



**WHEREVER YOU GO, WHATEVER YOU DO, WHOEVER YOU ARE,**

**YOU ARE UNDER  
SURVEILLANCE**

## **Warrant-less Searches**

Once you are arrested or even simply detained\*, police and enforcement officers are able to search your home, workplace, car, friend's home or any place with which you are associated, without a warrant if they believe they can find evidential material related to the offence. Thus, a young person detained on suspicion of possessing drugs can have their home or car and those of their friends searched without them or their parents being present or informed. This power, combined with 'plain view' searches is a nightmare. Whilst you are sitting in the cells or being questioned on the sidewalk, your home can be turned upside down.

Similarly, a warrant will not be needed to record a conversation when two or more people are talking if one person consents to a recording of the conversation. This person could be an undercover cop sitting in a meeting, someone employed by an 'enforcement officer' or a friendly person at the bar. A group planning a campaign against mining in national parks could have someone sitting amongst them recording the discussion and handing that information to the police. Now this material can be used in court.

A warrant is needed for a computer search, however this warrant allows police to have access to your entire hard-drive; then using 'plain view' they can trawl through other information not on the warrant. ■

*\*Detained' is when you are not formally arrested but are not free to leave.*

## **Stop the Surveillance State**

**What you can do:**

### **Educate**

Let other people in your community and workplace know about the Search and Surveillance Bill. Knowledge is power.

Contact us for resources (like this leaflet and posters) to distribute in your community. Keep up to date with what is going on by checking out the Campaign blog or visit the Parliamentary Select Committee's website that is responsible for the Search and Surveillance Bill:

Justice and Electoral Select Committee

[www.parliament.govt.nz](http://www.parliament.govt.nz)

### **Agitate**

Contact your local newspaper about the bill through a letter to the editor. Write a letter or email to your member of Parliament and tell them not to support the bill (details are on the Parliamentary website). Be ready to write a submission when the new bill returns to Parliament.

### **Organise**

Get together with other people in your flat, community or workplace to collectively decide what you would like to do about intrusive surveillance. We can help you organise a public meeting, submissions and pickets or demonstrations against the bill.

### **Help us fundraise for the campaign**

Producing leaflets and other materials takes a bit of money and we want to get the word out.

Donations/cheques can be made to:

**October 15th Solidarity**

**Kiwibank 38 9007 0239672 01**

Make reference to 'Stop the S&S Bill' on any donation or post to the address below.

### **Get in touch & fight back!**

**PO Box 9263, Wellington**

**<http://stopthebillnow.blogspot.com>**

**[StopTheBillNow@gmail.com](mailto:StopTheBillNow@gmail.com)**

So what's all the fuss about the

**Search and  
Surveillance  
Bill?**

## The Search and Surveillance Bill

It's back! The re-drafted bill with its 'sweeping changes to Search & Surveillance' powers returns to the Parliamentary Select Committee in July 2010. The bill expands police powers and fundamentally alters some core legal concepts to such a degree that even the Law Society and the Chief Justice criticised it.

*So, if you think to:*

- Protest against mining of NZ's national parks;
- Organise with your union in your workplace;
- Get involved in a grassroots community campaign

Under the dramatically expanded police powers in the Search & Surveillance (S & S) bill, you and your family and friends could be subject to searches, have video surveillance of your home or workplace, be compelled to give evidence against one another and much more.

It is possible that only those who made Parliamentary submissions on the original bill will have an opportunity to make a new submission. We will fight this; we want submissions open to everyone.

This is a basic primer on the bill. Study it and get involved in the campaign to stop the Search and Surveillance Bill.

### Dramatic Increase in Police Powers

Some critics of the proposed expansion of police powers in the bill label them *chilling*. Currently, the police routinely break the law by conducting widespread search & surveillance without warrants. We need

to limit police, not give them more powers! The bill's passage will signal the end to the right to privacy, the right to silence and the privilege against self-incrimination. The original bill would have extended police powers to some 70 other government agencies (called 'enforcement officers'). At present, we don't know if the revised bill will eliminate this extension of powers, but the primary issue remains: stop the expansion of state powers!

Basically, once this bill becomes law—the state powers increase dramatically. State search and surveillance operations become normal and routine.



## An End to The Right to Silence

If this bill becomes law, the right to silence will effectively no longer exist. The bill's examination order (E.O.) gives police a new power, one imported from the Serious Fraud Office. Using this, the police can compel you to answer questions when they think they have reasonable grounds to suspect that a crime punishable by imprisonment is being planned or has been committed by three or more people. Even extremely minor offences such as trespass or disorderly behaviour would qualify.

For example, three people plan a protest against water privatisation. The police only need to persuade a judge that some participants may trespass or behave in a disorderly manner resulting in jail time. With the E.O., they can compel the organisers to turn over participant details and surrender computer files.

Suspicion alone will be a sufficient basis for obtaining this order. Your right to silence is vetoed. Even if you claim 'privilege against self-incrimination,' you can be ordered to explain to a judge WHY you would be likely to incriminate yourself: an Orwellian Catch 22.

Refusal to comply with the examination order: up to one-year imprisonment

### Production Orders: Convict yourself!

Current practice is that the police have to provide all the evidence to prove a person is guilty—when the bill passes, they can sit back and order you to produce some of that evidence. The bill's new production order (P.O.) requires you to produce documents that you are suspected of having or may have in future. No longer will the police have to provide the evidence of guilt; they can order you to do the work. Again, suspicion alone will be a sufficient basis for obtaining the P.O. Penalty for non-compliance with a production order: up to one-year imprisonment.



## Surveillance Devices

In the bill, surveillance devices are bugs, video cameras and tracking devices for cars. Police need a warrant to install a listening bug in your house. Video surveillance by police inside a house or other private place is illegal now. Police do it anyway knowing that most judges will admit it as evidence. This illegal practice will become legal with the Bill, and police will be able to put cameras anywhere in your home. It introduces the concept of a surveillance device warrant, which can be obtained by any enforcement officer (not just police) under the same criteria as a search warrant—that is, the suspicion that the search (or surveillance) will uncover evidential material necessary for the prosecution of a crime. This treats on-going video surveillance (for up to a month) in exactly the same way as one-off search.

This contrasts to legislation elsewhere. In the US, Canada and a number of European countries, phone bugging and installing a surveillance camera in a home is treated as a much more serious invasion of privacy than a search. In order to get a surveillance warrant, those police have to demonstrate that other ways of obtaining the evidence have failed. In the new bill, there is no such restriction.

### Plain View Searches

This power permits police to take as evidence anything in plain view whether related or unrelated to the search warrant provisions. Such extraneous evidence can subsequently be used in court.

While a warrant is needed for a computer search, under plain view provisions police are permitted to access to your entire hard drive, ie, they can trawl through files and documents totally unrelated to the search warrant purpose, such as family photos, bank documents or emails.

