



Committee reports on Counter-Terrorism amendments

The Parliamentary Joint Committee on Intelligence and Security has today presented its advisory report on the Counter-Terrorism Legislation Amendment Bill (No. 1) 2015.

The measures contained in the Bill include:

- allowing a control order to be imposed on persons 14 years and older,
- allowing search, telecommunications interception and surveillance device warrants to be issued for the purpose of determining whether a person is complying with a control order,
- providing greater protection to sensitive information in control order proceedings by allowing the court to consider evidence that is not disclosed to the respondent or their legal representative,
- amending the test for the issuing of a preventative detention order, and
- creating a new offence prohibiting the advocating of genocide.

In its bipartisan report, the Committee recommended that the Bill be passed by Parliament, and made 20 additional recommendations aimed at further strengthening the Bill's safeguards, transparency and oversight mechanisms. The Committee's recommendations include:

- clarifying that the best interests of the young person are to be a 'primary' consideration in determining whether the obligations, prohibitions and restrictions placed on them are reasonably necessary, and reasonably appropriate and adapted, while the safety and security of the community remains the 'paramount' consideration,
- expressly providing that the young person has the right to legal representation in control order proceedings,
- introducing legislation to create a system of special advocates as soon as practicable and no later than the end of 2016 to represent the interests of control order subjects who have had information withheld from them,
- requiring issuing officers to have regard to whether the use of control order monitoring powers constitute the least interference with the liberty or privacy of any person that is necessary in all the circumstances, and
- including an additional 'recklessness' threshold for the offence of advocating genocide, and extending it to include private as well as public advocacy.

To enhance the oversight and public confidence in the proposed measures, the Committee has recommended that the use of specific powers be subject to annual reporting to Parliament and, where appropriate, oversight by the Commonwealth Ombudsman.

"The Bill responds to the evolving nature of the terrorist threat in Australia and seeks to ensure that our law enforcement and security agencies remain well-equipped to respond to current and future challenges," Committee Chair, Mr Dan Tehan MP, said.

“The report recommends a number of ways to improve the efficacy and safeguards associated with the new measures. Maintaining appropriate limits, safeguarding fundamental human rights and expanding oversight and reporting requirements are critical to achieving a balanced and proportionate outcome.”

During the inquiry, the Committee received 17 submissions from a range of organisations. The Committee also drew on the interim report of the Independent National Security Legislation Monitor, the Hon Roger Gyles AO QC, released on 5 February 2016, which considered the desirability of a special advocates regime in light of the amendments proposed in the Bill.

The full report can be accessed via the Committee’s website at <http://www.aph.gov.au/pjcis>.

For media comment, please contact the Office of the Chair, Dan Tehan MP, on (02) 6277 4393 (Parliament House) or 03 5572 1100 (Electorate).

For inquiry information, please contact the Committee Secretariat on 02 6277 2360 or email pjcis@aph.gov.au.