



New South Wales Bar Association

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New covert police powers of search and seizure threaten all of us

The New South Wales Bar Association is gravely troubled about the state government's proposed covert search warrants legislation, which poses a real threat to individual privacy.

'What this proposal means is that police are entitled to enter the premises of all law-abiding citizens under false pretences and without notice. It is difficult to see any justification for the conferral of such extraordinary powers in a liberal democracy', said the president of the Bar Association, Anna Katzmann SC.

The amendments permit entry without notice upon the premises, not only of suspected criminals, but also those of an adjoining occupier, including by impersonating another person.

'It doesn't take too much imagination to recognise the risk of potentially fatal misunderstandings', said Ms Katzmann. 'Police officers will have the power to enter our homes and take our belongings without us being any the wiser, to steal into our homes in the dead of night, if they wish, or to commit any subterfuge to achieve their purpose. If police officers executing such search warrants are disturbed and mistaken for intruders, there is a real risk of serious injury to innocent people.

Although the legislation does provide that covert warrants may only be issued by a Supreme Court judge, there is no way to review their use until well after the invasion of privacy has occurred.

'There is simply no evidence to support the need for these "sneak and peek" powers in general policing. The extension of these powers to a wide variety of offences, and their potential exercise by all police officers, are matters of extreme concern', Ms Katzmann said, 'particularly when corruption still affects the Police Service despite the work of the Wood Royal Commission, as the continuing work of the Police Integrity Commission demonstrates. All of us should be worried about the Government's proposals; we are all potentially affected by them.'

The Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009 was introduced in the New South Wales Legislative Assembly on 4 March 2009 and will be debated this week. The Association is proposing amendments which would temper the worst aspects of the legislation.

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