8 November 2005

Mr Owen Walsh
Secretary
Legal and Constitutional Committee
By Email: LegCon.Sen@aph.gov.au

Dear Sir

RE: **ANTI-TERRORISM BILL**

I **enclose** herewith a critique of the Anti-Terrorism Bill No 2 tabled in the Federal House of Representatives on 3 November.

This critique is dated 4 November.

It is my intention to update the critique prior to any hearings that your Committee may be conducting, and I would appreciate if possible the opportunity of appearing before the Committee but I understand your schedule is tight and I would indicate that my Court schedule is tight.

Once actual hearing dates are allocated, it would be appreciated if you could advise me of those dates so that I can inform you whether, if the Committee wishes me to appear before it, I am able to do so.

Thanking you.

Yours faithfully
TERRY O'GORMAN
President
Australian Council for Civil Liberties
GPO Box 2281
BRISBANE QLD 4001
Ph: 61+7+3236 1311
Fax: 61+7+3236 1223

AUSTRALIAN COUNCIL FOR CIVIL LIBERTIES

GPO Box 2281 Brisbane Qld 4001

by Terry O'Gorman AM

Tel: (07) 3236 1311
Fax: (07) 3236 1223

4 November 2005

RE: CRITIQUE OF ANTI TERRORISM BILL INTRODUCED FEDERAL PARLIAMENT 3 NOVEMBER 2005

The following critique of the Anti Terrorism Bill No. 2 introduced into the House of Representatives on 3 November 2005 is based primarily on the Explanatory Memorandum.

The Explanatory Memorandum is an explanation of the more technical language used in the Bill itself and it's prepared by the parliamentary draftsman.

The general outline to the Bill notes that the following are the principal features of the Bill:

- An extension of the definition of a terrorist organisation to enable listing of organisations that advocate terrorism.
- A new regime for 'control orders'.
- A new police preventative detention regime.
- Updated sedition offences to cover those who urge violence or assistance to Australia's enemies.
- Strengthened offences of financing of terrorism by better coverage of the collection of funds for terrorist activity.
- A new regime of stop, question and search and seize powers to prevent or respond to terrorism.
- A new notice to produce regime to ensure the AFP is able to enforce compliance with a lawful request for information that will facilitate the investigation of a terrorism or other serious offence.
- Amendments to ASIO's special powers warrant regime.

- Amendments to the offence of providing false or misleading information under an ASIO questioning warrant.
- Amendments to authorise access to airline passenger information for law enforcement and intelligence agencies.

This critique will focus primarily on the concepts of control orders and preventative detention.

Control Orders

Interim Control Order

An issuing court may make an Interim Control Order but only if 4 conditions are met.[1]

The definition of an ISSUING COURT is contained at page 15 of the Bill and is said to be:

- Federal Court of Australia.
- Family Court of Australia (**Comment**: query suitability of Family Court).
- Federal Magistrates Court (**Comment**: too low in the court hierarchy).

Four conditions for an Interim Control Order Are:

- A senior AFP member has to request the Order.
- The issuing court has received and considered such further information (if any) that the court requires before making its decision (**Comment**: important role for PIM).
- The issuing court is satisfied on the balance of probabilities either that making the Order would substantially assist in preventing a terrorist attack or that the person provided training to or received training from a listed terrorist organisation.
- That the issuing court is satisfied on the balance of probabilities that each of the obligations, prohibitions and restrictions to be imposed by the Order is reasonably necessary.[2]

Terms of an Interim Control Order

An Interim Control Order must state that the person is satisfied of the matters mentioned, namely, that the court is satisfied on the balance of probabilities that making the Order would substantially assist in preventing a terrorist act or that the person has provided training to, or received training from, a list of terrorist organisations and that each of the obligations, prohibitions and restrictions to be imposed on the person by the Order is reasonably necessary.

It is provided that for young persons aged 16 years but under the age of 18 years the Control Order must be no longer than 3 months but it is clear that there can be successive Control Orders made and that include young persons[3].

