



Submission No 92

**Inquiry into potential reforms of National Security Legislation**

**Organisation:** Asem Judeh

**“Who is ASIO serving?”**



**A SUBMISSION TO**

**THE**

**Parliamentary Joint Committee on Intelligence and Security (PJCIS)**

**Inquiry into potential reforms of National  
Security Legislation**

**BY**

**ASEM JUDEH**

**August 2012**

**13 August 2012**

**Committee Secretary**  
**Parliamentary Joint Committee on Intelligence and Security**  
Parliament House  
CANBERRA ACT 2600  
AUSTRALIA

**Dear Committee Secretary,**

I am pleased to write this submission to PJCIS in relation to **inquiry into the potential reforms of National Security Legislation.**

I offer this Submission for your consideration and assessment, I will be pleased to appear before the Committee to give oral evidence about what included in the submission and answer any questions and clarifications.

**Best Regards,**

**Asem Judeh**

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# 1. Executive Summary

ASIO's values (?) according to their website as follow:

<b>ASIO's Values</b>	
<p><b>Excellence</b></p> <ul style="list-style-type: none"> <li>■ producing high quality, relevant and timely advice</li> <li>■ displaying strong leadership and professionalism</li> <li>■ improving through innovation and learning</li> </ul>	<p><b>Integrity</b></p> <ul style="list-style-type: none"> <li>■ being ethical and working without bias</li> <li>■ maintaining the confidentiality and security of our work</li> <li>■ respecting others and valuing diversity</li> </ul>
<p><b>Cooperation</b></p> <ul style="list-style-type: none"> <li>■ building a common sense of purpose and mutual support</li> <li>■ using appropriate communication in all our relationships</li> <li>■ fostering and maintaining productive partnerships</li> </ul>	<p><b>Accountability</b></p> <ul style="list-style-type: none"> <li>■ being responsible for what we do and for our outcomes</li> <li>■ being accountable to the Australian community through the Government and the Parliament</li> </ul>
<p><b>Source: ASIO homepage Mission and Values</b> <a href="http://www.asio.gov.au/About-ASIO/Mission-and-Values.html">http://www.asio.gov.au/About-ASIO/Mission-and-Values.html</a></p>	

“After 9/11 and the Bali bombing in 2002, Canberra was driven by a dreadful fear, expressed in the statement that a terrorist attack on Australian soil was only a matter of time. This sense of inevitability has slowly faded, but the fear has driven policy shifts that continue. Here is Dr Chris Michaelsen, of NSW University Law Faculty, [on the 9/11 decade](#)<sup>1</sup>:

*ASIO's budget has increased by 655%, the Australian Federal Police budget by 161%, ASIS by 236% and the Office of National Assessments by 441%. The legislative response has been unprecedented, too. Since 9/11, Federal Parliament has enacted more than 40 pieces of 'security legislation' which ensure that Australia has some of the most Draconian anti-terrorism laws in the Western world. In fact, it is the only Western liberal democracy that allows its domestic intelligence agency, ASIO, to detain persons for seven days without charge or trial and without reasonable suspicion that those detained are actually involved in any terrorist activity. This gigantic policy response has been at odds with the reality of the risk of terrorism in Australia. To date, not a single person has been killed in a terrorist attack on Australian soil in the post-9/11 era. About 100 Australians have died in terrorist attacks overseas, most of them in the Bali bombings. Indeed, chances of dying in a terrorist attack in Australia are close to zero.”<sup>2</sup>*

<sup>1</sup> National Times, 8/9/2011, ‘Our flawed responses to 9/11’. By Dr Chris Michaelsen. <http://www.canberratimes.com.au/opinion/editorial/our-flawed-responses-to-911-20110908-1wqlu.html>

<sup>2</sup> The Interpreter – Lowy Institute for International Policy publication, 15/9/2011, ‘Canberra’s 9/11 decade: Bureaucracy’. By Graeme Dobell. <http://www.lowyinterpreter.org/post/2011/09/15/Canberras-911-decade-the-Public-Service.aspx> *ASIO is a corporate member of the Lowy Institute* [sic].

**Any proposal by the government supported by the opposition and the parliament to increase its own power should be treated with scepticism.**

Simply because the government, opposition and parliament never care to balance ASIO's extended power with safe grounds to ensure that ASIO remains ethical, accountable, transparent and above politics.

ASIO has lost every court case made against ASIO and they forced to pay large sums of taxpayers' money to settle these legal cases outside the court.

For example, ASIO's agents shameful conduct with Dr Izhar Ul-Haque proves how ASIO become an extreme right wing political organisation has no respect to Australian laws and Australian people civil rights.

The case against Mr Izhar Ul-Haque was dismissed, 13 November 2007, in the NSW Supreme Court when judge Michael Adams found the conduct of two ASIO officers who interviewed Mr Ul-Haque prior to his formal AFP interviews had been "grossly improper and constituted an unjustified and unlawful interference with the personal liberty of the accused". Justice Adams, in a ruling delivered on November 13, 2007, outlined a disturbing level of intimidation and aggression used repeatedly by ASIO to try and break the will of Mr Ul-Haque. The case against Mr Ul-Haque collapsed.

