

## EXPLANATORY STATEMENT

Issued by the authority of the Attorney-General

*Criminal Code Act 1995*

*Criminal Code (Terrorist Organisation—Al-Qa’ida in the Arabian Peninsula) Regulations 2022*

The purpose of the *Criminal Code (Terrorist Organisation— Al-Qa’ida in the Arabian Peninsula) Regulations 2022* (the Regulations) is to specify the organisation known as al-Qa’ida in the Arabian Peninsula for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*.<sup>1</sup>

Section 5 of the *Criminal Code Act 1995* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act. The Schedule to the Act sets out the *Criminal Code*, which prescribes offences against humanity and related offences, and dangers to the community and national infrastructure.

Paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code* provides that regulations can specify organisations for the purposes of the definition of **terrorist organisation**.

Subsection 102.1(2) of the *Criminal Code* provides that before the Governor-General makes regulations specifying an organisation for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1), the **AFP Minister** must be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, or advocates the doing of a terrorist act. Subsection 100.1(1) provides that, for Part 5.3 of the *Criminal Code*, the **AFP Minister** is the Minister administering the *Australian Federal Police Act 1979*. Under the Administrative Arrangements Order made by the Governor-General on 23 June 2022, and which commenced on 1 July 2022, this is the Attorney-General.

The AFP Minister is satisfied on reasonable grounds that the organisation al-Qa’ida in the Arabian Peninsula is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act, and advocates the doing of a terrorist act. In coming to this position, the AFP Minister has taken into consideration unclassified information provided by the relevant agencies (the Statement of Reasons at [Attachment C](#)).

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<sup>1</sup> A **terrorist organisation** is defined in subsection 102.1(1) of the *Criminal Code* as:

- (a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- (b) an organisation that is specified by the regulations for the purposes of this paragraph.

### *Effect of the instrument*

Division 102 of Part 5.3 of the *Criminal Code* sets out the following offences relating to terrorist organisations:

- directing the activities of a terrorist organisation
- being a member of a terrorist organisation
- recruiting persons to a terrorist organisation
- receiving training from, providing training to or participating in training with a terrorist organisation
- getting funds to, from or for a terrorist organisation
- providing support to a terrorist organisation, and
- associating with a terrorist organisation.

The Regulations enable the offence provisions in Division 102 of Part 5.3 of the *Criminal Code* to continue to apply in relation to conduct relating to al-Qa'ida in the Arabian Peninsula.

The Regulations repeal the *Criminal Code (Terrorist Organisation— Al-Qa'ida in the Arabian Peninsula) Regulations 2019*, which would otherwise cease to have effect on 26 November 2022 by operation of subsection 102.1(3) of the *Criminal Code*. Making new Regulations ensures that the organisation al-Qa'ida in the Arabian Peninsula continues to be specified for the purposes of paragraph (b) of the definition of **terrorist organisation**.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commence on 26 November 2022. Subsection 102.1(3) of the *Criminal Code* provides that regulations for the purposes of paragraph (b) of the definition of **terrorist organisation** cease to have effect on the third anniversary of the day on which they take effect.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of this Statement is at [Attachment A](#).

Further details of the Regulations are set out in [Attachment B](#).

### *Consultation*

The *Intergovernmental Agreement on Counter-Terrorism Laws* (June 2004) (the IGA) requires that the Commonwealth Government consult with the governments of the States and Territories prior to making regulations specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the *Criminal Code*. The IGA provides that if a majority of the States and Territories object to the making of such a regulation within a timeframe nominated by the Commonwealth, and provide reasons for their objections, the Commonwealth will not make the regulation at that time.

The Attorney-General wrote, on behalf of the Prime Minister, to the Premiers and Chief Ministers of the States and Territories. A majority of the States and Territories did not object to the making of the Regulations within the timeframe nominated by the AFP Minister.

Subsection 102.1(2A) of the *Criminal Code* provides that before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the *Criminal Code*, the AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed regulation. The Attorney-General wrote to the Leader of the Opposition, enclosing the information upon which he was satisfied that al-Qa'ida in the Arabian Peninsula meets the legislative requirements for listing.

Advice was obtained from the Australian Government Solicitor in relation to the Statement of Reasons at [Attachment C](#).

