

# The Five Eyes' war on truth

Like National Security Agency whistleblower Edward Snowden and WikiLeaks founder Julian Assange, Australian journalists are facing the fight of their lives to uphold the freedom of the press, in order to simply do their jobs. What they don't realise is that they are up against a global security apparatus acting to protect a collapsing financial establishment—not just the stupidity or ignorance of legislators and the public who have failed to see the dangers in two decades of new laws passed in the name of “national security”.

With their plans to loot citizens to prop up banks well advanced, the financial elite have fast-tracked mechanisms to maintain control during a new global financial crisis. The laws are intended to suppress publication of the truth and popular revolt against the enactment of new crisis powers, such as depositor bail-in. Australia's police-state regime advanced significantly following the dramatic shakeup of Australia's security framework which brought all intelligence agencies into close coordination. Prime Minister Malcolm Turnbull's creation of a super-ministry, the Department of Home Affairs, modelled on the UK Home Office, represents “the largest concentration of domestic intelligence capability and national security enforcement authority in Australia's history”, said ANU professor of international affairs Michael Wesley. Established in December 2017 and headed by Minister Peter Dutton, it oversees all operations of ASIO, the Australian Federal Police, the Australian Border Force, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the Office of Transport Security.



**Andrew Wilkie MP** @WilkieMP · 4h

The appalling AFP/media raids are dreadful gov overreach to silence the media & deter whistle-blowers. This is how you become a police state. Bit by bit, some new laws here & some raids over there, & one day you wake up & we look like East Germany. #politas #auspol #AFPRaids

75

498

1,063



The inaugural Secretary of Home Affairs, “Iron” Mike Pezzullo, known for turning the Immigration Department into a “paramilitary outfit” during his stint as Secretary of the Department of Immigration and Border Protection (2014-17), is a central player. It was Pezzullo who wrote to Defence Secretary Greg Moriarty in February 2018 suggesting that the Australian Signals Directorate (ASD), which is only authorised to spy overseas, might be given the power to spy on Australians. It was because News Corp journalist Annika Smethurst revealed this in an April 2018 article that the AFP raided her home on 4 June 2019. Moriarty was formerly Turnbull's chief of staff, then the Secretary of the Department of Defence, and earlier was the first ever counter-terrorism co-ordinator under PM Tony Abbott, after a 2015 counter-terror review recommended intelligence agencies work together more closely.

Pezzullo had pushed for a super-ministry since he was Opposition Leader Kim Beazley's deputy chief of staff in 2001, and as Immigration Secretary under the Abbott government. Pezzullo has repeatedly argued that security must keep up with the advance of globalisation, by transcending borders and nation states. Advocating an authoritarian capability, he demanded that “unity of command, clarity of authority, and singularity of purpose need to be hardwired into our security architecture”, speaking at a security summit in Canberra in July 2018.

In December 2018 the Office of National Intelligence was established to oversee all of Australia's spy agencies. Nick Warner, previously international affairs advisor to PM John Howard and Defence Secretary under Howard and PM Kevin Rudd, and a man with a reputation for getting things done, was tapped for the role. This reorganisation brought our security apparatus into line with Anglo-American standards, and along with a host of new laws—many modelled on the UK's—put it at the service of the Five Eyes, the spying alliance comprising the UK, USA, Canada, Australia and New Zealand. Turnbull had stressed that all other Five Eyes partners have a “single point of coordination” for intelligence, and that “Australia doing the same will ensure even better collaboration with our Five Eyes partners”. In 2018 Turnbull signed Australia up to global initiatives including a new joint strategy with the UK to target cyber crime and coordinate “global responses” to attacks, and a new cyber security pact launched at the Commonwealth Heads of Government Meeting (CHOGM) in London.

[Pezzullo revealed](#) prior to the August 2018 Five Eyes ministerial meeting held on the Gold Coast, that the Five Eyes countries were pushing for a global police-state capability, calling it a “transnational model of security” which superseded national borders. This objective was reinforced at the CYBERUK 2019 summit in Glasgow, Scotland on 24-25 April, with Director of Britain's Government Communications Headquarters (GCHQ) Jeremy Fleming declaring the UK would “pioneer a new form of security”, projecting its power globally with a “bold, interventionalist approach to involve a wider set of stakeholders”, with the “Five Eyes partners” at its “core”.

