

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

Annual Report of Committee Activities 2019-2020

Parliamentary Joint Committee on Intelligence and Security

© Commonwealth of Australia

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Foreword

The Parliamentary Committee on Intelligence and Security (PJCIS) has existed in different forms since 1988 and has entered its 15th year in its current iteration. Over time, its scope, role and functions have been extended, and members have worked hard to consider significant pieces of national security legislation.

Like other parts of the Australian community, the Committee has quickly adapted to the challenges brought on by COVID-19. We have welcomed the dynamism shown by the PJCIS Secretariat and the intelligence agencies overseen by the Committee. This past year has seen a significant uptake of technology in order to continue the oversight functions of the Committee.

The workload of the Committee continues to rise substantially, yet the *Intelligence Services Act 2001* remains unchanged. We look forward to a review of the legislation that considers the role, powers and resources invested in the Committee. This review would follow the 2017 Independent Intelligence Review by L'Estrange and Merchant which recommended a variety of amendments to appropriately equip the Committee for its future work.

The Committee also looks forward to the publication of the legislative review conducted by Dennis Richardson AO, which will give direction to the reforms required of the legal framework governing the National Intelligence Community.

Mr Andrew Hastie MP
Chair
October 2020

Hon Anthony Byrne MP
Deputy Chair
October 2020

List of Abbreviations

AIC	Australian Intelligence Community
AFP	Australian Federal Police
AGO	Australian Geospatial-Intelligence Organisation (formerly Defence Imagery and Geospatial Organisation)
ANAO	Australian National Audit Office
AO	Order of Australia
ASIO	Australian Security Intelligence Organisation
ASIS	Australian Secret Intelligence Service
ASD	Australian Signals Directorate (formerly Defence Signals Directorate)
CDO	Continuing Detention Order
CSC	Conspicuous Service Cross
DIO	Defence Intelligence Organisation
IGIS	Inspector-General of Intelligence and Security
IMS	Identity-Matching Services Bill 2019
INSLM	Independent National Security Legislation Monitor

IPO	Telecommunications Legislation Amendment (International Production Orders) Bill 2020
ISA	Intelligence Services Act 2001
NIC	National Intelligence Community
ONI	Office of National Intelligence (formerly Office of National Assessments)
PJCIS	Parliamentary Joint Committee on Intelligence and Security
PSM	Public Service Medal
QC	Queen's Counsel
QSA	Qualified Security Assessment
SC	Senior Counsel
TIA	Telecommunications (Interception and Access) Act 1979

Members

Chair

Mr Andrew Hastie MP

Deputy Chair

Hon Anthony Byrne MP

Members

Senator the Hon Eric Abetz

Hon Mark Dreyfus QC, MP

Senator the Hon David Fawcett (*from 2.7.2019*)

Hon Mike Kelly AM, MP (*until 30.4.2020*)

Senator the Hon Kristina Keneally (*from 2.7.2019*)

Mr Julian Leeser MP

Senator Jenny McAllister

Senator Amanda Stoker

Mr Tim Wilson MP (*from 4.7.2019*)

Terms of Reference

This report is made under section 31 of the *Intelligence Services Act 2001*, which states:

As soon as practicable after each year ending 30 June, the Committee must give to the Parliament a report on the activities of the Committee during the year.

Contents

Foreword	iii
List of Abbreviations.....	v
Members	vii
Terms of Reference.....	ix

The Report

1	Committee Activities During The Review Period	1
	The year in review.....	1
	Overview of activities.....	2
	Oversight responsibilities	3
	Reviews of administration and expenditure.....	3
	Review of listings of terrorist organisations under the Criminal Code	5
	Review of ‘Declared Terrorist Organisations’ under the Citizenship Act	6
	Review of ‘Declared Areas’ under the Criminal Code	6
	Oversight of AFP Counter-Terrorism and Stop, Search and Seizure Activities	7
	Review of retained data activities of the AFP and ASIO.....	8
	Bill inquiries.....	9
	Identity-Matching Services Bill 2019 and Australian Passports Amendment (Identity-Matching Services) Bill 2019	10
	Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019	11
	Review of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019	11

Australian Security Intelligence Organisation Amendment Bill 2020.....	12
Telecommunications Legislation Amendment (International Production Orders) Bill 2020	12
Statutory Reviews	13
Review of the renunciation by conduct and cessation provisions in the Australian Citizenship Act 2007	13
Review of the amendments made by the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018	14
Review of the mandatory data retention regime	15
Review of declared areas provisions.....	15
Review of AFP powers.....	16
Other Activities of the Committee	16
Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press.....	16
Notifications	17
Private briefings	17
Site visits	18
Future of the Committee.....	18
Appendix A. Functions of the Committee	21
Appendix B. Committee Reports (1 July 2019 to 30 June 2020)	27
Appendix C. Australian Federal Police Activities.....	29
Appendix D. Notifications and reports provided to the Committee (1 July 2019 to 30 June 2020)	33

1. Committee Activities During The Review Period

The year in review

- 1.1 The Parliamentary Joint Committee on Intelligence and Security (the Committee) is established pursuant to section 28 of the *Intelligence Services Act 2001* (ISA).
- 1.2 The Committee typically comprises of eleven members, five of whom must be Senators and six of whom must be members of the House of Representatives. A majority of the Committee's members must be Government members.¹
- 1.3 The Committee's functions are set out at section 29 of the ISA, outlined at Appendix A.
- 1.4 The Committee is required by section 31 of the ISA to provide the Parliament with a report on its activities over each financial year. This report is made in compliance with this obligation and covers the period from 1 July 2019 to 30 June 2020.
- 1.5 In addition to exercising its ongoing oversight functions, the Committee reviewed several pieces of legislation during the year, received a number of private briefings and also conducted site inspections. To the extent possible for publication, each of these activities are summarised in further detail below.

¹ *Intelligence Services Act 2001*, subsections 28(2) and (3)

Impact of COVID-19 on the Committee

- 1.6 The Committee faced unprecedented circumstances for the second half of 2019–20, due to the challenges presented by COVID-19. The Committee worked effectively to ensure minimal disruption to its inquiry and ongoing oversight activities by holding private meetings, private briefings and public hearings remotely, wherever possible.
- 1.7 Notwithstanding the Committee’s proactive engagement with this new environment, there was an overarching impact on inquiry timeframes, including report finalisation and the Committee’s ability to conduct inquiries and ongoing oversight activities that included classified materials. The Committee actively engaged with the relevant government agencies to seek solutions to access classified materials and receive oral briefings containing classified information in appropriately secure environments outside of their parliament house offices.

Overview of activities

- 1.8 Between 1 July 2019 and 30 June 2020, the Committee held 55 meetings and briefings.
- 1.9 The Committee undertook 15 inquiries and tabled seven reports (including the publication of an annual report) during the reporting period. A summary of the Committees inquiries and activities is provided below in the following chapters.
- 1.10 The Committee completed the following reviews:
 - Review of Administration and Expenditure No. 17 (2017–2018) of the six agencies comprising of the Australian Intelligence Community (AIC) ², pursuant to section 29(1)(a) of the ISA;
 - Inquiries into two Bills referred by the Australian Government and one Act, pursuant to section 29(1)(b); and
 - Reviews of the listing of one terrorist organisation and the re-listing of ten terrorist organisations pursuant to section 102.1A of the *Criminal Code Act 1995* (Criminal Code).

