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To cite this article: David Martin Jones (2018) Intelligence and the management of national security: the post 9/11 evolution of an Australian National Security Community, *Intelligence and National Security*, 33:1, 1-20, DOI: [10.1080/02684527.2016.1259796](https://doi.org/10.1080/02684527.2016.1259796)

To link to this article: <http://dx.doi.org/10.1080/02684527.2016.1259796>



Published online: 17 Nov 2016.



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ARTICLE



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ABSTRACT

Since 2001 expenditure on the security services has increased exponentially in Western democracies and particularly amongst the Five Eyes community of the UK, the US, Canada, Australia and New Zealand. This has occurred in conjunction with the expansion of counter-terror laws. Yet somewhat problematically the phenomenon of Islamist inspired violence became more threatening to the internal security of western democracies in the first decade of the twenty-first century. This study examines the Western managerial approach to security using Australia as a case study. It argues that the growth of Australian security agencies since 2001 and their evolution into a National Security Community after 2008 has neglected basic maxims of political and constitutional prudence and eschews the modern state's own contractual self-understanding of sovereignty and political obligation.

Introduction

Since 2001 expenditure on the security services has increased exponentially in Western democracies and particularly amongst the Five Eyes community, namely, the UK, the US, Canada, Australia and New Zealand.¹ This has occurred in conjunction with the rapid expansion of counter-terror legislation.² Australia, in particular provides a notable example of this phenomenon. The federal government budget for the Australian Security Intelligence Organization (ASIO) rose by 250% between 2005 and 2015 and its staff numbers increased threefold from 600 officers in 2001 to 1800 by 2015.³ Other services within the Australian Intelligence Community (AIC) saw similar increases in both personnel and budgets. Meanwhile over the period, 2001–2011, the federal government enacted 'fifty-four pieces of anti-terror legislation'.⁴

Yet, somewhat paradoxically, the phenomenon of Islamist inspired violence and how it recruits amongst diasporic communities in Europe, North America and Australia has, over the same period, intensified, rather than diminished, its challenge to the internal security of western democracies after the removal of Osama bin Laden and most of the core leadership of al-Qaeda between 2001 and 2011. Indeed, the declaration of a Sunni Caliphate of the Islamic State of Iraq and Syria (ISIS-also known as Islamic State of Iraq and the Levant ISIL or *Daesh*)⁵ in Mosul by its new Caliph, Abu Bakr al Baghdadi, in June 2014 dramatically increased the online appeal of and recruitment to ISIS, as well as the specific internal domestic threat to Australian security. In Australia, the decisions by successive governments, of differing political complexions, to elaborate laws that libertarians considered curtailed free speech, coincided with new surveillance legislation to police the internet, and restrict the growing use of social media as a jihadist recruiting tool.⁶ It was widely advertised that the decision not to proceed against controversial speech act laws in Australia in 2015 reflected the felt need to maintain community harmony,

a strikingly similar view to that advocated by soft authoritarian, single party dominant regimes, like Singapore, in order to maintain religious peace in multicultural societies.⁷ This notwithstanding, Muslim communities in Australia consider themselves targeted by the extension of new laws that affect social media privacy.

This development raises an interesting, but somewhat neglected, question concerning the effectiveness of a bureaucratic and managerial response to maintaining internal security in advanced liberal democratic polities. We shall examine this question and its political implications using Australia as a case study.

Managerialism here is understood as a form of what the English political philosopher, Michael Oakeshott termed 'rationalism in politics'. As a form of governance, it prefers disinterested policies untainted by political animus. It leads to a distinctively bureaucratic process of policy-making that considers government a matter of technique. As Oakeshott explained, it breaks human behaviour (in this case what the government and its security agencies consider 'radicalization' or 'extremism') into 'a series of problems to be solved, purposes to be achieved, and a series of individual actions pursued in pursuit of these ends'. In other words, it 'reduces the tangle and variety of experience to a set of principles' which the technocrat or managerial class 'will then attack and defend only upon rational grounds'.⁸ Rationalism combines the politics of the rational solution with the politics of uniformity.⁹ All problems from this perspective are 'administrative' problems reducible to management and training via 'the sovereignty of technique'.¹⁰

The further question that this essay examines, therefore, is why the growth of security agencies and their budgets together with the proliferation of legislation to manage national security since 2001 has not facilitated greater internal political peace. Instead and the legislative response enhanced centralized bureaucratic administration, that mandates targets and sends messages at the expense of 'constitutional principles' and political prudence.¹¹ Consequently, a managerial approach to terror post 9/11 eschews the modern and early modern state's own secular and contractual understanding of political sovereignty, political obligation and the rule and capacity of common law as it evolved historically and contingently across the Anglosphere. In an updated version of what Carl Freidrich identified as constitutional reason of state this prudential constitutional approach to politics would allow for a more robust interrogation of Islamically motivated fanaticism and its appeal without requiring the recourse to the ad hoc techniques of an emerging security state.¹²

This study, therefore, examines how an Australian national security dilemma concerning the balance between political freedom and government surveillance has evolved since 1942. It traces the manner in which the state's legislative response to the problem posed by internal and external security threats after 9/11 expanded the AIC and folded it into a National Security Community (NSC)¹³ after 2008. These developments enhanced the centralisation and micromanagement of internal security.¹⁴ Enhanced security has important social and political implications both for constitutional accountability and confidentiality. This study further argues that security legislation is too often reactive and responds to an Australian governmental tradition of managerial rationalism.¹⁵ Finally, it considers what alternative political understandings might provide legislative guidance without either undermining a prudential concern with national security or eroding Australia's continuing commitment to constitutional democratic practice.

Intelligence and national security: Australian dilemmas

Australia, like Canada and New Zealand, inherited a British constitutional legacy and adapted it over time to its own contingent experience of internal and external threats to security. The Australian federal government response to 9/11 witnessed the expansion of counter-terror legislation and counter-terror establishments to address al-Qaeda and the subsequent evolution of what a Rand Corporation report termed the 'Global Jihadist Movement'¹⁶ and, after 2014, the home grown appeal of ISIS.

This legal response, beginning with *The Security Legislation Amendment (Terrorism) Act 2002* and including amendments to the *Australian Security Intelligence Organisation Act 2003*, *The Australian*

Aviation Transport Security Amendment Act 2006, the *Anti Money Laundering and Counter Terrorism Financing Act 2006* and culminating with *The Review of Australia's Counter Terrorism Machinery 2015*, sought to deter acts of terrorism, as well as address problems associated with the use of common law to interdict potential terror acts.¹⁷ This evolution of the national security state exacerbated an unresolved political dispute over the character and extent of surveillance, the accountability of domestic security services and the threat they pose to civil liberties in a constitutional democracy.¹⁸

Attending to the Australian case sheds an interesting light on the evolution of national security post-9/11 and the problem of democratic accountability and transparency it raises. It involves, *inter alia* a proliferation of legislation, government expenditure and the expansion of agencies involved in national security. Is this the most efficient or the most prudent way to address the threat of global jihadism and leaderless resistance?

From the foundation of a modern security service in 1949 under the Cold War auspices of MI5, to the expansion of the concept of security after 2001 the practice of national security has periodically troubled Australia's liberal democratic conscience. Between 2002 and 2010, successive governments promulgated 45 new security laws all but one dealing with counter-terrorism. The foundation of the Islamic State in June 2014 and foreign fighter recruitment to its army and to the al Qaeda affiliated Jabhat al Nusra (aka Jabhat Fateh al Sham) in Syria, primarily from Australia's Lebanese Community,¹⁹ in West Sydney reinforced this legislative trend.²⁰ Even before 2014, as Mullins observes, 'the prevalence of Lebanese heritage among home-grown terrorists' was 'unique to Australia and indicative of its immigration history'.²¹

The ISIS threat and the need to deter it led to yet more legislative activism. During 2014, the government passed a *Counter Terrorism Amendment (Foreign Fighters) Act* to respond to urgent operational requirements and introduced legislation to amend the *Telecommunications (Interceptions and Access) Act* and address the phenomenon of recruitment to IS. Finally, after attacks on Melbourne police officers and Man Haman Monis' lone actor attack in Sydney's Martin Place in December 2014, the federal government's 2015 *Review of Australia's Counter Terrorism Machinery* proposed a dedicated national security department with ministerial oversight and proposed proactive strategies in an attempt to 'counter violent extremism'.²²

