

Committee Secretariat
Foreign Affairs, Defence and Trade Committee
Parliament Buildings
Wellington

Dear Members of the Foreign Affairs, Defence and Trade Committee:

I would first like to object to the short time allowed to make submissions on this Bill. The Bill is extensive and could have far reaching consequences; therefore, I believe that the time allowed to submit on this Bill is far too short.

With regards to the part of the Bill which concerns the cancellation and refusal of various travel documents, my main concern is upholding the incredibly important principal of the presumption of innocence. There should be stronger safeguards against inappropriate refusal or cancellation of a travel document. Especially in our increasingly global society, refusing a travel document can be devastating for personal relationships and careers. The provisions for review of a decision seem far too weak to me, and should instead greatly favour the refusenik's right to appeal and have their case heard in a proper Court, where the Crown is required to present evidence. Anyone who has their travel document refused on incorrect grounds (as determined by a proper court) should be eligible to receive full damages from the Crown, even when there has not been grossly negligent actions.

I would also like to note that there is room for improvements in the area of travel documents within the scope of current legislation. A murderer was recently issued a passport, allowing him to escape to a foreign jurisdiction. No portion of this Bill would have helped to prevent the massive failing of those responsible for issuing that passport; they had grounds to refuse the passport under current legislation, and could have detected it with simple systems that would have required no special powers of any kind.

With regards to the part of the Bill which amends the New Zealand Security Intelligence Service Act 1969, I have several concerns.

The only grounds for issuing a Warrant for domestic surveillance of any kind is to detect illegal activity of one kind or another. The vague phrases "prejudicial to security" and "essential to security" (used in subsection 41B(3)) seem far too broad, and could contain many things which are not themselves illegal activity if interpreted in certain ways.

The same vagueness is used when determining which results of domestic surveillance can be preserved for later use. Once again, only information directly related to specific criminal activities should be preserved long-term.

The failure to prescribe a serious consequence for knowingly failing to destroy records obtained through surveillance activities that are irrelevant to security seems like a major problem. Surely this grave offence should carry a much greater penalty; jail time should be an option for serious breaches.

My concerns about the surveillance provisions of this Bill would be somewhat less if there was a process by which the public could know how much surveillance was being conducted under the provisions of this Bill. I also think that an independent panel with the powers to investigate the New Zealand government's surveillance activities under the provisions of this Bill and to make recommendations to the Crown would also be an improvement. At the moment, the checks on surveillance as proposed by this Bill seem slight, and the Crown mostly self-checks.

As well as other issues noted above, I also believe that the measures in this Bill are unlikely to help significantly with detecting and preventing terrorist acts.

I wish to be heard if an opportunity is granted to give oral submissions.

Sincerely,

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