Justice Adams found that at "7.25pm on 6 November 2003, twenty or so ASIO and four or five police officers, all in plain clothes, attended with a search warrant at the home where the accused lived with his parents and three brothers."<sup>3</sup>

**Justice Adams found:**

*The officers were dealing with a young man of twenty-one years. It is obvious that any citizen of ordinary fortitude would find a peremptory confrontation of the kind described by the ASIO officers frightening and intimidating. Furthermore, the fact that he was being taken to a park rather than any official place would have added an additional unsettling factor. I do not think it can be doubted that this was precisely the effect that was intended.*

**Are these ASIO's values different to late president Saddam Hussein intelligence treatment to Iraqis or to former Egyptian dictator Hosni Mubarak *mokhabarat* (intelligence) bad treatment of Egyptian people in the past 30 years?**

Before the government, opposition and parliament consider granting ASIO more power, they should first ensure that ASIO remains above politics and remains ethical, accountable and transparent.

Because of that this submission rejects the government proposal/discussion paper into potential reforms of National Security Legislation.

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<sup>3</sup> Cricky17 November 2008 'Ul-Haque case gives ASIO licence to play rough'. By Greg Barns <http://www.crikey.com.au/2008/11/17/ul-haque-case-gives-asio-licence-to-play-rough/>

It may be true that we are living in a dangerous world and Australian Government like any government has the right to protect its citizens from any terrorist activities.

Before giving ASIO more powers and to ensure that ASIO remains above politics, accountable and transparent, the PJCIS must **recommend** the following to the government:

1. Review *ASIO Act*, especially **Section 8 'Control of Organisation'**, and make it a **criminal offence, including jail penalty**, if ASIO agents acted inappropriately or if ASIO deliberately mislead the parliament by presenting politically motivated “cut and paste from the web”<sup>4</sup> statement of reasons to relist **only** Muslim organisations in the government terrorist list.
2. The government and ministers must not force ASIO and other agencies to report to the government what they would like to hear.
3. Grant PJCIS more power, like other Parliament Committees<sup>7</sup>, to be able to question Intelligence and Security agencies.
4. PJCIS membership must be open for independent MPs, Senators and Greens Party.
5. Review Inspector-General Act to limit the Inspector-General **discretion not to investigate** the public claims against ASIO.
6. Increase the Independent National Security Legislation Monitor power and resources.
7. Establish Royal Commission Inquiry into ASIO’s misuse of power and misleading the Parliament and the public.
8. Establish a special Tribunal for the public to be able to lodge their claims against ASIO activities or decisions.

Attorney-General [Roxon had publicly expressed doubts](#)<sup>5</sup> about the data retention scheme and reportedly rejected the legislative package developed under former Attorney-General Robert McClelland. Senior intelligence officials, including the head of the Australian Secret Intelligence Service, have claimed the reforms were “urgently needed”<sup>6</sup>.

**Before we make these reforms there is an urgent need to ensure that ASIO remains above politics, ethical, accountable and transparent.**

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<sup>4</sup> ABC AM, 4 May 2004, ‘Govt accused of plagiarising terrorism information’ <http://www.abc.net.au/am/content/2004/s1100891.htm>

<sup>5</sup> SMH 21 July 2012, ‘Roxon doubts over security plans to store web history’. <http://www.smh.com.au/technology/technology-news/roxon-doubts-over-security-plans-to-store-web-history-20120720-22fel.html>

<sup>6</sup> ITNEWS 10 August 2012, ‘Roxon reportedly pushes back data retention law: Contentious law on ice’. [http://www.itnews.com.au/News/311506\\_roxon-reportedly-pushes-back-data-retention-law.aspx](http://www.itnews.com.au/News/311506_roxon-reportedly-pushes-back-data-retention-law.aspx)

## 2. Who is ASIO serving?

“Who is ASIO serving?” I did ask this question after making my 6-submissions<sup>7</sup> to PJCIS inquiry into Review of the re-listing of Hamas' Izz al-Din al-Qassam Brigades (the Brigades), Kurdistan Workers Party (PKK), Lashkar-e-Tayyiba (LeT) and Palestinian Islamic Jihad (PIJ) as terrorist organisations under the *Criminal Code Act 1995*.

[91 dead in island massacre, bombing in Norway.](#)<sup>8</sup>

[Norway massacre survivors ask 'why us?'](#)<sup>9</sup> This terrorist is not a Muslim!



Why ASIO Annual report 2010-2011 failed to report to Parliament the growing anti-Islam groups in our own backyard? Who we can trust ASIO when they don't report to the parliament the truth?

