

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: 1.7 National Security and Criminal Justice

Question No. SBE16/074

Senator Lambie asked the following question at the hearing on 18 October 2016:

Senator Brandis: Can I also tell you, Senator Lambie, that there are currently 38 prosecutions on foot in Australia for terrorism offences, and I think that is in addition to 11 prosecutions that are currently on foot under the Crimes (Foreign Incursions and Recruitment) Act, which is the offence specifically designed to deal with foreign fighters. I do not want you to think because we are not charging people with treason or sedition we are not prosecuting them. That is some 50-odd prosecutions for domestic terrorist offences or foreign terrorism offences on foot, in Australia, right at the moment.

Senator LAMBIE: They have been charged; is that what you are telling me?

Senator Brandis: Yes.

Senator LAMBIE: What is the average jail time they have received from that?

Senator Brandis: I would not be in a position to tell you what the average jail time is. The criminal code terrorism offences carry sentences of, usually, a minimum of seven years and a maximum of life imprisonment. Where any particular sentence falls within that sentencing range depends on the facts of the case, obviously.

Senator LAMBIE: Do you think I could have, on notice, the outcomes of those 38 prosecutions and what happened to those people?

Senator Brandis: These are current prosecutions. These are prosecutions that have not yet gone to trial.

Senator LAMBIE: These are test cases.

Senator Brandis: No. They are not test cases, they are prosecutions. The criminal trial has not yet happened. What I could find for you—I am sure the officers will be readily able to find them—is the number of convictions for terrorism related. Here we are—it has been drawn to my attention. So there we are: there have been 32 convictions since 2001. There are currently 38 prosecutions awaiting trial for terrorism offences, and I am told the 11 foreign fighter prosecutions are within the 38. So there are 38 current prosecutions on foot and 32 convictions for terrorism offences since 2001.

Senator LAMBIE: On notice, could I have the outcomes of those convictions? I just want to see what sort of jail time they are doing and what has happened to them.

Senator Brandis: What you would like us to tell you is, in relation to the 32 convictions since 2001, what the sentences were in each one.

Senator LAMBIE: Yes, please.

Senator Brandis: Yes, we will certainly do that.

The answer to the honourable senator's question is as follows:

As at 22 November 2016, there have been 33 convictions for terrorism offences since 2001.

The sentence in relation to each of these convictions is outlined below.

Duration of sentences for terrorism convictions since 2001

Outlined below is a summary of the terrorism offences individuals have been convicted of and the sentences received.

No.	<i>Offences for which individual was convicted</i>	<i>Sentence</i>
1.	<ul style="list-style-type: none"> • Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiring to do acts in preparation for a terrorist act 	28 years imprisonment
2.	<ul style="list-style-type: none"> • Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiring to do acts in preparation for a terrorist act 	27 years imprisonment
3.	<ul style="list-style-type: none"> • Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiring to do acts in preparation for a terrorist act 	26 years imprisonment
4.	<ul style="list-style-type: none"> • Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiring to do acts in preparation for a terrorist act 	26 years imprisonment
5.	<ul style="list-style-type: none"> • Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiring to do acts in preparation for a terrorist act 	23 years imprisonment
6.	<ul style="list-style-type: none"> • Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with the preparation for a terrorist act • Section 101.5(1) of the <i>Criminal Code</i> – making a document connected with preparation for a terrorist act • Section 101.6(1) of the <i>Criminal Code</i> – doing an act in preparation for a terrorist act 	20 years imprisonment
7.	<ul style="list-style-type: none"> • Section 101.6(1) of the <i>Criminal Code</i> – doing an act in preparation for a terrorist act • Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with the preparation for a terrorist act 	18 years and 8 months imprisonment
8.	<ul style="list-style-type: none"> • Sections 11.5(1) and 101.6(1) of the <i>Criminal Code</i> – conspiracy to do acts in preparation for a terrorist act 	18 years imprisonment

