

Key Brief Number: NSR-02

**Home Affairs Portfolio
Department of Home Affairs
Supplementary Estimates Hearing – November 2024**

KEY BRIEF

Topic: ISIL-linked Australians in detention or internally displaced persons camps in Syria

Responsible Deputy: Mr Nathan Smyth, National Security and Resilience

Key Top Lines

- On 3 November the Federal Court delivered its judgment in the *Save the Children Australia v Minister for Home Affairs v Anor* finding that the Commonwealth does not have control over the Australian women and children detailed in northeast Syria.
 - o On 18 June 2024, the Full Court of the Federal Court dismissed STC's appeal.
 - o On 16 July 2024, STC applied for special leave to appeal to the High Court.
 - o On 23 September 2024, the High Court dismissed the application.
- Of the approximately 60 Australian men and women known to still be offshore, it is difficult to confirm how many are in detention facilities and IDP camps.
- The situation in Syria is extremely dangerous, severely limiting the ability of the Australian Government to repatriate persons.
- The situation in Syria is materially different to those in Lebanon, Israel or the Occupied Territories, where Government assisted departures are still viable.

Handling Notes:

- The lead witness will be Mr Nathan Smyth, National Security and Resilience.
- The Counter-Terrorism Coordination Centre leads counter-terrorism policy and coordination across the Australian Government, in addition to coordinating national capability development through the Australia-New Zealand Counter-Terrorism Committee.
- The Department of Home Affairs is the lead agency responsible for Australian women and children located in north east Syrian internally displaced persons camps.

Key Points**Australians being held in Syria**

- The Australian Government is concerned about the remaining Australian-linked women and children located in IDP camps in northeast Syria.
 - o Of the approx. 60 Australian men and women known to remain offshore, it is difficult to confirm how many are in detention facilities and internally displaced persons (IDP) camps.
 - o I acknowledge the very real humanitarian and welfare issues affecting those in the IDP camps.

OFFICIAL

Clearing Officer: Alexander Goldie, A/g First Assistant Secretary, Counter-Terrorism Coordination Centre

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- Australian agencies keep the situation in the camps under constant review, as best as we are able noting the extremely volatile security situation in Syria and the Middle East conflict, and there being no embassy or consulate in Syria.
- Australia is partnering with humanitarian agencies who have the mandate and expertise to deliver assistance to affected populations, including Australians.

Repatriations

- In October 2022, the Australian Government repatriated four Australian women and their 13 Australian children from an IDP camp in Syria to New South Wales 2022.
- All repatriations were voluntary and undertaken with the informed consent of the individuals.
- These families are being supported by a full range of Commonwealth and state services to assist them.
- The Australian Government's ability to provide consular assistance to those in north east Syrian IDP camps is severely limited, due to the extremely dangerous security situation in Syria and the recent conflict in the Middle East and because we do not have an embassy or consulate in Syria.
 - The security situation in Syria and the Middle East has significantly deteriorated since those repatriations were undertaken.
 - Considering effective long-term solutions that are in the best interests of the women and children as well as the Australian community, is sensitive work.
 - There are many security, diplomatic, community and welfare considerations that need to be addressed.
 - Our focus is on the safety and security of all Australians as well as the safety of those who would be involved in any repatriation efforts.

Save the Children Australia v Minister for Home Affairs & Anor

- On 3 November 2023, the Federal Court delivered its judgment in *Save the Children v Minister for Home Affairs & Anor* finding the Commonwealth does not have control over the Australian women and children detained in northeast Syria. Therefore, a writ of habeas corpus, which requires a detained person to be brought before a court to ascertain the lawfulness of their detention, should not be issued. The Court ordered that each party bear their own costs, given the novel and difficult legal issues raised.
- On 1 December 2023, Save the Children Australia filed a notice of appeal with the Full Court of the Federal Court.
- On 18 June 2024, the Full Court of the Federal court dismissed the appeal, finding in favour of the Minister for Home Affairs.
- On 16 July 2024, Save the Children Australia applied for special leave to appeal to the High Court.
- Following a hearing on 23 September 2024, the High Court of Australia dismissed the application for special leave.

