added;
- refrain from content and commentary that targets individual officials for ridicule or harassment; and
- consider appropriate contextual material where excerpts are published.

The Parliament, in considering such options, could mandate that contextual information must be provided with extracts of officials' evidence. For example, where clips of committee proceedings are made available on social media, links could be provided to the full hearing or transcript."

Again, this is extraordinary overreach from the leadership of the Public Service. The idea that dissemination of material – images and testimony – provided in open hearings in our Parliament should be subject to these controls fundamentally misunderstands the centrality of Parliament to our open democracy. The hearings and inquiries held by the Parliament are a core way that members of the public see anything about the inner workings of our government and the bureaucratic institutions that support it.

Unconstrained dissemination of the information provided in such open hearings is a critical, foundational design element of the Australian Parliament and allows the separate powers of the Parliament to be exercised in holding the Executive and the public officials who are part of it to account.

Editing, quoting and selection are how reporting works

Once any person – whether a politician, a public servant, corporate executive, analyst, commentator or member of the public — makes statements in public, they lose control over how those statements are edited, selected, used reported and responded to.

As an example, ministers and other politicians give lengthy speeches which are reported in national media. Officials sometimes do the same. The evening news programs never show the entire speeches, never provide links to the speech body and always edit and select imagery and extracts to use in their reporting, as do print and other media organisations and social media.

Beyond speeches, public content provided by any figure in Australia is subject to the same editing and selection choices, accompanied by commentary and analysis as the individual media organisation, journalist or commentator sees fit. This is the baseline for anyone making statements

in public forums or in interviews with media organisations or other public appearances or engagements.

Editing and selecting what to report from specific public material is not just normal for disseminating information, it is essential as a means to deal with the volume of information produced.

The novel controls the Secretaries Board is proposing be placed on how Parliamentarians edit and select content for public dissemination would be impossible to propose to place on journalists, media organisations or any other organisations involved in analysing and reporting on Parliamentary hearings and officials' statements.

To put this into perspective outside the Canberra bubble, any proposal to control Australian media by applying the measures the Secretaries propose for parliamentarians would be rejected as nonsensical and deeply damaging to a free press and freedom of speech. That's because it would be exactly that.

The Secretaries Board proposals have company

A Defence Deputy Secretary – Celia Perkins –made statements in a recent Parliamentary hearing on 4 September 2026 that parallel the Secretaries Board proposals in clear ways. Here is her exceptionally odd claim around lack of consent to use of images and testimony by Defence officials "outside the framework of the parliament":

"I would note, for the record, that the Defence witnesses appearing before the committee today are pleased to take your questions but they do not consent to the reposting of our evidence to social media sites or the reproduction of our likenesses for the purposes outside the framework of the parliament and the transparent public proceedings of this committee".

The official seems to have been trying to stop video footage or even transcripts of her evidence from being sent out on platforms like Instagram, X, Facebook or Tik Tok by asserting personal control over it. It appears she proposed that the footage and transcripts be contained somehow within "*the framework of the parliament and the transparent public proceedings of this committee"*, whatever that means.

The statement was read out from a document or notes that this senior official had with her, and involves a similar logic to that in the Secretaries Board submission. So, it was a thought through rather than spur of the moment statement.

What is so extraordinary about this claim isn't just that it is wholly wrong. Or that, fortunately, it was rapidly and completely rejected by the Senators and the clerks of the Senate.

The extraordinary thing about this claimed power to control what use anyone made of the official's statements after an open hearing in our country's Federal Parliament is that the official somehow thought it was appropriate to make the claim at all. Of course, it is even more breathtaking to realise that this was not an isolated proposal, but one that works along the lines proposed by the Secretaries Board to this Committee.

Accepting the Secretaries' – and Ms Perkins' - proposals would create a perverse outcome where information provided by public officials in open parliamentary hearings would be more controlled than other information in the public space.

The opposite should remain true. Dissemination of material from Parliamentary proceedings should be more open and less controlled than the broader media landscape, not subject to greater censorship and control on the grounds of somehow protecting the claimed special needs of public officials.

The bigger picture: rising censorship and withholding of Government information by the Federal Government and its public service agencies

The extraordinary claims and proposed measures set out in the Secretaries Board submission coupled with Ms Perkin's claims would operate in a much wider environment of increasing Government censorship in Australia, notably at the level of the Commonwealth Government and its collection of departments and agencies.

This bigger picture is the frame in which the Committee's response to the proposals before it must be considered.