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Criminal Code (Terrorist Organisation— Al-Qa’ida in the Arabian Peninsula) Regulations 2022***

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Disallowable Legislative Instrument**

The *Criminal Code (Terrorist Organisation— Al-Qa’ida in the Arabian Peninsula) Regulations 2022* (the Regulations) specify al-Qa’ida in the Arabian Peninsula for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*.

The object of the Regulations is to specify al-Qa’ida in the Arabian Peninsula as a terrorist organisation under Australian law, and put the organisation and members of the public on notice of that fact. Notification is important to help people avoid engaging in activities that might constitute an offence under Division 102 of Part 5.3 of the *Criminal Code* in relation to al-Qa’ida in the Arabian Peninsula.

The Regulations, which are part of Australia’s terrorist organisation listing regime, support the application of the offences in Division 102 of Part 5.3 of the *Criminal Code*, the object of which is to protect national security, public safety and the rights and freedoms of persons. In particular, the offence of associating with a terrorist organisation in section 102.8 of the *Criminal Code* applies in relation to associating with al-Qa’ida in the Arabian Peninsula as a listed terrorist organisation.

Terrorist organisations, including al-Qa’ida in the Arabian Peninsula, present a threat to the security of Australia and often seek to harm Australians and our democratic institutions. The statutory definition of a terrorist organisation requires that an organisation directly or indirectly engages in, prepares, plans, assists in or fosters the doing of a terrorist act or, in relation to a listed terrorist organisation, that the organisation advocates the doing of a terrorist act.

#### **Human rights implications**

The Regulations engage the following rights:

- the inherent right to life in Article 6 of the *International Covenant on Civil and Political Rights* (ICCPR)

- the right to freedom of expression in Article 19 of the ICCPR, and
- the right to freedom of association in Article 22 of the ICCPR.

#### *The inherent right to life in Article 6*

Under Article 6 of the ICCPR, countries have a duty to take appropriate steps to protect the right to life and to investigate arbitrary or unlawful killings and punish offenders. The Regulations, and the terrorist organisation listing regime more broadly, ensure that the offence provisions in Division 102 of the *Criminal Code* apply to certain conduct in relation to listed terrorist organisations. These offence provisions operate to penalise conduct that presents a significant risk to life, and, in conjunction with the terrorist organisation listing regime, also act as a deterrent to that conduct. Detering the conduct, and thereby preventing the risk to life, promotes the inherent right to life expressed in Article 6 of the ICCPR.

#### *The right to freedom of expression in Article 19*

Article 19(2) of the ICCPR provides that everyone shall have the right to freedom of expression. However, Article 19(3) provides that freedom of expression may be limited if it is necessary to achieve a legitimate purpose, including for the protection of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right to freedom of expression to the extent that persons are prohibited from directing the activities of, recruiting for, providing support to or associating with terrorist organisations, including al-Qa'ida in the Arabian Peninsula. The restrictions on freedom of expression are justified on the basis that such conduct could jeopardise the security of Australia, the personal safety of its population and its national interests, and the restrictions are reasonable, necessary and proportionate to the objective of protecting Australia's national security.

#### *The right to freedom of association in Article 22*

Article 22 of the ICCPR protects the right of all persons to group together voluntarily for a common goal and to form and join an organisation. Article 22(2) provides that this right may be limited for the purpose of national security. The Regulations, and the terrorist organisation listing regime more broadly, limit the right of freedom of association to prevent people engaging with and participating in terrorist organisations, in this instance al-Qa'ida in the Arabian Peninsula.

The offence of associating with a terrorist organisation in section 102.8 of the *Criminal Code* is limited in its application to an organisation that is a listed terrorist organisation under paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*. The offence does not apply if the association is with a close family member and relates to a matter of family or domestic concern, or takes place in the course of practicing a religion in a place used for public religious worship, or the association is only for the purpose of providing humanitarian aid, or only for the purpose of providing legal advice or legal representation.

Due to the severity of the danger posed by terrorist organisations, it is reasonable, necessary and proportionate to limit the right of individuals who, by their association with a terrorist organisation, pose a threat to Australians.

#### *General safeguards and accountability mechanisms*

Whilst the Regulations may limit the right to freedom of expression and the right to freedom of association with al-Qa'ida in the Arabian Peninsula, the Regulations are subject to the safeguards outlined below. The limits on these rights are reasonable, necessary and proportionate, and are in the interests of public safety and national security, after taking into consideration the direct and indirect terrorist activities of the organisation, which threaten human life.

