



Submission No 86

Inquiry into potential reforms of National Security Legislation

Organisation: Hon. Peter Dowding

Hon. Peter Dowding SC

Committee Secretary
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

email: pjicis@aph.gov.au

Dear Secretary,

I have had the opportunity to view a tiny portion of the recorded material in ASIO files that have been released about my father, the Rev Keith Dowding, whose commitment to Australia and to the democratic system cannot be doubted.

Despite years of gathering gossip and lies about him, ASIO has never had a scintilla of evidence that he was ever a threat to this country and although he and I knew that ASIO was active in collecting material about our family, we never saw the material during his lifetime and were never able to either correct it, nor enjoy the irony of just how much nonsense these files contained.

I hope to obtain my files, at least from within the public archive, so that I can determine how the organisation breached my democratic rights , before I die.

What is most disturbing, I submit, about the current demand by the security services for more power and a vastly reduced system of constraints, is the following:

1. From these files to which I refer it is impossible to accept that ASIO was acting responsibly for the protection of our democracy. The intrusion into the legitimate political life of our country and the gathering of lies, and gossip about individuals was NEVER constrained or curtailed. Indeed if I read the language of the files correctly “gratis“ and “non gratis” refers to informers who were voluntary and to those who were paid for this information.
2. The information collected was wildly wrong in part, and yet falsehoods were repeated again and again. No one appears to have made any attempt to check fanciful allegations or historical half truths.
3. There was no mechanism ever contemplated by ASIO whereby individuals might be free of the misinformation gathered.
4. From one document it is clear that in order to slander my father’s reputation , ASIO passed on to Billy McMahon a piece of the mythology they created about him in

order, it would appear, to deter him from having contact with Keith. Oh that ASIO should have to defend itself for defaming people!

5. Whilst the committee might think that such conduct is all in the past I argue that that ASIO even today has made no apology for its conduct and the past abuse of its powers.
6. Nor is there any material that I can find in which either ASIO or any of the other security apparatus of the State offering to provide any protection against continued abuse.

I imagine that the committee will be involved in delving into the heady world of security services and their operation and the complex demands for more and more access into personal information by those services with less and less scrutiny by Courts and fewer and few safeguards to democracy as a result of the "threats to our security" identified by those organisations.

My submission is therefore very low key and may be viewed as relatively unimportant however it is my concern that whilst the "threat " may have changed in nature, and the tools of those opposed to democracy in this country may have altered and become more sophisticated, in reality the position is the same as that which persuaded the Menzies Cabinet to introduce the Communist Party Dissolution Bill in 1950.

Thankfully Dr Evatt, and others including the Judges of the High Court, were persuaded that our democracy required that the security apparatus be constrained and that legislation to meet the "threat" to our democracy had to be balanced against the nature and importance of democratic principles.

It is clear that at that time the security services were very unhappy with the result and that despite the expressed limits on their powers, they collected information against loyal, innocent members of our community and stored it in a vast collective record system which would have done the Stasi in East Germany proud.

I urge the Committee

1. to be diligent in protecting democracy, to reject the requests for greater powers based on the need to avoid protections that are "administratively burdensome" or which demand "excessive administrative resources".
2. To expressly demand accountability from these organisations, not in secret but openly and to ensure that material is routinely destroyed at the point at which it can no longer have any possible relevance to the security of our country.
3. To demand that all of the agencies acknowledge and offer apologies to the community for the past improper use of their powers and to provide public guarantees that they will not again behave in that way.
4. Where it is clear that the collection of material was based on non existent threats, to require the organisations to review and open their files to affected individuals.
5. To limit the vast expenditure on these security apparatus to a sensible level commensurate with the value of the operations- given the past history which clearly demonstrates that even with budgets of billions of dollars, having a healthy democracy is more likely to provide threat reduction

6. To encourage Government policy to withdraw from a war perceived by millions across the world as part of a war against Islam, and apologise to the world for the appalling chaos, death and injury that Australia has wrought in its war in Iraq and Afghanistan.

For your information I attach a copy of a draft article I sent to the magazine The Monthly, a copy of the article by Sally Neighbour, a copy of my letter to The Inspector General of Intelligence & Security.

The Committee will do the Country a great service if, before deliberating on the matters raised by the Government, it ensures that each Committee member obtains a copy of Terror Laws ASIO, Counter Terrorism and The Threat to Democracy by Jenny Hocking UNSW Press, which will provide a chilling history of the continuum of efforts by the security apparatus of this country to mislead the politicians who seek to ensure democratic controls over it.

Hon. Peter Dowding SC
Former Premier of WA

19 August 2012