



Submission to the

Parliamentary Joint Committee on Intelligence and
Security (PJCIS) review into the effectiveness of the
Australian Security Intelligence Organisation Amendment
Bill 2020

25 June 2020

1. Introduction

1.1. All Together Now – a nationally-focussed racial equity organisation – welcomes the opportunity to provide this submission to the Joint Committee on Intelligence and Security. This submission highlights the specific risks of the proposed legislation for people from vulnerable communities in Australia, including First Nations people, Muslim people, people of colour and people who are from migrant and refugee backgrounds.

2. Insufficient accountability procedures

2.1. All Together Now believes that the proposed legislation to broaden ASIO's powers are an infringement on the fundamental rights of a person. In particular we are deeply concerned by proposed provisions aimed at lowering the age for seeking questioning warrants from 16 to 14 (s34BB), limiting a person's ability to choose their own lawyer for questioning (s34F(4)), prescribing when a lawyer may or may not intervene in questioning (s34FF), and removing a lawyer for disrupting questioning (s34FF(6)).

2.2. Upon review of the proposed amendments, All Together Now is concerned that there are insufficient accountability procedures in place that act as checks and balances to the broad ranging powers and discretion given to ASIO and/or the Attorney General. These checks and balances are of paramount importance in a democratic society.

3. Vulnerable communities at risk

3.1. While All Together Now is concerned that the proposed legislation to expand ASIO's powers will affect every Australian, we believe that it will affect (young) people from vulnerable communities most of all, by putting them at increased risk of questioning, arrest and detention. Given entrenched biases, and forms of structural discrimination and systemic racism in law enforcement, the intelligence community and the criminal justice system, All Together Now is deeply concerned that the proposed legislation will adversely affect First Nations people, Muslim people, people of colour, and people who are from migrant and refugee backgrounds. In particular, we believe that young people aged 14-16 belonging to and/or identifying with these

nations, communities and groups will face increased risks of being questioned without the benefit of adequate legal representation due to the proposed changes to curtail a person's choice to legal representation, restrict a lawyer's intervention in questioning and to remove a lawyer on 'disruptive' grounds. The right and freedom to appoint legal representation is an essential component of any functioning criminal justice system and affords people a measure of protection against abuse of power. It is also a cornerstone of the rule of law in any liberal democratic society.

3.2 First Nations people are faced with disproportionate incarceration rates in Australia. According to data released by the Australian Bureau of Statistics in June 2020, 4.7% of all Indigenous men are in jail compared with just 0.4% of all non-Indigenous men. According to a two-year long investigation by The Guardian Australia, 437 First Nations people have died in custody since the Royal Commission into Aboriginal Deaths in Custody delivered its final report in 1991. All Together Now believes that it is due to institutional and systemic discrimination and racism that First Nations People are more likely to be questioned by police and other law enforcement and security agencies, and they are also more likely to be arrested, refused bail and sentenced to prison.

3.3. In similar vein, over the past two decades the Muslim community in Australia has borne the brunt of ever-expanding ASIO powers. This is evident as far back as November 2005, when the Parliamentary Joint Committee on ASIO, ASIS and DSD tabled its report on the inquiry into the Review of Division 3 of Part III of the *ASIO Act 1979* entitled *ASIO's Questioning and Detention Powers - Review of the operation, effectiveness and implications of Division 3 of Part III in the Australian Security Intelligence Organisation Act 1979*. At section 4.1 in Chapter 4 ("Implications for the Muslim Community") of the report, it was stated that: "From the evidence taken during this review, it was argued strongly to the Committee that the anti-terrorist laws have had a significant, negative impact on Australia's Muslim community." At section 4.9, the report further clarified that, at the time of publication, under Division 3 Part III of the ASIO Act, there had been fourteen questioning warrants issued and no detention warrants. On this point, the report noted that: "Many submissions and witnesses dealt with questions relating to civil liberties and democratic rights as they affect the whole Australian community (...) However, only

Muslim organisations have been listed as terrorist organisations and, so far, only members of the Muslim community have been subject to questioning warrants. Therefore, the Muslim community feels most acutely restrictions to their democratic rights and civil liberties.”

3.4. All Together Now is concerned that this pattern, which was further established by following rounds of expansion of ASIO’s powers after 2005, for example by the Counter-Terrorism Legislation Amendment (Foreign Fighters) Act 2014, will be repeated if the Australian Security Intelligence Organisation Amendment Bill 2020 is passed into law. As a result the Muslim community, as well as other vulnerable communities in Australia, will bear the brunt of the lack of accountability of the measures proposed in the context of systemic and structural racism.

4. Conclusion

4.1. For the reasons outlined in this submission, All Together Now submits that the Australian Security Intelligence Organisation Amendment Bill 2020 should not be passed.

5. Submission details

This submission was prepared by All Together Now and submitted on 25 June 2020.

All Together Now is a racial equity organisation that seeks to educate Australians about racism. We do this by imagining and delivering innovative and evidence based projects that promote racial equity. We are community driven, we utilise partnered approaches and our work is intersectional. For more information please see our website at <https://alltogethernow.org.au>.

As All Together Now’s office is currently unattended due to COVID-19 restrictions, please contact us by email in the first instance:

Email: info@alltogethernow.org.au

Address: PO Box K685, Haymarket NSW 1240

All Together Now was established in 2010 and is registered with the ACNC.

ABN 74 144 510 556