The *Criminal Code* provides safeguards and accountability mechanisms requiring prior consultation and enabling review of the Regulations, including the following:

- the Commonwealth must consult with the States and Territories in accordance with the *Intergovernmental Agreement on Counter-Terrorism Laws* of 25 June 2004, and the Regulations may only be made if a majority of the States and Territories do not object to the Regulations within a reasonable time specified by the Commonwealth
- under subsection 102.1(2A) of the *Criminal Code*, the AFP Minister must arrange for the Leader of the Opposition in the House of Representatives to be briefed in relation to the proposed Regulations
- under subsection 102.1(3) of the *Criminal Code*, the Regulations will cease to have effect on the third anniversary of the day on which they take effect
- subsection 102.1(4) of the *Criminal Code* provides that if the AFP Minister ceases to be satisfied of the criteria necessary for listing an organisation under subsection 102.1(2) of the *Criminal Code*, the AFP Minister must make a declaration to that effect by written notice published in the Gazette, with the effect of the AFP Minister's declaration being that the Regulations listing the organisation cease to have effect and the organisation is de-listed as a terrorist organisation under Division 102 of the *Criminal Code*
- subsection 102.1(17) of the *Criminal Code* provides that an individual or an organisation may make a de-listing application to the AFP Minister
- the Regulations may be reviewed by the Parliamentary Joint Committee on Intelligence and Security under section 102.1A of the *Criminal Code*, and
- both Houses of Parliament may disallow the Regulations within 15 sitting days after the Regulations are laid before that House, as provided for in section 42 of the *Legislation Act 2003*, and noting that this period may be extended by operation of subsection 102.1A(4) of the *Criminal Code* if the Parliamentary Joint Committee on Intelligence and Security reviews the Regulations and tables its report during the applicable disallowance period for that House.

## **Conclusion**

The Disallowable Legislative Instrument is compatible with human rights because it promotes the right to life. To the extent that it limits human rights, those limitations are for a legitimate purpose and are reasonable, necessary and proportionate.

**The Honourable Mark Dreyfus KC MP**  
**Attorney-General**

**Details of the Criminal Code (Terrorist Organisation—Al-Qa’ida in the Arabian Peninsula) Regulations 2022**

**Section 1 – Name**

1. This section provides that the title of the Regulations is the *Criminal Code (Terrorist Organisation—Al-Qa’ida in the Arabian Peninsula) Regulations 2022*.

**Section 2 – Commencement**

2. This section provides for the commencement of each provision in the Regulations, as set out in the table.
3. Subsection 2(1) provides that each provision in the Regulations, as specified in column 1 of the table, commences in accordance with column 2 of the table, and that any other statement in column 2 has effect according to its terms. Columns 1 and 2 provide that the Regulations commence in their entirety on 26 November 2022.
4. The note below subsection 2(1) clarifies that the table only relates to the provisions of the Regulations as originally made, and will not be amended to deal with any subsequent amendments of the instrument.
5. Subsection 2(2) provides that the information in column 3 of the table is not part of the Regulations. It is designed to assist readers of the Regulations.

**Section 3 – Authority**

6. This section provides that the Regulations are made under the *Criminal Code Act 1995*.

**Section 4 – Schedules**

7. This section provides that each instrument specified in a Schedule to the Regulations is amended or repealed as set out in the applicable items in the Schedule concerned. Any other item in a Schedule to the Regulations has effect according to its terms.
8. Schedule 1 to the Regulations repeals the whole of the *Criminal Code (Terrorist Organisation—Al-Qa’ida in the Arabian Peninsula) Regulations 2019*.

**Section 5 – Terrorist organisation – Al-Qa’ida in the Arabian Peninsula**

9. Subsection 5(1) provides that, for the purposes of paragraph (b) of the definition of ***terrorist organisation*** in subsection 102.1(1) of the *Criminal Code*, the organisation known as al-Qa’ida in the Arabian Peninsula is specified.



