



PARLIAMENT of AUSTRALIA

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PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY

Issue date: 8 August 2017

Law Council to discuss ASIO questioning and detention powers

The Parliamentary Joint Committee on Intelligence and Security will hold a public hearing with the Law Council of Australia on Wednesday for its review of ASIO's questioning and detention powers.

The Chair of the Committee, Mr Andrew Hastie MP, said "The Committee looks forward to engaging with the Law Council on how we can make sure that ASIO's questioning powers are as effective as possible, while also protecting individual liberties and the rule of law."

In its written submission to the inquiry, the Law Council stated that it was "not satisfied as to the sufficiency of safeguards against arbitrary interference with the liberties of the citizen" under the current questioning and detention powers.

The Law Council supported the former Independent National Security Legislation Monitor's recommendation to repeal the current questioning and detention regime, and replace it with a questioning power following the model of coercive questioning available to the Australian Criminal Intelligence Commission as closely as possible. The Law Council also recommended additional safeguards be implemented into that model.

Public hearing: 12.30pm to 1.30pm, Wednesday 9 August 2017, Committee Room 1R4, Parliament House, Canberra

The hearing will be broadcast live (audio only) at: aph.gov.au/live.

The Law Council's written submission and further information about the inquiry is available on the Committee's [website](http://aph.gov.au).

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For background:

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Background to the review

The Committee is reviewing the operation, effectiveness and implications of Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979*.

Division 3 of Part III allows ASIO, upon obtaining a warrant, to either:

- require a person to appear before a prescribed authority for compulsory questioning in relation to a terrorism offence (**a questioning warrant**), or
- have a person taken into custody and detained by police to then appear before a prescribed authority for compulsory questioning in relation to a terrorism offence (**a questioning and detention warrant**).

ASIO's powers under Division 3 of Part III will sunset on 7 September 2018.

The provisions in Division 3 of Part III of the ASIO Act were [last reviewed](#) by a precursor to the PJCIS in 2005, following which the existing sunset on the legislation was extended to 22 July 2016. With the passage of the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*, the sunset date was further extended to 7 September 2018, subject to reviews by the PJCIS and the Independent National Security Legislation Monitor (INSLM).

In October 2016, the then INSLM, the Hon Roger Gyles AO QC, concluded his review of the legislation. In his [report](#), the INSLM concluded that the provisions for questioning and detention warrants should be repealed or allowed to sunset, and that the remaining provisions, including questioning warrants, should be repealed and “replaced with a questioning power following the model of coercive questioning available under the *Australian Crime Commission Act 2002* (Cth) as closely as possible”.