This development of an Australian counter-terror bureaucracy post-2001 sits uneasily with an understanding of social contract and consent that seeks to guarantee *habeas corpus*, maintain a distinction between the public and private spheres and guarantee freedom of speech as a self-regarding activity central to the principle of democratic liberty. Both Liberal and Labor governments have approved, or failed to amend, legislation that curtails freedom of speech whilst elaborating and participating in a machinery of electronic surveillance that has received widespread condemnation and incurred damaging leaks. Former NSA contractor and whistle blower Edward Snowden revealed the scale of the US, UK, Canada, Australia and New Zealand Five Eyes (FVEY) supranational intelligence gathering organisation observing that it 'doesn't answer to the known laws of its own countries'.²³

Over the post second world war period, the maintenance of national security and the evolution and practice of an AIC has raised questions, primarily from the left of the Australian Labor party concerning its necessity and efficacy.²⁴ More particularly, since 9/11, the extent of 'terrorist organizations' willing to engage in 'an action ... with the intention of advancing a political, religious or ideological cause and with the intention of coercing ... the government', as the *Security Legislation Amendment (Terrorism) Act 2002* puts it, together with the constitutional oversight of those agencies charged with detecting and deterring them, have occasioned an enduring political debate. Moreover, in the last decade, the proliferation of legislation and the evolution of a national security 'espionage' as John Le Carre terms it, has only exacerbated this essentially contested dispute over the limits of political freedom and the necessity and extent of surveillance.²⁵

The pursuit of national security, especially since 2001, has exposed what Karl Popper identified as 'the tolerance paradox'²⁶ at the core of modern Australian democracy, namely, that the practice of political freedom might entail proscribing those dedicated to subverting it by violent means. Significantly, prior to the first decade of the twenty-first century, successive Australian governments had shown a lack of

conviction about the 'need for security and intelligence organizations' combined with 'public apathy on the part of most Australians and hostility to them from a minority'.²⁷ This 'resulted', in Jacqueline Templeton's opinion, 'not in less spying but simply in less efficient spying' that only exacerbated this paradox.²⁸

The development of a distinctive Australian perception of national security in the geo-political aftermath of the Cold War continues to shape the character of Australian intelligence and the conduct of the organizations comprising the AIC. The fact that a report by the *Independent National Security Legislation Monitor*, called for sweeping changes to the 'unnecessary, disproportionate and ineffective' Australian anti-terror laws introduced since 2002, served only to highlight the central constitutional paradox that has historically troubled Australian intelligence-gathering.²⁹

To explore the problem of AIC accountability further, we first need to consider the contingent manner in which a centralised national security architecture developed after World War II. The anxiety of UK influence exerted a peculiar hold over the Australian perception of national security. More precisely, the strategic interests of the UK and the US profoundly affected the structure and philosophy of the AIC from its inception.

At the behest of the British Counter Espionage Service the Australian Commonwealth established its first Special Intelligence Bureau in 1916. In the inter-war period, the Commonwealth Investigation Branch of the Commonwealth Police (CIB) assumed responsibility for political surveillance. Fear of communist subversion after 1917 and of Soviet espionage after 1945, meant that the Communist Party of Australia (CPA) aligned with Moscow from 1922 to 1989, constituted an enduring focus of surveillance. The government proscribed the party between 1940 and 1942 and again in 1950. In the 1920s the CIB also paid desultory attention to Japanese espionage. Yet, as Jacqueline Templeton observed in her history of *The Australian Intelligence and Security Services 1900–1950*, the collection of secret intelligence lacked both a clear 'policy and defined objectives'.³⁰ Moreover, even when 'certain requirements were laid down at a national level, there was no firm central control over the operation of the services at a local level'.³¹ The problem of central control vs. local autonomy within a federal system, as well as competition between agencies as the espiocracy evolved, represents a further enduring tension in the organization of Australian security.

In 1949, under pressure from its allies the UK and the US, the Labor government of Ben Chifflay agreed to the creation of an ASIO to address Soviet espionage in Canberra. Subsequently, in 1952, the Liberal government of Robert Menzies secretly approved the formation of the Australian Secret Intelligence Service (ASIS) to gather information abroad about threats to Australian security.

An analogous secrecy pervaded the evolution of intelligence-gathering services linked to the Australian armed forces and housed within the Ministry of Defence over the same period. The Defence Signals Bureau (1947, renamed the Defence Signals Directorate in 1978, and subsequently the Australian Signals Directorate-ASD in 2013) operated clandestinely under the umbrella of the UK, US, Canada, New Zealand signals intelligence agreement. Analogously, the Defence Imagery and Geospatial Organization, (renamed the Australian Geo-Spatial Organization -AGO in 2013) and the Defence Intelligence Organization (formerly the Joint Intelligence Organization) also date from the Cold War, and responded to suspicions of Soviet espionage in the Asia Pacific theatre at the end of the Second World War and the KGB's penetration of Australia's federal government revealed by the Venona transcripts.³² After 1949, the DIO came to distance itself from the assessment and intelligence-gathering activities of the civilian intelligence organizations, ASIO and ASIS. This reflected a growing suspicion within the Ministry of Defence concerning the activities of ASIO and ASIS.

Intra-mural tensions between the services led to Justice Robert Hope's *Royal Commission on the Intelligence Services*, which reported in 1977 that the AIC was both 'fragmented and poorly coordinated'.³³ To remedy this, the Liberal government of Malcolm Fraser established the Office of National Assessments (ONA) in 1977. In contrast with the allied influence involved in the creation of the other security agencies, the ONA is a distinctive organisation that seeks to exercise an oversight role housing a small staff of analysts reporting directly to the prime minister.

Following the Royal Commission's findings, the government also created the office of the Inspector-General of Intelligence and Security (IGIS) and the National Security Committee of the Cabinet (NSC), also in 1977, to exercise some form of political accountability. The Hope Royal Commission 'improved oversight, and lines of accountability through individual ministers and cabinet were made much clearer'.³⁴ From this perspective, the story of Australian intelligence is one of evolving accountability, where a security architecture created by administrative fiat, often in conditions of great secrecy, becomes subject to public scrutiny over time. As Gyngell and Wesley contend:

The period from the first Hope Royal Commission Report in 1977 through his second report in 1984 to the Gordon Samuels and Michael Codd Commission of Inquiry into ASIS in 1995 and the Intelligence Services Act 2001 was a story of the gradual integration of the intelligence services into the Australian policy process, a growing movement to accountability and greater transparency.³⁵

Thus, although the *Security Intelligence Act* 2001 and its various amendments after 2001 enhanced ASIO's power to issue control orders, search orders and warrants for preventative detention, the legislation also established the Parliamentary Joint Committee on Intelligence and Security (PJCIS) to review the administration and expenditure of ASIO, ASIS, AGO, DIG, ASD and ONA, and make recommendations to the relevant ministry.

In other words, as the powers of the security agencies expanded and their personnel and expenditure grew dramatically after 2002, so too did parliamentary oversight of the AIC. This process culminated in the creation in 2010 of the office of *Independent National Security Legislation Monitor* to examine counter-terror legislation, whilst the similarly independent Office of Inspector of Intelligence and Security reports annually on the 'legality and propriety of intelligence agencies' extended activities.³⁶ This constitutional accountability of an expanded state surveillance machinery has implications for how the AIC has addressed internal threats and foreign fighter recruitment since 9/11.³⁷

9/11, Bali and the transformation of national security architecture

9/11, the Bali bombing of October 2002 and the London attack of July 2005, together represented an important psychological threshold for the perception of national security and the Australian response to the global Jihadist threat. Indeed, piecing together the evolving relationship between the Indonesian terror franchise, Jemaah Islamiyah (JI), the Philippine Abu Sayyaf Group and al-Qaeda between 1985 and 2002, it is evident that both Australian and regional intelligence and police services exhibited a limited appreciation of the nature and extent of the regional Islamist threat.³⁸ Even after the Bali bombing, Australian police and the AIC denied any connection between JI and al-Qaeda.³⁹ In January 2003, Australian police sources maintained that, 'there is nothing concrete to link al-Qaeda to the [Bali] bombings'.⁴⁰ Eventually, in February, it was officially, but somewhat reluctantly, admitted that 'until the events of 12 October 2002 JI was 'an unknown quantity'.⁴¹

The scale of the intelligence failure across the region reflected a wider inter-governmental complacency towards the spread of Islamic extremism prior to the Bali bombing which consistently underestimated the nature and extent of the threat.⁴² Indeed, Australian security analysts were asserting a week before the Bali attack that 'the tendency is still to overplay [the terror] threat'.⁴³

After Bali, however, the AIC, the wider community and the media, accepted, in principle, the proposition that terrorism had shifted from a nuisance criminal behaviour to the primary national security focus. In the aftermath of the joint Australia-Indonesia police and intelligence effort to find and arrest the Bali bombers, together with the regular discovery of plots to attack Australian infrastructure between 2003 and 2015, it appeared that Australia needed an overarching national security strategy to counter transnational terrorism with domestic effects. It was assumed that a national strategy would more clearly define the threat to Australia, identify the key long-term trends in terrorist activity and offer policy and intelligence responses.