10. The effect of specifying al-Qa'ida in the Arabian Peninsula as a terrorist organisation is to ensure that offences in Subdivision B of Division 102 of Part 5.3 of the *Criminal Code* that relate to terrorist organisations are able to operate, where the appropriate elements are satisfied, in relation to conduct in connection with al-Qa'ida in the Arabian Peninsula.
11. Subsection 5(2) provides a list of names by which the organisation al-Qa'ida in the Arabian Peninsula is also known, at paragraphs 5(2)(a) to (f):
  - al-Qa'ida in Yemen
  - Ansar al-Sharia
  - AQAP
  - AQY
  - Sons of Hadramawt
  - Supporters of Sharia.

#### Schedule 1—Repeals

12. Item 1 of Schedule 1 to the Regulations repeals the *Criminal Code (Terrorist Organisation—Al-Qa'ida in the Arabian Peninsula) Regulations 2019* (the 2019 Regulations).
13. The 2019 Regulations specify the organisation al-Qa'ida in the Arabian Peninsula for the purposes of paragraph (b) of the definition of **terrorist organisation** in subsection 102.1(1) of the *Criminal Code*. Subsection 102.1(3) of the *Criminal Code* provides that the 2019 Regulations cease to have effect on 26 November 2022, being the third anniversary of the day on which they took effect.
14. While the 2019 Regulations would otherwise have ceased to have effect on this date, repealing the 2019 Regulations provides clarity and ensures there is no duplication where the new Regulations are made before the 2019 Regulations cease to have effect.

## Statement of Reasons

### **Listing al-Qa'ida in the Arabian Peninsula as a terrorist organisation under Division 102 of Part 5.3 of Chapter 5 of the *Criminal Code Act 1995***

This Statement of Reasons is based on publicly available information about al-Qa'ida in the Arabian Peninsula (AQAP). To the Australian Government's knowledge, this information is accurate, reliable and has been corroborated by classified information where available.

#### ***Name of the organisation***

al-Qa'ida in the Arabian Peninsula

#### ***Known aliases***

al-Qa'ida in Yemen; Ansar al-Sharia; AQAP; AQY; Sons of Hadramawt; Supporters of Sharia.

#### **Legislative basis for listing a terrorist organisation**

Division 102 of the *Criminal Code Act 1995* (Cth) (the *Criminal Code*) provides that for an organisation to be listed as a terrorist organisation, the AFP Minister must be satisfied on reasonable grounds that the organisation:

- a) is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act; or
- b) advocates the doing of a terrorist act.

For the purposes of listing a terrorist organisation under the *Criminal Code*, subsection 102.1(20) of the *Criminal Code* describes that the doing of a terrorist act includes the doing of a specific terrorist act, the doing of more than one terrorist act, and the doing of a terrorist act, even if a terrorist act does not occur.

#### **Background to this listing**

The Australian Government first listed AQAP as a terrorist organisation under the *Criminal Code* on 26 November 2010. AQAP was re-listed, effective on 26 November 2013, 26 November 2016, and 26 November 2019.

## **Details of the organisation**

AQAP is a Sunni extremist group based in Yemen. The group is an officially recognised affiliate of al-Qa'ida that adheres to al-Qa'ida's violent, global jihadist ideology and follows an extreme interpretation of Islam, which is anti-Western. Although the group currently focuses on Yemeni targets, AQAP conducted attacks in Saudi Arabia during the mid-2000s, and has attempted to conduct attacks within the US and against US interests around the world.

AQAP was formed in 2009 when the Saudi Arabian and Yemeni branches of al-Qa'ida merged after Riyadh's counterterrorism efforts had driven al-Qa'ida members south into Yemen. It was originally founded as Al-Qa'ida Yemen, in February 2006, after the escape of 23 detained Islamic extremists from a high-security government correctional facility in Sana'a, Yemen. In a January 2009 statement, al-Qa'ida Yemen announced a change of name to AQAP, which was the name of al-Qa'ida Saudi Arabia before it was dismantled by Saudi authorities in 2006.

To increase its community appeal and promote itself as the defender of Sharia law, AQAP refers to itself using names such as 'Ansar al-Sharia' (Supporters of Sharia) and 'Sons of Hadramawt'. AQAP also supports local militias against the Huthi, integrating itself into local populations which reject Huthi attempts to control their territory.