Section 104.5(5) provides that a person's right to contact, communicate or associate with the person's lawyer is not affected unless the person's lawyer is specified as a person with whom the person the subject of the Control Order is not permitted to associate or communicate with[4].

The Explanatory Memorandum goes on to assert " … as is the case with organised crime, it is not inconceivable that some lawyers may be directly involved in the organisation of terrorist activity or are CAPABLE OF passing on information that could be used to organise a terrorist attack" (my emphasis)[5].

The person may contact, communicate or associate with any other lawyer … that is there are no restrictions on a person the subject of a Control Order, contacting, communicating with or associating with a lawyer who is not listed as a prohibited contact[6].

Making an URGENT Interim Control Order

The Explanatory Memorandum provides for an Urgent Interim Control Order to be obtained[7].

Confirming an Interim Control Order

The AFP member is required to serve the Order and inform the person of various matters as soon as practicable after an Interim Control Order is made, which must be at least 48 hours before the time specified in the Order as the day on which the court is to consider whether to confirm the **INTERIM CONTROL ORDER**[8].

The AFP member must serve a **SUMMARY OF THE GROUNDS** upon which the Order is made. For example the Summary of the Grounds could be that the person is alleged to have engaged in training with the specified listed terrorist organisation[9].

Public Interest Monitor and Interim Control Orders

Section 104.12(5) provides for the involvement of the Queensland Public Interest Monitor in the processes for **CONFIRMING INTERIM** Control Orders. That provision provides that if the person in relation to whom the Interim Control Order is made is a resident of Queensland or if the issuing court made the Interim Control Order in Queensland an AFP member must give to the Queensland Public Interest Monitor written notice of certain facts. Those facts are that an Interim Control Order **HAS BEEN MADE** in relation to the person the subject of the Order, the name of the court that made the Order and the day on which the person the subject

of the Order has been advised he or she may attend the court to confirm, void or revoke the Interim Control Order.

Comment

It is contended that this is a significant reduction in the role of the Public Interest Monitor.

The Public Interest Monitor (PIM) has existed in Queensland for almost 10 years having been introduced by the Borbidge Government in 1996, particularly by then National Party Police Minister Russell Cooper.

The various Annual Reports of the Public Interest Monitor and the provisions of the *Police Powers and Responsibilities Act (Qld)* which outline the role of the Public Interest Monitor in effect provide that if a law enforcement agency in Queensland is seeking a listening device in respect of a target, the PIM has to be notified before an application is made to the Supreme Court.

The PIM then usually enters into negotiations with the Public Interest Monitor and either a Consent Order with or without argument as to the conditions of the listening device is then entered into in front of the issuing Supreme Court Judge or the PIM can argue against the making of an Order for a listening device warrant.

The importance of the PIM being involved at the front end of the application for listening device procedure is to ensure that the Supreme Court Judge is able to hear argument from both sides and then make a ruling. This is the essence of judging as opposed to the procedure which existed prior to the establishment of the PIM where Judges were required to meet with the law enforcement agency's lawyer in the Judge's Chambers and hear only one side of an argument before issuing a listening device warrant.

It has been reported by various Public Interest Monitors to the writer that Supreme Court Judges have very much welcomed the involvement of the Public Interest Monitor because it permits a Judge to carry on the essence of judging, namely, to hear opposing arguments and then make a ruling.

According to the Explanatory Memorandum's outline of the role of the Public Interest Monitor for confirming Interim Control Orders the Public Interest Monitor will only become involved **AFTER** an Interim Control Order has been made.

This is unacceptable and weakens the role of the Public Interest Monitor.

The draft Bill should be changed so as to make it clear that the Public Interest Monitor is to be involved right at the outset of an application for an Interim Control Order because such an application is envisaged by the Act to be made ex

parte, that is without the targeted controlled person being informed of the application for an Interim Order.