² These agencies are the Australian Security Intelligence Organisation (ASIO), the Australian Secret Intelligence Service (ASIS), the Australian Signals Directorate (ASD), the Australian Geospatial-Intelligence Organisation (AGO), the Defence Intelligence Organisation (DIO) and the then Office of National Assessments, now the Office of National Intelligence (ONI).

- 1.11 A full list of the reports tabled by the Committee during the 2019–2020 is provided at Appendix B. To the extent appropriate for publication, each of these activities are summarised in further detail below.

Oversight responsibilities

Reviews of administration and expenditure

- 1.12 The ISA requires the Committee to review the administration and expenditure of the six agencies which comprise the AIC:
- Australian Geospatial-Intelligence Organisation (AGO),
 - Australian Security Intelligence Organisation (ASIO),
 - Australian Secret Intelligence Service (ASIS),
 - Australian Signals Directorate (ASD),
 - Defence Intelligence Organisation (DIO); and
 - Office of National Intelligence (ONI).
- 1.13 In exercising this function, the Committee conducts its reviews on an annual basis.
- 1.14 In its reviews, the Committee examines each agency's financial performance and management for the relevant financial year, and considers the budgetary framework within which each agency operates.
- 1.15 The Committee also may considers matters that impact on the administration of agencies, such as:
- Legislative changes and litigation;
 - Strategic direction and organisational structure;
 - Human resource management;
 - Security issues; and
 - Public accountability and public relations.

Review of Administration and Expenditure No. 17 (2017–2018)

- 1.16 On 18 October 2018, the Committee commenced its 17th review of intelligence agencies' administration and expenditure, concerning the 2017–2018 financial year.
- 1.17 Submissions were sought and received from the six intelligence agencies, the Inspector-General of Intelligence and Security (IGIS), the Department of Defence and the Australian National Audit Office (ANAO). The Committee responded to these submissions with a series of written questions which were comprehensively answered by agencies. Detailed classified responses

were received from each agency and accepted by the Committee as classified submissions.

- 1.18 On 11 April 2019, the review lapsed with the dissolution of the 45th Parliament for a general election. The review was readopted on 16 July 2019 after the Committee reconstituted at the commencement of the 46th Parliament.
- 1.19 A private classified hearing was held in September 2019 with representatives of the six intelligence agencies, the Department of Defence and the IGIS.
- 1.20 The Committee noted a number of significant changes affecting the administration of the AIC agencies took place during the reporting period, including recommendations from the 2017 Independent Intelligence Review. Further, the Home Affairs portfolio was also established during the reporting period. Under these arrangements, ASIO moved from the Attorney-General's portfolio to the Home Affairs portfolio. The Attorney-General maintained an oversight role, including as the issuer of ASIO warrants. Portfolio responsibility for the IGIS and the Independent National Security Legislation Monitor (INSLM) was moved from the Prime Minister to the Attorney-General.
- 1.21 The Committee presented its paper to Parliament on 5 February 2020. The Committee was satisfied that the agencies were overseeing their administrative functions effectively. The Committee noted that adequate accommodation presents a challenge for several agencies. The Committee however, was satisfied that work is underway to address these issues.
- 1.22 The Committee recommended the Government support training and development programs across the national intelligence community as the broader recommendations of the 2017 Independent Intelligence Review are implemented. The Committee recommended ONI, with its expanded, enterprise-wide remit would be well placed to oversee such programs.
- 1.23 The Committee has been monitoring the application of the efficiency dividend on the AIC since 2010 and has consistently raised concerns on its effect. The Committee welcomed the decision in the Federal Budget (2015-2016) to exempt the Office of National Assessments (now ONI) and the Office of the IGIS from the efficiency dividend for the next four years. The Committee noted that that this should also be applied to ASIO and ASIS. The Committee recommended that ASIO, ASIS and ONI should be exempt from the efficiency dividend.

Review of Administration and Expenditure No. 18 (2018–2019)

- 1.24 On 5 December 2019, the Committee launched its 18th review of intelligence agencies' administration and expenditure, during the 2018–2019 financial year.
- 1.25 Submissions were sought and received from the six intelligence agencies, IGIS, the Department of Defence and the ANAO.
- 1.26 Due to a number of circumstances, in particular those presented by COVID-19, the Committee was only able to conduct private (classified) hearings with a very limited number of submitters.
- 1.27 The Committee considered the impact of these circumstances on the timeframe for review activities, including reporting. Consequently, the Committee will move forward by exploring in further detail any matters it may have identified through the evidence received from this review, as part of its next administration and expenditure review for 2019–20.

Review of listings of terrorist organisations under the Criminal Code

- 1.28 Under Division 102 of the Criminal Code, it is an offence to direct the activities of, be a member of, associate with or conduct a range of activities in support of a listed terrorist organisation. Section 102.1A of the Criminal Code provides that the Committee may review a regulation specifying an organisation as a terrorist organisation and report the Committee's comments to each house of the Parliament before the end of the applicable disallowance period (15 sitting days).
- 1.29 Regulations re-listing the following terrorist organisations under the Criminal Code were made by the Minister for Home Affairs on 4 April 2019:
- Abu Sayyaf Group;
 - al-Qa'ida;
 - al-Qa'ida in the Lands of the Islamic Maghreb;
 - Jabhat Fatah al-Sham; and
 - Jemaah Islamiyah.
- 1.30 A regulation listing Islamic State-Somalia as a terrorist organisation was made by the Minister for Home Affairs on the same day.

- 1.31 The Committee reviewed and supported the re-listings and new listing and found no reason to disallow the legislative instruments. The Committee presented its report to Parliament on 10 September 2019.
- 1.32 Regulations re-listing the following terrorist organisations under the Criminal Code were made by the Minister for Home Affairs on 31 October 2019:
- al-Qa'ida in the Arabian Peninsula;
 - al-Qa'ida in the Indian Subcontinent;
 - Islamic State in Libya; and
 - Islamic State Sinai Province.
- 1.33 The Committee reviewed and supported the re-listings, finding no reason to disallow the legislative instruments. The Committee tabled a report by statement to the Parliament on 5 February 2020.

Review of 'Declared Terrorist Organisations' under the Citizenship Act

- 1.34 Under sections 33AA and 35 of the *Australian Citizenship Act 2007* (Citizenship Act), a person aged 14 years or older who is a national or citizen of another country loses their Australian citizenship if they engage in certain conduct on behalf of a 'declared terrorist organisation', as defined in section 35AA.
- 1.35 Subsection 35AA(4) provides that, once a declaration of a terrorist organisation is made by the Minister, the Committee may review the declaration and report the Committee's comments and recommendations to each House of the Parliament during the applicable disallowance period (15 sitting days).
- 1.36 No declarations under section 35AA(1) of the Citizenship Act were made by the Minister for Home Affairs during the reporting period. Accordingly, no reviews were conducted by the Committee.