### Alarming situation:

*'English Defence League' leader and tanning salon owner Stephen Yaxley-Lennon appointed fellow whinging Pom Martin Brennan leader of the 'Australian Defence League'. Following his appointment, Brennan organised an anti-Muslim rally at Federation Square in Melbourne in May (20–30 locals joined Brennan for about an hour or so before being told to bugger off and stop making dickheads of themselves by a larger group of counter-protesters). Since then, Brennan has been engaged in a ding-dong online battle over Australia's future with arch-nemesis and fellow mentalist Ibrahim Siddiq-Conlon of "Shariah4Australia" fame. (Source: Australian Defence League : Martin Brennan gets the arse? <http://slackbastard.anarchobase.com/?p=25894>)*

I have searched the internet and found the following Australian hate sites that spreading exactly same racist messages said ASIO in relisting only Muslim groups as terrorist organisations and **Australian Government Counter-Terrorism White Paper**<sup>10</sup>.

1. Australian Defence League (**Official ADL Est. 2009**)  
<http://www.facebook.com/groups/127675940580251/> and  
<http://slackbastard.anarchobase.com/?p=25894>
2. The Q Society of Australia Inc. <http://www.qsociety.org.au/index.html>
3. Winds of Jihad <http://sheikyermami.com/>

<sup>7</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcis/hamas\\_pkk\\_let\\_pij/subs.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcis/hamas_pkk_let_pij/subs.htm)

<sup>8</sup><http://news.yahoo.com/91-dead-island-massacre-bombing-norway-101247778.html>

<sup>9</sup><http://www.abc.net.au/news/2011-07-24/norway-shooting-survivors-ask-why-us/2807762>

<sup>10</sup>[http://www.asio.gov.au/img/files/counter-terrorism\\_white\\_paper.pdf](http://www.asio.gov.au/img/files/counter-terrorism_white_paper.pdf)



4. ACT! For Australia <http://www.actforaustralia.com/node/3> Australian chapter of ACT! For America founded by Brigitte Gabriel after her May 2007 visit to Australia.
5. Australian Islamist Monitor <http://islammonitor.org/>

**Are these extremist groups monitored reported to the government and the parliament by ASIO? Isn't ASIO role to protect all Australian citizens, including Muslim community.**

 <p>Pro-Israel Lobby attacked the Greens candidates and send them <b>politically motivated</b> threatening letters during NSW state election March 2011. Read <a href="#">THIS<sup>11</sup></a> 'Jewish terrorist Kahane Down Under' by Antony Loewenstein.</p>	<p>No wonder why ASIO and other Security agencies are only targeting Muslim community. No wonder why ASIO Annual Report 2010-2011<sup>12</sup> did not detect and <b>report to the parliament</b> the growing number of racist and hate anti-Islam groups in our own backyard.</p> <p>ASIO didn't report the politically motivated threat and intimidations to free Australian men and women!</p> <p>No wonder why ASIO only listed Muslim groups as terrorist organisations?</p>
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**Does ASIO deserve more power?**

**How ASIO and intelligence community can achieve a just and secure society, if they lies and don't report the truth to the parliament?**

**How ASIO can protect all Australian people from 'emerging and evolving threats' (as they claim), if they are only targeting Islam and Muslims?**

The main source of international terrorism and the primary terrorist threat to Australia and Australian interests is from a global violent jihadist movement – extremists who follow a distorted and militant interpretation of Islam that espouses violence as the answer to perceived grievances. This extremist movement comprises al-Qa'ida, groups allied or associated with it, and others inspired by a similar worldview.

The continuing resonance of the violent jihadist message within sections of Muslim communities in the Western world (including Australia) will lead to the creation and activity of new violent cells. This will include groups with little or no contact with core al-Qa'ida or its affiliates. The emergence of these groups is likely to be uneven across the West – indications are that for now, the phenomenon may have the biggest impact in the UK and parts of Europe but the US and Australia will not be immune. The scale of the problem will continue to depend on factors such as the size and make-up of local Muslim populations, including their ethnic and/or migrant origins, their geographical distribution and the success or otherwise of their integration into their host society.

**Source: The Australian Government Counter-Terrorism White [sic] Paper<sup>13</sup>, 2010.**

<sup>11</sup> <http://middleeastrealitycheck.blogspot.com.au/2011/03/kahane-down-under.html>

<sup>12</sup> ASIO Annual Report 2010-2011 <http://www.asio.gov.au/img/files/Report-to-Parliament-2010-11.pdf>

<sup>13</sup> [http://www.asio.gov.au/img/files/counter-terrorism\\_white\\_paper.pdf](http://www.asio.gov.au/img/files/counter-terrorism_white_paper.pdf)

### 3. Australian Intelligence Community Legislation Reform.

The Attorney-General's Department and Australian Intelligence Community agencies — including the Australian Security Intelligence Organisation (ASIO), the Australian Secret Intelligence Service (ASIS), the Defence Signals Directorate (DSD), and the Defence Imagery and Geospatial Organisation (DIGO)—have identified a number of practical difficulties with the legislation governing the operation of these agencies, specifically the *Australian Security Intelligence Organisation Act 1979* (ASIO Act) and the *Intelligence Services Act 2001* (IS Act).