Following a series of further attacks against Australian interests in Southeast Asia in 2004, the Department of Foreign Affairs and Trade (DFAT) produced a white paper on transnational terrorism. It advocated a three-pronged response: build effective operational-level cooperation; help other countries

develop and strengthen their capabilities to fight terrorism; and build political will among governments to combat terrorism.⁴⁴ It also led to the appointment of a Counter-Terrorism Ambassador within DFAT to coordinate collaboration between Australian agencies and international partners.

Transnational terrorism now became one of the defining issues in Australia's domestic and foreign relations.⁴⁵ It affected the practice of intelligence collection. After 2002, Australian diplomacy attempted to secure greater cooperation with Southeast Asia across the full range of political, military and development assistance sectors. Between 2002 and 2010, Australia negotiated separate bilateral memoranda of understanding on counter-terrorism co-operation with Asian and Pacific countries, co-hosted four Ministerial regional summits, and provided more than Au\$100 million in aid projects to assist regional counter-terrorism efforts. This notwithstanding, Australia's participation in the Iraq War in 2003 exacerbated the internal and external terror threat to Australian interests. In particular, after 2006, a third generation of al-Qaeda leaders turned increasingly to social media and on line publications in English to promote their politically religious vision of an impending apocalyptic confrontation between Islam and the secular, and 'hideously schizophrenic' west.⁴⁶

The online call for global resistance to the *kuffar*, rendered the potential terror threat protean, leaderless, 'socially mediated' and unpredictable.⁴⁷ Both ASIO's 2007 and 2008 reports to parliament identified the 'threat of terrorism'⁴⁸ and 'violent jihadist' activity as the organization's chief and escalating concern.⁴⁹ This concern was further exacerbated after June 2014 by the emergence of Islamic State and its attraction to a disaffected Lebanese Sunni Muslim diasporic community in Australia.⁵⁰

The intersection and exploitation of localised grievances and separatist movements in Southeast Asia, like Abu Sayyaf and the Moro National Liberation Front (MNLF) in the Philippines, the Pattani United Liberation Organization (PULO) in Southern Thailand and the Kumpulan Mujahidin Malaysia (KMM-Malaysian Mujahidin Movement) combined with globalized Islamist ideology, presented in a simple online format, poses a complex array of challenges.⁵¹ The direct challenge to Australia has two separate, but overlapping dimensions. The first is the immediacy of the threat.⁵² As the 2005 ASIO annual report notes, there had been at least one aborted, disrupted or actual terrorist attack against Australians or Australian interests every year since 2000.⁵³ A decade later, the government's *Review of Australia's Counter-Terrorism Machinery* found:

The threat posed by global Islamist terrorism is growing and becoming more diverse. Perhaps the most striking example of this growth is evident in the Iraq-Syria conflict zone. Here, the lethal convergence of ideological attraction and the geographical accessibility of the conflict has drawn foreign fighters on an unprecedented scale.⁵⁴

Indeed, as the review further observed, 'the conflict in this region has seen the creation of a new generation of increasingly capable, mobile, and digitally-connected terrorists with the ability to disseminate their extreme ideology around the world!'⁵⁵

Intelligence resourcing and the changing nature of terrorism post 2001

After 2001, Western counter-terrorism efforts disrupted, but did not destroy, the structure and organisation of al Qaeda's transnational jihadist networks. In fact, the period from the drawdown of US troops in Iraq commencing in 2009 to the announcement of a new caliphate or Islamic State in June 2014 witnessed 'an apparent evolution in terrorist tactics [that] is also dramatically altering our threat landscape: terrorist groups are increasingly encouraging random lone actor attacks'.⁵⁶ With the erosion of the leadership of al-Qaeda and the assassination of Osama bin Laden in 2011, jihadism became increasingly inchoate, making its penetration by intelligence agencies more difficult. Discrete, but interconnected, al Qaeda hubs emerged in the Arabian peninsula, the Maghreb, and in Iraq and Syria, where ISIS evolved from Abu Musab al Zarqawi's al-Qaeda in Iraq, whilst the al-Nusra Front took shape in Syria after 2012. Suicide attacks that employed 'clean skins' reduced the chances of detection.

The London bombings in July 2005 and the proliferation of so called 'lone actor' attacks in Boston, London, Montreal, Ottawa, Sydney, Paris, Brussels, Nice and Rouen between 2012 and 2016 demonstrated how quickly home grown radicals⁵⁷ can become agents of global jihad. Moreover, internet use

by Islamic terrorist groups, places a high premium on access to this type of open-source information.⁵⁸ ISIS considers this aspect of their movement so important that in August 2015 they formed the Anwar al-Awlaki brigade to promulgate their message and recruit online. The brigade's media awareness is attuned to western sensibilities. Segueing off a L'Oreal advertisement, for instance, one recruitment message, targeting young western women, runs 'Cover Girl, No. Covered Girl, Yes. Because you're worth it.'⁵⁹

However, the allied intelligence community, although increasingly conscious of the need for social media intelligence⁶⁰ has so far failed to respond effectively to this virtual battleground, as the evolution of Islamic State's successful online recruitment and leaderless resistance strategies testify.⁶¹

In this context, a younger generation of Muslims from migrant communities in Sydney, Melbourne and Brisbane were, after 2010, increasingly susceptible to the appeal of third generation jihadism promulgated via the social media strategy of the Global Jihadist Movement (GJM) and, after 2014, the dedicated ISIS social media unit. After the wars in Iraq and Afghanistan, a younger and social-media-savvy group of Islamist thinkers, with extensive experience of the West, recognised that the global confrontation between a purified Islam and the *jahiliyya*, or infidel West, needed to be conducted with greater sophistication. They also recognised that the global movement required dual jihadist strategies: an intensification of violence in the Middle East after the withdrawal of US forces in 2011 and a more amorphous transnational and leaderless resistance such as that practised in Sydney in December 2014, April 2015 and October 2015,⁶² Paris in January and November 2015, and attacks across Western Europe in 2016.⁶³ Although security services and the Western media hasten to dismiss as lone wolves or 'stray dogs' the actors in recent attacks in Boston, Ottawa, Sydney, Paris, Brussels, Nice, Wuerzburg, Ansbach, or Rouen, these actions serve a wider strategic and ideological purpose. Indeed, they implement the strategic thinking of the more important jihadist tacticians since 9/11: Abu Musab al-Suri, author of the much-translated *Call to Global Islamic Resistance* (2005); Abu Bakr Naji, author of *The Management of Savagery: The Most Critical Stage Through Which the Ummah Will Pass* (2004)⁶⁴ a virtual blueprint for building a caliphate and a guiding text of Islamic State's leaders; and Anwar al-Awlaki,⁶⁵ the US citizen of Yemeni background who was a leading figure in al-Qaeda on the Arabian Peninsula until he was killed by a US drone strike in 2011 and largely credited with promoting 'open source jihad' to an English speaking audience through the online magazine *Inspire*.⁶⁶ This online adaptation, for a global audience, of Islamism's apocalyptic political vision informs the thinking of Islamic State and their own glossy, online magazine *Dabiq*.⁶⁷

Al-Suri's *Call to Global Islamic Resistance* sought spontaneous, self-radicalised actions 'which will wear down the enemy and prepare the ground for waging war on open fronts ... without confrontation in the field and seizing control of the land, we cannot establish an (Islamic) state, the strategic goal of the resistance'. Al-Awlaki adapted extracts from this long tract for *Inspire*, the English online journal that recalibrated the strategy and made jihad hip for young Muslim diaspora in the West.⁶⁸ The former boxer, male stripper, Salafist convert and Sydney sheikh, Feiz Mohammed, further facilitated this strategy after al-Awlaki's death. Feiz exercised a notable influence over the Tsaernev brothers responsible for the attack on the Boston marathon in 2013. Similarly Neil Prakash, a former rapper from Melbourne, became one of Islamic State's senior online recruiters and attack co-ordinators before his death in a US air strike on Mosul, Iraq in March, 2016. Prakash coordinated a number of failed attacks in Sydney and Melbourne as well as Fahad Jabhar's assassination of police accountant Curtis Cheng in Paramatta in October 2015.⁶⁹ The leaderless resistance abroad that al-Awlaki and al-Suri envisaged and which Islamic State implements with an estimated 90,000 posts a day for 'generation jihad', complements the 'management of savagery' within the protean Islamic State.

