

Introduction

The Bill and its referral

- 1.1 On 24 September 2014, the Attorney-General, Senator the Hon George Brandis, QC, introduced the Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014 (the Bill) into the Senate. In his second reading speech, the Attorney-General stated that the Bill is intended to 'enhance the capability of Australia's law enforcement, intelligence and border protection agencies to protect Australian communities from the threat posed by returning foreign fighters and those individuals within Australia supporting foreign conflicts.'¹
- 1.2 The Attorney-General added that:

Around 160 Australians have become involved with extremist groups in Syria and Iraq by travelling to the region, attempting to travel or supporting groups operating here from Australia. While this is not the first time Australians have been involved in overseas conflicts, the scale and scope of the conflicts in Syria and Iraq, and the number of Australians presently involved, is unparalleled and demands specific and targeted measures to mitigate this threat.²
- 1.3 On the same day, the Attorney-General wrote to the Committee to refer the provisions of the Bill for inquiry and to request it to report by 17 October 2014. He further requested that the Committee should, as far as possible, conduct its inquiry in public.

1 Senator the Hon George Brandis QC, Attorney-General, *Senate Hansard*, 24 September 2014, p. 65.

2 Senator the Hon George Brandis QC, Attorney-General, *Senate Hansard*, 24 September 2014, p. 65.

- 1.4 In the letter, the Attorney-General informed the Committee that the Bill would constitute the Government's second tranche of legislation in response to the current national security threat. The first tranche was the National Security Legislation Amendment Bill (No. 1) 2014.

Inquiry objectives and scope

- 1.5 In conducting its inquiry, the Committee acknowledged that the Bill responds to a request from the Australian Federal Police, the Australian Security Intelligence Organisation and the Attorney-General's Department for enhanced powers to deal with the heightened security threat. The Committee took evidence to this effect in both public and private hearings. The Committee was inclined to support this request subject to appropriate safeguards.
- 1.6 As part of its inquiry, the Committee examined:
- whether the Bill incorporates adequate safeguards and accountability mechanisms to ensure the proper application of the laws into the future; and
 - whether the Bill is drafted in a way to avoid any foreseeable unintended consequences.
- 1.7 The Committee notes that at the time of this inquiry, a further proposal for amendments to national security legislation was being discussed by the Government. This included foreshadowed legislation relating to mandatory retention of telecommunications data, which is not within the scope of the Committee's inquiry and is not discussed in this report.
- 1.8 The Committee also notes that there has been discussion about its previous inquiry into the National Security Legislation Amendment Bill (No. 1) 2014, which passed the Parliament on 1 October 2014.

Conduct of the inquiry

- 1.9 The inquiry was referred to the Committee by the Attorney-General on 24 September 2014. The Chair of the Committee, Mr Dan Tehan MP, announced the inquiry by media release on 25 September 2014 and invited submissions from interested members of the public. Submissions were requested by 3 October 2014.
- 1.10 The Committee received 46 submissions, 10 supplementary submissions and two exhibits from sources including government agencies, legal,

community and civil liberties groups and members of the public. A list of submissions and exhibits received by the Committee is at Appendix A.

- 1.11 The Committee held three public hearings, one private hearing and one private briefing in Canberra on 2 October, 3 October and 8 October 2014. A list of hearings and the witnesses who appeared before the Committee is included at Appendix B.
- 1.12 Both the Inspector-General of Intelligence and Security and the Commonwealth Ombudsman appeared before the Committee and gave evidence that they have sufficient authority to oversight the new powers in the Bill. These agencies are likely to require more resources to fulfil their expanded role. As recommended in the Committee's previous report, the position of the Independent National Security Legislation Monitor should also be urgently filled.
- 1.13 Copies of submissions received and transcripts of public hearings can be accessed on the Committee website at www.aph.gov.au/pjicis. Links to the Bill and the Explanatory Memorandum are also available on the Committee website.

Timeframe for the inquiry

- 1.14 Nearly every submission to the inquiry commented on the short timeframes. The intensive nature of the inquiry and the short timeframes placed significant demands on the Committee. While the Committee recognises and understands that this resulted from exceptional circumstances, it would have been preferable if more time had been available for the inquiry.
- 1.15 The Committee notes that a number of the measures in the Bill are derived from recommendations in earlier reviews or have formed part of community consultations conducted by the Attorney-General's Department. The Bill also proposes a number of necessary and urgent measures to respond to threats to Australia's national security and this has necessitated an expedited process.
- 1.16 This report, while making a number of recommendations to amend the Bill, is designed to inform the next stage of debate which will take place in the Senate and House of Representatives. In some instances the Committee has recommended amendments to the Bill. In other instances the Committee has determined that measures in the Bill require more detailed explanation and has requested that the Attorney-General provide additional information to assist debate of the Bill.

- 1.17 The provisions of the Bill were intensely debated and there were a variety of views expressed within the Committee. The Committee expects the Bill will be subject to continuing debate in the Parliament and the community.
- 1.18 It is the Committee's firm view that for the third tranche of proposed legislation, a longer timeframe will be required to deal with the complexity of the legislation and allow sufficient time for public consultation.

Report structure

- 1.19 This report consists of three chapters:
- This chapter sets out the context, scope and conduct of the inquiry,
 - Chapter 2 contains a discussion of the main issues raised in evidence regarding Schedule 1 of the Bill, and the Committee's comments and recommendations regarding those issues, and
 - Chapter 3 contains a discussion of the main issues raised in evidence concerning Schedules 2 to 7 of the Bill, and the Committee's comments and recommendations regarding those issues.