

☎ [24 Hours \(02\) 9261 8881 \(tel:0292618881\)](tel:0292618881)

📅 [Book a Lawyer Online](#)

📍 [8 Convenient Locations \(https://www.sydneycriminallawyers.com.au/about/offices/\)](https://www.sydneycriminallawyers.com.au/about/offices/)



The AFP Press Raids: Towards a Totalitarian State (<https://www.sydneycriminallawyers.com.au/blog/the-afp-press-raids-towards-a-totalitarian-state/>)

BY • [PAUL GREGOIRE \(HTTPS://WWW.SYDNEYCRIMINALLAWYERS.COM.AU/BLOG/AUTHOR/PAUL-GREGOIRE/\)](https://www.sydneycriminallawyers.com.au/blog/author/paul-gregoire/) • 08/06/2019

As the federal government continues to pass one draconian national security law after another post-9/11, it's often said that the concerning aspect of this is not that these laws will actually be used in the present, but there's a chance they'll be enforced if a more extreme power took office.

However, three weeks into its new term, the Morrison government has made clear that power is now here, as fresh national security laws that were passed last year with bipartisan support have been invoked during Australian federal police raids on two major media outlets.

Of course, that's unless you buy the official version, which is the federal law enforcement arm acted of its own volition without the government's knowledge (<https://www.theguardian.com/australia-news/2019/jun/05/peter-dutton-denies-prior-knowledge-of-afp-raids-on-abc-and-news-corp>).

On Tuesday, the AFP raided News Corp journalist Annika Smethurst's home over an April 2018 report (<https://www.dailytelegraph.com.au/news/nsw/spying-shock-shades-of-big-brother-as-cybersecurity-vision-comes-to-light/news-story/bc02f35f23fa104b139160906f2ae709>), in which she exposed government intentions to spy on citizens, while on the following day, officers executed a warrant at the ABC's Sydney office over a 2017 article on military misconduct (<https://www.abc.net.au/news/2017-07-11/killings-of-unarmed-afghans-by-australian-special-forces/8466642>).

The New York Times said (<https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html>), the raids showed how far the "conservative government will go to scare officials and reporters into submission". But, given their timing and basis in old news, it seems the raids were not only to warn journalists, but indeed, the entire nation that the rules have changed.

And so it begins

The AFP turned up at Annika Smethurst's Canberra residence as she was getting ready to go to work on Tuesday morning. Officers spent eight hours rummaging through her place in relation to a report from over a year ago, which home affairs minister Peter Dutton dismissed (<https://www.theguardian.com/australia-news/2019/jun/05/police-raid-on-annika-smethurst-shows-surveillance-expose-hit-a-nerve>) as "nonsense" at the time.

Smethurst's article concerned leaked documents (<https://www.sydneycriminallawyers.com.au/blog/dutton-considers-increasing-governments-surveillance-powers/>), that detailed Australian home affairs secretary Mike Pezzullo writing to secretary of defence Greg Moriarty regarding a proposal to give the Australian Signals Directorate the powers to spy on Australian citizens.

(While the ABC offices on Harris Street in Ultimo were given some warning prior to the AFP executing a search warrant just after 11.30 am on Wednesday. (tel:029261888) ([https://www.theguardian.com/media/2019/jun/05/abc-raid-how-the-afps-search-warrant-played-out-one-tweet-at-a-time?](https://www.theguardian.com/media/2019/jun/05/abc-raid-how-the-afps-search-warrant-played-out-one-tweet-at-a-time?fbclid=IwAR3wA4F6t0GHlbnCbSPRSohsEQSE7fuMzRxUDZkNGoc0k1apOgUqH-BxYxc)) After hours of searching through the broadcaster's computers, officers left the building with two USB sticks containing electronic documents (<https://www.abc.net.au/news/2019-06-06/sydney-morning-briefing-thursday-june-6/11182886>).