Lawyers' Access to Evidence in Relation to Control Orders

Section 104.13(1) authorises a lawyer of the person to whom a Control Order is made to attend a place in order to obtain a **COPY OF THE ORDER** and the **GROUNDS** on which the Order is made[10].

The new section 104.13(2) makes it clear that this section **DOES NOT** require the lawyer to be given a copy of the Interim Control Order or Summary by more than one person, nor does it entitle the lawyer to request or be given a copy of, or see a document other than the Interim Control Order or Summary **NOR** does it entitle the lawyer to see a document other than the Interim Control Order or Summary.

Comment

This procedure is utterly unacceptable. If the lawyer who is to challenge an Interim Order being made permanent or who is to apply to have an Interim Control Order revoked or who is to argue against the severity of conditions attaching to the Control Order is not permitted to have access to the same materials that were handed to the court which made the Control Order, that will have the effect that the lawyer will be completely unable to represent his client's interests.

It is an absurd scenario to provide that all the lawyer can get access to is a copy of the Control Order and the Summary of Reasons for issuing the Control Order, particularly in circumstances where the Summary of Reasons are envisaged by the draft Bill to be pro forma and not to contain facts or evidence which might lead to a critical understanding or analysis of whether the Control Order should have been made or should continue.

It is contended that the Bill should be changed to make it clear that the lawyer for the controlled person should have access to all the information and documentation which was made available to the issuing court.

Otherwise the absurd situation will develop where the same Judge who heard the application for an Interim Control Order would be expected to hear the application for the Interim Order to be made permanent. That Judge would have before him/her all the documentation that was submitted when an Interim Control Order was made but the defence would not be able to see or be aware of the material the Judge was relying upon.

This scenario has the effect of requiring a lawyer to submit with both hands tied behind his back and a patch over one eye. This scheme is using Judges to ‘respectableise’ a process which is utterly unsatisfactory.

Confirming an Interim Control Order

It is proposed that the lawyer for a controlled person on an application to make an Interim Control Order permanent or to revoke the Interim Control Order may "adduce evidence (including by calling witnesses or producing material) or make submissions to the issuing court before the Interim Control Order is confirmed or otherwise[11].

It is also provided that before taking action to confirm an Interim Control Order the court must consider the original request for the Interim Control Order and any **EVIDENCE ADDUCED**, submissions made and material produced[12].

Comment

While the court hearing an application to extend or revoke an Interim Control Order is required to "consider the original request for the Interim Order in any evidence adduced … and material produced", the terms of the draft Bill appear to specifically exclude the defence lawyer from being made aware of or being provided with copies of documentation initially put before the court when an Interim Control Order was made. The Bill has to be changed in this regard to make it clear that the controlled person's lawyer **MUST HAVE** access to all the documentation including submissions made in the original Interim Order.

Further, it should be specifically written into the Bill that the Interim Order and proceedings leading to the making of the Interim Order should be tape recorded so that a transcript can be made available to the defence.

Rights in Respect of a Control Order

The Bill requires a person to give written notice to the AFP Commissioner of an application to revoke or vary a Control Order and it also requires the person to give notice to the Public Interest Monitor, in relation to applications in Queensland[13].

The new section 104.18(5) provides that the AFP Commissioner or controlled person may adduce additional material to the court in relation to the application and that this does not limit the power of the court to control proceedings.

Comment

It is contended that the provision that the court is not limited in its power to control its proceedings does not detract from the submissions outlined above, namely, that the Control Order scheme envisages that defence lawyers will not have access to the information and documentation provided to the issuing court on an original application for a Control Order.

Preventative Detention Orders

There is a regime for detaining persons for up to 48 hours for the purposes of preventing a terrorist act **OR** preventing the destruction of evidence relating to a terrorist act[14].