Review of 'Declared Areas' under the Criminal Code

- 1.37 Section 119.2 of the Criminal Code provides that it is an offence for a person to enter, or remain, in a 'declared area'. There are exceptions to this offence for persons entering, or remaining in, declared areas solely for one or more of the listed 'legitimate purposes', or for service with a foreign government armed force (other than a proscribed organisation).

- 1.38 Section 119.3 of the Criminal Code provides that the Minister for Foreign Affairs may, by legislative instrument, declare an area in a foreign country for the purposes of section 119.2 if he or she is ‘satisfied that a listed terrorist organisation is engaging in a hostile activity in that area of the foreign country’. Unless disallowed by the Parliament, or revoked earlier by the Minister for Foreign Affairs, a declaration ceases to have effect on the third anniversary of that day on which it takes effect.
- 1.39 The Criminal Code provides that the Committee may review the Foreign Affairs Minister’s declaration and report to the Parliament:
- within the period in which the declaration may be disallowed by the Parliament (15 sitting days from the day the declaration is tabled); and
 - at any time that the declaration is in effect.³
- 1.40 As per the previous Annual Report, the Committee reviewed the re-declaration of the Mosul district when it came into effect and committed to a further review in September 2019, should the declaration remain in effect at that time.⁴
- 1.41 In August 2019, the Minister for Foreign Affairs advised the Committee that the declaration of the Mosul District was being examined and requested that the further review be deferred until the conclusion of the Government examination process.
- 1.42 In December of that same year, the Minister for Foreign Affairs advised the committee that the declaration of the Mosul District had been revoked. As at 30 June 2020, there are no ‘declared areas’ under the Criminal Code.

Oversight of AFP Counter-Terrorism and Stop, Search and Seizure Activities

- 1.43 Part 5.3 of the Criminal Code contains the Commonwealth terrorism offences, the control order regime, the preventative detention order regime and the continuing detention order regime.

³ These review powers are provided for in section 119.3(7)-119.3(8) of the *Criminal Code Act 1995*. The power to review the declaration of a ‘declared area’ at any time that the declaration is in effect was introduced into the *Criminal Code Act 1995* after the Committee reviewed the declared areas provisions and tabled a [report](#) on 1 March 2018 which included a recommendation to that effect.

⁴ Parliamentary Joint Committee on Intelligence and Security, *Review of the re-declaration of Mosul District, Ninewa Province, Iraq*, 20 June 2018, p. 15.

- 1.44 Division 3A of Part IAA of the *Crimes Act 1914* (Crimes Act) provides for stop, search and seizure powers available to the Australian Federal Police (AFP) in relation to terrorism offences.
- 1.45 Under section 29(1)(baa) of the ISA, it is a function of the Committee to monitor and to review the performance by the AFP of its functions under Part 5.3 of the Criminal Code and Part IAA of the Crimes Act. It is also a function of the Committee to report to the Parliament, with such comments as it thinks fit, upon any matter pertaining to the AFP or connected with the performance of its functions under Part 5.3 of the Criminal Code⁵ and Part IAA of the Crimes Act.

AFP Counter-Terrorism and Stop, Search and Seizure Activities – 1 June 2019 to 31 May 2020

- 1.46 The AFP provided details of activities undertaken from 1 June 2019 to 31 May 2020 in relation to Part 5.3 of the Criminal Code and Part IAA of the Crimes Act. During the reporting period the Committee also sought figures on control orders, interim detention orders, preventative detention orders and continuing detention orders. These statistics were discussed at a classified briefing with the AFP and are outlined in detail in Appendix C of this report.

Review of retained data activities of the AFP and ASIO

- 1.47 Part 5-1A of the *Telecommunications (Interception and Access) Act 1979* (TIA Act) provides for a mandatory data retention regime which requires telecommunication carriers, carriage service providers and internet service providers to retain a defined set of telecommunications data for two years. The scheme is designed to ensure that such data remains available for law enforcement and national security investigations.
- 1.48 Under section 29(1)(bd) of the ISA, it is a function of the Committee to, subject to certain restrictions, review any matter that relates to the retained data activities of ASIO and is set out in the relevant sections of ASIO's annual report. Similarly, under section 29(1)(be) of the ISA, it is a function of the Committee to review any matter that relates to the retained data

⁵ These functions were first assigned to the Committee through the implementation of a recommendation in the Committee's October 2014 [Advisory Report on the Counter-Terrorism Legislation Amendment \(Foreign Fighters\) Bill 2014](#) that its functions are extended to encompass the counter-terrorism activities of the AFP, including, but not limited to, anything involving classified material.

activities of the AFP in relation to offences against Part 5.3 of the Criminal Code and is set out in the annual report for the TIA Act.⁶

- 1.49 During the reporting period, ASIO provided the Committee with a copy of Appendix L of its classified Annual Report for 2018–2019, relating to ASIO’s authorisations for retained and prospective telecommunications data. The Committee continuing to review the retained data activities of ASIO as part of its review of Administration and Expenditure No. 18 & 19. The Committee did not consider it necessary to conduct a more detailed inquiry in relation to ASIO’s retained data activities over the reporting period.
- 1.50 Under 29(1)(be) of the ISA, the Committee also reviewed the AFP’s access to retained telecommunications data as included in TIA Act annual reports for 2019–2020 (produced by the Department of Home Affairs). The Committee held classified briefings on this matter from the AFP and from the Commonwealth Ombudsman. The Committee is also conducting a statutory review of the mandatory data retention regime pursuant to section 187N of the TIA Act.

Bill inquiries

- 1.51 The Committee completed reviews of three Bills that were referred to it during the period under review:
- *Identity-Matching Services Bill 2019;*
 - *Australian Passports Amendment (Identity-Matching Services) Bill 2019; and*
 - *Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019.*
- 1.52 At the conclusion of the reporting period, the Committee had commenced inquiries into a further three Bills:
- *Australian Security Intelligence Organisation Amendment Bill 2020;*
 - *Telecommunications Legislation Amendment (International Production Orders) Bill 2020; and*

⁶ Under section 29(1)(4) of the *Intelligence Service Act 2001*, the Committee’s usual restrictions from reviewing particular operations of agencies do not apply in relation to the functions under paragraphs (bd) and (be). However, section 29(1)(5) of the Act stipulates that these functions

- a. are to be performed for the sole purpose of assessing, and making recommendations on, the overall operation and effectiveness of Part 5-1A of the *Telecommunications (Interception and Access) Act 1979*; and
- b. do not permit reviewing the retained data activities of service providers; and
- c. may not be performed for any purpose other than that set out in paragraph (a).

- *Review of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019.*

1.53 The Committee approached all Bill reviews in a bipartisan manner. It focussed on examining the effectiveness of the Bills and ensuring that they encompassed appropriate safeguards to protect civil liberties. The following pages describe these reviews in more detail.

