



Appendix A – Interim report

3 May 2002

The Speaker of the House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Speaker

Review of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 Unfinished Inquiry Report

On 21 March 2002 the House of Representatives referred the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 to the Parliamentary Committee on ASIO, ASIS and DSD for an advisory report by 3 May 2002. The Committee has been unable to complete its inquiry by the required date. This letter is the 'unfinished inquiry report' of the Committee which fulfils its responsibility to report by the required date.

The Bill is part of a suite of anti-terrorist legislation that the Government introduced during February and March 2002. The purpose of the Bill is to amend the ASIO Act 1979 to expand the special powers available to ASIO to deal with terrorism. Specifically, the Bill proposes:

- including the definition of a terrorism offence in the ASIO Act 1979;
- permitting personal searches to be authorised in conjunction with warrants; and,
- providing a power to detain, search and question persons before a prescribed authority.

The measures proposed in the Bill are contentious and provoked significant public interest in the review. The Committee received over 140 submissions and conducted public hearings in Canberra, Sydney and Melbourne.

The key concerns that were made during the inquiry focused on the proposed detention regime. The Bill provides for detention of a person incommunicado for up to 48 hours in the first instance. This period of detention can be extended up to 6 days and possibly more. While a person is in custody, they would not have the right to silence. In addition, a person would have to produce information upon request and would have an evidentiary burden in proving that they do not have the requested information. In addition to these issues, the Committee scrutinised the adequacy of the accountability mechanisms which apply to the key provisions in the Bill.

Most submissions criticised the inadequate amount of time given to reviewing this Bill. The Committee agrees that the complexity of the issues and contentious nature of the provisions in the Bill demand a longer reporting period. Relating to this concern is the Senate Legal and Constitutional Legislation Committee review of the Security Legislation Amendment (Terrorism) Bill 2002 and the Suppression of Financing of Terrorism Bill 2002 among a range of Bills. These two Bills contain the definition of a 'terrorist act' which is critical to the operation of the ASIO Legislation Amendment (Terrorism) Bill 2002. The Committee's review would be enhanced if it completed its review after the Senate Legal and Constitutional Legislation Committee has reported and made its conclusions about the adequacy of the definition of a 'terrorist act.'

In view of the public's concern about the short time frame for the review, and the advantages of reviewing the Senate Committee's comments on the definition of a 'terrorist act', the Committee will request from the House of Representatives, when it next meets, an extension of time to report. The Committee will seek to present its final report to the Parliament in the week commencing 17 June 2002. This additional time will ensure that the Parliament receives an effective advisory report.

I have attached a list of the members of the Committee.

Yours sincerely

DAVID JULL MP
Committee Chair