


[tip off](#)

HI, Jonathon ([Not you?](#))

- 8 DAYS LEFT
- [SUBSCRIBE NOW](#)
- [LOG OUT](#)
- [ACCOUNT](#)
- [Latest Editions](#)
- 



- [Cinetology](#)
- [Croakey](#)
- [Culture Mulcher](#)
- [Curtain Call](#)
- [First Blog on the Moon](#)
- [Fully \(sic\)](#)
- [Laugh Track](#)
- [Liticism](#)
- [The Northern Myth](#)
- [Plane Talking](#)
- [The Poll Bludger](#)
- [Pollytics](#)
- [The Stump](#)
- [The Urbanist](#)
- [Truth to Tell](#)
- [Wires and Lights](#)
- [The World is Not Enough](#)

Refine By

### [australia](#)

- [ACT](#)
- [NSW](#)
- [NT](#)
- [QLD](#)
- [SA](#)
- [TAS](#)
- [VIC](#)
- [WA](#)

### [the world](#)

- [Asia Pacific](#)
- [Europe](#)
- [Middle East](#)
- [The Rest](#)
- [United States](#)

Our Pick



### [GUY RUNDLE](#)

[Rundle: ever returning the guns of August can't give WWI meaning](#)

Refine By

- [journalism](#)
- [online](#)
- [print](#)
- [the ad business](#)
- [tv & radio](#)

Our Pick



## MYRIAM ROBIN

[Sources outed as investigation into \*New Matilda\* leak nears completion](#)

- [Politics](#)
- [Business](#)
- [Media](#)
- Blogs
- 
- 

- FOLLOW CRIKEY:
- [52.5k](#)
- [100K](#)
- [RSS](#)

Search for:

Tuesday, August 5, 2014

[2](#)

# Data retention is an intolerable threat to democracy

[Bernard Keane](#) | Aug 05, 2014 12:47PM | [EMAIL](#) | [PRINT](#)

- Share
  - 
  - Like
- 
- - Tweet
  - 
  -
- 
- 

The government’s proposal for data retention is a direct threat to democracy and our ability to hold the powerful to account. Here’s why.



The government’s intention — now confirmed — to impose a mandatory data retention scheme in Australia will undermine our democracy for no benefit. And households and businesses will pay hundreds of dollars extra for the dubious privilege of being subject to surveillance. That’s not comment or speculation, but provable, indisputable fact.

We don’t know the nature of the government’s data retention scheme yet. It could range from a minimalist one limited just to telephone call data (unlikely), to one encompassing your full internet browsing history and emails (also unlikely, but some regulatory agencies want that). Both this government and the previous government have been reluctant to specify a definition of the “metadata” to be collected under a retention scheme, and judging from internal Attorney-General’s Department documents obtained under Freedom of Information, that may well be because the officials advising ministers and agency heads, as well as the latter, simply don’t understand the technical issues involved, and can’t grasp questions like whether

an email subject heading is metadata or content data.

But even a minimalist scheme represents a threat to democracy. A functioning, healthy democracy needs a media (in the broad sense, not just newspapers and broadcasters) prepared to hold the powerful to account. A data retention scheme makes it significantly easier, not merely for governments but for corporations, to hunt down whistleblowers prepared to reveal wrongdoing. The Australian Federal Police has admitted that in hunting for whistleblowers it obtains the metadata of [journalists](#) and even [politicians](#) themselves. There are known cases of European governments using data retention regimes established under the European Union data retention directive to hunt down whistleblowers. Fewer whistleblowers means less scrutiny of the powerful and a less effective watchdog press.

“If you’ve done nothing wrong, you’ve got nothing to hide”, surveillance apologists say — ignoring that all of us have things we want to stay hidden and that it is often in the public interest that they are.”

By requiring companies to hold metadata for a period like two years (or even permanently, as some agencies would like), it may also provide a resource for companies to subpoena information in the hunt for whistleblowers or the pursuit of critics and legal adversaries. It would also create a rich trove of information about activists and protesters that law enforcement and intelligence agencies like to target for surveillance even when they engage in purely legal activities.

This erosion of democracy will yield no discernible benefit. *Crikey* has [previously explained](#) that in Europe, data retention yielded negligible crime clearance benefits. There’s another, more substantial, example. The panel commissioned by Barack Obama to review the National Security Agency’s mass surveillance of Americans (and, for that matter, the rest of world), including programs that amount to a vast data retention scheme extending to internet browsing histories, online chats and emails, concluded that it had [not stopped a single terrorist attack](#). “It was, ‘Huh, hello? What are we doing here?’ The results were very thin,” said one panel member.

Storing the vast amounts of data generated by our communications usage will also cost ISPs money — a lot of it. Last week, iiNet [updated its assessment](#) of the likely cost impact of data retention from the previous 2012 quote, saying data retention may well cost each iiNet account holder \$130 per year — quite a surveillance tax for both Australian households and the 2+ million businesses that have internet accounts (yes, businesses, your data will be retained as well).

The same rhetorical tricks are always used to justify mass surveillance schemes. “If you’ve done nothing wrong, you’ve got nothing to hide”, surveillance apologists say — ignoring that all of us have things we want to stay hidden and that it is often in the public interest that they are. And those surveillance apologists never apply that logic to governments, insisting governments abandon their habitual secrecy in favour of greater transparency on national security and international relations.