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s. 47F(1)

- The Australian Government is aware **s. 47F(1)** is detained in northeast Syria.
 - The Government continues to make inquiries to confirm **s. 47F(1)** location.
- The Australian Government is providing consular assistance to the family of **s. 47F(1)**.
- Further questions on this should be directed to the Department of Foreign Affairs and Trade who are responsible for consular matters.

s. 47F(1)

- On 5 January 2023, **s. 47F(1)** was charged with entering and remaining in parts of Syria that were a 'declared area' under the Criminal Code.
- The charges related to **s. 47F(1)** travel to Syria in 2014.
- On 7 May 2024, **s. 47F(1)** pleaded guilty before the **s. 47F(1)**.
- On 12 June 2024, the Court discharged **s. 47F(1)** without proceeding to conviction. The Court made further orders requiring **s. 47F(1)**
 - to be of good behaviour for a period of 25 months;
 - for the next two years, to continue to see her psychologist fortnightly; and
 - for the next two years, to continue to engage with the CVE program.

Impact of the *Australian Citizenship Amendment (Citizenship Repudiation) Act 2023* on men and women in Syria

- The Act enables the Minister to make an application to a court for an order to cease a person's Australian citizenship, where that person is a dual national and other criteria are satisfied.
 - This must include that the person has been convicted of one or more serious offences, such as terrorism, espionage or treason.
- The Australian Government has a range of measures that can be considered to manage Australians who pose a terrorism risk, including:
 - Temporary Exclusion Orders,
 - return permits with certain pre- and/or post-entry conditions imposed,
 - disengagement programs, and
 - criminal offences.

Consultation

- Legal Group, Department of Home Affairs

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Supplementary Estimates Hearing – November 2024**

KEY BRIEF**Topic: Foreign Interference****Responsible Deputy:** Nathan Smyth, National Security and Resilience**Key top lines**

- Espionage and foreign interference is one of Australia's principal security concerns.
- Left unchecked, foreign interference can have a corrosive impact on our national security, undermine democracy, and threaten our social cohesion and economic prosperity.
- Australia's approach to countering foreign interference is country-agnostic and recognises the need for a whole of nation effort to raise the cost and reduce the benefit to foreign actors interfering in Australian society.
- The National Counter Foreign Interference Coordinator (NCFIC), supported by the Counter Foreign Interference Coordination Centre (CFICC), works across government and non-government sectors to strengthen arrangements to counter foreign interference.

Handling Notes:

- Nathan Smyth as NCFIC, will be the lead witness. He will be supported by Deputy NCFIC, Ky Blackman.
- The Commonwealth's CFI Taskforce, jointly led by the Australian Security Intelligence Organisation (ASIO) and the Australian Federal Police (AFP), leads the operational response to foreign interference.
- The Attorney-General's Department administers the foreign interference offences under the *Criminal Code Act 1995*.

Key points*Role of the NCFIC and CFICC*

- The NCFIC works across government and non-government sectors to strengthen arrangements and partnerships to counter foreign interference. The NCFIC is responsible for developing approaches to deter and prevent foreign interference in Australia by increasing resilience and raising awareness.
 - The NCFIC also Chairs the University Foreign Interference Taskforce (UFIT) and the CFI Executive Board.
 - The UFIT meets quarterly, with meetings in 2024 held on 29 February, 11 June and 12 September.
 - The CFI Executive Board meets quarterly, with meetings in 2024 held on 18 March, 8 July and 30 September.

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- The CFICC coordinates Australia's whole of government efforts to respond to acts of foreign interference, through the administration of the CFI strategy, coordinates outreach efforts and advice to sectors and enhances engagement with diaspora communities.

