Questioning 'National Security' arguments:

An 'evidence-based' public policy perspective on 'Spin', intelligence, and personal information security

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http://cyberlawcentre.org/2008/ebp/

Intro

- UNSW Cyberspace Law and Policy Centre
- Appreciate invitation
- Centre's interests overlap issues raised: privacy, information law, governance of Internet
- Materials available online
- Thanks also to AustLII for hosting sites

Contents

- Evidence based Medicine
- What would evidence based public policy use
- ‘Spin’ and intelligence
- Intelligence and ‘personal information security’
- Resort to ‘national security’
- 800 years down the drain?
- Examples
- Outcomes?
- Responses?

Evidence based medicine

- Inflo-glut = currency impossible
- folklore as poor but common basis for remedies
- ‘reality-based’ research/analysis reports
- smart tools
- Cochrane collaboration
- expert meta-analysis
- focus on methodological reliability
- Coiera/CHI

What would evidence based public policy use?

- Historical learnings
- reliable intelligence
- reports from participants
- comparative cost/benefit analysis
- peer review of method

'Spin' and intelligence

- National security trad. Rely on Intel
- Intelligence used to mean something
- 'a powerful tool, use with caution'
- understand capabilities & limits
- Intel as 'objective' and detached?
- Spin out of PR
- Tricks – ref. doc
- Ian Wing CSU

Intelligence and 'personal information security'

- Privacy as a weak right
- intel temptation as manipulative tool
- claim to over-ride all other rights
- claim it's value in beyond Q
- all are suspects
- but no basis for suspicion? intel tools to generate suspicion
- not engage with threat to 'personal information security' of entire population

Resort to 'national security' arguments

- Characteristics of NS arguments
- assertions on values
- temptation to stoke fear
- we can't tell you
- trust us, we don't trust you
- unable to do cost/benefit analysis
- not open to 'rational' debate, not refutable
- temptation to spin
- claim overarching authority
- temptation to witch hunts
- Q critics' loyalty or toughness

800 years down the drain?

- Ignorance of history
- Magna Carta, supremacy of parliament
- rule of law
- civil rights against the state, habeus corpus
- natural justice
- open and transparent government
- independence of judiciary
- participation and consultation
- FoI, privacy
- discrimination
- Atavistic reversion?

Examples

- *That* card
  - ‘not a Nat ID card’, claim to reject NS card, no constraints on use -
- ANPR
  - 3 uses, road safety, law enforce, NS
  - NS undefined
  - no basis for discussion
  - Most extreme intrusion
- Haneef and Ngo cases
  - misuse of key surveillance data
  - refusal to engage with real debate
  - abuse of PR spin by police

Outcomes

- Rejection of review of methodology
- not assess effectiveness
- ignore real risks?
- ignore alternative remedies
- no restraint on conversion of telecom systems and others into ‘uberveillance’ tools
- intrusion into personal space
  - Often worse in Australia: 23 x more telecom taps than US?

Responses

- ‘Re-framing the debate’? (Lakoff)
- Appeal for policy wonks to rule? EBM
- Descent to the gutter?
- Regain memory?
- ???

Questions?

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