Addressing the problems outlined in this chapter of the Discussion Paper is necessary to maintain the intelligence gathering capabilities of the Australian intelligence agencies, ensuring they remain able to adeptly respond to emerging and enduring threats to security. Proposed reforms seek to continue the recent modernisation of security legislation to ensure the intelligence community can continue to meet the demands of government in the most effective manner.

**At the same time, it is important that legislation governing intelligence agencies continues to include appropriate checks and balances on the exercise of their powers. Ensuring these agencies remain accountable for their actions helps to maintain public confidence in and support for the crucial work of intelligence agencies. The proposed reforms seek to maintain a strong and accountable legislative regime under which intelligence agencies can respond effectively when threats to our community emerge.**

Discussion Paper: Equipping Australia against emerging and evolving threats.<sup>14</sup>  
(Page 40)

#### 3.1 ASIO, Government and Opposition lies!

**What a lie?** When ASIO, intelligence agencies, government and major political parties (Labor and Coalition) are interested to maintain “*appropriate checks and balances on the exercise of their [intelligence agencies] powers and ensuring intelligence agencies remain accountable for their actions helps to maintain public confidence*”?

*“Since 9/11, Federal Parliament has enacted more than 40 pieces of 'security legislation' which ensure that Australia has some of the most Draconian anti-terrorism laws in the Western world.”*

Interestingly the government with the opposition support has rushed the legislation to the Senate at the end of the year i.e. last days before the parliament Christmas Holidays, **without any public inquiries or consultation.**

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<sup>14</sup>[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?)

**Why has the government been so dilatory that it is has been unable to bring before the Senate in any of the last 24 months the legislation we have today to proscribe these organisations? What is it that has changed in those last two years since the organisations were proscribed in other similar countries that has now made this an urgent matter for the government? There has been nothing in the public debate about this matter that will give an answer to those questions, but it is right and proper that the Senate get an answer.** To put it another way, why is it that the government could not wait until Monday fortnight, when the Senate is sitting, and save taxpayers the many thousands of dollars involved in this recall of the Senate today—as we have heard from the government, only the third such recall in history—by then having the matter dealt with on Monday fortnight?

So you move to the failure of the government to proscribe the organisations themselves and ask: why now? I will be interested to hear the government explain to the Senate, having removed the fundraising potential—money being siphoned out of this country legally to Pakistan or to Hamas in Palestine—what this proscription is going to do except drive these organisations underground, if in fact they are functioning in the country. We need to know from the government how they are functioning in Australia, how they are set up, who is involved and what the immediate threat to the country is that has suddenly brought on this legislation. We have not had that in the public domain, so I doubt we are going to get it today. We are left—it is as plain as the nose on our faces—with the fact that this government has recalled this Senate for cynical political purposes in the run to the next election, and I object to that.

**Source: Senate Hansard Friday 7 November 2003 - Greens Senator Bob Brown CRIMINAL CODE AMENDMENT (HAMAS AND LASHKAR-E-TAYYIBA) BILL 2003 First Reading**<sup>15</sup>

**After September 11, the author of this submission has made many written submissions to:**

1. Parliamentary Senate Legal and Constitutional Committee - Anti-Terrorism Bill: Suppression of the Financing of Terrorism Bill 2002, **April 2002**.
2. Parliamentary Senate Legal and Constitutional Committee - Inquiry into the Anti-Terrorism Laws Reform Bill 2009, **August 2009**.
3. Victoria Police: The Lexicon of Terrorism. **November 2009**.
4. Attorney-General National Security Legislation: Public Consultation, **September 2009**.
5. PJCIS Review of the re-listing of Hamas' Izz al-Din al-Qassam Brigades (the Brigades), Kurdistan Workers Party (PKK), Lashkar-e-Tayyiba (LeT) and Palestinian Islamic Jihad (PIJ) as terrorist organisations under the *Criminal Code Act 1995*. **October 2009**<sup>16</sup>.
6. 2011 Independent Review of the Intelligence Community, **March 2011**.

<sup>15</sup> [http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/2003-11-07/toc\\_pdf/3009-2.pdf;fileType=application%2Fpdf#search=%22Hamas%20Bill+2003+%22](http://parlinfo.aph.gov.au/parlInfo/download/chamber/hansards/2003-11-07/toc_pdf/3009-2.pdf;fileType=application%2Fpdf#search=%22Hamas%20Bill+2003+%22)

<sup>16</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=pjcis/hamas\\_pkk\\_let\\_pij/subs.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=pjcis/hamas_pkk_let_pij/subs.htm)

7. Review of the Administration and Expenditure of the Australian Intelligence Community No. 10 2010-2011, April 2012.

**I don't recall that the government, opposition and parliament were concerned in maintaining "appropriate checks and balances on the exercise of their [intelligence agencies] powers and ensuring intelligence agencies remain accountable for their actions helps to maintain public confidence"!**

**In fact, the parliament has granted intelligence agencies, particularly ASIO, and the Attorney-General an extensive power and discretion. The government and opposition has had designed these laws in a way preventing the public to exercise their democratic rights to challenge these laws in the Australian legal system.**

**Can any community challenge in the court ASIO's "cut and paste from the web"<sup>17</sup> statement of reasons to list only Muslim groups as terrorist organisations?**

### **3.2 Intelligence Agencies Accountability Vs Inspector-General and PJCIS limitations.**

I am not aware that ASIO and intelligence community can be held accountable for their deliberate actions of lies and intimidation.

