



Monday, 19 February 2024

Mr Peter Khalil MP
Committee Chair
Parliamentary Joint Committee on Intelligence and Security
PO Box 6021, Parliament House
Canberra ACT 2600

By email: pjcis@aph.gov.au

Dear Mr Khalil,

Parliamentary Joint Committee on Intelligence and Security inquiry into Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* (Cth).

The AFP welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Intelligence and Security (PJCIS) review into Division 3 of Part III of the *Australian Security Intelligence Organisation Act 1979* (Cth).

The AFP was consulted on the development of the *Australian Security Intelligence Organisation Amendment Act 2020* which amended the compulsory questioning framework for the Australian Security Intelligence Organisation (ASIO). The AFP continues to recognise the questioning framework as beneficial in providing ASIO with the necessary tools to respond to and protect Australia and Australians from threats to national security posed by espionage, foreign interference and politically motivated violence. The AFP considers the framework remains relevant and fit-for-purpose.

Relationship with ASIO

The AFP is responsible for enforcing Commonwealth criminal law, including crimes in the national security domain. The AFP has a strong and collaborative relationship with ASIO which encompasses joint arrangements, taskforces and operations. In particular, the AFP, ASIO and other Commonwealth partners form the Countering Foreign Interference Taskforce (CFITF) which actively investigates EFI. The AFP and ASIO also form part of the Joint Counter Terrorism Teams (JCTT) which, along with state and territory law enforcement and other partners work collaboratively to prevent, disrupt, respond to and investigate terrorism threats and attacks in Australia.

Across these mechanisms, the AFP and ASIO draw on resources and capabilities to facilitate greater intelligence sharing to swiftly respond to national security threats.

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The AFP's role in Questioning Warrants

The AFP supports the carrying out of ASIO questioning warrants, consistent with the legislated role for police in Part III, Division 3 of the ASIO Act. This legislated role includes apprehending subjects of warrants to bring them before a prescribed authority for questioning, and conducting search and seizures, where required and authorised under the warrant or at law.

Under the ASIO Act, police may apprehend the subject of an ASIO questioning warrant, including with reasonable use of force, and bring them before a prescribed authority for questioning in circumstances where the warrant explicitly authorises apprehension; in certain circumstances where the subject of the warrant has made representations (for example representations about alerting another person involved in an activity prejudicial to security that the activity is being investigated or destroying records); or where the subject fails to appear before the prescribed authority for questioning.

The Act also provides police with screening powers and search powers in certain circumstances. Police may seize dangerous items and any communication device. Police are also permitted to seize items of intelligence relevant to the questioning matter, when authorised under the warrant.

Use of information obtained under Questioning Warrants

The ASIO Act applies restrictions on the uses to which information obtained under ASIO questioning warrants may be used. The AFP has internal procedures in place to ensure compliance with the provisions in Part III, Division 3, Subdivision E of the Act in the handling of questioning material and derivative material. From the AFP's operational perspective, this has been successful due to a close and collaborative relationship with ASIO and well-established procedures for cooperation.

I trust this information assists, and I look forward to further engagement with you and the Committee as the review progresses.

Yours sincerely,



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