The raid was in relation to [The Afghan Files](https://www.abc.net.au/news/2017-07-11/killings-of-unarmed-afghans-by-australian-special-forces/8466642) (<https://www.abc.net.au/news/2017-07-11/killings-of-unarmed-afghans-by-australian-special-forces/8466642>) report published in July 2017, which delved into leaked defence force files detailing alleged incidents of Australian troops killing unarmed men and children in Afghanistan, some of which were under investigation at the time.

First they came for

On Thursday, the AFP confirmed that the ABC and News Corp journalists [could face prosecution](https://www.theguardian.com/australia-news/2019/jun/06/afp-signals-journalists-could-face-charges-for-publishing-secrets) (<https://www.theguardian.com/australia-news/2019/jun/06/afp-signals-journalists-could-face-charges-for-publishing-secrets>) over publishing the leaks. And while it remains uncertain as to which laws these reporters could be charged under, last year's newly passed espionage laws are being touted as the most likely.

The [National Security Legislation Amendment \(Espionage and Foreign Interference\) Bill 2018](https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r6022) (https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r6022) was passed on 29 June last year. It updated secrecy laws and placed them in the [Criminal Code Act 1995](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/cca1995115/sch1.html) (http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/cca1995115/sch1.html). (Cth). And it also revised espionage laws with dire implications for journalists.

Section 91.1 of the Criminal Code outlines that a person commits an offence if they deal with classified information that will prejudice Australia's national security (<https://www.sydneycriminallawyers.com.au/blog/will-a-criminal-record-or-avo-affect-my-security-licence/>) and communicates it, so it's available for a foreign country.

The definition of national security under the act is broad and includes political and economic relations with other countries. And [according to](https://parinfo.aph.gov.au/parInfo/download/committees/reportjnt/024152/toc_pdf/AdvisoryReportontheNationalSecurityLegislationAmendment(EspionageandF) ([https://parinfo.aph.gov.au/parInfo/download/committees/reportjnt/024152/toc_pdf/AdvisoryReportontheNationalSecurityLegislationAmendment\(EspionageandF](https://parinfo.aph.gov.au/parInfo/download/committees/reportjnt/024152/toc_pdf/AdvisoryReportontheNationalSecurityLegislationAmendment(EspionageandF)) the attorney general's office, it's possible to communicate such information via "publication of news".

For intentionally breaking this law a person can be [sent away for life](https://www.sydneycriminallawyers.com.au/blog/criminalising-dissent-turnbulls-attack-on-protesters-and-journalists/) (<https://www.sydneycriminallawyers.com.au/blog/criminalising-dissent-turnbulls-attack-on-protesters-and-journalists/>), while recklessly doing so – being aware that there was a substantial risk to it – can see an individual imprisoned for up to 25 years behind bars.

Access all areas

ABC News executive editor John Lyons live tweeted the raid on his office. He [remarked in one tweet](https://twitter.com/TheLyonsDen/status/1136124130204442624) (<https://twitter.com/TheLyonsDen/status/1136124130204442624>) that he was "staggered by the power" of the warrant that allowed AFP officers to "add, copy, delete or alter" material on the broadcaster's computers.

This hints to federal authorities utilising the new powers they were gifted via the [Telecommunications and Other Legislation Amendment \(Assistance and Access\) Bill 2018](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6195) (https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6195), which passed through both houses on 6 December last year.

The legislation amended the search warrant framework contained in the Crimes Act 1914 (Cth), so as to provide law enforcement agencies with [enhanced search abilities](https://parinfo.aph.gov.au/parInfo/download/legislation/ems/r6195_ems_1139bfde-17f3-4538-b2b2-5875f5881239/upload_pdf/685255.pdf;fileType=application%2Fpdf) (https://parinfo.aph.gov.au/parInfo/download/legislation/ems/r6195_ems_1139bfde-17f3-4538-b2b2-5875f5881239/upload_pdf/685255.pdf;fileType=application%2Fpdf) to collect evidence from electronic devices via a warrant.