## The suite of Fascist laws

Smethurst's 29 April 2018 article reported Pezzullo suggesting government hackers be allowed to “proactively disrupt and covertly remove” onshore cyber threats by “hacking into critical infrastructure”. She reported that a top-secret proposal signed off on by ASD boss Mike Burgess

sought Defence Minister Marise Payne's support for "legislative reform to enable ASD to better support a range of Home Affairs priorities", to include the power to access corporate and government data such as emails, bank records or text messages without a warrant. Pezzullo justified the move in his letter as being targeted at child exploitation, and transnational criminal and terrorist networks operating in the cyber realm. While the suggested powers are not yet reality, laws passed in the latter half of 2018 already go part of the way towards what has been proposed.

## Assistance and Access Act

Passed in December 2018, the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018*, or the encryption act, allowed the Directors General of ASIO, ASIS, and the ASD, or the chief of an interception agency (federal or state police), to issue a "Technical Assistance **Request**" soliciting assistance from any internet or telecommunications services or software and hardware providers, to help agencies bypass encryption protocols in order to hack into the devices of suspects and gather information.

In the event that an entity refuses this "voluntary" request, the Director General of Security (the head of ASIO) or heads of the interception agencies can request a "Technical Assistance **Notice**" which compels them to assist. If the entity does not have the capability to assist, a "Technical **Capability Notice**" is issued by the Attorney General, with approval of the Communications Minister, forcing it to develop the capability. Non-compliance would result in a \$10 million fine for a company, \$50,000 for an individual, or five years prison if you disclose the fact you were issued a request.

When he introduced the bill into parliament, Peter Dutton stated that it provided "additional powers for overt and covert computer access", with new "computer access warrants" allowing collection of information "directly from devices".

These powers grant the ASD authority to seek voluntary assistance requests for spying on or hacking into devices. The ASD insisted in a statement after the Act was passed that the ASD is "limited to requesting assistance from industry on cyber security matters—in connection with ASD's function to protect Australian systems from cyber threats. The Act cannot be used to enable the interception of communications as part of a foreign signals intelligence collection program." Why then include them in the Act at all, if they are merely passing on a request which other agencies could do?

The Home Affairs Department insists that the Act does not authorise mass surveillance, as all actions are "inherently targeted" at particular subjects. It also states defensively in its "Myths about the Assistance and Access Act" that the act "was not requested by, or designed for, Australia's Five Eyes partner countries", but that cooperation and intelligence sharing with international partners would be undertaken according to existing channels. Foreign countries pursuing criminal activity are able to make requests of the Attorney-General to initiate a computer access warrant to assist in their investigations, thus invoking surveillance of Australian citizens. The Act "improves the ability of Australian and foreign authorities to work cooperatively", said the bill's Explanatory Memorandum.

Australia's Human Rights Commissioner Edward Santow warned about the Technical Assistance Requests that could be issued to protect "Australia's national economic wellbeing". "It's really worrying, that's an incredibly broad concept that goes well beyond the protection of national security."

## Espionage and Foreign Interference Act

The *National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018*, passed in June 2018, reformed Australia's secrecy offences, criminalising the possession of information that "is likely to cause harm to Australia's interests", which could be security-related, economic, or otherwise. The *communication* of such information "by non-commonwealth officers" would meet with a five-year jail sentence.

These include modernised crimes of *sabotage*, for example, of critical infrastructure; economic espionage including preparing or planning to engage in espionage, or soliciting a person to do so; *secrecy* provisions which criminalise the possession or receipt of information (even without publication), including unclassified information if used to harm Australia or its interests; acts of *treachery*, where a person uses force to overthrow the Constitution or government; and *mutiny*, such as assisting prisoners of war to escape, military-style training for a foreign government or interfering with Australian democratic or political rights.

Foreign donations are banned and people or agencies working on behalf of a foreign power must add their names to a register. Upon its passage, intelligence whistleblower and independent federal MP Andrew Wilkie declared that Australia is a "pre-police state".

## Numerous other laws

The *National Security Legislation Amendment Act (No. 1) 2014*, gave ASIO and its "affiliates" immunity from prosecution while engaging in "special intelligence operations". Its provisions updated the ASIO Act 1979 with a new section (35P) which included jail terms of 5-10 years for journalists

disclosing such an operation. This was cited in the warrants used in the ABC raids. As Attorney-General at the time the amendment was passed, George Brandis made clear, the law was “primarily, in fact, to deal with a [whistleblower Edward] Snowden-type situation”.