Applications for initial Preventative Detention Orders are made by an AFP member to a senior AFP officer. Initial Preventative Detention Orders can have force for up to **24 HOURS** from the time the person was first taken into custody. Applications for **CONTINUED PREVENTATIVE DETENTION ORDERS** are made by AFP members to a Judge of a State or Territory Supreme Court, Federal Magistrate, Judge, retired judge or President or Deputy President of the Administrative Appeals Tribunal. Continued Preventative Detention Orders can have force for up to 48 hours from the time the person was first taken into custody[15].

While in preventative detention the person has an entitlement to contact those who are close to them **TO LET THEM KNOW** that he or she is **SAFE**, and to contact a lawyer. These **CONTACT RIGHTS** can be **RESTRICTED** by obtaining a prohibitive contact order[16].

Comment

It is unacceptable for an initial Preventative Detention Order for 24 hours to be made on application by one police officer to another police officer.

Federal and Supreme Court Judges are on roster on an after hours basis. The draconian preventative detention scheme was promised by the Prime Minister to have strict judicial safeguards. Having an initial Preventative Detention Order made by a senior police officer is not a judicial safeguard. The Bill should be changed so that an initial Preventative Detention Order must be made by a court.

Persons Who Can Be 'Issuing Authorities' For Continued Preventative Detention Orders

It is provided that the persons who can be issuing authorities will be appointed by the Attorney General in writing, namely, a Judge of a State or Territory Supreme Court, a Federal Magistrate, a Judge (Federal or Family Court), a former judge or a President or Deputy President of the AAT.

Comment

The only person who should be appointed as an issuing authority should be a serving Judge of a superior/Supreme Court, namely, of a State or Territory Supreme Court or a Judge of the Federal Court.

Federal Magistrates are too low in the hierarchy of judicial officers to qualify for the description of strict judicial supervision.

Family Court Judges are inexperienced in areas beyond Family Court and therefore should not be used in respect of draconian Preventative Detention Orders.

Retired judges should not be used at all as persons who can issue Preventative Detention Orders. The fact that a person may be a retired judge does not qualify for strict judicial safeguards. I can think of some retired judges who are so rabid that, freed from the constraints of being a member of a serving court and put in the position of issuing Preventative Detention Orders in a personal capacity, would serve as no protection at all against abuse and certainly would not qualify for the promised regime of strict judicial safeguards.

While the President of the Administrative Appeals Tribunal is a Federal Court Judge and therefore would qualify as an issuing authority, Deputy Presidents are unsuitable because they do not have tenure. They are appointed for 5 year terms and there is an unacceptable risk that a Deputy President will not bring the required judicial scrutiny to a particular application because that person is concerned that they are nearing the term of their appointment and may not be reappointed if it is reported to the Attorney General that they are not issuing Detention Orders as requested or are being "difficult" in the eyes of the AFP.

Basis for Applying for a Preventative Detention Order

A person meets the criteria if a person is satisfied that there are reasonable grounds to suspect that the subject (the person who is the subject of an application for a preventative detention order) will engage in a terrorist act, possesses a thing that is connected with the preparation for a terrorist act or will do an act in preparation for or planning a terrorist act and that making the order would substantially assist in preventing a terrorist act occurring and detaining the person for the period for which detention is to occur as reasonably necessary for preventing this act[17].

The Explanatory Memorandum asserts that there is a high threshold that applies for applying for and issuing a preventative detention order because it is necessary to show not only that the subject had done something in preparation for a terrorist act but also that the terrorist act is imminent and that making the order would assist in preventing a terrorist act.[18]

The Explanatory Memorandum goes on to observe that a person does not satisfy the new Section 105.4(4) namely the criteria for preventative detention order where even one of the criteria are not established. For example if the terrorist act was not imminent but was expected to occur in three weeks time the criteria would **not** be met and it would not be possible to obtain a preventative detention order.