Identity-Matching Services Bill 2019 and Australian Passports Amendment (Identity-Matching Services) Bill 2019

- 1.54 On 31 July 2019, the Hon David Coleman MP, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, introduced the *Identity-Matching Services Bill 2019* (IMS Bill) and the *Australian Passports Amendment (Identity-Matching Services) Bill 2019* (Passports Amendments Bill) into the House of Representatives.
- 1.55 In his second reading speech, the Minister noted that the IMS Bill would make life easier for the “everyday Australian”⁷. Further, with regard to the *Passports Amendments Bill*, the Minister stated that sharing of the passport data would be for the purposes of national security.⁸
- 1.56 On 31 July 2019, the Attorney-General, the Hon Christian Porter MP, wrote to the Committee to refer the provisions of both Bills for inquiry. On 8 August 2019, the Hon Peter Dutton MP, Minister for Home Affairs, wrote to the Committee and requested that, as far as possible, the Committee conduct its inquiry in public.
- 1.57 The Committee reviewed this legislation together and tabled a report on the bills on 24 October 2019. The Committee recommended that the IMS Bill be re-drafted to take into account the findings from the review. The Committee also recommended that the Passport Amendments Bill be amended to ensure that automated decision making can only be used for decisions that produce favourable or neutral outcomes for the subject, and that such decisions would not negatively affect a person’s legal rights or obligations, and would not generate a reason to seek review.⁹ Further, the Committee

⁷ The Hon David Coleman MP, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, *House of Representatives Hansard*, 31 July 2019, p. 11.

⁸ The Hon David Coleman MP, the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, *House of Representatives Hansard*, 31 July 2019, p. 10.

⁹ Parliamentary Joint Committee on Intelligence and Security, *Advisory report on the Identity Matching Services Bill 2019 and the Australian Passports Amendment (Identity-matching Services) Bill 2019*, October 2019, pp. iii-iv.

recommended that both Bills should be referred back to the Committee following their introduction to the Parliament.

Counter-Terrorism Legislation Amendment (2019 Measures No. 1) Bill 2019

- 1.58 The *Counter Terrorism Legislation Amendment (2019 Measures No.1) Bill 2019* (Counter Terrorism Amendment Bill) was introduced into the Senate by Senator the Hon Jonathon Duniam, Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism, on 1 August 2019.
- 1.59 In his second reading speech, the Assistant Minister said,
- The *Counter-Terrorism Legislation Amendment Bill 2019* continues the important work of protecting our community. It will ensure that there is a presumption against bail and parole for all terrorists and their supporters. It will also make two changes to improve the operation of the continuing detention order scheme for high-risk terrorist offenders.¹⁰
- 1.60 On 1 August 2019 the Attorney-General referred the Bill to the Committee for inquiry and report.
- 1.61 The Committee tabled its report on the Bill on 14 October 2019. The Committee recommended that the Bill and the Explanatory Memorandum be amended so that, in respect of any application for a continuing detention order, the onus is on the AFP Minister to satisfy the Court that any exculpatory information that is excluded from an application is protected by public interest immunity.
- 1.62 Further, the Committee recommended that, following the implementation of the above recommendation, the Counter Terrorism Amendment Bill be passed.
- 1.63 The Bill included the Committee's recommendation and the Bill received royal assent on 11 December 2019.

Review of the Australian Citizenship Amendment (Citizenship Cessation) Bill 2019

- 1.64 The *Australian Citizenship Amendment (Citizenship Cessation) Bill 2019* (Citizenship Cessation Bill) was introduced into the House of

¹⁰ Senator the Hon Jonathon Duniam, Assistant Minister for Forestry and Fisheries and Assistant Minister for Regional Tourism, *Senate Hansard*, 1 August 2019, p. 30.

Representatives by the Hon Peter Dutton MP, Minister for Home Affairs on 19 September 2019.

- 1.65 On that same day, the Hon Peter Dutton MP, Minister for Home Affairs, wrote to the Committee to refer the provisions of this Bill to the Committee for inquiry and report.
- 1.66 In addition the Minister referred to the INSLM's *Report to the Attorney-General: Review of the operation, effectiveness and implications of terrorism-related citizenship loss provisions in the Australian Citizenship Act 2007* stating that the Bill 'implements the majority of the recommendations made by the INSLM.'¹¹
- 1.67 The Committee's review of the Citizenship Cessation Bill was ongoing as of 30 June 2020.

Australian Security Intelligence Organisation Amendment Bill 2020

- 1.68 The *Australian Security Intelligence Organisation Amendment Bill 2020* (ASIO Bill) was introduced into the House of Representative by the Hon Peter Dutton MP, Minister for Home Affairs on 13 May 2020.
- 1.69 On that same day, the Hon Peter Dutton MP, Minister for Home Affairs, wrote to the Committee to refer the provisions of this Bill to the Committee for inquiry and report.
- 1.70 The Committee's review of this Bill was ongoing as of 30 June 2020.

Telecommunications Legislation Amendment (International Production Orders) Bill 2020

- 1.71 The *Telecommunications Legislation Amendment (International Production Orders) Bill 2020* (IPO Bill) was introduced into the House of Representatives by the Hon Alan Tudge MP, Minister for Population, Cities and Urban Infrastructure on 5 March 2020.
- 1.72 On 9 March 2020 the Hon Peter Dutton MP, Minister for Home Affairs, wrote to the Committee to refer the provisions of this Bill to the Committee for inquiry and report.
- 1.73 The Committee's review of this Bill was ongoing as of 30 June 2020.

¹¹ The Hon Peter Dutton MP, Minister for Home Affairs, *House of Representatives Hansard*, 19 September 2019, p. 4.

Statutory Reviews

Review of the renunciation by conduct and cessation provisions in the Australian Citizenship Act 2007

- 1.74 Section 29 of the ISA requires the Committee, by 1 December 2019, to review the operation, effectiveness and implications of sections 33AA, 35, 35AA and 35A of the Citizenship Act.
- 1.75 The Committee of the 45th Parliament formerly adopted the review and called for submissions on 4 April 2019. The Committee resolved to focus on the operation, effectiveness and implications of the Act.
- 1.76 Additionally, the Committee resolved to examine whether the current oversight and reporting requirements are appropriate.
- 1.77 Following the Australian Federal election on 18 May 2019, the Committee of the 46th Parliament again formerly adopted the review and accepted 21 submissions and nine supplementary submissions to the review.
- 1.78 The Committee tabled its report on the Bill on 4 December 2019 and made the following comments;
- **Operation of the Act:** the Committee noted that the current terrorism-related citizenship loss provisions included in the Citizenship Act were as a response to the threat that foreign terrorist fighters presented to Australia and its interests. Many submitters, Government and non-Government alike, raised concerns about the ‘automatic’ nature of the provisions. The Committee shared those concerns and noted that, as the conduct provisions stand, the Minister’s role is effectively limited to restoring a person’s citizenship after it has been lost or exempting a person from the effect of those provisions.
 - **The Effectiveness of the Act:** The Committee acknowledged the concerns raised by submitters around the unintended consequences of these provisions. The Committee also noted the evidence from ASIO that it is:
 - too early to determine any direct deterrent effects or other security outcomes among the individuals whose citizenship has ceased pursuant to sections 33AA and 35.¹²

¹² Australian Security Intelligence Organisation, *Submission 21*, p. 4.

