



PARLIAMENT of AUSTRALIA

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PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY

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ASIO questioning and detention powers to be reviewed

The Parliamentary Joint Committee on Intelligence and Security (PJCIS) has commenced a review of the operation, effectiveness and implications of ASIO's special powers relating to terrorism offences.

The powers, provided for under Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979*, include:

- the ability for ASIO to seek and obtain a **questioning warrant**, which requires a specified person to appear before a prescribed authority for questioning immediately after the person is notified of the issue of the warrant, or at a time specified in the warrant, and
- the ability for ASIO to seek and obtain a **questioning and detention warrant**, which authorises a specified person to be taken into custody immediately by police, brought before a prescribed authority immediately for questioning, and to be detained by the police for up to 168 hours.

In both cases, the warrant may only be issued in circumstances where a Judge (known as the issuing authority) "is satisfied that there are reasonable grounds for believing that the warrant will substantially assist the collection of intelligence that is important in relation to a terrorism offence".

The PJCIS Chair, Mr Andrew Hastie MP, said that "While there are strict safeguards built into the existing legislation, these are extraordinary powers that deserve close scrutiny."

"The Committee will use its review to examine the ongoing effectiveness of ASIO's special powers in the fight against terrorism, and whether the existing set of safeguards gets the balance right between security and individual liberties", he added.

"The Committee will also take into account the recent findings of the Independent National Security Legislation Monitor."

The Committee invites written submissions to the inquiry to be received no later than **Friday, 21 April 2017**. Information on how to make a submission is available on the Committee's [website](#).

The provisions 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).



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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”.

The review of the ASIO powers is the first of several reviews of legislation that the PJCIS is required, under section 29 of the *Intelligence Services Act 2001*, to undertake by 7 March 2018.

Further information about the inquiry can be accessed via the Committee’s website at <http://www.aph.gov.au/pjcis>.

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