While the material you have provided raises many issues which are worthy of serious consideration I have decided, on balance, to exercise the discretion which is available to me under section 11(2)(c) of the *Inspector-General of Intelligence and Security Act 1986*, not to inquire into the matters you have raised.

**Source: Inspector-General written response to my complaint, 1 October 2009.**

For example,

- 1. What PJCIS power has to question ASIO's activities and misleading "cut and paste (intelligence) from the web" statement of reasons to list only Muslim groups as terrorist organisations?**

#### **[PJCIS] Procedures and powers**

**1.8 The Committee is a statutory committee. Section 29 of the IS Act outlines the oversight capacity of the Committee. However unlike other statutory or standing committees of Parliament there are specific limitations in this section with regard to the Committee's capacity to inquire into operational matters and the intelligence gathering and assessment priorities of the relevant intelligence agencies. Again the Committee reiterates that, due to**

<sup>17</sup> ABC AM, 4 May 2004, 'Govt accused of plagiarising terrorism information'  
<http://www.abc.net.au/am/content/2004/s1100891.htm>

this limitation, balancing national security and parliamentary scrutiny remains a challenge for the Committee. Despite these constraints, the Committee is ever mindful of its critical role in ensuring that Australia's intelligence agencies remain accountable through continuous public scrutiny.

**1.9** Authority to inquire into special cases and all operational matters lies with the Inspector General of Intelligence and Security (IGIS) under the *Inspector General of Intelligence and Security Act 1986*. In conjunction with the IGIS the Committee provides essential bi-partisan oversight of the AIC.

**Source: The Annual Report of Committee Activities 2008-2009<sup>18</sup>**

- 2. In January 2011**, at the request of the Prime Minister, I initiated an inquiry into the actions of relevant Australian government agencies in relation to the arrest and detention overseas of Mr Mamdouh Habib from 2001 to 2005. The inquiry has been completed and on 19 December 2011 the final report was provided to the Prime Minister. The report is highly classified making its distribution strictly limited. However, given the significant public interest in the outcomes of this inquiry, the Prime Minister has agreed to the public release of an [abridged version of the report](#).<sup>19</sup>

**It worth to know that Labor Prime Minister, Julia Gillard, requested the Inspector-General Vivian Thom to initiate Mr Habib inquiry only after Habib's lawyer met with PM Gillard i.e. begged the PM to launch this inquiry.**

**Why the public and the victims of ASIO's ignorance and intimidation have to beg (Attorney-General, Inspector-General and PJCIS) for their basic democratic rights to investigate the serious allegations made against ASIO?**

**Is that our democracy?**

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<sup>18</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=picis/annualreport0809/report.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=picis/annualreport0809/report.htm)

<sup>19</sup> <http://www.igis.gov.au/>

## 4. ASIO and Public Opinion

### 4.1 Norway Massacre – ASIO is endangering our lives and security.

I am confident that ASIO and intelligence agencies will loose any fair and balanced public inquiry by the parliament.

Australian public shocked when they learnt about the Filipino-Australian Vivian Alvarez who detained by the immigration department. The public pressure has **forced** PM John Howard to establish an **independent** inquiry into Vivian Alvarez detention. [Palmer Inquiry found that 'cowboy culture' rules immigration department](#)<sup>20</sup>.

What will happen if one of the growing anti-Islam groups in our own backyard, commit a massacre, similar to Norway massacre, and the survivors ask 'why us?'

The Australian Government (Labor or Liberal) will be forced to launch a Royal Commission Inquiry into ASIO deliberate misleading assessments and government interference and forcing ASIO and intelligence agencies to report to the government what the government would like to hear. The public will be terrified from the Commission findings?

### 4.2 Sample of the Public Opinion

#### ASIO assessments

**IT'S past time that ASIO was held to account for its dubious use of negative security assessments against individuals who have no recourse to the alleged evidence against them ('ASIO cloaks suspicion in secrecy', Features, 23/3). We have seen a swag of Australians have this used against them, from refugees to torture victim Mamdouh Habib and now to a voice of Muslim moderation in Australia, Sheik Mansour Leghaei, who should be regarded as a security asset, not a threat.**

ASIO needs to be brought to heel and should be forced to justify these assessments to an independent tribunal that can look at the secret evidence, make judgments on the merits of those assessments and report their judgments publicly. In doing so, such a tribunal must go beyond the question of mere legality or compliance with ASIO's charter, to the question of whether the individuals involved are real security threats or not.