The AIC and NSC response to the Global Jihadist Movement

Somewhat predictably The Australian NSC's attempt proactively to deter the online appeal of ISIS and discourage 'radicalisation' assumed a familiar technical managerial character. After 2013, the Australian federal government allocated over Au\$40 million to counter violent extremism. The government devotes Au\$13.4 million specifically to counter radicalisation through programmes like 'Living Safe

Together'. After Curtis Cheng's murder, the Turnbull government approved yet more funding for social programmes aimed at 'preventing youth radicalisation'.

Somewhat problematically, however, the NSC's bureaucratic response to the powerful online stimulus to fanatic violence, misrepresents it as 'radicalisation' and seeks to manage it by stressing the need for greater 'social cohesion.' Despite a dearth of supporting evidence for its social health care based model of intervention and prevention, Australian counter-terrorism co-ordinator, Greg Moriarty, maintains that 'early intervention and community based solutions work best'.

However, a study in the journal of *Behavioural Science of Terrorism and Political Aggression* found that only one in 87 programmes 'dealing with countering violent extremism deals with those who have been radicalised'. Efforts were instead 'spent on diffuse programs promoting multiculturalism rather than targeting individuals'. The authors of the study concluded that: 'there is little ... evidence based research to suggest that social cohesion or prevention initiatives have led to an actual reduction in extremism anywhere in the western world.'⁷⁰

In other words, whilst IS offers jihadi cool messaging, authorities respond with an administrative technology of community bonding achieved through culturally sensitive de-radicalisation programmes that have proved both costly and ineffective.

The limitations of proactive, bureaucratically administered de-radicalisation programmes notwithstanding, responsibility for open-source collection on the internet and other media shifted from DFAT to ONA, following the recommendations of the 2004 Flood Inquiry.⁷¹ Yet, although ONA has increased the pool of analysts working on open-source collection, it cannot track even a small percentage of the estimated 4800 terrorist websites, let alone monitor the social media postdispatched by Islamic extremists.

Notwithstanding evident intelligence failings post-2001, and the NSC's bureaucratic response to the latest ebullition of global jihadism, successive governments have nevertheless invested heavily in the AIC as the principal tool to combat transnational and home grown terrorism, as well as the emergence of the new social media driven threat. As the 2015 *Review of Australia's Counter Terrorism Machinery* noted, between 2001 and 2014, the budget for ASIO increased more than fivefold; that of the ONA almost quadrupled; for ASIS it more than tripled and for the AFP it more than doubled.⁷²

Meanwhile recruitment to the AIC also rose dramatically. ASIO's staff increased from 600 officers in 2002 to 1900 by the close of the decade, whilst the Flood Report called for a doubling of ONA analysts,⁷³ and ASIS, which does not disclose staff numbers, saw its budget rise from \$36 million in 2003 to nearly \$250 million a decade later.⁷⁴ Over a similar period, the Australian Federal Police, which had assumed an enhanced counter terrorism function after 2002, saw its personnel increase tenfold from 647 to 6400 officers.⁷⁵ Although the level of AIC funding fell a little after the Labor government's review of counter-terrorism in 2008, mounting concern about the internal and external threat posed by the rise of Islamic State saw Tony Abbott's Liberal government increase the AIC budget by a further AuS \$634 million in 2014.⁷⁶ This investment represents a significant long-term commitment to placing intelligence security at the forefront of the government response to the new risk environment.

Yet somewhat problematically, as a 2008 Australian Strategic Policy Institute report observed, 'there is no systematic way to examine public expenditures on counter-terrorism.'⁷⁷ Despite the formation of a National Threat Assessment Centre in 2003 and a Counter-Terrorism Control Centre in 2010 as well as the application of efficiency dividends to the AIC after 2010, measurement of AIC effectiveness remains rudimentary.

Law, freedom and counter terror: a misconceived debate

At the same time as the intelligence agencies enjoyed a boom in resourcing, the Howard government between 2002 and 2007 controversially amended the law governing terrorism to facilitate its pre-emption, as well as granting special powers to the AFP via amendments to the *Australian Federal Police Act* 2004. As Jennifer Hocking observed, 'organizationally the events of September 11 also set in train a steady expansion in the domestic counter-terrorism institutional machinery, an expansion heightened by the bombings in Bali.'⁷⁸ The government's proposals were essentially twofold: the expansion of

ASIO's powers by yet another amendment to the *ASIO Act*, and new laws to combat the specific crime of terrorism. The *Security Legislation Amendment (Terrorism) Act 2002* introduced specified offences of terrorism into Australian federal criminal law. A terrorist act was defined as:

an action or threat of action ... done with the intention of advancing a political, religious or ideological cause and with the intention of coercing or influencing by intimidation, the government of the Commonwealth or State or Territory ... or intimidating the public.⁷⁹

The 2002 Act further identified a range of ancillary offences relating to connections with proscribed organizations. Under the new legislation, moreover, the Attorney General, and not the judiciary, decides whether an organization 'planning assisting in or fostering the doing of a terrorist act' should be proscribed.⁸⁰

Together with a legal definition of terror and its ancillary prescriptions and penalties, the government altered the *ASIO Act* to enhance 'the powers of ASIO to investigate terrorism offences', which entailed the power to detain individuals and to conduct coercive interrogations under strict control orders. Reporting on the *ASIO Legislation Amendment (Terrorism) Bill (2002)*, the Parliamentary Joint Committee on ASIO, ASIS and ASD considered it 'one of the most controversial pieces of legislation considered by Parliament in recent times' that would 'undermine key legal rights'.⁸¹

The proposed anti-terror measures evoked a chorus of academic, media and legal disapproval.⁸² For civil libertarians, moving ASIO into 'the arena of pre-emptive security policing' represented an 'unprecedented' assault on the rule of law.⁸³ Equally significantly, the 2002 legislation reversed an earlier approach to political violence that refused political credibility to groups or individuals having recourse to violence in the name of an ideological or apocalyptic religious abstraction. The 1984 *ASIO Act* had treated politically motivated violence as an offence at common law. The concept of terrorism, constitutional lawyers averred, was too imprecise.⁸⁴

Criticism of the legislation focused upon its erosion of democratic rights like freedom of association and *habeas corpus*. Critics observed that the executive proscription of political, religious and ideological organisations evoked memories of the Menzies government's attempts to proscribe the Communist Party in 1950. Hocking considered the anti-terror laws 'carried profound implications for freedom of political association and political expression. The new crime of membership of a terrorist organization ... institutionalizes ... guilt by association'.⁸⁵ Following extensive review, amended legislation in 2003 gave additional powers to ASIO, but included parliamentary oversight.

In 2005, the government introduced further legislation. These included new ASIO powers to question coercively persons under warrant in relation to terrorism offences and AFP powers to seek preventative detention orders to 'prevent an imminent terrorist attack and/or the loss of vital information immediately after a terrorist act'.⁸⁶

Despite academic, legal and media condemnation of the 'enactment of a vast body of national security law' the threat Australia's security agencies faced was one not easily curtailed without expanding or at least redefining ASIO's power to act pre-emptively against groups prepared to undertake suicide attacks.⁸⁷ Indeed, ASIO employed the new legislation to foil attacks on Australian targets. In June 2006, Faheem Khalid Lodhi was sentenced for planning terrorist acts in Sydney. More dramatically, in November 2005, ASIO in conjunction with Federal, Victorian and New South Wales police, arrested 18 Muslim men in Sydney and Melbourne planning attacks on the Melbourne Cricket Ground (MCG) and the Crown Casino. The subsequent trial of 12 of those arrested in *Operation Pendennis* resulted in six convictions under the new laws in September 2008.⁸⁸

Nevertheless, the application and expansion of this legislation to cover telecommunications intercepts since 2014, as we have seen, remains politically contentious. The case of Australian/Egyptian citizen Mamdouh Habib, notably reinforced suspicion about the AIC approach to counter terrorism and its ties to the CIA. The CIA had detained Habib in Pakistan in October 2001 on the grounds he had prior knowledge of the 9/11 attacks on New York and Washington. Although Habib's case was not directly related to the new laws, his rendition to Cairo in November 2001 occurred before his internment at Guantanamo Bay. After his release in 2005, Habib claimed that ASIO and AFP officers were present during

his enhanced interrogation in Cairo and were complicit in a process that involved cruel and inhumane treatment.⁸⁹ In March 2006, 'Jihad' Jack Thomas was sentenced to five years in prison for receiving funds from a terrorist organization, yet on appeal the case was dismissed. In 2007, an ASIO and AFP case against medical student Izhar ul-Haque also collapsed.⁹⁰ Most embarrassing for the enforcement of new counter-terror laws was the AFP's detention and arrest of Dr Mohamed Haneef for his alleged role in failed attacks on a London nightclub and Glasgow airport in July 2007.⁹¹

However, all these cases were subject to independent scrutiny by the office of the Inspector-General of Intelligence and Security (IGIS), which took its constitutional responsibility seriously. Under *The Inspector-General of Intelligence and Security Act 1986*, the Inspector-General has the power to require attendance of witnesses, take sworn evidence, retain documents and enter Australian intelligence agencies' premises. In other words, these cases of apparent abuse were subject to legal oversight.