So, for instance, [section 3F](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ca191482/s3f.html) (http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ca191482/s3f.html) of the Crimes Act now provides officers with the power to search a computer or data storage device and if necessary, "add, copy, delete or alter other data in the computer or device".

And for some further food for thought, the Assistance and Access Bill provides security agencies with the powers to [require communications providers](https://www.sydneycriminallawyers.com.au/blog/how-the-governments-new-laws-will-unlock-citizens-private-data/) (<https://www.sydneycriminallawyers.com.au/blog/how-the-governments-new-laws-will-unlock-citizens-private-data/>) to allow access to customers' private data, as well as giving authorities the ability to [install surveillance capabilities](https://www.theguardian.com/business/2019/may/28/spies-with-that-police-can-snoop-on-mcdonalds-and-westfield-wifi-customers?fbclid=IwAR2m5CjtUS1kEfaL6ESlk3VvPseShkoP40QbmbSFHIRWdLanyAyAsdFIYg8) (<https://www.theguardian.com/business/2019/may/28/spies-with-that-police-can-snoop-on-mcdonalds-and-westfield-wifi-customers?fbclid=IwAR2m5CjtUS1kEfaL6ESlk3VvPseShkoP40QbmbSFHIRWdLanyAyAsdFIYg8>) on a device.

Silencing whistleblowers

Former military lawyer David McBride leaked the documents that led to the ABC Afghan file report. He was arrested over the leaks last September and was charged with breaching the Defence Act multiples times, as well as the theft of Commonwealth property. He's [currently on bail](https://www.smh.com.au/national/the-ex-defence-whistleblower-at-the-centre-of-abc-raids-20190605-p51us8.html) (<https://www.smh.com.au/national/the-ex-defence-whistleblower-at-the-centre-of-abc-raids-20190605-p51us8.html>).

The government is [also undertaking the prosecution](https://www.sydneycriminallawyers.com.au/blog/australia-prosecutes-whistleblowers-who-expose-government-misconduct/) (<https://www.sydneycriminallawyers.com.au/blog/australia-prosecutes-whistleblowers-who-expose-government-misconduct/>) of former ASIS officer Witness K and their lawyer Bernard Collaery for disclosing that the Australian federal government bugged the offices of the Timor-Leste government in 2004 in order to give it the upper hand in oil negotiations.

And with the Morrison government currently carrying out its crackdown on journalists, it's doubtful it [will step up any assistance](https://www.sydneycriminallawyers.com.au/blog/the-australian-government-abandoned-assange-long-ago/) (<https://www.sydneycriminallawyers.com.au/blog/the-australian-government-abandoned-assange-long-ago/>) to Wikileaks publisher Julian Assange, who's [health is failing](https://nationalpost.com/news/world/deteriorating-julian-assange-moved-to-prison-health-ward-misses-extradition-hearing) (<https://nationalpost.com/news/world/deteriorating-julian-assange-moved-to-prison-health-ward-misses-extradition-hearing>) in UK detention, and now faces a maximum penalty of [175 years imprisonment](https://www.businessinsider.com.au/assange-175-years-jail-doj-charges-wikileaks-2019-5?r=US&IR=T) (<https://www.businessinsider.com.au/assange-175-years-jail-doj-charges-wikileaks-2019-5?r=US&IR=T>) if extradited to the US.

In these dark times

Prime minister Scott Morrison was in the UK at the time of the raids, while home affairs minister Peter Dutton was in Sri Lanka. Their claims that they were unaware the AFP were carrying out these significant operations one after the other seem somewhat dubious.

