

Trust of authorities, an essential requirement if a security agency is to become an effective protective entity... ten years on

In 1999, the Parliamentary Joint Committee on ASIO, ASIS and DSD accepted twenty of a number of submissions on the topic of what powers should be granted to ASIO. I was pleased that the two submissions I submitted - one confidential in relation to the dynamics of organised crime and corruption from a police officer's perspective¹ and the other public were accepted.

The public submission² began with the following prediction:

'The defiance of established authority, as a worldwide phenomenon is likely to be accounted as the outstanding event of the next decade'

The main body of text was philosophical and made the point that:

'[POWER] if exercised properly, authority, defined as "the power or right to control, judge, or prohibit the actions of others", can be a force for good. Authority that benefits both the individual and the community should be the outcome of any power given to a government entity [ASIO].'

With a conclusion in defiance of convention as an opinion with a somewhat cheeky delivery that summarised the central concern:

'Regarding if [We] should allow ASIO the power to hack computers, turn sound cards and web cams on and never have to tell the subject of their inquiries. You're joking right, aren't you? Power corrupts and absolute power corrupts absolutely.'

Now ten years on the prediction was proven to be an accurate description of the present system of things. The powers granted to ASIO over ten years ago were proven to be sufficient with some room for clarification and lessons-learnt revision. However, today we are back at the beginning to give serious regard to the question:

Should [...we...] allow ASIO the power to hack computers, turn sound cards and web cams on with regard to the present amendments that will allow these activities to occur and 'never have to tell the subject of their inquiries' for which immunity³ from civil and criminal laws is provided with respect to those that spy with the permission of a Minister of our Government.

Perhaps the answer to this question can be found in history.

In consideration of the question is the history in relation to the separation of the military and the militia [special agencies with ties to the military] from civil law enforcement with the signing of the **Magna Carta** which prohibited the imprisonment or punishment of a "freeman" [Citizen] except by his peers or the law of the land [State and Territory]. With reference to 'the law of the land' it is posse comitatus for ASIO to spy upon Australian citizens without the approval or knowledge of a Commissioner of Police of the land in which the subject Australian citizen resides.

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¹ Witness 51, Royal Commission of Inquiry referred to by the media as 'The Fitzgerald Inquiry';

² Submission 15 - <http://www.aph.gov.au/House/committee/pjcaad/asio/Subs/Sub15.pdf>

³ Amendment item: Immunity is necessary as certain Australian laws; State and Territory laws could impose liability on the agencies.

This is because at the end of the day the crime of intended or actual violence such as terrorism are essentially acts of attempted or actual primeval murder for which the peers of the charged person will decide if they are guilty or not guilty.

An Australian citizen, in consideration as to why the *Magna Carta* originally came into force (by way of war), cannot be judged on the basis of evidence gathered simply because a ruler, be it a King or a Minister has given them permission to search out possible offenders by whatever means necessary without consideration to the law of the land. To think that the law of the land should not apply is 'martial' without admitting it is, because the ends is said to justify the means by way of the word of the ruler [Minister] and not the people in accordance with a standard of behaviour that is applicable to all citizens including those that believe they are above those laws.

I respectfully submit that unless the six special agencies with links to the military with a charter to counter the war on terrorism are pulled into line in terms of complying with the land of the law than we will soon see Australians having to choose between civil liberties and more intrusive means of protection. As a result I am confident that by way of elections we will see more minority parties and independents coming to power on the basis of a return to genuine freedom and greater privacy for Australian citizens. I humbly conclude with a former submission related to privacy as a means to illustrate a particular point in this regard.

Dear Australian Privacy Commissioner,

Are we a nation of SheePeople or are we a nation of thinking People?

The wisdom of Benjamin Franklin in his 1722 essay was: "*They who can give up essential liberty to obtain a little temporary safety, deserve neither liberty nor safety.*" may be said to mean that if, we sacrifice liberty for security we risk losing both. To my knowledge no government anywhere has had the fortitude to ask its citizens their permission to be a subject of the emerging invasive security controls of electronic fingerprinting, scanning of the retina of the eye, and the naked body scanning of the masses – every man, woman, and child identified and numbered.

You may disagree with these treatments however if you wish to engage in certain FREEDOMS such as TRAVEL than you may be granted the PRIVILEGE provided you give up your RIGHT to your PRIVACY and DIGNITY.

Our nation began with people being transported as if all were criminals deserving of the treatments of those times and today can be liken to the past because as free citizens our permission is not being sought for the treatments reserved for each of us. If there is one country in the world where public authority still rules than perhaps that country is Australia. By openly discussing the matter at the very least we will show the rest of the world that Australians do not so easily succumb to a siege mentality because as a nation of thinking people we openly questioned if we should continue to exchange our respective rights of privacy and dignity for presumed temporary security.

Yours sincerely,

Mr Lawrence Lyons