The cases of Habib, ul-Haque and Haneef raised public concern, but also showed the IGIS actively examining claims that ASIO and ASIS acted extra-judicially in the wake of 9/11 and misused the new security powers vested in them. In 2011, Inspector-General, Vivienne Thom,⁹² conducted a detailed investigation into the *Habib* case and found that neither ASIO nor AFP officers were involved in his transfer to Cairo or attended his interrogation. Thom's report did, however, find that both ASIO and AFP needed clearer guidelines about providing information to foreign governments about Australian citizens and should 'ascertain that the interviewee would not be subject to cruel, inhumane or degrading treatment'.⁹³

The IGIS also investigated the circumstances surrounding the interrogation and prosecution of Izhar ul-Haque in 2007. ASIO and AFP officers suspected ul-Haque's involvement in the Faheem Khalid Lohdi and Willie Brigitte plot to commit a terrorist act in Sydney in 2003. In 2006, Lohdi received a 20-year sentence for three terror-related offences. Yet, the New South Wales Supreme Court dismissed charges against ul-Haque, a known associate of Lohdi, in 2007, and criticized two ASIO officers for their 'oppressive conduct'. The IGIS investigation found that there was no evidence to support the claim of 'false imprisonment' or 'unlawful detention'.⁹⁴

What the IGIS did consider problematic, however, was the lack of coordination between ASIO and the AFP in their conduct of the ul-Haque investigation. In particular, the then IGIS, Ian Carnell, considered that ASIO displayed a 'lack of confidence' in sharing information with the police and failed to communicate its operational plan to the 'relevant police authority'.⁹⁵

A similar breakdown in communication between agencies also occurred in the case of Dr Mohamed Haneef. AFP officers arrested Haneef at Brisbane airport in July 2007 in connection with a failed terrorist attack on Glasgow International Airport that involved his second cousins Kafeel and Sabeel Ahmed. Held in solitary confinement for 12 days under the *Anti-Terrorism Act 2005*, Haneef was eventually released without charge. The subsequent inquiry into the *Haneef* case led by former New South Wales Justice John Clarke QC found the evidence against Haneef 'completely deficient' and that ASIO had informed the AFP that there was no evidence to suggest Haneef was 'guilty of anything'.⁹⁶ Ultimately, Clarke concluded that AFP Commander, Ramzi Jabbar, manager of Counter-Terrorism Domestic, had 'lost objectivity' and was unable to see that the evidence he regarded 'as highly incriminating amounted to very little'.⁹⁷ Clarke recommended parliament implement oversight of the AFP and reform the counter-terror legislation. Similarly, the *Street Review* of the AFP counter-terror practice identified a failure of "interoperability between the AFP and its national security partners".⁹⁸ This deficiency stemmed from three sources: firstly, the conflict between the intelligence-gathering function of the security agencies and the evidence gathering of police; secondly, the problem of confidentiality in terms of intelligence-gathering versus the constitutional requirement of accountability; and thirdly the tendency of different security agencies to 'silo' information that the Flood Report into the Australian intelligence agencies had previously highlighted.⁹⁹ Arrest and detention on the grounds of pre-emption continues to divide public opinion about the utility of the counter-terror legislation and the political and security roles that the AFP has assumed since the government granted it special powers and an enhanced counter-terror mandate without adequate parliamentary oversight after 2004.

The flood report and its aftermath: AIC coordination and the evolution of a NSC

Despite its expanding powers and the widespread criticism of their potential misuse and threat to liberal democracy, it had become evident as early as 2003 that the AIC had a credibility problem. This was a direct result of the apparent 'sexing up' of evidence concerning Saddam Hussein's possession of weapons of mass destruction. In this the AIC uncritically followed UK and US intelligence assessments that persuaded the Howard government to join the US-led 'Coalition of the Willing'.¹⁰⁰ The resignation of ONA analyst Andrew Wilkie on the eve of the Iraq war in protest at the 'unbalanced' and 'misrepresented' use of intelligence highlighted what appeared to be a government propensity to use information selectively to justify its policy decisions.¹⁰¹ Wilkie, had a point, the Chilcot inquiry (2016) found that 'the judgements about the threat posed by Iraq's weapons of mass destruction, WMD, were presented with a certainty that was not justified'.¹⁰²

In an atmosphere of growing scepticism about the legitimate use of secret intelligence, and on the recommendation of a parliamentary inquiry into the quality and effectiveness of Australian intelligence, the government appointed Philip Flood to assess the Australian intelligence agencies in 2004. Flood's report depicted an overworked, under-resourced intelligence community lacking strategic direction. He also found that ONA and DIO Iraq assessments had not been politically managed.¹⁰³ Nevertheless, Flood identified a number of weaknesses in the AIC. In particular, he revealed a culture that uncritically accepted preconceptions governing both assumptions and sources.¹⁰⁴ Flood recommended a renewed focus on analytic techniques and improved command of foreign languages.¹⁰⁵

The report also emphasized the need to maintain a distinction between the detached activity of intelligence collection and the demands of policy-making, by broadening ONA's charter to embrace a new Foreign Intelligence Co-ordination Committee chaired by ONA and including ASIO and the AFP. Subsequently, the government introduced the National Threat Assessment Centre (NTAC), an all-agency coordination body for filtering intelligence data as a 'refinement' to existing bureaucratic structures. The NTAC, however, fails to address the structural problem posed by information silos within and between agencies.¹⁰⁶ In 2010, a new Counter-Terror Control Centre (CTCC) adumbrated the NTAC.

Yet, as the Clarke report on the *Haneef* case demonstrated, the call for 'better coordination' and integration became something of a stock rhetorical response to the complex problem of understanding and addressing the evolving nature of asymmetric threats. Indeed, despite cosmetic adjustments, the Flood inquiry produced a better-resourced and larger AIC, but one that still resembled and acted in a remarkably similar way to that which existed before 2001.¹⁰⁷

In the prevailing managerial rationalist idiom, in 2007, the new Labor government of Kevin Rudd commissioned a 'radical' review of national security. Ric Smith, a former Defence Department official, conducted a Homeland and Border Security Review in February 2008. Somewhat predictably, the review delivered little that was innovative. Incorporating the review findings in the *First National Security Statement* in December 2008, Kevin Rudd accepted Smith's recommendation that Australia avoid the US model of a Department of Homeland Security and the creation, following the *Intelligence Reform and Terror Prevention Act* (2004) of an Office of the Director of National Intelligence. Instead, Rudd opted for 'a new level of leadership, direction and coordination' of 'the existing community of relatively small, separate agencies' together with a new and extended understanding of the NSC that significantly stretched the concept of internal security and responsibility for it.¹⁰⁸ Rather than contemplating radical reform to the cold war structure of security intelligence, Rudd created a new office of the National Security Adviser within the prime minister's department, but separate from ONA, to provide strategic direction and support a 'whole-of-government national security policy'.¹⁰⁹ To facilitate this 'integrated approach', Rudd also announced the new national crisis coordination centre (NCCC) and founded a national security college, at the Australian National University to inculcate security executives in the whole-of-government approach.¹¹⁰