However in such cases it might be possible to use other investigatory tools such as surveillance or listening devices.[19]

Further a person can be the subject of a preventative detention order if a terrorist act has occurred within the last 28 days, it is necessary to detain the subject to preserve evidence of or relating to the terrorist act and that detaining the subject for the period for which detention is to occur is reasonably necessary for preserving this evidence….a preventative detention order can only be made (in this scenario) where a terrorist act has already occurred.[20]

Meaning of Terrorist Act

A terrorist act is defined in the Federal Criminal Code to be something that would:-

- Cause serious harm that is physical harm to a person.
- Cause serious damage to property.
- Causes a person's death.
- Endangers a person's life other than the life of the person taking the action.
- Creates a serious risk to the health or safety of the public or a section of the public.
- Seriously interferes with, disrupts or destroys an electronic system including but not limited to an information system, a telecommunication system, a financial system, a system used for the delivery of essential Government services, a system used for or by a transport system.
- The above (various courses of action) is done or the threat is made with the intention of advancing a political, a religious or ideological cause.

Restrictions on Multiple Preventative Detention Orders

The time limits on preventative detention orders are an extremely important safeguard in the regime and protect individuals from lengthy periods of detention when there is insufficient evidence available to arrest and charge a person.[21]

The new Section 105.6(1) prevents the AFP from obtaining multiple initial preventative detention orders in relation to the same person on the basis of assisting and preventing a particular terrorist act occurring within a particular period. Without this safeguard, it would be possible to obtain multiple initial preventative detention orders, each for the maximum period permitted under the legislation, without judicial consideration (under the regime only a Federal Magistrate or a Judge can extend a preventative detention order beyond 24 hours and up to 48 hours).[22]

This provision **does not** prevent the making of a preventative detention order to preserve evidence in relation to the terrorist act, if it occurs. For example a person could be taken into preventative detention under an order made under Sub-Section

105.4(2) or under a corresponding State law to prevent the person committing a terrorist act in the next 14 days.[23]

Comment

It is clear therefore that a person can be taken into preventative detention for a period of 14 days.

Prohibited Contact Order (person in relation to whom preventative detention order is being sought)

The new Section 105.15 provides for orders that prohibit a person who is in custody under a preventative detention order from contacting specified persons. This is designed to ensure that the 'preventative' purpose of the order is not defeated by the person in detention being able to contact other persons, including co-conspirators or those who might be in custody of evidence relating to a terrorist act, and, for example, instructing such a person to further the terrorist act in the person's absence, or destroy evidence of a terrorist act.[24]

Contacting Family Members and Lawyers

The detained person is entitled to contact a family member or non-family member with whom the person lives, employer or such other person as the police officer detaining the person agrees. The detained person may only let the person contacted know that the person is **safe** but is **not able to be contacted for the time being**.[25]

A person is entitled to contact a lawyer for limited purposes. The person may seek advice on his or her rights in relation to the preventative detention order or the treatment of the person in connection with the order, which includes instructing the lawyer in Federal Court proceedings seeking a remedy connected with the order or the treatment, or in complaint proceedings through the Commonwealth Ombudsman. A person can be prohibited from contacting a particular lawyer because of a prohibited contact order in respect of that lawyer but the police officer who is detaining the person is required to provide reasonable assistance to the person in choosing another lawyer….the police officer who is detaining the person may give priority to lawyers who have been given a security clearance by the Attorney-General's Department.[26]

Monitoring Contact between Lawyer and Detained Person

Section 105.37 provides that the detained person may seek advice from a lawyer.

Section 105.38 provides "That the contact with other people to which the person is entitled can only occur if it is conducted in such a way that both the contact and the

content and meaning of the communication can be effectively monitored by a police officer acting under the authority of the preventative detention order. This is to ensure that the person does not communicate information that he or she is not entitled to communicate".[27]

The new Section 105.38(5) ensures that the person's communication with his or her lawyer that occurs lawfully under the new Section 105.37 can **not be admitted in evidence** in Court. Even though it is an offence under the new Sub-Section 105.41(7) for a police officer to disclose such information, this safeguard is necessary to ensure a police officer is not called upon to provide evidence of what **he or she heard during monitoring conversations likely to be protected by legal professional privilege**.[28]

