

**Submission
No 117**

**INQUIRY INTO PROVISIONS OF THE FIREARMS AND
WEAPONS LEGISLATION AMENDMENT (CRIMINAL
USE) BILL 2020**

Name: Mr Joseph Barry

Date Received: 31 July 2020

Dear Ministers,

As a law-abiding firearms licence owner, I support legislation that helps to prevent the criminal use of firearms.

Unfortunately, the current legislation draft "Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020" has several deficiencies that are likely to cause unintended consequences.

The draft Bill does NOT differentiate between licensed firearm owners and criminals and entitles police to act on suspicion of an offence or without probable cause.

The following changes are required to the Bill:

1. Remove the presumption that materials and equipment are firearm precursors, where police have no evidence of firearms or parts being manufactured. (Section 51 J (2) (d))
2. Decisions to confiscate firearms and equipment suspected of being firearms precursors, should only be made by police of the rank of Inspector and above, and only after careful consideration and such decision must be documented in writing.
3. Add a requirement that internal reviews of decisions involving firearms matters have to be completed within a reasonable, defined period of time.
4. The proposed new Section 51 K (2) and (3) compels a person to provide assistance or information to Police.

This breaches the Common Law principle of a person's right to silence.

This Common Law principle has been enshrined in Section 89 of the Evidence Act 1995, which states that no adverse interest can be drawn against a person if that person fails or refuses to answer any questions put to them by a Police Officer investigating the commission, or possible commission of an offence.

Every citizen has this fundamental right to silence and should not be coerced by the threat of a penalty to make any comment or provide assistance or information to Police without first obtaining independent legal advice.

Sections 51K (2) and (3) should be amended to "subject to the provisions of Section 89 of the Evidence Act 1995".

In other words, the right to silence will remain as a fundamental right of Australian citizens, under law.

Yours faithfully

Joseph Barry