**Unless we do achieve proper oversight of this presently unaccountable organisation, ASIO itself becomes the major threat to our freedoms and the security of our democracy.**

<sup>20</sup> SMH 6 July 2005, 'Cowboy culture' rules immigration department'  
<http://www.smh.com.au/news/national/cowboy-culture-rules-immigration-department/2005/07/06/1120329482571.html>

**Source: Colin Mitchell, Seacliff, SA - Letter to *The Australian* Editor, 25 March 2010<sup>21</sup>.**

### **More letters to *The Australian* Editor**

- **Hussein Kobeissi of Sydney** Posted at 12:47 AM March 25, 2010  
Eloquently said Colin. Accountability must be put in place, otherwise, we as a nation should stop kidding ourselves, imagining that we are supporters of human rights, freedom and social justice.
- **obi** Posted at 11:14 AM March 25, 2010  
Why is it that every time I see or hear 'ASIO', I don't get a vision of high-tech/high intelligence activity, but one of Max, the Chief, and the Cone of Silence?
- **Ryan** Posted at 2:41 PM March 25, 2010  
So the AAT is chopped liver? The IGIS is a ham sandwich? The personal discretion of the Minister responsible is mere fairy floss? Lets have an nice big expensive Royal Commission just that we may end this squarking "they're boogey men"!
- **Jimbo of Sans Souci** Posted at 10:07 AM March 26, 2010  
The fact that ASIO and their assessments are above the law is truly worrying. Today it is Mamdouh Habib and Sheik Leghaei, tomorrow it could be any one of us for 'reasons undisclosed'
- **Adam of Sydney** Posted at 10:11 AM March 26, 2010  
I wonder what the Chinese would think of this, given our strong criticism of their courts and legal proceedings with regards to Stern Hu.
- **Tony of Sydney** Posted at 10:21 AM March 26, 2010  
"You are guilty until proven innocent, for reasons undisclosed. You have no rights to investigate, and do as you are told. Our intelligence is above the law, you have no right to know. What ASIO knows will not be known, and never will be shown" - new verse should be added to our national anthem. Fits the bill perfectly.
- **AWADA of Sydney** Posted at 2:57 PM March 26, 2010  
Lets face it ASIO is incompetent!

## **5. ASIO Act – NO to the Authorised Intelligence Operations Scheme!**

### **5.1 ASIO proposal contradicts its publicly declared values.**

The Government Discussion Paper (on behalf of ASIO) is considering proposal to create an authorised intelligence operations scheme. The aim of this proposed scheme

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<sup>21</sup> <http://www.theaustralian.com.au/news/opinion/asio-assessments/comments-fn558imw-1225844959794>

is to protect ASIO officers from ‘criminal and civil liability from certain conduct in the course of authorised intelligence operations’ [sic].

**And yet ASIO want us to trust their publicly declared values<sup>22</sup>:** (1) respecting others and valuing diversity; (2) being responsible for what we do and for our outcomes and (3) being accountable to the Australian community through the Government and the Parliament.

**B. Government is considering the following proposals:**

10. Amending the ASIO Act to create an authorised intelligence operations scheme. This will provide ASIO officers and human sources with protection from criminal and civil liability for certain conduct in the course of authorised intelligence operations.

11. Amending the ASIO Act to modernise and streamline ASIO’s warrant provisions to:

a. Establish a named person warrant enabling ASIO to request a single warrant specifying multiple (existing) powers against a single target instead of requesting multiple warrants against a single target.

13. Amending the ASIO Act to enable ASIO to refer breaches of section 92 of the ASIO Act (publishing the identity of an ASIO officer) to authorities for investigation.

**Source: Government/ASIO Discussion Paper<sup>23</sup>**

The above proposal by ASIO and the government support this submission allegations that ASIO is not interested in maintaining the public confidence in its activities and ASIO became a politically motivated organisation interested only in generating lies and hatred toward Islam and Muslims.

**Let us make no mistake, ASIO is not ethical, accountable and transparent.**

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<sup>22</sup> <http://www.asio.gov.au/About-ASIO/Mission-and-Values.html>

<sup>23</sup> [http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?)



## 5.2 ASIO Act – Section 8 Control of Organisation

### 8 Control of Organisation

- (1) The Organisation shall be under the control of the Director-General.
- (2) Subject to subsections (4) and (5), in the performance of the Director-General's functions under this Act, the Director-General is subject to the directions of the Minister.
- (3) If the Director-General requests that a direction of the Minister be put in writing, the Minister shall comply with the request.
- (4) The Minister is not empowered to override the opinion of the Director-General concerning the nature of the advice that should be given by the Organisation.
- (5) The Minister is not empowered to override the opinion of the Director-General:
  - (a) on the question whether the collection of intelligence by the Organisation concerning a particular individual would, or would not, be justified by reason of its relevance to security; or
  - (b) on the question whether a communication of intelligence concerning a particular individual would be for a purpose relevant to security; except by a direction contained in an instrument in writing that sets out the Minister's reasons for overriding the opinion of the Director-General.
- (6) The Minister shall, as soon as practicable after giving a direction in writing to the Director-General, cause a copy of the direction to be given to the Inspector-General of Intelligence and Security and, if the direction relates to a question referred to in subsection (5), to the Prime Minister.
- (7) Where intelligence is collected or communicated pursuant to a direction referred to in subsection (5), the Director-General shall cause a record in writing to be kept of the intelligence so collected or communicated.

