



Submission No 233

Inquiry into potential reforms of National Security Legislation

Name: Peter Burke

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23 rd October 2012

The Hon Anthony Byrne MP
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Sir,

Proposed access to and manipulation of Internet exchanges

On 1st September 2012 I wrote to the Secretary of the Australian Attorney-General's Department raising the following specific questions:

"If as I understand it various Agencies, with the assistance of selected private sector ISPs will be able to "take over" our computers to amend, delete or add information. In addition, if it will possible for "authorized" Agencies and others to do this, then logically it will also be possible for "Unauthorised" agencies and others to do the same.

*In light of the above **what possible validity does the collected data have for judicial or indeed any other purpose, if the data is so open to manipulation by so many?***

If that is the case and I strongly suspect that it is, what is the true point of the proposal to access and manipulate the electronic data exchanges of all Australians?

I would like these questions dealt with and answered publicly".

I have received a response (attached) from Mr Jamie Lowe Acting First Assistant Secretary National Security Law and Policy Division, Attorney-General's Department, who responded on behalf of the Head of the Department.

There are several aspects of the letter which serve to heighten my concerns relating to the intentions of the public servants presenting the increased surveillance proposals to the joint committee and eventually the Government.

Firstly, not only were the questions raised by me not answered, they weren't even addressed. I believe the questions I raised are fundamental to the issue of protection of freedoms and the response avoidance by the public servants pressing the proposal is frightening to say the least.

Secondly, Mr Lowe comments in the third paragraph of his letter that the Joint Committee has been asked by Government to ensure that "...the safeguards and privacy protections in the relevant legislation are well adapted for the

modern communications environment". I have no idea what that means either specifically or generally and take no comfort from that supposed assurance.

Finally, Mr Lowe in his last paragraph on the first page advises that criminals are active users of the internet and makes particular mention of on-line fraud and the activities of paedophiles. To my disgust he then insinuates that I (and presumably) others who are raising concerns over the proposals, are actually advocating that fraudsters and paedophiles should be beyond the reach of the law. I find that insinuation highly insulting and offensive, only adding to my concerns over the nature and intentions of those putting the proposals forward.

I believe the response from the Auditor- Generals Department displays outstanding arrogance and wilful ignorance of the value of community comment. As the Department will be the primary administrators of whatever changes are brought forward I strongly believe that the attitudes displayed in the correspondence should be considered as part of your Committee's Inquiry

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Burke', with a long horizontal flourish extending to the right.

Peter Burke



Australian Government
Attorney-General's Department

National Security Law
& Policy Division

SEC12/0477

13 September 2012

Mr Peter Burke
PO Box 306
COOROY QLD 4563

Dear Mr Burke

Retention of Internet Transaction Data by Espionage Agencies and Others: Validity of Data

Thank you for your letters of 1 September 2012 to Mr Roger Wilkins AO and Mr Tony Sheehan of our Department, regarding changes to National Security Legislation currently under consideration by the Joint Committee on Intelligence and Security. The Secretary and Mr Sheehan have asked me to respond on their behalf.

The Government has made no decisions regarding the matters referred to the Committee – including data retention.

The purpose of the referral is to seek the valuable input of the Committee's members and provide an opportunity for public hearings and public consultation. The Attorney-General has emphasised that the referral is the beginning of the process and the Government is seeking diverse views before determining which legislative reforms it will pursue. Importantly, the matters referred to the Committee include ensuring that the safeguards and privacy protections in the relevant legislation are well-adapted for the modern communications environment.

The law enforcement and national security environment has changed substantially since the *Telecommunications (Interception and Access) Act 1979* was introduced. With some legislation becoming dated, it is timely to ask what reforms might be needed to ensure that law enforcement and national security agencies continue to have the tools and capabilities necessary to protect the community from emerging threats, in particular from organised criminal and terrorist groups.

As well as considering modernisation and new or emerging threats, the Government is conscious of ensuring that safeguards and privacy protections in the relevant legislation are well-adapted for the modern communications environment.

Despite some of the public debate, it is not correct that the Government has plans to track everything said on the internet and social media sites. But you should be aware that social networking providers do have a role to play in combating crime, just as the established telecommunications industry providers do. It was never intended to allow social media to be a "safe haven" for criminal activity. We know, for example, that the rise of social media has led to new forms of old crimes, such as online fraud and paedophiles "grooming" children. No-one should advocate this being beyond the reach of the law.

Of course, new technology, new threats or old threats in new forms simply underline the need for a review to consider where our laws are appropriate and where they no longer meet the community's needs.

These are important issues that the Government wishes to explore.

I encourage you to follow the public hearings and submissions. The Government will consider the Committee's findings carefully.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Lowe'.

Jamie Lowe
Acting First Assistant Secretary
National Security Law and Policy Division

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