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Spy laws track mobile phones

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September 17, 2007

SECURITY agencies would be able to secretly track people via their mobile phones and monitor their internet browsing for up to three months without obtaining a warrant under new laws due to go before the Senate this week.

The powers could be used in a range of even relatively minor criminal investigations, not just terrorism cases.

They would allow ASIO and federal and state police forces to demand that phone companies and internet service providers stream information to them in "near real-time" - just a few minutes after calls are made or websites visited. The information would have to be provided for up to 90 days for ASIO investigations, and 45 days if state or federal police are involved.

Justified as a counter-terrorism measure, the legislation has already been passed by government and Labor members of the lower house. But it remains deeply unpopular with legal experts and privacy advocates.

As well as not requiring a warrant signed by a judicial officer, the powers could be used in any criminal investigation into a suspected offence that carries a jail term of three years or more.

The regime applies to all "telecommunications data", including the time and destination of phone calls made and received, the duration of the calls and the location of the callers.

For computers, security agencies would be told what website addresses and chat rooms the user has visited and what files have been downloaded. The laws would also enable authorities to track internet conversations.

Security agencies would still need a judicial warrant to listen in on phone calls, or peruse emails.

The Greens senator Kerry Nettle said the powers would allow authorities to glean huge amounts of information. Every mobile phone could potentially become a tracking device for police and ASIO.

The bill "is more like something from East Germany than a party claiming to support liberal principles", she said. "There is no judicial oversight. Police and ASIO should have to get a warrant to track and tap people's mobile phones or web browsing."

The Attorney-General, Philip Ruddock, was unavailable for comment yesterday. He has previously said the laws do not constitute new powers for security agencies, but a "more systematic and appropriate controls over the existing access framework".

But the legislation's own explanatory memorandum says the regime for "prospective" telecommunications data - the streaming of near real-time information for up to 90 days - is new.

The Law Council of Australia argues that technological advances mean the powers pose new dangers to privacy. Tracking someone with a mobile phone was far easier than secretly affixing a listening device without breaking and entering, it said. Therefore the proposed powers were "far more amenable to misuse or over-use by law enforcement agencies".

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