The level of censorship and non-disclosure practiced by the Federal government and its public service agencies now is already sufficient to damage the trust and confidence that the Australian population has in these core institutions and agencies. This makes proposals to limit and control both Parliamentary hearings and the use of material from them even more damaging to public understanding of public policy and the workings of government in Australia.

Sustainable public policy and trust in government and its institutions require an informed, engaged public. Censorship undermines this.

The current Federal government discloses less and hides more from the public than Scott Morrison's government ever did, according to analysis by the Centre for Public Integrity. Our current government completely refuses more requests for information than it grants. And its refusal rate on requests to release information is double what the statistics show from a decade ago.

A case study in withholding information and censorship: the Defence organisation

As a case study to illustrate these wider problems for the Committee, nowhere in the Commonwealth Government makes more sweeping claims to secrecy than the Defence Department, its ministers and its senior military and civilian officials.

Unfortunately, it's now part of the expected routine with any Defence announcement or media engagement to hear that ministers and officials can't tell the public much without risking grave damage to our nation's security. As an example, here's minister Pat Conroy stating that "*too much information is unhelpful in the public domain*". In that case, he was being questioned about information showed Defence was failing to protect its key airbases from simple drones. Officials and ministers might find that unhelpful or embarrassing for the public to know.

Defence ministers and officials are well-practiced in invoking national security, operational security, classified information and even commercial confidentiality to withhold information from the Parliament and the public. This stifles public understanding and debate about our nation's security.

Officials also use – and overuse – other tools like the powers to restrict information under the FOI laws. Their decisions to withhold or censor material requested by the public are frequently overturned on appeal by decision makers outside the Public Service's chain of command. And they

are increasingly saying that privacy concerns under the Privacy Act prevent them from naming the names of anyone accused of corruption or misconduct.

A recent censorship development that is particularly damaging is the muzzling of the independent Australian National Audit Office. This has resulted from Defence senior officials inventing a new "Not for Publication" label that is now put on information about major defence projects' milestones and delivery dates. This novel device, which is applied to information that is wholly unclassified, has ended the Auditor-General's production of its annual Major Projects Report.

That report was the primary way anyone outside Defence found out anything about the progress and problems in Defence's big projects which spend hundreds of billions of taxpayer dollars. It routinely disclosed failures, problems and delays and made ministers and officials uncomfortable by revealing their failings.

This now pervasive withholding and censoring of information about our nation's Defence organisation and its performance is corrosive and damaging.

Not only do Australian taxpayers and voters have the right to know whether the $62.6 billion they've given Defence for just this year is being spent badly or well, they also have a right to know how well or badly the public servants we trust to run Defence are performing in this use of national treasure. Government ministers and public service officials have a responsibility and obligation to give us the information to judge this. They are failing that obligation.

The openness of the American Government on defence issues makes the Australia Government's secretive approach on defence embarrassing

The American Defense organisation holds much more, more highly classified, information and sensitive material than Australia's. It is often characterised as overly restrictive when it comes to disclosure of information to the public. Yet it is far more open than its Australian partner.

As an example, on major project delivery to the US Government's military, the Pentagon released 500 pages of "supporting documentation" on the US Navy's shipbuilding programs as part of its engagement with the elected representatives in the US Congress looking at this year's US Defense budget. That information is publicly available.

That's just normal practice in the US system, and the information includes detail about the US Navy's highly classified programs – like the construction costs, dates and delivery details for the Columbia Class ballistic missile submarines. It has similar information on the Virginia class submarines – which are part of the AUKUS program – which is again subject to extensive secrecy and security claims by ministers and officials here in Australia.

Meanwhile, the Australian Defence organisation has censored and stopped the Audit Office releasing just tens of pages on Defence's top 30 projects across the Navy, Army and Air Force in its annual reporting, withholding information the US routinely releases.

Defence justifies this on security grounds that clearly aren't shared by their partners in the Pentagon. Defence also says not much has changed, as it still provides all the information to the Audit Office, it just stops the Audit Office from reporting any of that to the public. But of course, that guts the power and purpose of the Audit Office work, resulting in future reports being cancelled.

Withholding names

Another area of growing non-disclosure and censorship that is affecting the quality of public understanding and debate is around the names of officials and others – like the staff in ministers' offices – who are accused of or found to have behaved inappropriately or corruptly.

Right now, for example, Defence's own military courts are issuing suppression orders to stop journalists naming a military officer who is accused of some kind of misconduct or wrongdoing. It also appears that Defence has prevented any reporting of the military court proceedings through wider suppression orders. Similar charges against an ordinary Australian citizen would be heard in open court with the name of the accused and the substance of the charges and evidence all being matters of public knowledge. An open justice system requires justice not just to be done, but to be seen to be done.