The Committee accepted that citizenship cessation may be a useful counter-terrorism tool in some circumstances. However, the Committee also accepted that the use of such a tool may have unintended consequences and so must be subjected to limitations and safeguards, and be regularly reviewed.

- **The Implications of the Act:** The Committee's view is that the current 'operation of law' model, whereby a dual-national's Australian citizenship is automatically renounced through their actions, should be replaced by a ministerial decision-making model. Such a model would allow the Minister to take into account a broader range of considerations in determining whether to cease an individual's citizenship and may resolve a number of the issues with the operation of law model discussed in this chapter. The Committee noted that the Government has proposed a Ministerial decision-making model in the Citizenship Cessation Bill.

In respect of the notification and reporting requirements under section 51C of the Citizenship Act, the Committee believed that further information should be provided to it, especially information contained in ASIO's Qualified Security Assessments (QSA). Going forward the Committee expected that, subject to particular sensitivities which ASIO can negotiate with the Committee, QSAs will be provided to the Committee (at least when it receives an oral briefing on people who have lost their citizenship).

Review of the amendments made by the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018

- 1.79 The Committee is required under the ISA to review amendments made to Commonwealth legislation by the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* (the Assistance and Access Act) and to complete its review by 30 September 2020.
- 1.80 The Assistance and Access Act amended a range of Commonwealth legislation to empower law enforcement and national security agencies to request, or compel assistance from telecommunications providers. It also established powers which enable law enforcement and intelligence agencies to obtain warrants to access data and devices, and amended the search warrant framework under the Crimes Act and the *Customs Act 1901* to expand the ability of criminal law enforcement agencies to collect evidence from electronic devices.

- 1.81 This review will build on the findings of a review conducted by the INSLM and two previous Committee reviews.
- 1.82 On 26 March 2019, the Committee requested that the INSLM commence a review of operation, effectiveness and implementation of amendments made by Assistance and Access Act 2018 focussed on the whether the Act:
- contains appropriate safeguards for protecting the rights of individuals;
 - remains proportionate to any threat of terrorism or threat to national security, or both; and
 - remains necessary.
- 1.83 As requested, the INSLM report *'Trust but Verify' – A report concerning the Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018 and related matters* was provided to the Committee by 30 June 2020 and will be published on the Committee website at a later date
- 1.84 Dr Renwick's term as the INSLM concluded on Tuesday 30 June 2020. As of 30 June 2020, the Government had not yet announced Dr Renwick's successor nor did the Committee have any outstanding referrals with the INSLM.
- 1.85 The Committee's review was ongoing as of 30 June 2020.

Review of the mandatory data retention regime

- 1.86 The Committee is required by the ISA to review the mandatory data retention regime, Part 5-1A of the TIA Act, by 13 April 2020.
- 1.87 The mandatory data retention regime is a legislative framework which requires carriers, carriage service providers and internet service providers to retain a defined set of telecommunications data for two years, ensuring that such data remains available for law enforcement and national security investigations.
- 1.88 Public hearings were held in Canberra in February 2020.
- 1.89 On 15 April 2020, the Committee provided a media release that the review had been completed. As of 30 June 2020, report finalisation was underway.

Review of declared areas provisions

- 1.90 On 18 June 2020, the Committee commenced a statutory review into the 'declared area' provisions, listed in sections 119.2 and 119.3 of the Criminal Code.

- 1.91 The provisions were introduced as part of the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*, and make it an offence for a person to enter, or remain in, declared areas of a foreign country, historically on the basis of regional terrorism activity.
- 1.92 Under a sunset clause, the provisions are due to expire on 7 September 2021.
- 1.93 The Committee's review was ongoing as of 30 June 2020.

Review of AFP powers

- 1.94 On 18 June 2020, the Committee commenced a statutory review into AFP Counter-Terrorism Powers.
- 1.95 Under section 29(1)(bb)(i)(ii) and (ii) of the ISA, it is a function of the PJCIS to review, by 7 January 2021, the operation, effectiveness and implications of:
- Division 3A of Part IAA of the Crimes Act (which provides for police powers in relation to terrorism) and any other provision of the *Crimes Act* as it relates to that Division; and
 - Divisions 104 and 105 of the Criminal Code (which provide for control orders and preventative detention orders in relation to terrorism) and any other provision of the Criminal Code as it relates to those Divisions.
- 1.96 The Committee one inquiry covering both of these review activities and was ongoing as of 30 June 2020.¹³

Other Activities of the Committee

Inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press

- 1.97 On 4 July 2019, the Committee commenced an inquiry into the impact of the exercise of law enforcement and intelligence powers on the freedom of the press. The inquiry was referred by the Attorney-General, The Hon Christian Porter MP, who noted that the Government would consider proposals from media organisations and interested bodies which aim to ensure the right balance is struck between a free press and keeping Australians safe.

¹³ On 12 August 2020, due to the intrinsic link between control orders and continuing detention orders, the Committee resolved to expand the scope of this review to include section 29(1)(cb) of the ISA and review the operation, effectiveness and implications of Division 105A of the Criminal Code (which provides for continuing detention orders) and any other provision of that Code as far as it relates to that Division.

1.98 The Committee was requested to inquire and report back to both Houses of Parliament on the following matters:

- The experiences of journalists and media organisations that have, or could become, subject to the powers of law enforcement or intelligence agencies performing their functions, and the impact of the exercise of those powers on journalists' work, including informing the public.
- The reasons for which journalists and media organisations have, or could become, subject to those powers in the performance of the functions of law enforcement or intelligence agencies.
- Whether any and if so, what changes could be made to procedures and thresholds for the exercise of those powers in relation to journalists and media organisations to better balance the need for press freedom with the need for law enforcement and intelligence agencies to investigate serious offending and obtain intelligence on security threats.
- Without limiting the other matters that the Committee may consider, two issues for specific inquiry are:
 - Whether and in what circumstances there could be contested hearings in relation to warrants authorising investigative action in relation to journalists and media organisations.
 - The appropriateness of current thresholds for law enforcement and intelligence agencies to access electronic data on devices used by journalists and media organisations.

1.99 The Committee held hearings in August and September of 2019 and received 61 submissions.

1.100 As notified in the media release of 13 December 2019, due to the tendering of late submissions, further deliberations were required by the Committee and report finalisation was ongoing as of 30 June 2020.

Notifications

1.101 The ISA, the TIA Act and the Citizenship Act each require the Committee to be notified of certain matters or provided with certain reports. Appendix D outlines notifications and reports received during the reporting period.

Private briefings

1.102 The Committee received a range of private briefings from relevant Commonwealth departments and agencies during the reporting period. Some briefings were in connection to specific inquiries before the Committee, while others concerned the Committee's broader oversight remit.