(However, what's clear is many Australians are questioning what three more years under the Coalition holds. And what hounds will next be unleashed: the right for religions to discriminate (<https://www.sydneycriminallawyers.com.au/blog/the-pms-religious-shackles-an-interview-with-professor-philip-almond/>), national facial recognition surveillance (<https://www.sydneycriminallawyers.com.au/blog/biometric-surveillance-an-interview-with-electronic-frontiers-australias-jon-lawrence/>), or deploying the troops (<https://www.sydneycriminallawyers.com.au/blog/new-laws-will-allow-the-use-of-military-to-break-protests/>) to quell civil disobedience?



Paul Gregoire

Paul Gregoire (<https://www.sydneycriminallawyers.com.au/blog/author/paul-gregoire/>) is a Sydney-based journalist and writer. He has a focus on human rights issues, encroachments on civil liberties, drug law reform, gender diversity and First Nations rights. Prior to Sydney Criminal Lawyers® (<https://www.sydneycriminallawyers.com.au/>), he wrote for VICE and was the news editor at Sydney's City Hub.

EMAIL (MAILTO:PRGREGOIRE@GMAIL.COM) • ALL ARTICLES ([HTTPS://WWW.SYDNEYCRIMINALLAWYERS.COM.AU/BLOG/AUTHOR/PAUL-GREGOIRE/](https://www.sydneycriminallawyers.com.au/blog/author/paul-gregoire/))

Share 2K Like 2K Share Tweet

Related Posts



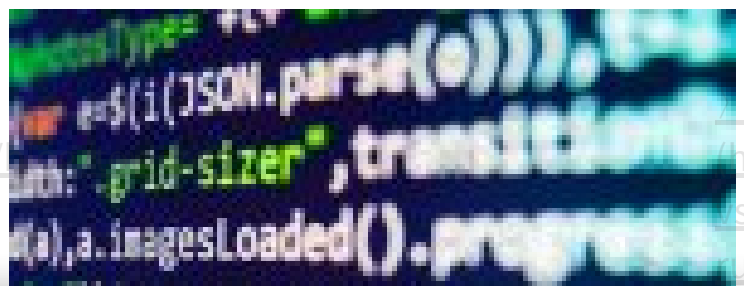
(<https://www.sydneycriminallawyers.com.au/blog/afp-raids-on-journalists-how-laws-against-terrorism-and-espionage-are-actually-being-used/>)

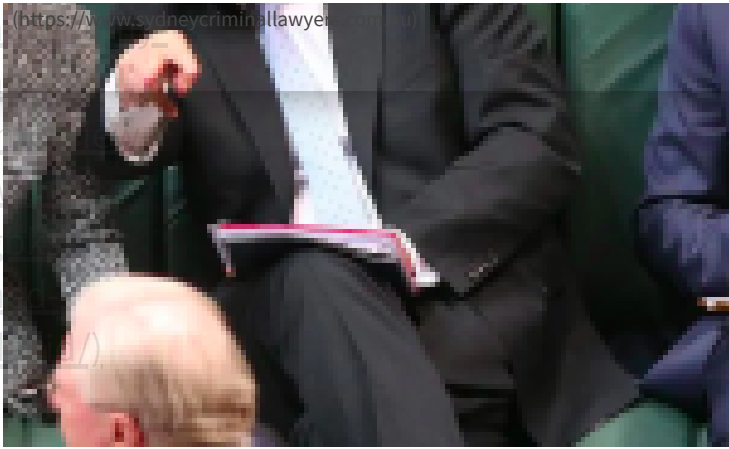
AFP Raids on Journalists: How Laws Against Terrorism and Espionage Are Actually Being Used (<https://www.sydneycriminallawyers.com.au/blog/afp-raids-on-journalists-how-laws-against-terrorism-and-espionage-are-actually-being-used/>)



(<https://www.sydneycriminallawyers.com.au/blog/new-foreign-interference-laws-are-aimed-at-stifling-dissent/>)