Strengthening resilience to community interference

- Commonwealth government, law enforcement and intelligence agencies, with state and territory law enforcement, work closely together to engage with, and support, communities concerned or affected by foreign interference.
- The Department's (12) state-based counter foreign interference engagement officers meet with a wide range of stakeholders including state and territory First Ministers Departments, local government, education and cultural institutions, and peak community organisations to build awareness of, and resilience to, the threat of foreign interference.

Protecting our democratic institutions – elections

- Protecting the integrity of Australia's electoral system from foreign interference is critical in maintaining public trust in Australia's democratic processes.
- The Electoral Integrity Assurance Taskforce (EIAT), led by the Australian Electoral Commission, safeguards the integrity of electoral events from threats, which include malicious cyber activity, physical harms, electoral fraud and foreign interference.
- Home Affairs continues to work with state and territory electoral commissions through the EIAT to provide support for their elections.

Protecting our democratic institutions – state, territory and local

- The Department continues to advance national CFI efforts across the Commonwealth, and Australian states and territories through a network of state-based national engagement teams.

Safeguarding education and research from foreign interference

- The University Foreign Interference Taskforce (UFIT) is the primary mechanism for engagement on government-university CFI-related activities.
- CFICC and other government agencies work closely with the university sector through the UFIT Steering Group to support implementation of the collaboratively developed Guidelines to Counter Foreign Interference in the Australian University Sector released in November 2021.

Government measures to counter foreign interference

- The Australian Government has invested \$71.6 million over the next four years from FY 2024-2025 to strengthen Australia's ability to disrupt foreign interference and espionage threats. This includes:
 - making the CFI Taskforce a permanent part of our security architecture;
 - ensuring our legal and preventative frameworks are fit for purpose;
 - standing up a Technology Interference Taskforce; and
 - strengthening capacity of our critical minerals sector to protect against foreign interference.

Key Brief Number: NSR-03*CFI budget and staffing – FY 24-25 (September YTD - 1 July 2024 to 30 September 2024)*

- In FY 2024–25, CFICC was allocated a total budget of **\$6.3 million**.
- CFICC's internal funding allocation for FY 2024–25 is inclusive of **\$0.8 million** New Policy Proposal (NPP) funding to malign information related activities (a portion of the Strategic Communication Response to Malign Information that Impacts Social Cohesion NPP from the 2020–21 Budget).
- The Financial Year 2024-25 staffing budget allocation is **\$5.7 million**.
 - September Year to date expenditure on staffing (1 July 2024 to 30 September) is **\$1.1 million** – these figures do not include SES officers and secondees.
- The FY 2024-25 supplier budget allocation is **\$0.6 million**.
 - Year to date supplier expenses (1 July 2024 to 30 September 2024) is **\$0.1 million**.
- The FY 2024-25 Average Staffing Level (ASL) allocation for CFICC is **38**.
 - September Year to date Average Staffing Level (1 July 2024 to 30 September 2024) is **32** (excluding SES officers; including state and territory coordination officers).

CFI budget and staffing – FY23-24

- In 2023–24, CFICC was allocated a total budget of **\$6.0 million**.
- CFICC's internal funding allocation for FY 2023–24 was inclusive of **\$0.9 million** New Policy Proposal (NPP) funding to malign information related activities (a portion of the Strategic Communication Response to Malign Information that Impacts Social Cohesion NPP from the 2020–21 Budget).
- The Financial Year 2023–24 staffing budget allocation was **\$5.6 million**.
 - FY23-24 expenditure on staffing (1 July 2023 to 30 June 2024) was **\$4.7 million** – these figures do not include SES officers and secondees.
- The 2023–24 supplier budget allocation was **\$0.4 million**.
 - Actual supplier expenses (1 July 2023 to 30 June 2024) was **\$0.6 million**.
- The FY 2023–24 Average Staffing Level allocation for CFICC was **40**.
 - Actual Average Staffing Level (1 July 2023 to 30 June 2024) was **35**. (excluding SES officers; including state and territory coordination officers).

Consultation

The Assistant Secretary of the Management Accounting Branch has cleared the information in this brief.