Beyond suppression orders, ministers and officials make frequent claims that the Privacy Act stops them from naming people involved in any controversy or misconduct.

However, the Australian Capital Territory's Integrity Commission has somehow found a way to name the individuals at the centre of corrupt conduct in local building contracting, despite being bound by the Privacy Act like everyone else. Here's an extract from the Commissioner's report on Operation Kingfisher:

"Names in this report
People and entities relevant to this investigation have been identified in this report, even where there is no criticism of their conduct. This is because it would otherwise be difficult to make sense of the narrative and to avoid speculation about who was involved in the relevant events. In accordance with the requirement in s 186, I am satisfied that it is desirable to do so in the public interest and will not cause unreasonable damage to their reputation, safety or wellbeing."

A number of people – ministerial staff and ACT public service officials – are named in the Integrity Commission's public report, including the Chief of Staff to the relevant ACT Government minister, and the senior official who was head of the Education Directorate involved in the contracting.

So, it is absolutely possible to name officials accused of wrongdoing or misconduct – and it is in the public interest. Overuse of Privacy Act justifications for censoring and silence just don't hold up under examination. Yet Commonwealth ministers and public officials use the Act as a justification for non-disclosure.

Remembering the basics about Australia's system of government

On top of the sheer scale of public money involved, officials working for the Federal Government generally and in Defence specifically are part of our democratic system. And in that system, the government of the day, the people elected to Parliament and the public servants who work for the Commonwealth's departments and agencies are all responsible to the Australian population for what they do on our behalf.

It's core to any public servant's work for them to understand that they are required to perform their work with openness, honesty and transparency. Narrow, thoughtful exceptions around actual secret information and the deliberations of Cabinet are necessary. But officials and ministers are far too ready to reach for the secret, classified or new "not for publication" label for material that might be simply embarrassing or uncomfortable to disclose.

In an open system of government, the default is disclosure, not secrecy and censorship.

Performance is improved through openness and accountability. Corrupt conduct, incompetence, insider trading and poor performance thrive in the darkness – as various Royal Commissions have demonstrated through Australian history.

Our public officials are required to hold themselves and their colleagues to account when there are shortfalls and failures. And they must expect others – in the Parliament and in the Audit Office for example – to hold them to account using the independent powers these parts of our system of government possess.

Public servants now understand very well that they are accountable to the ministers of the government of the day. But with this most recent example of overreach and attempted censorship from the Secretaries Board they seem far less clear about their responsibilities and obligations to our Parliament and the Australian public.

There is a more than a whiff of entitlement to behave as if the Departments, agencies and institutions they operate on our behalf are their own private businesses, not public institutions wholly owned and accountable to the Australian people.

Yet officials' responsibilities to the public and the Parliament are central to how they should think about and perform their role in the public service every working day.

The best outcome

The most interesting thing to watch in the aftermath of this disastrously misjudged and wrongheaded attempt to censor the workings of our Parliament is what happens from here – in the Committee's report and in the workings of our Public Service departments and agencies.

On the basis of the Secretaries Board submission and the testimony of Defence Deputy Secretary Perkins, it is clear that a major education and training program is required to correct officials' understanding of basic things about their roles and responsibilities to the Parliament and the public. This could be recommended in the Committee's report.

If the assembled leadership of the Australian Public Service can make the misjudgements evidenced by their submission, then there seems to be a systemic problem.

The Committee might also consider the broader censorship and disclosure environment around government information in Australia in making its report and reacting to the Secretaries Board proposals. A clear rejection of the logic, foundations, reasoning and proposals in that submission would be a necessary and welcome message for public officials to receive and understand.

This overreach by officials in attempted censoring of the Parliament can be the event that resets the Executive Government's path on public disclosure of government information. The Committee can help ministers and the officials that serve them realise that openness and transparency are the medicines needed to reverse the decline in public trust of government and its institutions.

The idea that an informed public and an informed Parliament is key to our nation's success is a simple one. But giving effect to it will require a major behavioural shift from Government ministers and from every member of the Australian Public Service, starting with its most senior officials.

Thank you for the opportunity to make this submission to the current inquiry. And thank you once again for your advice that you have rejected this submission and so will not consider it during your inquiry. I look forward to your deliberations on the Public Service leadership's advice to you about controlling and limiting the public dissemination and discussion of Parliamentary hearings.

Michael Shoebridge
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