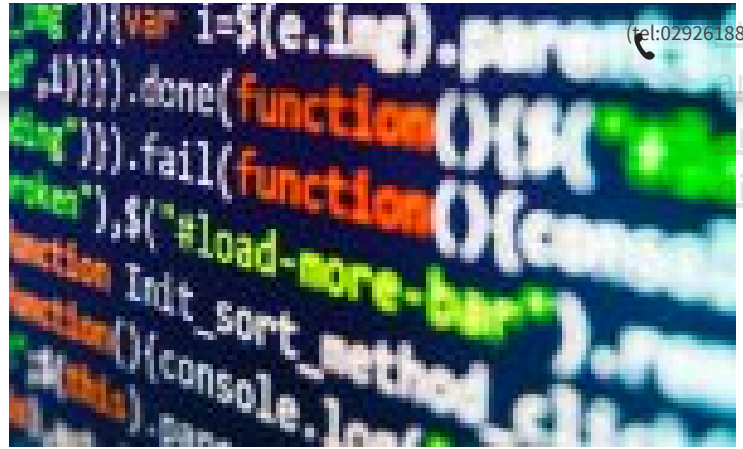
New 'Foreign Interference' Laws Are Aimed at Stifling Dissent (<https://www.sydneycriminallawyers.com.au/blog/new-foreign-interference-laws-are-aimed-at-stifling-dissent/>)





(<https://www.sydneycriminallawyers.com.au/blog/silencing-dissent-morrison-threatens-to-deregister-trade-union/>).

Silencing Dissent: Morrison Threatens to Deregister Trade Union
(<https://www.sydneycriminallawyers.com.au/blog/silencing-dissent-morrison-threatens-to-deregister-trade-union/>).



(tel:029261888)

(<https://www.sydneycriminallawyers.com.au/blog/police-using-journalists-metadata-to-hunt-down-whistleblowers/>).

Police Using Journalists' Metadata to Hunt Down Whistleblowers
(<https://www.sydneycriminallawyers.com.au/blog/police-using-journalists-metadata-to-hunt-down-whistleblowers/>).



(<https://www.sydneycriminallawyers.com.au/blog/criminalising-dissent-turnbulls-attack-on-protesters-and-journalists/>).

Criminalising Dissent: Turnbull's Attack on Protesters and Journalists
(<https://www.sydneycriminallawyers.com.au/blog/criminalising-dissent-turnbulls-attack-on-protesters-and-journalists/>).



(<https://www.sydneycriminallawyers.com.au/blog/australia-prosecutes-whistleblowers-who-expose-government-misconduct/>).

Australia Prosecutes Whistleblowers Who Expose Government Misconduct
(<https://www.sydneycriminallawyers.com.au/blog/australia-prosecutes-whistleblowers-who-expose-government-misconduct/>).

Sydney Criminal Lawyers® Comment Policy

We welcome relevant and respectful comments.



What do you think?

5 Responses

- Upvote
- Funny
- Love
- Surprised
- Angry
- Sad

1 Comment Sydney Criminal Lawyers®

Login

- Recommend
- Tweet
- Share

Sort by Newest

Join the discussion...

LOG IN WITH

OR SIGN UP WITH DISQUS ?

Name



John Barnes • 7 days ago

No one talks of the value of any evidence the AFP wishes to use in future prosecutions. If they can execute a search for evidence and have the power to delete or alter documents, can a judge or any one rely on the truth of that evidence. The mere fact the warrants allow alteration - does that not say they are going to manufacture evidence? And as a defence, can I say incontrovertible evidence of my innocence was destroyed by officers during the execution of a search warrant?

1 ^ | v • Reply • Share >

- Subscribe
- Add Disqus to your site
- Add Disqus
- Disqus' Privacy Policy
- Privacy Policy
- Privacy Policy



Our Clients Say

He was invested

Fahim represented me in court and assured me he would do his best to get me the best possible outcome...

