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ASIO Supplementary Submission to Parliamentary Joint Committee on Intelligence and Security

Review of ASIO's questioning and detention powers

8 June 2017

Introduction

The Australian Security Intelligence Organisation (ASIO) thanks the Parliamentary Joint Committee on Intelligence and Security (PJCIS) for the opportunity to present this supplementary submission.

This supplementary submission sets out a further recommendation by ASIO to ensure its compulsory questioning capability is effective to meet the challenges of the current security environment.

Power to conduct a person search

Under Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* (Cth), a police officer can only currently search a subject of a warrant who has been detained, either in accordance with a questioning and detention warrant or at the direction of the prescribed authority (see sections 34ZB and 34ZC). A search cannot take place where the subject is to be questioned but not detained.

The search power allows the police officer to seize any item found that could present a danger to a person, could be used to assist a person escape from lawful custody, or is relevant to the collection of intelligence that is important in relation to a terrorism offence.

ASIO submits there is a requirement for a similar power to allow a police officer to search, and seize items found on, a subject of a questioning warrant before they enter the place they are required to attend for questioning, i.e. a subject who has not been detained. This is necessary to ensure the subject does not take any item into the questioning which

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could be used to cause harm to any person, including ASIO staff and police officers present at the questioning.

The threat in this space is demonstrated by Abdul Numan Haider's almost fatal attack on police officers outside a Melbourne police station in 2014, and the shooting of NSW police employee Curtis Cheng by Farhad Jabar outside NSW police headquarters in Parramatta in 2015. The questioning of persons supporting such extremist ideologies therefore presents a real risk to the safety of those present at the questioning. The ability to search, and seize items found on, a subject before entering the place of questioning would mitigate this risk and the possible occurrence of another Abdul Numan Haider style attack.

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