



Submission No 91

Inquiry into potential reforms of National Security Legislation

Organisation: Mr Andrew McDonnell

Andrew McDonnell

19 August, 2012

RE: Inquiry into potential reforms of National Security Legislation

In respect of the proposed Mandatory Data Retention:

I believe this proposal represents an intrusive and unnecessary invasion of privacy of every Australian Citizen. We do not intercept and open all mail delivered by Australia Post, nor do we listen and record every voice call. This is not something that should be considered in the robust and free democracy that Australia aspires to be.

A secondary issue is the cost imposed on ISPs which would of course be passed on to ordinary Australians. Has thought been given as to just how much data would need to be stored?

In respect of the proposed Offence for Failure to Decrypt:

I believe this proposal goes against several key elements of our justice system, including innocent until proven guilty and the right to remain silent. It is the kind of law I would have expected to find in the cold-war era Eastern Europe I read about in books when I was a child.

Furthermore there are practical deficiencies:

(1) In the real world, people forget passwords all the time, and this proposal would open the door to miscarriage of justice in the event of error by the investigating authority. As a free and open society the precautionary principle should be paramount.

(2) Our community exerts significant effort to educate both children and less technically aware adults not to give out passwords to others, in an effort to thwart social engineering attacks, and yet here the opposite is mandated; it would be trivial for a person with malevolent intent to pretend they have authority to demand and obtain the password from a less-"savvy" victim.

I am not naive; there are some nasty people in the world, and our intelligence agencies are unfortunately a necessary evil. Indeed much of my career I have spent in support of our Defence forces.

But let us not "throw the baby out with the bathwater", by destroying that which we are trying to protect: our free, open and democratic society, where citizens have the right to go about their business free of intrusive surveillance or threat of arbitrary punishment. I would like my children to grow up as I did, reading about such draconian laws in history or foreign geography books.

So many Australians lost their lives defending our country in the second world war, and many more including my mothers uncle and my wifes late Grandfather served. He lost much of his hearing driving tanks bound for the

conflict onto vessels in northern Queensland.
We should not denigrate their sacrifice by continuing to erode the very freedoms they strove to protect.

Andrew McDonnell