

From: David Pershouse
To: [Assistance Bill Consultation](#)
Subject: The Assistance and Access Bill 2018
Date: Wednesday, 5 September 2018 12:25:02 PM

To whom it may concern,

While I understand the problems this legislation is trying to solve, I have a concern about the lack of Judicial oversight. I feel the addition of Judicial oversight would give the right balance to the rather broad powers granted by the bill. Of the reasons put forward for the legislation, I have not seen any reason to avoid judicial oversight.

Considering the sensitive nature of the invasion of privacy that wiretap like laws give, I feel a lot of citizens see this legislation like previous Attorney-General Sir Garfield Barwick did when introducing laws to exclude the power from police and customs authorities to intercept telephone communications

Mr Speaker, eavesdropping is abhorrent to us as a people. Not one of us, I am sure, would fail to recoil from the thought that a citizen's privacy could lightly be invaded. Indeed, many citizens no doubt feel that far too many intrusions into our privacy are permitted to be made in these times with complete impunity. Many things which might fairly be regarded as personal and of no public consequence appear in print without the citizen's permission and without his encouragement, but in particular all of us, I think, dislike the feeling that we may be overheard and that what we wish to say may reach ears for which we did not intend the expression of our thought. Much of our normal life depends on the confidence we can repose in those to whom we lay bare our sentiments and opinions, with and through whom we wish to communicate (House of Representatives, Debates, vol. 27, 5 May 1960, p. 1423).

Previous wiretap legislation extensions ended up being referred to a Joint Select Committee of Federal Parliament which found:

"Under the Committee's recommendations, a warrant, issued by a judge of the Federal Court of Australia, would be necessary before any interception could be made. Warrants would be limited to circumstances where other investigative techniques had either been exhausted, or deemed in the circumstances to have been inappropriate. In addition, warrants would only be issued on reasonable grounds for suspecting that the nominated telephone service was being used by a person suspected of committing or conspiring to commit a specified serious offence, and that the interception would materially assist in the investigation. The specified offences would be limited to murder, kidnapping and serious drug trafficking.

Applications for warrants would identify the officer seeking the warrant, and would specify the time for which an interception is sought. Under the Committee's proposal, accountability of interceptions would be enhanced by regular and independent judicial auditing. Severe penalties would be imposed on offenders engaged in illegal interception and unlawful disclosure of information obtained from legal interceptions. The possession, importation, manufacture, sale or advertising of interception devices would be made illegal."

I don't see enough reasons put forward to reject this recommendation of oversight and it greatly troubles me as a citizen that it wasn't proposed.

I would also ideally let the public see prior surveillance requests and operations undertaken (after the relevant investigation had been closed) to let the public judge if it is being abused

and to exercise their democratic power to elect members who would alter the law to bring its usage more into line with public opinion.

Thanks for the opportunity to provide feedback,
Thanks
David