



QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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Watching Them While They're Watching You

Chair
Legal Affairs and Community Safety Committee
Email: LACSC@parliament.qld.gov.au

Dear Sir,

Police and Other Legislation (Identity and Biometric Capability) Amendment Bill 2018

Please accept this submission in relation to this Bill, which implements the Queensland State Government's commitment to the Commonwealth Government's identity matching regime.

When drivers licenses with photographs were implemented some 10 years ago, the then Labor government accepted that the photographic database represented a store of highly significant personal information which should be the subject of special protections. One of those protections, was that police should not be able to access the database without a warrant except when investigating offences under transport legislation.

The *Identity-Matching Services Bill*, Commonwealth, contains no requirement that police obtain a warrant prior to accessing the database. The Commonwealth Bill, contemplates that access to the database will be regulated by other legislation. The removal of that requirement by this Bill, will mean that Queensland police will no longer require a warrant to access the database when investigating non transport related offences. We are not aware of any legislative requirement of the Commonwealth Parliament, that would require Federal or State police to obtain a warrant.. As a consequence, once this Bill is passed the Queensland Police will no longer need a warrant.

In our submission the application of basic privacy principles requires that the police should not have access to these type of databases, without first obtaining a warrant except when the offence they are investigating relates to the purposes for which the data was collected. In the case of drivers licenses that would include offences listed in proposed section 197E. We would also accept that it would be legitimate for police officers to have access to the database to assist in identifying the victims of natural disasters and the like.

In our opinion the same principle should apply to the National Database. Until that is agreed, the Queensland government should not allow its data to be included in the National Database.

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In our submission modern technology makes assertions that the requirement of a warrant might result in unacceptable delay entirely baseless.

We have consistently expressed scepticism about the creation of databases, because this is exactly what we anticipated would happen. Once the database is created, it is very easy for a government to expand the purposes for which the data can be used. It is the well known phenomenon of function creep.

We also note that the Bill before the Commonwealth Parliament, proposes that use of data matching technology. We note the evidence before the Congress of the United States of America, that such technology gets it wrong 15% of the time¹. This is another reason for ensuring that the use of the database for purposes for which it was not created is restricted to those who have had to justify accessing it to an independent judicial authority.

We trust this is of assistance to you in your deliberations.

Yours faithfully

Michael Cope
President
For and on behalf of the
Queensland Council for Civil Liberties
25 February 2018

¹ Olivia Solon *Facial recognition database used by FBI is out of control, House committee hears* The Guardian 27 March 2017