

Thesis abstract

Zone of impeachment: a post-Foucauldian analysis of controlled operations law and policy

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This thesis presents a Foucauldian analysis of Australian controlled operations law. The purpose was to extend current doctrinal scholarship by exploring the discursive forces that shape this highly invasive and controversial investigative power. This thesis contends that the present doctrinal understanding is incomplete, and largely unaware of the epistemological forces operating within law and policy. By deploying a Foucauldian analytic we can extend our understanding of the complex relationship between knowledge systems, discourse, power and law.

Through the deployment of a nomadic, grounded genealogy in the analysis of controlled operations Second Reading Speeches, this research found that the governing rationalities of controlled operations law and policy is linked to an imperative logic dominated by discourses of risk, audit and exceptions. This dynamic explains why controlled operations legal architecture and policy is in its current form. Far from being a reaction to the decision in *Ridgeway*, controlled operations law is part of a legal and cultural shift in law enforcement, characterised by complex relationships between risk, rights, law and citizenship. The

controlled operation is revealed as a form of apparatus: a technology of truth and power, facilitated by law.

This insight allows us to re-imagine the relationship between law, rights, citizenship and sovereignty in late modernity. In this environment the investigative apparatus of the controlled operation creates a field of governance within the private space of liberal citizenship, revealing the true character of citizenship in late modernity as a zone of impeachment – a location in which rights are fragile and open to perpetual potential derogation and modification. In this zone the rights attached to liberal conceptions of citizenship are increasingly the subject of subordination to a risk imperative and a logic of exception.

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