The national security statement summated prevailing orthodoxies about improving coordination. Where the review did innovate was by extending the definition of security to embrace new Labor ideology, whilst at the same time expanding the managerial reach of the Canberra bureaucracy. Thus

the statement proposed climate change as 'a most fundamental national security challenge for the long term future'.¹¹¹ The Labor government's predilection for stretching the already contested concept of national security to embrace fashionable elite enthusiasms only reinforced the tendency of both Labor and Liberal Coalition administrations to address the issue of national security from a technocratic managerial perspective. For the Rudd government this required a coordinated 'whole-of-government' response to broadly defined national emergencies.¹¹² In its relatively short life span (2007–2010) the Rudd government, in a flurry of legislative activity, created eight new national security institutions.¹¹³ As Carl Ungerer observed, the government intended to centralise the security 'effort within the Department of Prime Minister and Cabinet' in order to respond 'to the number of multifaceted challenges confronting policy makers'.¹¹⁴

The emergence of Islamic State in 2014 and the 'lone actor attacks' in Melbourne and Sydney coincided with Tony Abbott's new Liberal government (2013–2015) and a further review of security, as well as the promulgation of new laws to address the phenomenon of foreign fighter recruitment and online 'radicalization'. Yet despite the Rudd and Gillard government's creation of the new office of National Security Adviser and a NSC to coordinate strategic direction between the disparate agencies in the AIC, after 2008, together with the Abbott government's decision to create an Office of Commonwealth Counter-Terrorism Co-ordinator, in the wake of the Sydney attack in December 2014, problems of confidentiality, integration and information sharing between the various agencies, and in particular between ASIO and the AFP, remain.

It is this managerial approach to national security and its rationalist propensity to proliferate committees, offices, boards,¹¹⁵ anti-terror laws and special powers, rather than a problem of accountability that constitutes an enduring problem for the AIC and a NSC (NSC) that now includes *inter alia* DFAT's Counter-Terrorism Ambassador and Internal Security Division Counter-Terrorism Branch, and the Attorney-General Department's Counter-Terrorism and Intelligence Unit and Countering Violent Extremism Centre.

As we have seen, parliament through the JCIS and IGIS exercise a reasonable degree of oversight over the core security agencies. The organization that is least politically accountable, however, is the AFP counter-terror force. Since 2002, the AFP has assumed an enhanced domestic and international counter-terror role. Significantly, in 2011, the *Parliamentary Joint Committee on Intelligence and Security Review of Administration and Expenditure*¹¹⁶ recommended that its oversight power be extended to include the AFP. The government failed to support this recommendation on the grounds that the AFP was a law enforcement agency and not part of the AIC, although they belong to the inter-agency Australian Counter Terrorism Centre and Joint Counter Terrorism Board within the wider, post Rudd, NSC.¹¹⁷

Here lies the root of Australia's security dilemma and the managerial and rationalist response to it. As terrorism acquired a specific legal definition under the terms of *The Security Legislation Amendment (Terrorism) Act* 2002, its pre-emption assumed a political purpose. Yet, as Justice Sir Victor Windeyer observed in 1979, the best safeguard against new terrors lay in the rigorous enforcement of criminal law rather than making new laws about terrorism. Although, as former Attorney-General Phillip Ruddock, argued politically or religiously motivated terrorism, unlike mainstream criminality, revels in the symbolism of the act, policing an ideological action necessarily politicises the police and engages the AFP in the world of security rather than law enforcement.¹¹⁸ To ensure greater accountability in an age of increased surveillance, the weakness in Australian oversight lies not in the realm of security agencies but in policing. Thus, since 1977 a series of royal commissions have rendered ASIO, ASIS, ONA and DIO accountable to parliament. At the same time, since 2004, state and federal governments have extended the counter-terror role of the police forces of the seven Australian states and especially the AFP without according these forces a similar level of constitutional oversight. Thus, the Victorian, Queensland, New South Wales and Australian Federal Police forces have assumed an increasingly political counter-terror role without corresponding political accountability. Their oversight and coordination with the security agencies presents a distinct constitutional problem. This problem is further complicated by legislation that responds to events, and is handicapped by an unnecessary expansion of an NSC bureaucratic in character, whose institutions and agencies are often insulated by different cultural practices.

Conclusion

Australia has traditionally sought security through alliance with great and powerful friends, first the United Kingdom and after 1942 with the United States. This has left an indelible imprint upon the structure and philosophy of national security and the intelligence required to sustain it. Sometimes acerbic political debate has focused upon what Australian security should entail and the powers granted to agencies to sustain it. Political disagreement about both the external and internal nature of threats and a constantly changing risk environment exacerbates this security intelligence dilemma and distorts the assessment and intelligence collection process.

A number of enduring paradoxes emerge from the history of the essentially contested and increasingly bureaucratic concept of Australian national security. Firstly, the national security debate increasingly required legal accountability and parliamentary oversight of all security agencies as the sine qua non of political democracy. From 1997–2004 a number of royal commissions established a political and legal structure rendering Australian security agencies constitutionally more accountable.

The paradox is that to be effective intelligence requires confidentiality, or secrecy, 'not just to protect sensitive intelligence sources, but also to protect fearless analysis'. As former ONA analyst, A.D. McLennan, observed 'it would be hard for minister to walk away from complicating intelligence judgments, were they public knowledge'.¹¹⁹ In an era of asymmetric violence and intense media scrutiny, maintaining confidentiality and detachment has become increasingly difficult. Moreover, the evolution of new polymorphous threats like contemporary online jihadism renders particularly vivid the irresolvable constitutional paradox concerning the relationship between the prudential pursuit of security and the safeguarding of democratic rights and abstract notions of justice. This paradox will continue to haunt those engaged with assessing Australian intelligence and national security.

Moreover, the governmental attempt to manage this paradox by recourse to counter terror legislation and curbs on freedom of speech whilst expanding the capacity of the Australian NSC exhibits a solution driven by a distinctively bureaucratic dynamic of contemporary micro management, at the expense of constitutional understandings of reason of state.

Classic contract theorists and constitutional lawyers recognized the liberal state's need for emergency powers to address subversion and high treason.¹²⁰ However, it required the specific identification of the threat whether it be from Catholic or Puritan religious fundamentalism in the seventeenth century or an ideology like Fascism or Communism in the twentieth.

The post 9/11 approach by contrast treats the problem managerially reducing it to technical abstractions like 'radicalization' and 'extremism' and addressing it as an administrative problem whilst failing to identify the specific subversive ideological form namely Islamist driven zealotry. As a consequence, the surveillance state has grown without diminishing the threat to domestic peace.

Secondly, the evolution of the AIC also demonstrates the uncertain and shifting international environment in which agencies operate. From the formation of ASIO to the creation of the new National Security Adviser, the various Australian agencies represent partial responses to very different national security threats. As a result, there exists a tendency to overlapping jurisdictions and institutional sclerosis where agencies immured in a structure designed for Cold War contingencies fail to adapt to new exigencies, like the rapid evolution of the GJM via social media. This is evident in the Australian response to the leaderless resistance promulgated by Anwar al-Awlaki and Sydney sheikhs like Feiz Mohammad, and Neil Prakash. Nor do the preoccupations of successive Labor and Coalition governments between 2002–2015, with piecemeal reform and improving coordination and cooperation across the AIC, necessarily address the silo mentality that goes with the territory of bureaucratically entrenched practice over time.¹²¹

Somewhat differently, the media, academe, common lawyers and cosmopolitan, liberal elite penchant for focusing the debate on counter-terrorism laws in terms of a universal attack on civil liberties fails to take sufficiently seriously the existential character of a specific Islamist threat to secular democracy. This means that the often histrionic debate over counter-terror laws precludes attention to the recurrent threat posed to the integrity and constitutional stability of a political democracy from

espionage and subversion, the threats, of course, that ASIO, ASIS, DIO and ONA were founded to combat. The price of freedom requires both eternal vigilance and confidentiality. Currently, and notwithstanding the threat posed by online recruitment to jihad, Chinese espionage activity in Australia exceeds that of the Soviet Union during the Cold War, but public awareness about this threat to national security is minimal.¹²²

Finally, having elevated intelligence to the forefront of allied counter-terrorism efforts, there is an expectation among the public that new funding, integrated approaches, strategic frameworks and risk-based analysis will prevent the next 9/11. Such expectations are of course unrealistic. Intelligence remains an imprecise activity, liable to political distortion. The history of Australian security intelligence bears eloquent testimony to this imprecision.

