

Australian government to extend intelligence powers

By Patrick O'Connor
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Despite paying lip service to the widespread public concerns over Canberra's intimate involvement in the worldwide surveillance of phones and Internet communications by the US National Security Agency (NSA) revealed by former NSA contractor Edward Snowden, the Australian political establishment is preparing sweeping extensions of the monitoring powers of its intelligence agencies.

The media falsely reported a report by a parliamentary committee this week as a significant backdown by the Labor government, postponing its push for mandatory data retention by Internet service providers. That would have resulted in the web usage throughout Australia being recorded and stored for two years.

In reality, the report recommends further extensions to the power of the Australian intelligence agencies, including carte blanche authority for domestic spying by the Defence Signals Directorate (DSD), the equivalent of the US NSA.

The Parliamentary Joint Committee on Intelligence and Security did not issue a specific recommendation on the data retention proposal, saying it was up to the government to decide whether to proceed. At the same time, it laid out a proposal on how to implement such a scheme. Attorney General Mark Dreyfus announced that the government "will not pursue a mandatory data retention regime at this time" but "await further advice from the departments and relevant agencies."

The data retention plan generated significant opposition among ordinary people, Internet service providers and civil liberties groups. Labor decided to temporarily withdraw it following Snowden's revelations about the NSA's PRISM program—the illegal interception of data on the servers of major Internet companies, including Apple, Google and

Facebook.

Tabling the report in parliament, Labor MP and committee chairman Anthony Byrne declared: "With the events of America with PRISM, the public must have confidence in its parliamentary oversight agencies. Therefore, the committee was extremely careful in putting forward a [data retention] model, if the government chooses to go down that track."

Speaking in the Senate, former defence minister John Faulkner admitted that Snowden's revelations "will heighten anxiety in this country about data retention." Faulkner said it was therefore essential that "any legislation to establish a mandatory data retention scheme in Australia contains the strongest safeguards to protect the privacy of our citizens."

In other words, the ruling elite needs to proceed with caution, and add cosmetic "privacy" provisions, because of the public outrage that the American intelligence agencies are monitoring everyone's activities on the Internet. There are also concerns in ruling circles that Snowden could expose further details of Australia's own intelligence gathering operations, which focus on the Asia-Pacific region, as part of the NSA's global network.

Faulkner revealed that the heads of the Australian Security Intelligence Organisation (ASIO) and the DSD had briefed the parliamentary intelligence committee on the US PRISM program. Attorney General Dreyfus's office confirmed that a high-level "interagency taskforce" was monitoring events and coordinating the government's response.

Unnamed intelligence officials told the Fairfax media there had been "intense exchanges" between the US and Australian spy agencies on Snowden's disclosures. The officials said there was little doubt that Snowden had "very wide access, including access to much detail

of communications intelligence cooperation between the US and Australia.”

No doubt, the government also calculated that its data retention proposal was not urgent because the NSA operates its own data retention regime, to which the DSD has access, as a member of the US-led “Five Eyes” signals intelligence network.

The parliamentary committee, a bipartisan body involving senior Liberal Party figures, endorsed nearly every other proposal made by the government. These include abolishing limited restrictions on domestic surveillance operations conducted by the DSD and the Australian Secret Intelligence Service (ASIS, equivalent of the American CIA).

Currently, these agencies require ministerial authorisation to produce intelligence on Australians within Australia. They are supposed to satisfy several criteria, such as that the target of the surveillance is likely to be involved in serious crimes or activities posing a threat to “national security”.

The parliamentary report backed the government’s call to abolish this criteria and create just one condition, that the DSD and ASIS are cooperating with ASIO in the performance of an ASIO function. In other words, there will effectively be no restrictions whatsoever on Australia’s overseas intelligence agencies spying on citizens.

This poses a far-reaching threat to democratic rights. ASIO “functions” have long included surveillance and harassment of people involved in left-wing and socialist politics. The domestic intelligence agency could call on the assistance of the DSD, which in turn would utilise the NSA’s PRISM and other programs, to monitor and suppress political dissent and social unrest.

The Labor government, under both Kevin Rudd and Julia Gillard, has not only fully retained all the anti-democratic legislation introduced by the previous Howard government under the banner of the so-called war on “terror”, but has already gone much further, extending the powers of Australia’s intelligence agencies.

As part of this program, it amended the telecommunications interception and intelligence services laws to allow the agencies, including the DSD and ASIO, to monitor anyone, including Australian citizens, considered a threat to “national economic well-being”, “security” or “foreign relations”. (See: “

Australian government expands spy agency’s powers)

The parliamentary report sets the stage for further inroads into fundamental democratic rights, regardless of which party forms the next government. Its proposals include a new crime: failure to decrypt communications and electronic files when demanded by the police and intelligence agencies. This would undermine the right not to cooperate with investigations, and pose a particular threat to journalists and their sources, especially whistleblowers.

ASIO would be given powers to hack into “computer networks”, not just individual computers, allowing it to spy on an enormous number of computer users in a single operation, and conduct computer “disruption” activities, potentially involving planting viruses or Trojans.

The ASIO Act would explicitly recognise ASIO’s right to use “reasonable force” while executing a warrant. ASIO agents would also have legal immunity for all actions conducted during their work. This would potentially cover terrorist provocations, entrapment and frame up operations.

ASIS would be authorised to provide training in “self defence” and “the use of weapons” to anyone cooperating with the agency. The parliamentary report cited, without comment, one submission to the committee that these provisions could be used to “train insurgent armies, assassination squads, and even terrorists”.

For now, in the wake of Snowden’s damning disclosures, the Labor government has downplayed these plans. But the framework has been established for a further escalation of the police state-style powers introduced since 2001 on the fraudulent pretext of protecting ordinary people from terrorists.

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