AQAP primarily operates in south and central Yemen. Internal division and military offensives have weakened AQAP. The group has experienced significant territorial losses from Huthi offensives over the last few years, and is attempting to consolidate its foothold in Yemen. AQAP has previously attempted to carry out and inspire attacks against western interests outside Yemen, and likely maintains this intent, but its external operations capability is likely diminished by the group's current weakened state. AQAP maintains a rivalry with ISIL-Yemen, which is severely weakened and lacks significant operational capacity.

### ***Leadership***

In early 2020, Khalid Batarfi succeeded Qasim al-Raymi as AQAP's overall leader following al-Raymi's death in a US strike. Qasim al-Raymi, the group's former operational commander, had led AQAP since June 2015 when he replaced Nasir al-Wuhayshi after al-Wuhayshi was killed by a US drone strike.

AQAP's organisational structure likely comprises a shura council that is responsible for the overall political direction of the group, as well as military, propaganda and religious branches.

AQAP's bomb-making was led by explosives expert Ibrahim al-Asiri until his alleged death in a US air strike in late 2017. al-Asiri was the mastermind behind a number of plots targeting global aviation. Before his death, al-Asiri may have spent time training the next generation of AQAP bomb makers.

## ***Membership***

Estimates of AQAP's strength vary from several hundred to several thousand members. The estimation of AQAP membership is complicated by the tribal nature of Yemeni society and the November 2014 emergence of an Islamic State affiliate in Yemen. Some Sunni jihadist fighters are likely to have multiple allegiances, or pragmatically move between groups.

## ***Recruitment and funding***

AQAP targets recruits from a variety of sources including local Yemeni tribes sympathetic to their jihadist cause, and Sunni extremists from other Middle Eastern or South Asian countries. The group is comprised mostly of Yemenis and Saudis, but the group also recruits internationally.

AQAP releases its audio-visual messages online via its al-Malahim media outlet to broaden its reach and appeal.

AQAP is self-funded and collects revenue from numerous sources including donors in Yemen, Saudi Arabia and other countries; donations collected in mosques; ransom payments for kidnapped hostages; and criminal activities such as robberies and drug smuggling. After taking control of the port city of Mukalla, Hadramawt province in Yemen in April 2015, AQAP reportedly earned millions through stolen Yemeni state savings and customs revenues.

## ***Links to other groups***

AQAP is a recognised affiliate of al-Qa'ida. AQAP has also developed some links with al-Qa'ida-affiliated terrorist group al-Shabaab, which operates in Ethiopia, Kenya, and Somalia.

## **Terrorist activity**

### ***Directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act***

AQAP capitalised on the Huthi's uprising in September 2014, and the corresponding deteriorating security environment, by expanding its insurgency—taking control of the port city of Mukalla in April 2015. AQAP had gained control of significant territory in Yemen's south and east until a UAE-led military coalition offensive retook Mukalla in late April 2016. The group continues to undertake attacks in several provinces. These include bombings, kidnappings and assassinations against Yemeni and foreign government interests to destabilise the state. They also declared Yemen's Shia Huthi minority 'heretics'. AQAP maintains the intent to conduct external operations.

Attacks that AQAP has claimed responsibility for and is assessed to have undertaken since the group was re-listed in 2019 include:

- 22 May 2022: AQAP detonated an improvised explosive device on a Huthi truck in Mayfa'ah, Yemen. Killing and wounding those inside.
- 18 April 2022: AQAP released a video documenting its use of weaponised unmanned aircraft systems to strike enemy positions.

- 15 March 2022: AQAP conducted a vehicle-borne improvised explosive device attack against the commander of a separatist force in Abyan, Yemen.
- 11 February 2022: AQAP detonated an improvised explosive device on a Huthi truck in Rasad, Yemen.
- 10 February 2022: AQAP conducted a sniper attack on a Huthi fighter in Mayfa'ah, Yemen.
- 18 March 2021: AQAP killed eight members of the United Arab Emirates-backed Security Belt Forces in Abyan Governorate, Yemen, by storming their position and burning a truck.
- 7 December 2020: AQAP conducted a firearm and grenade attack on a security checkpoint in Lawdar, Yemen, killing at least six Yemeni troops.

AQAP has a long history of undertaking kidnapping operations, including against Westerners or individuals associated with Western organisations, to demand the payment of ransoms or the release of its members from prison. Recently, the following kidnapping in Yemen has been attributed to AQAP:

- In February 2022, AQAP members kidnapped five United Nations employees in Abyan Governorate in southern Yemen.