Site visits

1.103 The Committee conducted site visits around Australia as part of its review, oversight and briefing activities

Future of the Committee

Independent Intelligence Review

1.104 In 2017, the Independent Intelligence Review conducted by Mr Michael L'Estrange AO and Mr Stephen Merchant PSM made several recommendations regarding the future of the Committee. These included amendments to legislation to:

- expand the Committee's oversight role to apply to all ten agencies of the National Intelligence Community (NIC), with oversight of the AFP, the Department of Immigration and Border Protection, and the Australian Criminal Intelligence Commission limited to their intelligence functions;
- enable the Committee to request the IGIS to conduct an inquiry into the legality and propriety of particular operational activities of the NIC agencies, and to provide a report to the Committee, Prime Minister and the responsible Minister;
- allow the Committee to initiate its own inquiries into the administration and expenditure of the ten intelligence agencies of the NIC as well as proposed or existing provisions in counter-terrorism and national security law, and to review all such expiring legislation;
- enable the Committee to request a briefing from the Independent INSLM, to ask the INSLM to provide the Committee with the outcome of their inquiries into existing legislation at the same time as the INSLM provides such reports to the responsible Minister; and
- require the Committee to be regularly briefed by the Director-General of ONI, and separately by the IGIS.¹⁴

1.105 A subsequent media release by then Prime Minister the Hon Malcolm Turnbull MP on 18 July 2017 accepted the recommendations on the review.

1.106 Shortly after the Australian Parliament passed legislation enacting a number of recommendations made by L'Estrange and Merchant.

¹⁴ Mr Michael L'Estrange AO & Mr Stephen Merchant PSM, *Independent Intelligence Review*, June 2017, pp. 21-22.

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- 1.107 As of 30 June 2020, the Government was yet to introduce legislation to enact the recommendations made by the review which could change the oversight role and powers of the Committee on the NIC.

Comprehensive review of the legal framework governing the National Intelligence Community

- 1.108 On 30 May 2018, the Government launched a review into the legal framework which governs the NIC, which was headed by Mr Dennis Richardson AO (the Richardson Review).
- 1.109 The Richardson Review's terms of reference included examining improvements that could be made to ensure the legislative framework for the NIC 'provides for accountability and oversight that is transparent and as consistent across the NIC agencies as is practicably feasible'.¹⁵
- 1.110 Mr Richardson completed his review provided a classified report and an unclassified report to the Government. The outcomes of this review may impact the future activities of the Committee.

Mr Andrew Hastie MP
Chair
September 2020

¹⁵ Attorney-General's Department, Comprehensive Review Legal Framework of the National Intelligence Community, *Terms of Reference*, p. 1.

A. Functions of the Committee

The following is an extract from the Intelligence Services Act 2001.

(1) The functions of the Committee are:

(a) to review the administration and expenditure of ASIO, ASIS, AGO, DIO, ASD and ONI, including the annual financial statements of ASIO, ASIS, AGO, DIO, ASD and ONI; and

(b) to review any matter in relation to ASIO, ASIS, AGO, DIO, ASD or ONI referred to the Committee by:

(i) the responsible Minister; or

(ia) the Attorney-General; or

(ii) a resolution of either House of the Parliament; and

(baa) to monitor and to review the performance by the AFP of its functions under Part 5.3 of the *Criminal Code*; and

(bab) to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the AFP or connected with the performance of its functions under Part 5.3 of the *Criminal Code* to which, in the opinion of the Committee, the attention of the Parliament should be directed; and

(bac) to inquire into any question in connection with its functions under paragraph (baa) or (bab) that is referred to it by either House of the Parliament, and to report to that House upon that question; and

(bb) to review, by 7 January 2021, the operation, effectiveness and implications of the following:

- (i) Division 3A of Part IAA of the *Crimes Act 1914* (which provides for police powers in relation to terrorism) and any other provision of the *Crimes Act 1914* as it relates to that Division;
 - (ii) Divisions 104 and 105 of the *Criminal Code* (which provide for control orders and preventative detention orders in relation to terrorism) and any other provision of the *Criminal Code Act 1995* as it relates to those Divisions;
 - (iii) sections 119.2 and 119.3 of the *Criminal Code* (which provide for declared areas in relation to foreign incursion and recruitment); and
- (bba) to monitor and review:
- (i) the performance by the AFP of its functions under Division 3A of Part IAA of the *Crimes Act 1914*; and
 - (ii) the basis of the Minister's declarations of prescribed security zones under section 3UJ of that Act; and
- (bc) to conduct the review under section 187N of the *Telecommunications (Interception and Access) Act 1979*; and
- (bca) to review, by 30 September 2020, the operation of the amendments made by the *Telecommunications and Other Legislation Amendment (Assistance and Access) Act 2018* and to give a written report of the review to the Minister administering the *Telecommunications (Interception and Access) Act 1979*; and
- (bd) subject to subsection (5), to review any matter that:
- (i) relates to the retained data activities of ASIO; and
 - (ii) is included, under paragraph 94(2A)(c), (d), (e), (f), (g), (h), (i) or (j) of the *Australian Security Intelligence Organisation Act 1979*, in a report referred to in subsection 94(1) of that Act; and
- (be) subject to subsection (5), to review any matter that:
- (i) relates to the retained data activities of the AFP in relation to offences against Part 5.3 of the *Criminal Code*; and
 - (ii) is set out, under paragraph 186(1)(e), (f), (g), (h), (i), (j) or (k) of the *Telecommunications (Interception and Access) Act 1979*, in a report under subsection 186(1) of that Act; and
- (ca) to review, by 1 December 2019, the operation, effectiveness and implications of sections 33AA, 35, 35AA and 35A of the *Australian*

Citizenship Act 2007 and any other provision of that Act as far as it relates to those sections; and

(cb) without limiting paragraphs (baa) to (bac), to review, before the end of 6 years after the day the *Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016* received the Royal Assent, the operation, effectiveness and implications of Division 105A of the *Criminal Code* and any other provision of that Code as far as it relates to that Division;

(cc) to review, by the end of the period of 3 years beginning on the day the Counter-Terrorism (Temporary Exclusion Orders) Act 2019 commenced, the operation, effectiveness and implications of that Act; and

(cd) to monitor and review the exercise of powers under the Counter-Terrorism (Temporary Exclusion Orders) Act 2019 by the Minister administering that Act; and

(c) to report the Committee's comments and recommendations to each House of the Parliament, to the responsible Minister and to the Attorney-General.

(2) The Committee may, by resolution, request the responsible Minister or the Attorney-General to refer a matter in relation to the activities of ASIO, ASIS, AGO, DIO, ASD or ONI (as the case may be) to the Committee, and the Minister or the Attorney-General may, under paragraph (1)(b), refer that matter to the Committee for review.