June 2019, P.K. rated 5 of 5 > [READ FULL REVIEW \(HTTPS://WWW.SYDNEYCRIMINALLAWYERS.COM.AU/TESTIMONIALS/HE-WAS-INVESTED/\)](https://www.sydneycriminallawyers.com.au/testimonials/he-was-invested/)

> [VIEW ALL OUR CLIENTS REVIEWS \(HTTPS://WWW.SYDNEYCRIMINALLAWYERS.COM.AU/TESTIMONIALS\)](https://www.sydneycriminallawyers.com.au/testimonials/)

(https://www.facebook.com/sydneycriminallawyers/) (https://www.youtube.com/user/sydneycriminallawyers) (https://www.instagram.com/sydneycriminallawyers/)

taken-
by=sydneycriminallawyers)

QUICK LINKS

- Fixed Fees (<https://www.sydneycriminallawyers.com.au/fixed-fees/>)
- Free First Appointment (<https://www.sydneycriminallawyers.com.au/services/free-first-appointment/>)
- Book an Appointment (<https://www.sydneycriminallawyers.com.au/contact/>)
- Specialist Lawyer Guarantee (<https://www.sydneycriminallawyers.com.au/about/specialist-lawyer-guarantee/>)
- Our Offices (<https://www.sydneycriminallawyers.com.au/about/offices/>)
- Recent Cases (<https://www.sydneycriminallawyers.com.au/recent-cases/>)
- Testimonials (<https://www.sydneycriminallawyers.com.au/testimonials/>)
- Our Services (<https://www.sydneycriminallawyers.com.au/services/>)
- Criminal Offences (<https://www.sydneycriminallawyers.com.au/criminal/offences/>)
- Traffic Offences (<https://www.sydneycriminallawyers.com.au/traffic/offences/>)

SYDNEY CITY OFFICE ([HTTPS://GOO.GL/MAPS/B337MRV5HE72](https://goo.gl/maps/B337MRV5HE72))

Museum Towers
503/267 Castlereagh Street
Sydney NSW 2000

Tel: (02) 9261 8881 (tel:0292618881) 24 hours

Fax: (02) 9264 0880

Email: info@sydneycriminallawyers.com.au (<mailto:info@sydneycriminallawyers.com.au>)

 LIVERPOOL OFFICE (<HTTPS://GOO.GL/MAPS/AST8NXSL4TZDSTFEA>)

Regus Offices

Level 2

215-219 George Street

Liverpool NSW 2170

 PARRAMATTA OFFICE (<HTTPS://GOO.GL/MAPS/PCBZFFAT7DO>)

Suite 3, 27 Hunter Street

Parramatta NSW 2150


Across the road from Justice Precinct carpark - under renovation

 CHATSWOOD OFFICE (<HTTPS://GOO.GL/MAPS/GQPFOEKUQRK2>)

23 Daisy Street

Chatswood NSW 2067

By Appointment Only

 NEWCASTLE OFFICE (<HTTPS://GOO.GL/MAPS/KCPCZ9QKZTX>)

Level 1, Suite 107

17 Bolton Street

Newcastle NSW 2300

By Appointment Only

 PENRITH OFFICE (<HTTPS://GOO.GL/MAPS/36DDEZJAWHJ2>)

95B Station Street

Penrith NSW 2750

By Appointment Only

 WOLLONGONG OFFICE (<HTTPS://GOO.GL/MAPS/2WZW1GNRBDZ>)

Level 1

1 Burelli Street

Wollongong NSW 2500

By Appointment Only

 BANKSTOWN OFFICE (<HTTPS://GOO.GL/MAPS/HYUORX8WGGV>)

L2, 47 Rickard Road

Bankstown NSW 2200

By Appointment Only

Privacy Policy (<https://www.sydneycriminallawyers.com.au/privacy-policy/>)

© Copyright 2007 - 2019 Sydney Criminal Lawyers® (<https://www.sydneycriminallawyers.com.au>)