**Source: Australian Security Intelligence Organisation Act 1979**

[http://www.comlaw.gov.au/Details/C2011C00364/Html/Text#\\_Toc292792147](http://www.comlaw.gov.au/Details/C2011C00364/Html/Text#_Toc292792147)

**I would like to recommend the following to PJCIS:**

#### **Recommendation 1**

The PJCIS should advise to the government to **amend and strengthen Section 8 of ASIO Act** and make it a **criminal offence with 10 years jail** if:

- The minister pressure ASIO Director-General to report to the government in a way that serves the government political agenda. For example, fabricated intelligence that led to Iraq war and re-listing only Palestinian groups as terrorist organisations and deliberately the shocking facts on the grounds of the long standing conflicts in the Middle East and Zionist Israelis extremists and terror infrastructure.
- ASIO Director-General does not comply with Section 8 and fabricated ASIO assessment reports and statement of reasons to appease the government or lobby groups such as pro-Israel lobby.

### 5.3 ASIO lies – A case study.



The author of this submission demanded that PJCIS investigate why ASIO listed only Hamas' Brigades and PIJ as terrorist organisations and ignored Israeli Zionist well known terrorist organisations worldwide, including Israel, such as Kach and Kahane Chai, and illegal extremist Israel settlers terror infrastructure in Australia.

Why took Mr Philip Ruddock (former Attorney-General and currently PJCIS Committee member) 6 months to answer former Labor MP Julia Irwin question on notice.

**But when Mr Ruddock became Attorney-General in 7 October 2003, Ruddock became in John Howard cabinet reshuffle, he did not waste any time and in less than 4-weeks he presented Howard government CRIMINAL CODE AMENDMENT (HAMAS AND LASHKAR-E-TAYYIBA) BILL 2003 to the House of Representatives and the Senate November 2003!**<sup>24</sup>

#### Reminder: Parliament HANSARD

[Mrs Irwin](#) asked the Minister representing the Minister for Justice and Customs, upon notice, on **11 August 2003**:

- (1) Are the organisations known as Kach and Kahane Chai regarded as derivative organisations of the listed terrorist organisation Hizballah External Security Organisation.
- (2) Are these organisations known to be active in Australia.

[Mr Ruddock](#) — [Based on ASIO advice after **6 months** (AJ)] The answer to the honourable member's question is as follows:

- (1) No
- (2) No. Kach and Kahane Chai operate primarily in Israel and the [occupied] West Bank [Mr Ruddock, Does Hamas' Brigades and PIJ operates in Australia?]

Source: House of Representatives Official Hansard No. 1, 2004  
Tuesday, **10 February 2004**, Page: 24212

<sup>24</sup> Please refer to Section 3.1 of this Submission, Greens Senator Bob Brown Senate speech, 7 November 2003.

## 6. Conclusion

This Submission make it very clear that before beefing ASIO with more **draconian** laws and power, there is an urgent need to review and strengthen ASIO Act to ensure that there are enough balance between ASIO's responsibility to protect **all** Australians, including Muslims, and ensuring that ASIO remains above politics, ethical, accountable and transparent.

The view within the wider community is that ASIO is incompetent and not trust worthy organisation. That itself is a very serious and should concern us all, if we are interested in the world security and peace.

This submission recommend to PJCIS to recommend to the government the following:

1. Review *ASIO Act*, especially **Section 8 'Control of Organisation'**, and make it a **criminal offence, including jail penalty**, if ASIO agents acted inappropriately or if ASIO deliberately mislead the parliament by presenting politically motivated "cut and paste from the web"<sup>25</sup> statement of reasons to relist **only** Muslim organisations in the government terrorist list.
2. Make it a criminal offence if government and ministers force ASIO and other agencies to report to the government what they would like to hear or interfere in ASIO's assessment reports.
3. Grant PJCIS more power, like other Parliament Committees', to be able to question Intelligence and Security agencies.
4. PJCIS membership must be open for independent MPs, Senators and Greens Party.
5. Review Inspector-General Act to limit the Inspector-General **discretion not to investigate** the public claims against ASIO.
6. Increase the Independent National Security Legislation Monitor power and resources.
7. Establish Royal Commission Inquiry into ASIO's misuse of power and misleading the Parliament and the public.
8. Establish a special Tribunal for the public to be able to lodge their claims against ASIO activities or decisions.

I am sure that PJCIS will receive many public submission in relation to the government controversial discussion paper. I am confident that the majority, if not all, these submission will be very critical to ASIO and the government proposals.