“It’s just metadata,” they also say, or “billing data” — “no one is listening to your calls”, they say, trying to make it sound innocuous, as though your entire digital trail through life doesn’t reveal far more about you than the content of an email or a phone call ever could. The other trick is to couch the issue as one that balances privacy and security. True, data retention increases the possibility your privacy will be breached — breached by an intelligence officer going on a fishing expedition (or, as the NSA has admitted has happened, stalking you, or sharing photos of you just for titillation), or breached by a hacker stealing this vast trove of personal data from where a telecommunications company has stored it, because such information will be immensely valuable. And no one has to justify their right to privacy to anyone — even governments accept that it is a basic right.

But ultimately, the greater danger is not to our privacy but to our democracy and our ability to hold the powerful to account by revealing things that governments and corporations don’t want revealed. Data retention is a direct threat to that.

[Federal, Online, Paywall, Uncategorized](#) , [data retention](#), [George Brandis](#), [mass surveillance](#), [national security](#), [privacy](#)

<  
[PREVIOUS](#)

[The Guardian’s tabloid moment: Davies defends Dowler stories](#)

[NEXT](#)

[Rundle: why Libya was different](#)

>

## RELATED ARTICLES

[Margot Saville ‘Nothing to hide, nothing to fear’: whistleblowers warn of threats to privacy](#)

[Bernard Keane Essential: Hockey losing his mojo, voters unimpressed with job-seeker requirements](#)

[Crikey Latham sells out political feminism to sell a few books](#)

[VIEW ALL](#)

## AUTHOR ARTICLES

[Bernard Keane Essential: Hockey losing his mojo, voters unimpressed with job-seeker requirements](#)

[Bernard Keane Think of the children: govt grasps at straws to sell budget](#)

[Bernard Keane Secrecy superinjunction another twist in a long-running scandal](#)

[VIEW ALL](#)

2

Comments

Leave a Reply

Logged in as [Jonathon Hutchinson](#). [Log out](#)

Some HTML is OK

Click the "Preview" button to preview your comment here.

Notify me of followup comments via e-mail

• 1



Liz Connor

Posted Tuesday, 5 August 2014 at 1:19 pm | [Permalink](#)

From where I sit 'our ability to hold the powerful to account' is already long gone.

I find myself looking forward to someone in power seeing all the dissent there is throughout the Internet.

But then I'm retired and over 70, with nothing to lose but my pension - unless of course they bring in involuntary euthanasia for people in my age group, i.e. older than the baby boomer generation.

• 2



Stuart Coyle

Posted Tuesday, 5 August 2014 at 1:40 pm | [Permalink](#)

Three arguments against this sort of surveillance:

1. Those who really need to keep thing secret will still do so. The technology exists: anonymous proxies and strong encryption. The bad guys can still write letters to each other and I doubt this law covers Australia Post.

2. It will cost more than the harm it mitigates.

3. It WILL be used for corrupt purposes at some point by those in power, or data from it will be leaked to enemies of our state and used against us.



**[BERNARD KEANE](#)**

CRIKEY POLITICS EDITOR



[@BernardKeane](#)

Officeworks

**Big ideas.  
Lowest prices.**

Find out more

- 
- 
- 
- 



**8 DAYS LEFT**

SUBSCRIBE TODAY AND RECEIVE...

<ul style="list-style-type: none"> <li>• Women are more likely to be lied to during negotiations: Study</li> <li>• Real gender diversity in business leadership has a 12% chance</li> <li>• 48 hours in Istanbul, Turkey</li> <li>• When owning your own business hurts your mental health</li> <li>• ‘Work smarter, not harder’ philosophy may not actually help</li> </ul>	<ul style="list-style-type: none"> <li>• Bright skies ahead as sales expectations at highest levels since 2003: Survey</li> <li>• RBA expected to keep rates on hold; Federal government cagey on budget papers: Midday Roundup</li> <li>• It’s just not chair: Should I sit and talk with the office furniture thief?</li> <li>• “Horrendous mess” as small businesses sent to wall by product recall</li> </ul>	<ul style="list-style-type: none"> <li>• How to reduce your payment terms</li> <li>• Start-up legal basics: Hiring employees vs hiring contractors</li> <li>• Coming up short in China</li> <li>• Doing business online: What are the legal issues?</li> <li>• Why large Aussie investors are failing our nation’s start-ups</li> </ul>	<ul style="list-style-type: none"> <li>• More discounting from lenders on the horizon: 1300HomeLoan</li> <li>• What the RBA's indicator rates can tell you about your home loan</li> <li>• Start planning for a rate rise: Finder.com.au</li> <li>• Renos, DIYs and tricky tradies: Q&amp;A with Laurence Nohra</li> <li>• 10 things to know about the current interest rate</li> </ul>



**Our Social Network**

- [Facebook](#)
- [Twitter](#)
- [Pinterest](#)
- [Google+](#)
- [linkedin](#)

**• Information**

- [About](#)
- [Advertise](#)

- [Contact](#)
- [Crikey Crew](#)
- [Crikey Shop](#)
- [Help](#)
- [RSS Feeds](#)

• **Daily Mail**

- [Free Trial](#)
- [My Account](#)
- [Past email editions](#)
- [Subscribe](#)
- [Subscription Help](#)

• **Policy**

- [Corrections](#)
- [Moderation Guidelines](#)
- [Privacy](#)
- [Private Media Code of Conduct](#)
- [Terms & Conditions](#)

CRIKEY is an independent news website featuring commentary on politics, media, business, culture and technology.

Level 6, 22 William St,  
Melbourne, 3000  
PH: 1800 985 502  
Fax: (03) 8623 9975

Copyright © 2000-2014 PRIVATE MEDIA PTY LTD, PUBLISHERS OF CRIKEY. ALL RIGHTS RESERVED.