Notes

1. The author would like to thank Professor Loch K. Johnson and the three anonymous reviewers for their pertinent and thoughtful suggestions for improving this essay.
2. With the exception of New Zealand which passed only one *Suppression of Terrorism Act* (2002) after 2001.
3. Thomson, *The Cost of Defence* 33–5; Neighbour, 'Hidden Agendas', 2010 and Ungerer, *Australia's National Security Organizations*, 2010.
4. Williams, "A Decade of Australian Anti-Terror Laws," 2010. For a comprehensive list of national security legislative changes see Evershed and Safi, "All of Australia's National Security changes." 2015.
5. Daesh is the acronym derived from the Arabic for the entity namely, *al-Dawlah al-Islamiyah fi al-'Irāq wa-al-Shām*.
6. Since 2013, an increasingly acerbic, but interconnected public debate over freedom of speech and data privacy has evolved. Libertarians particularly object to Section C of the Racial Discrimination Act 1975 an amendment to the act, added in 1995, that declared it:
 - (1) unlawful for a person to do an act, otherwise than in private, if:
 - (a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
 - (b) the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

Meanwhile both libertarians, multiculturalists and the green left of the Australian political spectrum are disturbed by the implications for privacy of the *Telecommunications (Interruption and Access) Amendment (Data Retention) Act 2015*, that requires data providers to retain personal data for two years.
7. See *Maintenance of Religious Harmony Act* (Singapore) (1992, revised 2001) and Mathews, "Religious Harmony in Tense Times," 2010.
8. Oakeshott, *Rationalism and Politics*, 6.
9. *Ibid.*, 8.
10. *Ibid.*, 23. See also Minogue, *Servile Mind*, 1–3.
11. See Johnson, *National Security Intelligence*, 178.
12. Freidrich, *Constitutional Reason of State*, 1957.
13. After 2008 the NSC included *inter alia* DFAT's Counter-Terrorism Ambassador and Internal Security Division Counter-Terrorism Branch, and the Attorney-General Department's Counter-Terrorism and Intelligence Unit and Countering Violent Extremism Centre.
14. Wardell, "Cooperation and Integration amongst Australia's National Security," 25.
15. The federal government's Attorney-General's office has also sought to address the problem of 'radicalization' proactively- allocating since 2014 more than Au\$ 630 million to programmes 'Countering Violent Extremism' and 'Living Safe Together'. These deterrent programmes also assume a managerial character. Somewhat differently, *The National Security Amendment Act 2014* strengthened ASIO's powers to monitor the internet, whilst *The Counter-Terrorism Legislative Amendment (Foreign Fighters) Act 2014* gave ASIO the power to suspend passports and cancel visas, in an attempt to preempt Australians joining jihadist groups in Syria and Iraq.
16. Rabasa et al., *Beyond al Qaeda*, 2006.
17. See Williams "A Decade of Australian Anti-terror laws."
18. In this context see Johnson et al., "An INS Special Forum," 793–810; Walsh and Miller, "Rethinking 'Five Eyes' Security Intelligence," 345–68 and Etzioni, "NSA: National Security vs. Individual Rights," 100–36.
19. Recruits to ISIS also include Australians from South Asian, South East Asian and Pacific Islands backgrounds like Melbourne former rapper Neil Prakash the most senior Australian ISIS fighter in Iraq until his death in a US airstrike in 2016, see Safi and Karp, "Neil Prakash," 2016. Nevertheless of the approximately 100 Australians recruited to ISIS or the al Qaeda affiliated Jabhat al Nusra more than half came from South West Sydney and were of Lebanese background. See Chambers, "Fighting with ISIS in Syria and Iraq," 1. The most comprehensive assessments of

- Australian foreign fighters in Iraq also note the Lebanese connection. Zamatt *Australian Foreign Fighters Risks and Responses*, 9; Harris-Hogan and Zammit, "The Unseen Terrorist Connection," 449–69.
20. The Australian Muslim community comprises 2.2 % of the population, 476,000 people at the 2011 census. It is concentrated in Sydney (45%) and Melbourne (30%). 37% of Muslims were born in Australia. Muslim migration to Australia after 1945 came initially from Bosnia and Turkey, and after 1973 with the end of the white Australia policy from Lebanon especially during the Lebanese civil war 1975–1976. Hassan and Lester *Australian Muslims*, 17–29.
 21. Mullins, "Islamist Extremism and Australia," 254–85. See also Porter and Kebbell, "Radicalization in Australia," 212–31; and Zammit, "Explaining a Turning Point in Australian Jihadism," 739–55.
 22. Department of Prime Minister and Cabinet, *Review of Australia's Counter terrorism Machinery*, v–vi.
 23. Snowden, "Interview Transcript," 2015 and *The Guardian*, 12 June 2013. For the wider democratic and security implications of Snowden's leak see Johnson et al. 2014; Walsh and Miller 2015; and Etzioni 2016, the film-maker, Oliver Stone, released a predictably sympathetic docudrama concerning Snowden's whistle blowing, the eponymous *Snowden*, 2016.
 24. See McKnight, *Espionage and the Roots of the Cold War*, 2002; Blaxland, *The Protest Years* 2015; Gaetano, "The Whitlam Government's 1973 Clash with Australian Intelligence," 62–88. The Australian left's current attempt to deter government access to meta data reflects a historic suspicion of the national security architecture that led to the radical Attorney-General, Lionel Murphy's raid on ASIO's headquarters in Melbourne in 1973.
 25. Le Carre, *A Most Wanted Man*, 3.
 26. Popper, *The Open Society and its Enemies*, 180.
 27. Templeton, *Report of the Royal Commission on Intelligence and Security Intelligence*, 6. See also Horner, *The Spy Catchers*, 2014.
 28. Templeton, *Report*, 6.
 29. Blackburn, "Independent Review of Australian Anti-Terrorism Laws," 2013.
 30. Templeton, *Report*, 6.
 31. *Ibid.*, 6.
 32. Ball and Horner, *Breaking the Codes*, 1998.
 33. Hope, *Report of the Royal Commission on Intelligence and Security*, 34.
 34. Gyngell and Wesley, *Making Australian Foreign Policy*, 145.
 35. *Ibid.*, 149.
 36. Thom, *IGIS Annual Report*, 6.
 37. See Walsh, *Intelligence and Intelligence Analysis*, 187.
 38. Jones and Smith, "Ideology, Networks, and Political Religion," 71–91.
 39. See Jones and Smith, "Costly Delusion The Bali Bomb and Australian Policy," 21–3; Murphy, "Man Most Wanted in Indonesia," 7; Jones, "Al-Qaeda in South East Asia: The Case of the Ngruki Network in Indonesia," 2002; "A Deadly Connection," *Sydney Morning Herald* (16 November 2002); Wanandi, "Indonesia a failed state?" 142.
 40. Stewart, "Al-Qaeda links to Bali bombs," 2003.
 41. Lyall and Chulov, "9/11 arrests shed s light on Ji," 2003.
 42. Jones and Smith, "The Perils of Hyper-Vigilance," 31–55.
 43. Dupont, 14.
 44. DFAT, *Transnational Terrorism: The Threat to Australia*, 2004.
 45. People smuggling and illegal migration represented the other emerging non- traditional threat to security that assumed an increasing prominence in discussions of Australian security after 2004.
 46. Al Suri, *The Global Islamic Resistance Call (Da'wat al-muqawamah al-islamiyyah al-'alamiyyah)*, 2005, advocates a strategy of leaderless resistance via online conversion. The American born of Yemeni extraction, Anwar al Awlaki, became the most prominent member of al Qaeda in the Arab peninsula before his death in 2011. He was personally responsible for the online conversion of the Fort Hood assassin Nidal Malik Hasan and the 'underwear bomber' Umar Frauk Mutalab. The thinking of al Qaeda followed the analysis of the Egyptian Muslim Brother Sayyid Qutb. See Qutb, *Islam the Religion of the Future*, 1971.
 47. See in this context the work of the *International Centre for the Study of Radicalisation and Political Violence* on ISIS' use of social media *inter alia*: Stevens and Neumann, "Countering Online Radicalisation," 2009; Berger and Strathearn, "What Matters Online: Measuring Influence," 2013; and Domokos and Rees, "Jihad, Syria and Social Media," 2014.
 48. ASIO, *Report to Parliament 2006–2007*, 3.
 49. ASIO, *Report to Parliament 2007–2008*, 3.
 50. See particularly Zamatt, "Australian Foreign Fighters Risks and Responses," 9; and Harris-Hogan and Zammit, "The Unseen Terrorist Connection," 449–52.
 51. See Tan, "Armed Muslim Separatist Rebellion in Southeast Asia," 270.
 52. See Jones and Ungerer, "Continuity and Change in the Australian Intelligence Community," 172–3.
 53. ASIO, *Report to Parliament 2004–2005*, V111; and *Ibid.*, ix.
 54. Department of Prime Minister and Cabinet, *Review of Australia's Counter-Terrorism Machinery*, 10.
 55. *Ibid.*, 10.
 56. *Ibid.*, 10.