The following media reports were very critical to these un-needed proposals:

- **10 August 2012**, [Attorney-General] Roxon reportedly pushes back data retention law <http://www.itnews.com.au/News/311506,roxon-reportedly-pushes-back-data-retention-law.aspx>

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<sup>25</sup> ABC AM, 4 May 2004, 'Govt accused of plagiarising terrorism information' <http://www.abc.net.au/am/content/2004/s1100891.htm>

- **10 August 2012**, Data retention reportedly stalled  
[http://www.scmagazine.com.au/News/311584,data-retention-reportedly-stalled.aspx?eid=7&edate=20120810&utm\\_source=20120810&utm\\_medium=newsletter&utm\\_campaign=daily\\_newsletter](http://www.scmagazine.com.au/News/311584,data-retention-reportedly-stalled.aspx?eid=7&edate=20120810&utm_source=20120810&utm_medium=newsletter&utm_campaign=daily_newsletter)
- **29 July 2012**, Watchdog [Inspector-General] warns over extending spies' power  
<http://www.canberratimes.com.au/national/watchdog-warns-over-extending-spies-power-20120727-230aq.html>
- **24 July 2012**, Greens Senator Ludlam: government paying "lip service" on data retention proposals  
[http://www.computerworld.com.au/article/431499/ludlam\\_government\\_paying\\_lip\\_service\\_data\\_retention\\_proposals/#closeme](http://www.computerworld.com.au/article/431499/ludlam_government_paying_lip_service_data_retention_proposals/#closeme)
- **19 July 2012**, ASIO's getting the keys to your computer  
<http://www.brisbanetimes.com.au/opinion/blogs/blunt-instrument/asios-getting-the-keys-to-your-computer-20120719-22b8p.html>
- **17 July 2012**, Be sceptical of vague new 'national security' powers  
<http://www.abc.net.au/unleashed/4135892.html>
- **13 July 2012**, Why has the Right gone missing on the surveillance state?  
<http://www.democraticunderground.com/1086300>

Yes we live in a dangerous world, this is not only because terrorist from Muslim background, but most importantly to the way the Western countries reacted to 9/11 and invading two countries Afghanistan and Iraq. The preparations, led by pariah Zionist entity, Israel, is underway to attack Iran. Leave alone not only not solving Palestinian refugees problem and the long standing conflict in Middle East, but most importantly closing our eyes and ears to ongoing Israeli terrorism in Palestine.

It is interesting that the Arab Spring not only thrown the dictators in Tunisia, Egypt, Libya and Yemen (and soon Syria) but most importantly they get-rid-off their intelligence services, *mokhabarat*, that used by these dictatorships to terrorise their people for many decades. Where here in Australia, USA, Canada and Britain they strengthen and beef their intelligence agencies with more **draconian** laws threatening Australian basic human rights, right to know and civil liberties without any window for the public to challenge these laws and challenge ASIO's misleading assessment reports and statement of reasons.

**This month, 16 August 2012**, eminent Australians, led by former prime minister Malcolm Fraser, has called for an independent inquiry into the decisions which led to Australia joining the US-led invasion of Iraq in 2003. Former defence secretary Paul Barratt has told Australia Network's [Newsline](#) it is apparent now that in the lead-up to the war there was a great deal of manipulation of intelligence within the US system. Mr Barratt says the inquiry could reveal how the Australian Government chose to reconcile conflicting intelligence information.

## **Australia urged to hold Iraq war inquiry**

Mr Fraser has told ABC News Breakfast an inquiry in Australia is overdue. "Going to war is a really serious matter," he said.

"I do not believe that any one person in Australia should have the power to take this country to war, especially when due process has not been followed.

"We know the war was begun on a lie, we know the evidence was fabricated.

"We know that, certainly in Britain and the United States, they knew that the claims about Saddam Hussein's weapons of mass destruction were in many respects false, and yet they still went to war on that basis."

Former defence secretary Paul Barratt has told Australia Network's Newsline it is apparent now that in the lead-up to the war there was a great deal of manipulation of intelligence within the US system.

"There was clearly questions about its legality," he said.

"There was some very dubious intelligence being bandied about.

"Governments were not sceptical about that intelligence and they in turn made very dubious use of it to sell the war."

The call for an inquiry is supported by a group of leading academics, retired senior diplomats and experts. Mr Barratt says the inquiry could reveal how the Australian Government chose to reconcile conflicting intelligence information.

"It would be good for the Australian public to know what efforts the Australian government made and Australian intelligence agencies made to review the intelligence and resolve those conflicts," he said.

Those calling for the inquiry say its purpose would be to understand how the decisions were made in the lead-up to the war. Mr Barratt says it is important to consider how those lessons could be applied in future.

"I think the more important point is to have a look at how we make the most important decisions governments make, which is decisions to participate in military operations to put people in harm's way and to invade another country," he said.

"I think it is the quality of the decision making process that is the central issue here."

**Source: ABC 16/8/2012 <http://www.abc.net.au/news/2012-08-16/an-calls-for-australian-inquiry-into-iraq-war/4201748>**

**Inquiry and Royal Commission into intelligence agencies Iraq war, assessment reports and statement of reasons is overdue. The public has right to know.**

**The more laws and power given to ASIO, the more the public pressure on the government will be increased to launch the inquiry or Royal Commission.**

**Let us not pretend civilisation and democracy!**