Law Relating to Legal Professional Privilege Not Affected

Section 105.50 is said to be an avoidance of doubt provision which makes it clear that Division 105 (the Division of the Bill dealing with preventative detention) does not affect the law relating to legal professional privilege.[29]

Comment

Legal advice that I have obtained from two SC's confirms my view that the provisions of 105.37 (contacting a lawyer) and Section 105.38 (monitoring contact) particularly having regard to the extract from page 55 of the Explanatory Memorandum will allow police to tape record a lawyer talking to his client who is held in preventative detention while that client is held in a Police Station, Watch house or prison.

This is a thoroughly obnoxious provision and is typical of activities carried on in police States and Totalitarian regimes.

It has been a central aspect of the law and practice relating to lawyers talking to their clients in police custody for hundreds of years that that communication can not be listened into or eavesdropped on.

The rationale for this long standing provision is obvious and that is that if a preventatively detained person knows that his conversation with his lawyer is being monitored and tape recorded he simply will not be prepared to talk to his lawyer for fear that what he says will then be used to carry out further investigations and so result in the detained person being charged with a criminal offence of being further detained.

The Prime Minister has claimed that there are strong judicial safeguards in relation to the preventative detention scheme. This is a nonsense.

This provision must immediately be removed from the Act and there needs to be a specific provision in the Act making it clear that communications between a lawyer and a client detained under a preventative detention scheme can under no circumstances be listening to or monitored.

Defence Access to Evidence in Relation to Preventative Detention

Section 105.51(1) provides that proceedings may be brought in a Court for a remedy in relation to a preventative detention order or the treatment of a person in connection with such an order.

The right to bring proceedings under the new Section 105.51(1) is limited by Sub-Section 105.51(2) which provides that a Court of a State or Territory does **not** have jurisdiction in proceedings for a remedy if those proceedings are commenced **while the order is in force**. It may be possible to seek injunctive relief to stop the detention in the equitable jurisdiction of the Federal Court. This provision does not prevent the person seeking a remedy in a State or Territory Court once a preventative detention order **has ceased to be in force**.[30]

The right to bring proceedings under new Section 105.51(1) is also limited by Sub-Section 105.51(4) which provides that an application **can not** be made under the Administrative Decisions Judicial Review in relation to a decision made under Division 105, which is the preventative detention scheme. It is appropriate to exempt review under that Act as there are no requirements in that legislation that are not suitable in the context of the security environment. This exemption is also consistent with existing exemptions for decisions that relate to criminal proceedings and the specific exemptions or decisions made in relation to ASIO questioning and detention warrants.[31]

The new Section 105.51(5) provides that an application may be made to the Administrative Appeals Tribunal for **review of a decision** by an issuing authority to make an initial preventative detention order under Section 105.8 or a decision by an issuing authority to make a **continued** initial preventative detention order.[32]

New Section 105.51(6) restricts the exercise of the power of the AAT to review a decision referred to in Sub-Section 105.51(5) to the Security Appeals Division of the Tribunal. This Security Appeals Division is the appropriate review body as it has relevant experience, including familiarity with dealing with national security and related information.[33]

Review by State and Territory Court

It is provided that if a detainee is detained under a Commonwealth preventative detention order and a State preventative detention order that is made under corresponding State preventative detention law that a person can bring proceedings

before a Court of a State or Territory in relation to the application for (a preventative detention order).

Comment

The extent to which a detained person can effectively challenge detention is unclear from these provisions.

It is contended that a challenge to preventative detention while the detention is current should be able to be made to a Judge of the Supreme Court of a State or Territory or a Judge of a Federal Court.

If, as the above extracts appear to suggest, an application to challenge a detention order while that order is in force can only be made to the Security Appeals Division of the AAT that is a wholly unsatisfactory measure.

