

The disturbing new national security law that no one is talking about

The encryption fiasco isn't the only capitulation recently made in the name of Australia's national security.

[MICHAEL BRADLEY](#)

DEC 11, 2018



Time after time, since 2001, Australia has lengthened its roll call of repressive national security laws. And time after time, Bill Shorten has worn his party's craven willingness to sign up to every piece of half-cooked law the Coalition throws out as a badge of honour.

Over the past week, of course, it's been all about [encryption](#). Both major parties covered themselves in glory on the last day of Parliament by passing an extremely complex law neither of them have read, understand or give a crap about. But, ignored in the rush to Christmas has been another potentially even worse bit of bipartisan law-making.

Slipped through Parliament on November 27 with not so much as a whimper from the media: the [*Defence Amendment \(Call Out of the Australian Defence Force\) Act 2018*](#).

Call in the troops

This law is about the circumstances in which the federal government can take the drastic step of sending troops into the streets of an Australian city. (Bear in mind the fundamental difference between a police officer and a soldier: the latter is trained to kill, as their first resort).

It's also, importantly, not the first of its kind. We already had a call-out law, which was passed in a rush before the Sydney Olympics, that's never been used. In the wash-up of the Lindt Café siege, Peter Dutton spotted the opportunity to ramp thing up. Although the army could have been called in to assist, and was ready to do so, it wasn't. The logical response would have been to explore better coordination between

state and Commonwealth under the existing law; instead, we got urgent demands to *change* the law.

What's different with this new law, and why should we care? There are several critical changes:

- The trigger conditions which will allow the federal government to send in the army. Under the old law, soldiers would be deployed if the state or territory government was not, or was unlikely to be, able to do what was needed. Now, all that is required is that the military's involvement will be likely to "enhance" the ability of the police to handle the situation. How could it not? So, there is now no effective threshold at all.
- The feds now have a "contingent" call-out order, which is a pre-emptive declaration of circumstances in which they can send in the army, notwithstanding that those circumstances haven't actually happened at all. Call it the [*Minority Report* power](#).
- The federal government can invoke a call-out whether or not the relevant state or territory agreement wants it. The troops, once called out, will have extremely wide search and seizure powers over people and property, way beyond those of the police. And, of course, all indemnified.
- Finally, Dutton has added himself to the authorising power, previously exercisable by only the Prime Minister, or the Attorney-General and Defence Minister acting together. Under the changes, the Defence Minister is sidelined, and it's now a triumvirate call by the PM, AG and the Minister for Home Affairs.
- Interesting, when you think about it, given that the defence forces have nothing to do with the Home Affairs portfolio, and nor do the state and territory police forces. Properly, this should be none of Dutton's business.

Is this a police state in action?

Hypothesis: one day there is a running series of increasingly out-of-control riots in a beachside suburb, as large gangs of drunk men hunt for members of a minority group and bash the shit out of them. The state police are doing their best, but it is a difficult situation to control. People's safety is potentially at risk. These are all the conditions necessary for the federal government to step in, unasked, and unleash the armour. Pause before you conclude that this is the society we want. This is not about repelling foreign invaders, and it's not just about dealing with terrorism as we typically understand it. While the Attorney-General has said it's "[*inconceivable*](#)" that the army would ever be sent in to the streets in response to a non-terrorist threat to civil order, that is 100% not what the law they just made says.

Our only remaining protection, from being turned into the police state we seem to be heading towards is that our governments will continue their practice of making laws but not actually using them. Thin hope.