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PARLIAMENTARY JOINT COMMITTEE ON INTELLIGENCE AND SECURITY
Review of the Counter-Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020

Questions on notice

13 November 2020

Australian Federal Police

QoN Number: 01

Question:

Mr DREYFUS: Please provide factual scenarios to illustrate why interim control orders should continue to be available after the introduction of ESOs, including while an ESO application is underway, or following the failure of a CDO or ESO.

Answer:

Need for control orders to continue to be available after introduction of ESOs generally:

Control orders remain a necessary tool to address **risks posed by an individual who has not been charged with any offence**, as well as those who may have been subject to post-sentence orders in the past. Control orders may also be the **only post-sentence measure available** for offenders who are not eligible for consideration under the HRTO Scheme (for example, those under the age of 18 years, and those convicted of non-HRTO offences i.e. associating with a terrorist organisation) and pose a risk of committing a terrorist act or providing support for or facilitating a terrorist act upon their release.

The Bill preserves the availability for the AFP to apply for a control order, including where an ESO application has not been made, or has been made and was refused by the court (for example, where new information later comes to light about the person's risk).

This is accompanied by a safeguard providing that only one order can be in force at any one time. The AFP supports these provisions. Removing this ability to apply for a control order could result in an offender being released into the community without any controls to mitigate the risks they pose.

As indicated in our written submission and in the public hearing, the AFP will not apply for an interim control order in relation to a person subject to an ongoing ESO or CDO application, except in very limited, exceptional circumstances. As a matter of practice, the mere fact that an ESO application was unsuccessful would not be reason alone for the AFP to consider making a control order application against a released offender. The AFP may consider a control order application appropriate where information became available that was not considered by the original court, and where there remained considerable risk to the community and prospects of success for obtaining a control order in the Federal Court were reasonable.

Need for control order instead of an ESO:

- Where a HRTO eligible offender either receives a very short sentence, or has their conviction overturned on appeal, and there is insufficient time to bring an ESO application (noting the control order scheme allows the making of urgent interim orders).

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- For example, the AFP was able to make an application for an ICO in the recent matter of Abdirahman-Khalif, who was released from custody after she successfully appealed her conviction in the SA Supreme Court and was released into the community, in short timeframes. Note, the High Court recently upheld the CDPP's further appeal, and she has now returned to custody.

Need for control orders where a CDO or ESO application is refused by the Supreme Court (and new information comes to light):

- Where the court refuses to issue an ESO, the offender is released into the community, and new information comes to AFP attention very soon after ESO proceedings are finalised that the person poses a risk, which was not considered by that court because the information was not available at that time.

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QoN Number: 02

Question:

Mr BYRNE: How many of the 7 people who may be eligible for transition from control order to ESO following introduction of the legislation should have been subject to a CDO in the AFP's opinion.

Answer:

The AFP will not provide a view on whether individual offenders should have been subject to a CDO following completion of their sentence. This is a matter for a court following the making of an application and assessment of all available information. The AFP will always support outcomes that protect the community, noting the thresholds and safeguards for CDOs are determined by Parliament.

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QoN Number: 03

Question:

Dr ALY: For the people who were successfully de-radicalised in CVE programs, were they compelled to engage in that program?

Answer:

We have asked Home Affairs to respond to this question noting it is responsible for Commonwealth administration of CVE programs.

The Department of Home Affairs understands that no one has been compelled to undertake a countering violent extremism (CVE) program, which are administered by states and territories.

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QoN Number: 04

Subject:

Dr ALY: Please provide information on the maturity and content of existing de-radicalisation programs

Answer:

We have asked Home Affairs to respond to this question noting it is responsible for Commonwealth funding of CVE programs.

The *Living Safe Together* Intervention Program is the national program to disengage at-risk people from violent extremism. It was established in 2015-16 and is operating in all states and territories. Home Affairs is responsible for the Program's strategic priorities and governance, with states and territories implementing the program according to their local conditions.

The *Radicalisation & Extremist Awareness Program* (REAP) provides awareness training to front line prison officers to recognise and report violent extremism. Since 2014 REAP has trained over 200 trainers and 5,000 front line staff.

The Australian Government has also provided seed funding to New South Wales from 2015-2017 and Victoria from 2010 to implement disengagement programs in prisons.

Corrective Services New South Wales offers terrorist prisoners and other prisoners identified as violent extremists participation in the prison-based Proactive Integrated Support Model (PRISM).

Corrections Victoria offers violent extremist prisoners individualised psycho-social counselling with a similar approach to PRISM. Islamic violent extremist prisoners are also able to participate in the Community Integration Support Program (CISP).

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