(3) The functions of the Committee do not include:

(aa) reviewing anything done by ONI in its leadership of the national intelligence community, to the extent that it involves prioritising national intelligence priorities and requirements, and allocating resources accordingly, in relation to:

(i) an intelligence agency (as defined by subsection 4(1) of the *Office of National Intelligence Act 2018*); or

(ii) an agency with an intelligence role or function (as defined by subsection 4(1) of that Act); or

(ab) reviewing anything done by ONI in its leadership of the national intelligence community, to the extent that it relates to:

(i) an intelligence agency (as defined by subsection 4(1) of the *Office of National Intelligence Act 2018*) and a matter that would otherwise be covered by any of the following paragraphs of this subsection; or

- (ii) an agency with an intelligence role or function (as defined by subsection 4(1) of that Act) and a matter that would otherwise be covered by any of the following paragraphs of this subsection if those paragraphs applied to the agency; or
- (a) reviewing the intelligence gathering and assessment priorities of ASIO, ASIS, AGO, DIO, ASD or ONI; or
- (b) reviewing the sources of information, other operational assistance or operational methods available to ASIO, ASIS, AGO, DIO, ASD or ONI; or
- (c) reviewing particular operations that have been, are being or are proposed to be undertaken by ASIO, ASIS, AGO, DIO or ASD; or
- (d) reviewing information provided by, or by an agency of, a foreign government where that government does not consent to the disclosure of the information; or
- (e) reviewing an aspect of the activities of ASIO, ASIS, AGO, DIO, ASD or ONI that does not affect an Australian person; or
- (f) reviewing the rules made under section 15 of this Act; or
- (fa) reviewing the privacy rules made under section 53 of the *Office of National Intelligence Act 2018*; or
- (g) conducting inquiries into individual complaints about the activities of ASIO, ASIS, AGO, DIO, ASD, ONI, AFP or the Immigration and Border Protection Department; or
- (h) reviewing the content of, or conclusions reached in, assessments or reports made by DIO or ONI, or reviewing sources of information on which such assessments or reports are based; or
- (i) reviewing anything done by ONI in carrying out the evaluation functions mentioned in section 9 of the *Office of National Intelligence Act 2018*; or
- (j) reviewing sensitive operational information or operational methods available to the AFP; or
- (k) reviewing particular operations or investigations that have been, are being or are proposed to be undertaken by the AFP.

Note: For Australian person see section 3.

(4) Subject to subsection (5), paragraphs (3)(c) and (k) do not apply to things done in the performance of the Committee's functions under paragraphs (1)(bd) and (be).

(5) The Committee's functions under paragraphs (1)(bd) and (be):

(a) are to be performed for the sole purpose of assessing, and making recommendations on, the overall operation and effectiveness of Part 5-1A of the *Telecommunications (Interception and Access) Act 1979*; and

(b) do not permit reviewing the retained data activities of service providers; and

(c) may not be performed for any purpose other than that set out in paragraph (a).

Note: The performance of the Committee's functions under paragraphs (1)(bd) and (be) are also subject to the requirements of Schedule 1.

B. Committee Reports (1 July 2019 to 30 June 2020)

Referred Inquiries

<i>Title of Report</i>	<i>Tabling Date</i>	<i>Government Response</i>
Advisory Report on the Counter-Terrorism Legislation Amendment (2019 Measures No.1) Bill 2019	14 October 2019	Not Required
Advisory Report on the Identity-Matching Services Bill 2019 and the Australian Passports Amendment (Identity-Matching Services) Bill 2019	24 October 2019	Not Required

Annual Reports

<i>Title of Report</i>	<i>Tabling Date</i>	<i>Government Response</i>
Annual Report of Committee Activities 2018-2019	4 December 2019	Not Required

Administrative and Expenditure Review

<i>Title of Report</i>	<i>Tabling Date</i>	<i>Government Response</i>
Review of Administration and Expenditure No. 17 (2017-2018) - Australian Intelligence Agencies	5 February 2020	12 May 2020

Review of Terrorist Listings

<i>Title of Report</i>	<i>Tabling Date</i>	<i>Government Response</i>
Review of the Listing and Re-listing of Six Organisations as Terrorist Organisations under the Criminal Code	10 September 2019	Not Required
Review of the Re-listing of Four Terrorist Organisations as Terrorist Organisations under the Criminal Code	5 February 2020	Not Required

Statutory Reviews

<i>Title of Report</i>	<i>Tabling Date</i>	<i>Government Response</i>
Review of the Renunciation by Conduct and Cessation Provisions in the Australian Citizenship Act 2007	4 December 2019	Not Required

C. Australian Federal Police Activities

Terrorism Offences (Division 101)

The Australian Federal Police (AFP) charged four individuals with terrorism offences under section 101.6 of the Criminal Code (acts done in preparation for, or planning, terrorist acts) between 1 June 2019 and 31 May 2020. All prosecutions were ongoing as of 31 the end reporting date.

In total, eleven prosecutions for terrorism offences were finalised between 1 June 2019 and 31 May 2020. The results of these prosecutions were as follows:

- One prosecution for section 101.1 of the Criminal Code was finalised on 5 June 2019 with a sentence of 36 years imprisonment.
- One prosecution for section 101.1 of the Criminal Code was finalised on 5 June 2019 with a sentence of 42 years imprisonment.
- Three prosecutions for section 101.1 of the Criminal Code were finalised on 24 July 2019 with sentences of 22 years imprisonment for two defendants and 16 years imprisonment for one defendant. Two of the three defendants were also prosecuted for section 101.6 of the Criminal Code by virtue of section 11.5 of the Criminal Code and these prosecutions were finalised on 29 November 2019 with sentences of 38 years imprisonment for both defendants.
- One prosecution for section 101.6 of the Criminal Code was finalised on 2 August 2019 with a sentence of 34 years imprisonment.
- One prosecution for section 101.6 of the Criminal Code by virtue of section 11.5 of the Criminal Code was finalised on 9 August 2019 with a sentence of 28 years imprisonment.

- One prosecution for section 101.6 of the Criminal Code by virtue of section 11.5 of the Criminal Code was finalised on 29 November 2019 with a sentence of 22 years imprisonment.
- Two prosecutions for section 101.6 of the Criminal Code by virtue of section 11.5 of the Criminal Code were finalised on 17 December 2019 with sentences of 36 years imprisonment and 40 years imprisonment.
- One prosecution for section 101.4 of the Criminal Code was finalised on 18 December 2019 with a sentence of 4 years imprisonment.

Terrorist Organisations (Division 102)

Between 1 June 2019 and 31 May 2020, the AFP charged six individuals with terrorism offences under Division 102 of the Criminal Code. Some of these people are being prosecuted for multiple offences. The AFP supported the commencement of five prosecutions for an offence related to terrorist organisations between 1 June 2019 and 31 May 2020. They are listed in the below table by the type of offence.

Table C.1 Offences under Division 102 of the Criminal Code

Division 102 of the Criminal Code	Number of people charged with this offence
102.2 Knowingly and intentionally direct the activities of a terrorist organisation	1
102.3 Member of a terrorist organisation	4
102.4 Recruit a person to join a terrorist organisation	1
102.7 Providing support to a terrorist organisation	1
102.8 Associate with a person who is a member of a terrorist organisation	1

There were no prosecutions finalised between 1 June 2019 and 31 May 2020 for offences relating to terrorist organisations.