No.	Offences for which individual was convicted	Sentence
9.	<ul style="list-style-type: none"> Sections 11.5 and 101.6(1) of the <i>Criminal Code</i> – conspiracy to do acts in preparation for a terrorist act 	18 years imprisonment
10.	<ul style="list-style-type: none"> Sections 11.5(1) and 101.6(1) of the <i>Criminal Code</i> – conspiracy to do acts in preparation for a terrorist act 	18 years imprisonment
11.	<ul style="list-style-type: none"> Section 102.3(1) of the <i>Criminal Code</i> – membership in a terrorist organisation Section 102.2(1) of the <i>Criminal Code</i> – directing the activities of a terrorist organisation Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with the preparation for a terrorist act 	15 years imprisonment
12.	<ul style="list-style-type: none"> Section 101.6(1) of the <i>Criminal Code</i> – act in preparation for or planning a terrorist act Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with the preparation for a terrorist act 	14 years imprisonment
13.	<ul style="list-style-type: none"> Section 101.5(1) of the <i>Criminal Code</i> – collecting or making a document connected with preparation for a terrorist act 	12 years imprisonment
14.	<ul style="list-style-type: none"> Section 101.6(1) of the <i>Criminal Code</i> – acts in preparation for, or planning, a terrorist act 	10 years imprisonment
15.	<ul style="list-style-type: none"> 7 x section 7(1)(e) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> (Cth) 	8 years imprisonment
16.	<ul style="list-style-type: none"> Sections 102.6(1) and 11.1(1) of the <i>Criminal Code</i> – attempting to intentionally make funds available to a terrorist organisation Section 102.7(1) of the <i>Criminal Code</i> – providing resources to a terrorist organisation Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with preparation for a terrorist act 	8 years imprisonment
17.	<ul style="list-style-type: none"> Section 102.7(1) of the <i>Criminal Code</i> – providing resources to a terrorist organisation Sections 102.6(1) and 11.1(1) of the <i>Criminal Code</i> – attempting to intentionally make funds 	8 years imprisonment

No.	Offences for which individual was convicted	Sentence
	available to a terrorist organisation <ul style="list-style-type: none"> • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	
18.	<ul style="list-style-type: none"> • Section 102.7(1) of the <i>Criminal Code</i> – providing resources to a terrorist organisation • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	7 years imprisonment
19.	<ul style="list-style-type: none"> • Sections 102.6(1) and 11.1(1) of the <i>Criminal Code</i> – attempting to intentionally make funds available to a terrorist organisation • Sections 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	6 years of imprisonment
20.	<ul style="list-style-type: none"> • Section 102.7(1) of the <i>Criminal Code</i> – providing resources to a terrorist organisation • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	5 years and 6 months imprisonment
21.	<ul style="list-style-type: none"> • Section 7(1)(a) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> (Cth) 	5 years and 6 months imprisonment
22.	<ul style="list-style-type: none"> • Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with preparation for a terrorist act 	5 years and 3 months imprisonment
23.	<ul style="list-style-type: none"> • Section 101.5(2) of the <i>Criminal Code</i> – making a document connected with preparation of a terrorist act • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	5 years imprisonment
24.	<ul style="list-style-type: none"> • Section 101.4(1) of the <i>Criminal Code</i> – possessing a thing connected with preparation for a terrorist act 	4 years and 8 months imprisonment
25.	<ul style="list-style-type: none"> • 2 x section 7(1)(a) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> • 2 x section 7(1)(e) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> 	4 years and 6 months imprisonment
26.	<ul style="list-style-type: none"> • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	4 years imprisonment
27.	<ul style="list-style-type: none"> • Section 102.3 of the <i>Criminal Code</i> – membership of a terrorist organisation 	4 years imprisonment

No.	<i>Offences for which individual was convicted</i>	<i>Sentence</i>
28.	<ul style="list-style-type: none"> Section 104.27 of the <i>Criminal Code</i> (Cth) – contravention of a control order 	2 years imprisonment
29.	<ul style="list-style-type: none"> Section (7)(1)(d) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> 	218 days imprisonment
30.	<ul style="list-style-type: none"> Section 7(1)(f) <i>Crimes (Foreign Incursions and Recruitment) Act 1978</i> 	2 years and 3 months suspended sentence
31.	<ul style="list-style-type: none"> 2 x section 21 <i>Charter of the UN Act 1945</i> – intentionally making an asset (funds) available to a proscribed entity 	2 years suspended sentence
32.	<ul style="list-style-type: none"> Section 21 <i>Charter of the UN Act 1945</i> – intentionally making an asset (funds) available to a proscribed entity 	1 year suspended sentence
33.	<ul style="list-style-type: none"> Section 21 <i>Charter of the UN Act 1945</i> – intentionally making an asset (funds) available to a proscribed entity 	1 year suspended sentence