



To: CommunicationsSecurity@ag.gov.au ▾

Subject: Access to telecommunications data in civil proceedings ! ▾

From: marcus wigan - [REDACTED] Signature: None ▾

Dear Minister

The fundamental issue being raised here is one of a shift from the use of National Security principles to their use to substitute for the principles of Civil Law Domain.

Any use by the national Security determined Metadata acquisition and retention datasets undermines not only civil law, but its credibility.

The use of the usual hard case (family violence this time) does not alter this drastic and alarming shift

By its very nature, national security requires probabilistic anticipation, action based on the balance of probabilities, and especially action without and offence occurring

We reluctantly concur with such powerful tools for National Security- but remain severely critical of the lack of transparency of the oversight.

However the nub of civil cases is discovery of the past, and determination of the guilt or otherwise of a person or persons who must be considered innocent until proved guilty.

Access by any Civil Society or non-national security body undermines this completely, visibly and effectively,

The obvious uses for trawling to find something over the last two years, being it a website, a location, a timing at a location, or a purchase, all provide unlimited opportunities for creating suppositions of guilt when none exist, as is the business of discovery and argument in a civil adversarial system.

The information power of access to such retrospective details of the most intimate aspects of a persons life are more than civil society can bear, especially when combined with the existing Act's microlevel of Internet of Things individual IP addresses and location based details.

Remember, not only will this be abused (consider the visibly unconscionable centrelink behaviours, which are part of the same family of probabilistic abuse of asymmetries of information power, in their current incarnation, also reversing the onus of proof) but it will be very hard to balance the issues raised for almost all the population.

While this level of ubervallance is unlikely to permit the normal processes of trust and contestability on which our society is based, but it will inevitable destroy trust in institutions.

If may have escaped your notice, but trust in institutions, big business, CentreLink, the ABS, politicians, and the civil service has dropped to very low and declining levels already

The economic, social and political cost of a move to permit any civil society or indeed even almost all official organisations will be very substantial indeed.

The social and community cost of any civil law access to the current metadata retention is there fore completely unaffordable in a variety of ways- most of all in the relationships between government and citizens.unsurprisingly lawyers are only too well aware of how this capacity can and will be used- to the limit- and while it has not been said publicly, politicians themselves have a record of abusing any such data that can come their way.

Are these prices that Australia can even consider as being sensible to pay?

Perhaps any such civil law new capacity to demand this data from our elected politicians would be a possible counterweight to make them more accountable. Do you think that might be enough to sell this very bad proposal to the community?

yours sincerely

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