Financing Terrorism (Division 103)

The AFP did not charge anyone, commence or finalise any prosecutions for offences relating to financing terrorism and terrorists in Division 103 of the Criminal Code between 1 June 2019 and 31 May 2020.

Control Orders (Division 104)

In total, the AFP applied for, and issued seven interim control orders between 1 June 2019 and 31 May 2020. Two interim control orders were confirmed – one with variation and one without variation.

Table C.2 Control Orders Applied for and Issued by the AFP

Action	Number of Control Orders
Control orders applied for and issued	7
104.4(3) Control orders modified by the issuing court before being issued	0
104.6 Requesting an urgent interim control order by electronic means	0
104.8 Requesting an urgent interim control order in person	0
Control orders confirmed without variation	1
Control orders confirmed with variation	1
Control orders revoked without being confirmed	0
104.20 Removal of one or more obligations, prohibitions or restrictions by court	0
104.24 Addition of obligations, prohibitions or restrictions by court	0
104.27 Offence for contravening a control order	0

Prosecutions finalised for the offence of 0
contravening an order

Preventative Detention Orders (Division 105)

The AFP did not apply for and was not issued with any preventative detention orders between 1 June 2019 and 31 May 2020. No preventative detention orders were revoked. No persons were taken into custody under a preventative detention order and no persons were charged or prosecuted by the AFP or with the AFP's support for disclosure offences for preventative detention orders.

Continuing Detention Orders (Division 105A)

The AFP stated that the Department of Home Affairs is the agency responsible for applying for Continuing Detention Orders (CDOs). As such, the AFP did not apply for and was not issued with any initial continuing detention orders (CDOs) between 1 June 2018 and 31 May 2019. Nor did the AFP apply for or was issued with any interim detention orders. No person was taken into custody under a CDO.

Stop, Search and Seizure Powers (Division 3A, Part 1AA, Crimes Act 1914)

The AFP did not stop, detain, or search any persons, property or vehicles for terrorism related items under section 3UD between 1 June 2019 and 31 May 2020. Nor did it seize any terrorism related items under section 3Ud.

The AFP did not seek emergency entry to premises with a warrant under section 3UEA between 1 June 2019 and 31 May 2020. Nor did the AFP secure any premises pending the issue of a warrant. No zones were declared by the Minister to be 'prescribed security zones' under section 3UJ between 1 June 2018 and 31 May 2019.

D. Notifications and reports provided to the Committee (1 July 2019 to 30 June 2020)

Intelligence Services Act 2001

<i>Item</i>	<i>Number of notifications or reports</i>	<i>Comments</i>
<p><i>Section 6A</i></p> <p>If the responsible Minister gives a direction under paragraph 6(1)(e), the Minister must as soon as practicable advise the Committee of the nature of the activity or activities to be undertaken.</p>	0	N/A
<p><i>Section 9B (8A)</i></p> <p>If the Inspector-General of Intelligence and Security produces a report on the legality or compliance with provisions relating to emergency authorisations made by an agency, the Committee must be provided</p>	0	N/A

with a copy of the conclusions in the report.

Section 9C(6)(c)

0

N/A

If the Inspector-General of Intelligence and Security produces a report on the legality or compliance with provisions relating to an emergency authorisation by an agency where agreement is not provided by the Attorney-General, Director-General of ASIO, or both, the Committee must be provided with a copy of the conclusions in the report.

Section 15

0

N/A

If rules governing the manner in which ASIS, ASD or AGO communicate and retain intelligence information concerning Australians change, the Inspector-General of Intelligence and Security must brief the Committee on their content and effect.

Clause 1(7A) to Schedule 2

Classified
information

Not disclosed in accordance with Schedule 1, Clause 7 of the *Intelligence Services Act 2001*.

If ASIS guidelines for the use of weapons and self-defence techniques change, the Inspector-General of Intelligence and Security must brief the Committee on their content and effect.

Office of National Intelligence Act 2018

<i>Item</i>	<i>Number of notifications or reports</i>	<i>Comments</i>
<i>Section 53</i>	0	N/A
<p>If rules governing the manner in which ONI collect, handle and retain intelligence information which is identifiable change, the Inspector-General of Intelligence and Security must brief the Committee on their content and effect.</p>		

Telecommunications (Interception and Access) Act 1979

<i>Item</i>	<i>Number of Notifications or reports</i>	<i>Comments</i>
<i>Section 187B (7)</i> Minister must give written notice to the Committee of any declaration made to require a service provider to retain data relating to a relevant service.	Classified information	Not disclosed in accordance with Schedule 1, Clause 7 of the <i>Intelligence Services Act 2001</i> .
<i>Section 185D(1)(b)</i> Minister must notify the Committee of any journalist information warrant issued by ASIO.	Classified information	Not disclosed in accordance with Schedule 1, Clause 7 of the <i>Intelligence Services Act 2001</i> .

<p><i>Section 185D(5)(a)(ii)</i></p> <p>Minister must notify the Committee of any journalist information warrant issued by a law enforcement agency</p>	0	N/A
<p><i>Section 185D(3)</i></p> <p>Any report prepared by the Inspector-General of Intelligence and Security relating to:</p> <ul style="list-style-type: none"> ▪ A journalist information warrant issued to ASIO; ▪ An authorisation made under the authority of the warrant. <p>Minister must provide a copy of the report to the Committee.</p> <p>Committee may request a briefing by the Inspector-General.</p>	Classified information	Not disclosed in accordance with Schedule 1, Clause 7 of the <i>Intelligence Services Act 2001</i> .
<p><i>Section 185D(7)</i></p> <p>Any report prepared by the Ombudsman relating to:</p> <ul style="list-style-type: none"> ▪ A journalist information warrant issued to the AFP; ▪ An authorisation made under the authority of the warrant. <p>Minister must provide a copy of the report to the Committee.</p> <p>Committee may request a briefing by the Ombudsman.</p>	0	N/A

Australian Citizenship Act 2007

<i>Item</i>	<i>Number of notifications or reports</i>	<i>Comments</i>
<p><i>Section 51C(1)(a) and (b)</i></p> <p>Any attempt by the Minister to give a notice under paragraph 33AA(10)a, 35(4)(a) or 35A(5)(a) that a person's Australian citizenship has ceased.</p> <p>Minister must notify the Committee.</p> <p>Committee may request briefing by the Minister.</p>	15	<p>This figure includes a person that, during the reporting period, the Minister initially determined should not be notified of their citizenship cessation, as informing them could prejudice the security, defence or international relations of Australia. There is therefore some overlap with the figure below.</p>
<p><i>Section 51C(1)(c)</i></p> <p>Any determination by the Minister under 33AA(12), 35(7) or 35A(7) that a notice should not be given to a person as it could prejudice the security, defence or international relations of Australia.</p> <p>Minister must notify the Committee</p> <p>Committee may request briefing by the Minister.</p>	4	<p>As noted above, this figure overlaps with the figure above, as it includes a person who was eventually notified of their citizenship cessation.</p>
