



Submission No 160

Inquiry into potential reforms of National Security Legislation

Organisation: Mr Bryant Allen

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To: Committee, PJCIS (REPS)

Subject: Inquiry into potential reforms of National Security Legislation

Short of time and working overseas, I made a submission written for me by the Greens. For that I apologize. Having thought more about this matter, I would like add a personal submission.

I can understand why it is necessary to bring the legislation into line with advances in Internet capacity and social networking.

Nevertheless, I believe strongly that whenever security agencies are given the right to monitor the everyday communications of citizens, it is important that some form of oversight, preferably by a court, is provided. I am not of the opinion that security agencies by definition are untrustworthy or evil. But there are too many examples of where otherwise good men and women within the security and law enforcement agencies have succumbed to the temptation that the ends justify the means and the results have been misery and mental and physical damage to individuals.

Within 12 months of so-called illegal immigrants being able to be incarcerated without being brought before a court first, we had one insane women locked up indefinitely and another innocent woman deported. We have had other citizens (perhaps not quite so innocent but at least not proven criminals) being subjected to illegal detention and torture overseas. I don't need to mention the problems that arose in the 1950s when it was believed the Australian Communist Party was a threat to state security, nor do I need to refer to the McCarthy era in the USA to make this point.

Without the courts guarding the activities of security and law enforcement agencies, the risks are too high that individuals and society itself will be damaged by the behaviour of agents who believe they are acting in the best interests of the state and the citizens.

To argue that social media was never intended to be safe haven for criminals and therefore the activities of all citizens must be monitored, is trite. Nor were lots of other things which criminals use. To suggest that those who do not support mass monitoring of Internet activities support paedophilia is insulting. The existence of crime and the maintenance of fundamental freedoms must always be balanced against one another. And every now and again we find out that some of our most respected citizens, including policemen and judges, are criminals themselves. Who will watch out for them? We must have as many safeguards built in to these matter as possible and the role of the courts is very important as one of those safeguards.

That criminals use the Internet is obvious. They also use mobile phones, the mail and possibly even carrier pigeons. These media can be intercepted by the police with a warrant from the courts (I don't know the law about intercepting pigeons). The same sort of arrangements could be legislated for the Internet and Internet Providers. Where the police have a reasonable suspicion that someone or some group is up to no good, they should be able to present evidence to a court and request that a warrant be issued that allows them to monitor that individual's or that organisation's Internet traffic.

Therefore I urge the committee that if it truly believes that it is necessary for security and law enforcement agencies to monitor Internet traffic, that the agencies must apply to a court for a warrant to enable them to do it and that particular courts be given the powers to oversee the actions of the agencies.

Bryant Allen