#### *Advocating the doing of terrorist acts*

AQAP leaders have, directly or indirectly, advocated terrorist attacks in order to further the group's objectives. Examples since the group was relisted in 2019 include:

- 26 September 2021: al-Malahem Media Foundation released a booklet explaining its origin, objectives and policies. Its listed military goals included liberating Palestine by waging guerrilla war against Jewish targets and liberating Yemen from enemies such as the US.
- 10 September 2020: al-Malahem Media Foundation released a statement in Arabic, English and French encouraging attacks against Charlie Hebdo staff and other Europeans who blasphemed against Islam.
- 13 September 2020: AQAP's media wing published a report examining the impact of the September 11 attacks on the US and calling for lone actor attacks against American interests everywhere.

In July 2010, AQAP launched its online English-language magazine 'Inspire', which aims to encourage individuals, especially in Western countries, to undertake acts of terrorism by providing practical guidance and ideological justification for attacks in their own countries. It has also released special editions of the magazine titled 'Inspire Guide' since 2016. One example of attack advocacy in editions of 'Inspire' released since the group was re-listed in 2019 is:

- 29 June 2021: Following a hiatus since April 2017, AQAP's al-Malahem Media Foundation published the sixth edition of 'Inspire Guide.' It analysed the March 2021 shooting at a supermarket in Colorado, US and provided ideas for lone actors to improve on the attack. Armed attacker tactics (using basic weapons or firearms), improvised explosive devices and improvised incendiary devices were advocated by the magazine.

## **Other considerations**

### ***Links to Australia and threats to Australian interests***

There are no corroborated links between AQAP and Australian individuals or interests since the group was re-listed in 2019.

AQAP remains committed to conducting and encouraging others to undertake terrorist attacks against Western targets, which includes Australian interests; however, no known AQAP attacks have killed or injured Australian citizens.

AQAP claims to have directed the shooting attack in the US on 6 December 2019, in which a Royal Saudi Air Force officer participating in a training program opened fire at Naval Air Station Pensacola in Florida, killing three people. However, it is more likely AQAP inspired, rather than directed this attack.

There have been no attacks against Western interests since AQAP was re-listed in 2019, but demonstrated AQAP support for Western attacks since its re-listing include:

- 19 November 2021: AQAP released a video interview in which Batarfi insists that the US remains the primary enemy of AQAP.
- 6 October 2021: AQAP's media wing released a video in which a senior leader, Ibrahim al-Qosi, congratulated the Taliban, criticised the US involvement in Afghanistan and warned of future AQAP attacks against the US, citing the 2019 shooting in Pensacola, and the 2009 shooting in Fort Hood, Texas, as previous examples.
- 10 February 2021: AQAP released a video titled 'America and the Painful Seizure', in which Batarfi stated 'storming the Congress is only the tip of the iceberg of what will come to them, God willing.'
- 13 September 2020: AQAP's media wing published a report examining the impact of the September 11 attacks on the US and calling for lone actor attacks against American interests everywhere.

### ***Listings by likeminded countries or the United Nations***

AQAP is listed by the United Nations under UNSC Resolution 1267 (reviewed on 15 November 2021).

The group is listed as a proscribed terrorist organisation by the Governments of the US and Canada, and is included in the UK Government's listing of al-Qa'ida.

The New Zealand Government first designated AQAP a terrorist entity on 19 January 2010 with amendments made to the designation in 2015 and 2016.

### ***Engagement in peace or mediation processes***

AQAP was involved in peace talks with the Yemeni Government in 2013, but is not currently engaged in any peace or mediation processes.

### **Conclusion**

On the basis of the information above, the Australian Government assesses that AQAP continues to be directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of terrorist acts and advocates the doing of terrorist acts, involving threats to human life and serious damage to property.

In the course of pursuing its objectives, AQAP is known to have committed or threatened actions that:

- cause, or could cause, death, serious harm to persons, serious damage to property, endanger life (other than the life of the person taking the action), or create a serious risk to the health or safety of the public or a section of the public
- are intended to have those effects
- are done with the intention of advancing AQAP's political, religious or ideological causes
- are done with the intention of coercing or intimidating the government of one or more foreign countries
- are done with the intention of intimidating the public or sections of the public.