The Prime Minister has promised strict judicial safeguards and therefore a challenge to an ongoing preventative detention order should be able to be made to the most senior level of Courts in this country namely to a Judge of a State or Territory Supreme Court or the Federal Court. Being able to make an application to a mere Tribunal is inadequate protection.

Restricted Evidence in a Preventative Detention Challenge

New Section 105.52(3) provides that the Court **may** order the AFP Commissioner to give to the Court and the parties to the proceedings the information that was put before the person who issued the Commonwealth order when the application for the Commonwealth order was made. This obligation **only arises** if the person who is detained applies to the Court for review of the application for the Commonwealth order or the person's treatment in connection with the person's detention under the Commonwealth order or a remedy in relation to the Commonwealth order. New Section 105.52(3) **does not require information to be given to the Court**, **or the parties** to the proceedings, if the disclose of the information is likely to prejudice national security (within the meaning of the national security information) (Criminal and Civil Proceedings Act 2004).[34]

Comment

This is a provision which gives with one hand and then takes away with the other.

The effect of this provision is that when a person applies to a Court for relief during the currency of a preventative detention order both the Court and the defence can have information withheld from them if the disclosure of the information is likely to prejudice national security.

This is a wholly objectionable provision and renders nugatory the Prime Minister's promise that there will be strict judicial safeguards.

It is a meaningless safeguard if a Judge is to preside over an application to have a preventative detention order revoked while that order is in force if both the Judge and the defence are to be refused access to relevant information of documents on the so called ground of national security.

Experience by defence lawyers shows that the national security exemption is regularly called in aid.

This provision is totally objectionable and should be removed.

If the strict judicial safeguards promised by the Prime Minister are to have any meaning then the Kafkaesque provision that both the Court and the defence shall be denied access to relevant information on national security grounds should be removed.

Further the Bill should provide that on an application to challenge a preventative detention order all information in the possession of the AFP should be made available to the Court and to the defence.

Conclusion

This is meant to be a preliminary review of the Anti-Terrorism Bill No. 2 which was presented to the Federal House of Representatives on 3 November 2005.

Various aspects of the Bill have not at this stage been able to be considered particularly the contentious area of sedition.

The purpose of this preliminary critique is to enable early consideration to be given to the obnoxious Police State provision of police being able to tape record lawyers talking to their clients in custody and the totally inadequate practical judicial safeguards that apply to control orders and preventative detention orders.

[1] See page 16 Explanatory Memorandum
[2] See page 16 Explanatory Memorandum
[3] See page 17 and 18 Explanatory Memorandum
[4] See page 19 Explanatory Memorandum
[5] See page 19 Explanatory Memorandum
[6] See page 19 Explanatory Memorandum
[7] See page 19-22 Explanatory Memorandum
[8] See page 23 Explanatory Memorandum
[9] See page 23 Explanatory Memorandum
[10] See page 23 Explanatory Memorandum
[11] See page 24 Explanatory Memorandum
[12] See page 24 Explanatory Memorandum
[13] See page 26 Explanatory Memorandum
[14] See page 31 Explanatory Memorandum
[15] See page 31 Explanatory Memorandum
[16] See page 32 Explanatory Memorandum
[17] See page 33 Explanatory Memorandum
[18] See page 33 Explanatory Memorandum
[19] See page 34 Explanatory Memorandum
[20] See page 34 Explanatory Memorandum
[21] See page 34 Explanatory Memorandum
[22] See page 35 Explanatory Memorandum
[23] See page 35 Explanatory Memorandum
[24] See page 41 Explanatory Memorandum
[25] See page 52 Explanatory Memorandum
[26] See page 54 Explanatory Memorandum
[27] See page 54 Explanatory Memorandum
[28] See page 54 Explanatory Memorandum
[29] See page 63 Explanatory Memorandum
[30] See page 63 Explanatory Memorandum
[31] See page 63 Explanatory Memorandum
[32] See page 64 Explanatory Memorandum
[33] See page 64 Explanatory Memorandum
[34] See page 65 Explanatory Memorandum