

Additional submission: to INSLM hearing Monday 27 April 2015, ANU Canberra

Civil Liberties Australia asks a/g INSLM Gyles to:

recommend to the government and parliament that clauses relating to penalties for unauthorised disclosure of ASIO special operations be removed entirely, for these reasons:

- it is not the duty of the media or the public to keep ASIO operations secret: that duty belongs to ASIO, its partner agencies, and officials and MPs to whom it discloses operations; and
- it is the duty of the media to reveal any excesses, or potential excesses, by ASIO and its partners.

recommend to the government and parliament that a complete rewriting be undertaken of all “anti-terror” and associated laws passed since 11 September 2011:

- as the Crimes Act was consolidated about a century ago, because criminal laws had grown like topsy, so there is now a clear need to rewrite the 100 or so pieces of legislation, passed since 2001, into a Crimes Terrorism Act;
- the extent to which ‘terror creep’ has spread into the laws of Australia is indicated by legislation to such as 35P of the ASIO Act, and the recent legislation concerning data retention.
- there has been no consolidated overview of the myriad acts passed since 2001, other than in reports of INSLM, and INSLM reports have been ignored by the government, even to the extent that it is the government’s express intention to abolish the INSLM office.

Since 2001, the legislative climate change has been that security and police agencies are given whatever powers are on their wish list, and constraints on the behaviour of these agencies have been reduced significantly, for example in the need to obtain warrants before accessing the private data of Australians. Therefore, we ask a/g INSLM Gyles to:

recommend that any further proposed change by security or police forces to their laws/ regulations be first proposed through a fully publicly available ‘blue’ paper which sets out the reasons for the security/police requests, and lists the evidence/proof of need on which the requests are being made, before any draft bill is submitted to parliament.

- If security/police forces are unable to clearly demonstrate a need, no change should be contemplated to the (rewritten) Crimes Terror Act legislation.

Civil Liberties Australia invites the a/g INSLM to comment to the government, and publicly, that a merging of the Australia Institute of Criminology with the Australian Crime Commission will severely diminish the availability of independent crime statistics and the integrity of crime-related commentary available to INSLM and the Australian people.

Dr Kristine Klugman OAM
President

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Secretary