In 2015 data retention laws were passed, in the *Telecommunications (Interception and Access) Amendment (Data Retention) Act 2015*, requiring telecommunications companies to keep all customer metadata (information about who you have called, texted, emailed, internet sites visited, etc., without the content) for at least two years, making it accessible to intelligence and law enforcement agencies including crime commissions or integrity watchdogs. You would not be aware your data has been accessed. The “Journalist information warrants” required to view metadata are merely a rubber stamp from judicial officers. Similar schemes overseas have been overturned as unconstitutional or an invasion of privacy.

In a 1 May 2015 speech, Gold Walkley winning journalist Ross Coulthart said that some 2,500 public servants could access the metadata of journalist if it was “reasonably necessary” for the “enforcements of the criminal law”. As a result of such laws, encrypted messaging applications have grown in popularity—and have hence been targeted by new encryption laws (above).

The *Counter-Terrorism Legislation Amendment Act (No. 1) 2018* extended counter-terrorism provisions in the Criminal Code, the Crimes Act 1914 and the *Australian Security Intelligence Organisation Act 1979* (ASIO Act) to tackle the “threat of terrorist activities in Australia”. These provisions include extension of the *control order* regime which limit certain communications, activities and travel; *declared areas provisions* which limits travel in areas where terrorists are active; *preventative detention* orders to prevent a potential terrorist attack; and stop, search and seize powers which allow police to detain people without a warrant if they “reasonably” suspect potential terrorism.

Search warrants against ABC and News Corp were issued under the *Crimes Act* which punishes people who “communicate” official secrets with up to two years in jail. This was the act that Andrew Wilkie breached, by disclosing classified information, when he revealed that intelligence agencies were spinning lies to justify the 2003 invasion of Iraq. “The bottom line”, said Wilkie following last week’s raids, “is that both major parties are bit by bit turning Australia into a police state.”

In his press conference following the raids, AFP Commissioner Neil Gaughan revealed who the laws are aimed at protecting—the Five Eyes apparatus. He said that “it’s important that people realise the reason why we are so strong in our view of—certainly protecting top secret and secret information—is that the Australian government, or particularly the Australian law enforcement intelligence communities, rely on top secret and secret information from our international partners, particularly the Five Eyes partners, to keep the Australian community safe”. Conversely, under its commitment to the Five Eyes, the ASD conducts extensive spying operations throughout the Asia-Pacific, collected at facilities such as Pine Gap and shared through US programs such as XKeyscore run by the NSA.

## More intimidation?

“Iron” Mike Pezzullo (pictured, centre), Secretary of the Home Affairs Department, contacted Centre Alliance Senator Rex Patrick from South Australia on 6 June to urge him to reflect on “unfounded” comments in the wake of last week’s media raids. The Senator had commented to Fran Kelly on her ABC Breakfast program that “Home Affairs Minister Peter Dutton and Home Affairs Secretary Mike Pezzullo clearly hate media scrutiny”. Senator Patrick reported on the call from Pezzullo on his Facebook page: “Pezzullo suggested these remarks had ‘slandered him’, though he quickly indicated he would not take that any further, before remonstrating with me for making my remarks from my position of ‘high office’ in circumstances in which he claimed he had no real ability to respond. He took the view that while I was in my rights as a Senator to comment about and indeed criticise his Minister, Peter Dutton, I should refrain from commentary about him, the Secretary of Home Affairs.”



“Iron” Mike Pezzullo (centre). Wikimedia

Sen. Patrick conveyed the level of intimidation delivered when he described the man behind the call as the “chief bureaucrat overseeing a national security juggernaut, effectively a ministry of state security, that now includes the national police force, the domestic security agency, the border control agency and a striking array of covert investigative and surveillance capabilities”. This was not like receiving a call from the Secretary for Veterans Affairs! The Senator said he could not shake the “impression of a menacing tone” after the call, concluding that: “I was the subject of the next stage of oversight clampdown where the apparatus moves from intimidating the media, who are charged with

the responsibility of informing the public of questionable conduct by Government officials, to intimidating Members of the Parliament who have a constitutional responsibility to oversight [of the] government."

Pezzullo asked the Senator to "make contact with him once I had considered his call". Patrick replied on his Facebook post, however: "Sorry Mr Pezzullo, the next time you'll likely be speaking to me will be at the next Senate Estimates you attend...."

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