57. 'Radicalisation' emerged after the London attack to describe the process of conversion to the Islamist cause amongst an alienated diaspora in the west. See Schmid, 'Radicalisation, De-Radicalisation, Counter- Radicalisation,' 1.
58. The unit included a number of British and Australian recruits like Junaid Hussain and Neil Prakash. See Millar and Mekhennet, "Inside the Surreal World of Islamic State's Propaganda Machine," 2015.
59. Jones, "Islam State's appeal isn't really radical at all," 2015; and Jones, "Zealots and Fanatics not Radicals," 2015.
60. Omand et al., "Introducing Social Media Intelligence," 801–23.
61. Australian government's Attorney -General's department has attempted to curtail recruitment to jihad and deter 'online radicalisation' proactively through programmes like Countering Violent Extremism and Living Safe Together.
62. The failed Anzac Day plot resulted in the prosecution of Sevdet Basim in Melbourne. The plot was hatched online and a fifteen year old UK convert to ISIS groomed Basim. See Farnsworth, "Anzac Day Plot," 2016. Fahad Jabhar's assassination of Curtis Cheng in October was also a consequence of online radicalization. Four members of an alleged local Islamic State cell were subsequently arrested in connection with the shooting in April 2016.
63. Thomas Hegghammer, "The Case for Chasing Awlaki," 2010; Burke and Mark, "Al-Qaida in Yemen Claim Responsibility for Charlie Hebdo Attack," 2015.
64. Naji, *The Management of Savagery*, 2006; Hassan and Weiss, *ISIS Inside an Army of Terror*, 2015.
65. After whom the ISIS social media unit is named.
66. The same drone strike in Yemen in 2011 that killed al Awlaki also killed Samir Khan the ostensible editor of *Inspire*: see Goodman, "The American who waged media jihad," 2011; and Mellagrou-Hitchens, 2015. The politically religious thinking of al Qaeda and Islamic State follows the analysis of the Egyptian Muslim Brother Sayyid Qutb and his Manichean distinction between the Dar al Islam and the *jahaliyya* or ignorant Dar al Harb of the secular west. See Qutb, *Islam the Religion of the Future*.
67. *Dabiq* is the purported site of Armageddon the final battle between the forces of Islam and those of *kuffar* ignorance. The fifteenth issue of the journal is devoted to 'Breaking the Cross' 2016, and the twelfth issue to the defence of 'Just Terror' justifying the Paris attacks of 2015.
68. The youth appeal extends to Jihadi cool IS music videos see <http://www.barenakedislam.com/2015/11/06/for-the-sake-of-allah-who-in-hollywood-is-producing-such-high-quality-music-videos-for-isis/>.
69. Safi and Karp, "Neil Prakash, most senior Australian fighting with ISIS, killed in Iraq airstrike," 2016. Four members of an alleged local Islamic State cell were subsequently arrested in connection with the shooting in April 2016.
70. Harris-Hogan et al., "What is countering violent extremism?" 6–24; and Horgan and Braddock, "Rehabilitating the Terrorists?" 267–91.
71. Flood, *Report of the Inquiry into the Australian Intelligence Agencies*, 2004.
72. *Review of Australia's Counter Terrorism Machinery*, 5.
73. Neighbour, "Hidden Agendas"; Flood, *Report of the Inquiry*; Creighton, "The Rise and Rise of the Secret State," 2014.
74. The ASIS budget was Au \$36 million in 2002–2003. It rose to Au\$250 million in 2011. See Grono, "Australia's Response," 2007; see Footnote 30, and DFAT, *Australian Secret Intelligence Service Agency Resources and Planned Performance*, 166.
75. Creighton, "The Rise and Rise of the Secret State'.
76. *Review of Australia's Counter Terrorism Machinery*, 7.
77. Ergas et al., *The Intelligence Reform Agenda*, 17.
78. Hocking, *Terror Laws*, 195.
79. *Ibid.*, 202.
80. *Ibid.*
81. *Ibid.*
82. For the dimensions of the debate, see Hocking, 'Counter-Terrorism and the Criminalization of Politics', 2003, 355–71; Lynch, McGarrity, & Williams, *Inside Australia's Anti-Terrorism laws and Trials* 2015, 2 and Zammit, 'Explaining a Turning Point in Australian Jihadism', 739–55.
83. Hocking 'Counter-Terrorism and the Criminalization of Politics' 367.
84. Hocking, *Terror Laws*, 202.
85. *Ibid.*, 202.
86. *Ibid.*, p.16; *Review of Australia's Counter Terrorism Machinery*, 7.
87. Lynch et al., *Inside Australia's Anti-Terrorism laws*, 5.
88. Zammit, "Explaining a Turning Point in Australian Jihadism," 739–55.
89. See Thom, "Inquiry into the actions of Australian government agencies," 2011.
90. For a review of these cases see Carnell, 'Report of the actions taken by ASIO in 2003' 2008. For a discussion of all these Australian cases see Jones, "National Security and Public Accountability in Australia," 2013.
91. Clarke, *The Report of the Clarke Inquiry*, 2008.
See also Street et al., *The Street Review*, 2008; and Walsh, *Intelligence and Intelligence Analysis*, 132–52.
92. Margaret Stone replaced Dr Thom in 2015.
93. Thom, "Inquiry," 12.
94. Carnell, "Report," 40.
95. *Ibid.*, 42.

96. Clarke, *Report*, 2008, 20.
97. *Ibid.*, 20.
98. Street et al., *Review*, iv.
99. Flood, *Report of the Inquiry*, p.174. The situation had become, if anything, more acute by 2010 See Ungerer, "Australian Security Institutions," 6–8.
100. Sir John Chilcot's inquiry into the Iraq war found that 'The UK Government in public from late 2001 onwards conveyed more certainty than the (Joint Intelligence Committee) JIC Assessments about Iraq's proscribed activities and the potential threat they posed'. Chilcot et al., "Executive Summary," 806, 115. Australian Prime Minister John Howard receives only a cursory mention in the *Report* but it is evident that the ONA and the government followed UK and US assessments. See Doherty and Lyons, "Australia Needs its Own Chilcot inquiry," 2016.
101. Wilkie, *Axis of Deceit*, 7.
102. Chilcot et al., *The Report of the Iraq Inquiry*, 452–6.
103. Flood, *Report of an Inquiry*, 170–7.
104. *Ibid.*, 174.
105. *Ibid.*, 174.
106. Brew, "The New National Threat Assessment Centre," 2003.
107. Ungerer, "Australian Security Institutions Reform and Renewal," 6–8.
108. Rudd, *The First National Security Statement*, 8.
109. *Ibid.*, 8.
110. The College even runs courses explaining for senior executives what the NSC involved <http://www.nsc.anu.edu.au/test/intro-community.php>
111. *Ibid.*, 8.
112. See Wendell, "Cooperation and Integration Amongst Australia's National Security Community," 26.
113. Ungerer, "Australia's National Security Institutions," 6.
114. *Ibid.*, 4.
115. Ungerer *Ibid.*, p. 6 lists eight new institutions created between 2008–2010: The National Security Adviser with twenty staff members; National Crisis Coordination Centre; Counter Terrorism Coordination Centre; National Intelligence Coordination Centre (NICC); Criminal Intelligence Fusion Centre (CIFC); the Border Protection Committee of Cabinet; Border Protection Task Force; and the National Security College.
116. Parliamentary Joint Committee on Intelligence and Security, *Review of Administration and Expenditure* 2011.
117. The IGIS can investigate national security matters as they affect the AFP and the Australian Commission on Law Enforcement Integrity (ACLEI) has some oversight too. However, the parliamentary JCIS does not.
118. Weeding, "Post September 11 Legislative Responses to Terrorism," 280.
119. McLennan, "National Intelligence Assessment: Australia's Experience," 81.
120. See in this context Freidrich, *Constitutional Reason of State*, ch.1; and Minogue, *Are the British a Servile People?* p.7, 8.
121. Ungerer, "Australia's National Security Institutions Reform and Renewal," p.3–6.
122. Dickey, "What are the Chinese up to in Australia? 2015; Patrick, "Australia is Losing the Battle Against China's Citizen Spies," 2016.

Disclosure statement

No potential conflict of interest was reported by the author.

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