



AUSTRALIAN
multicultural
foundation

4 June 2021

Rebecca Falkingham
Secretary, Department of Justice and Community Safety
Level 26, 121 Exhibition Street
MELBOURNE VIC 3000
AUSTRALIA

Dear Secretary Falkingham,

Thank you for the opportunity to participate in Stage Two of the Review (the Review) of the *Terrorism (Community Protection) Act 2003* (the Act). The issues paper circulated for consultation for the Review, reflects the pressing issues facing Victorian Police and the Victorian community. The Australian Multicultural Foundation (AMF) views the Review as an opportunity to strike a better balance between community needs and community safety in this complicated violent extremist landscape.

Retaining a robust framework of policing powers is an important and appropriate response to the increasingly complex landscape of extremism in Victoria and Australia at large. However, safeguards can be strengthened through the consideration of a more comprehensive approach to post-release support for minors and young people detained under preventative protection orders.

The issues paper does not explicitly address the diverse lived experiences of those who may be subject to these powers, specifically women and their perspectives and needs.

In reviewing the issues paper for consultation, this submission is made with particular reference to the following issues and questions.

Issue 3.1 - Does this accurately characterise the current terrorism threat environment, ~~(delete comma)~~ including emerging risks?

Noting the Commonwealth *Inquiry into extremist movements in Australia* is yet to hand down its findings, the AMF believes the issue paper has substantially reflected the extremist threat landscape in Australia. The AMF concurs that in Victoria, the religious extremist remains an ongoing threat for the community. The evolving seriousness of the rise of ideologically motivated far-right extremism is also captured adequately in the issues paper. The existence of both extremist threats presents a dual and antagonistic threat to our community.

There are **three** key emerging risks that the AMF would like to propose for further consideration by the Victorian Department of Justice and Community Safety:

A legacy of Australia's Bicentenary – Established to promote a strong commitment to Australia as one people drawn from many cultures.

1. the targeted antagonism of far-right, white supremacist ideologies towards religious and cultural minorities may exacerbate religious extremists to harden their ideology and plan attacks in retaliation.
2. the impacts of COVID-19 on extremism and the activities of extremist groups. Anecdotally, there has been increased consumption and propagation of conspiracy theories and alternate truths around the existence of COVID-19 and the vaccination program in mainstream society. The mainstreaming of extremist forms of consuming information could be seen as an emerging risk. How extremist groups take advantage of these trends could be seen as another emerging risk for consideration.
3. the 'prevention' gap and lack of civil society engagement on preventing/countering (P/CVE) the rise of ideologically driven extremism. The AMF notes the large body of P/CVE initiatives in Victoria are currently skewed towards Australian Muslim communities. The emerging risk here is that susceptibility to far-right extremism extends beyond any one cultural, religious or other group in the community. The inability to pin down a particular segment of the community that is susceptible to or at risk of consuming extremist content complicates prevention efforts.

Issue 5.2: Are the safeguards and oversight mechanisms adequate and workable for children and young people?

Post-release support from a prevention protection order (PPO) should be considered and framed as a safeguard for children and young people. The AMF believes that post-release practices are necessary conditions to ensure children and young people are supported away from a pathway of radicalisation. Without emphasis placed on post-release support and oversight, there is a risk that children and young people are not supported in processing their trauma and are at risk of further marginalisation and social alienation. This is especially true of children and young people who are re-entering society who have not subsequently been charged with an offence from their period in detention.

Framing post-release support practices as a safeguard ensures a holistic approach to community policing that nurtures ongoing trust between the community and law enforcement institutions. A discussion on post-release practices is a current gap in the Review's discussion on PPO's. The AMF recommends the Review consider whether a post-release support 'safeguard' should be a requirement enshrined in legislation or whether this would be an assumed 'safeguard' in the practices of Victoria Police. Overall, the Review could consider Section 6.2.3 in Report 2 of the Harper-Ley Review. This allows for a better understanding of what post-release practices Victoria Police have in place and where improvements can be made:

“ To the Panel’s mind, there are two issues here. One is to ensure minors are appropriately transitioned from detention back into the community. Law enforcement authorities will need to work with the person’s family and other specialists to ensure that this transition is appropriately supported. A second issue is whether the person remains a threat to the safety of the community. In such cases, the community’s long-term interests are best served by appropriate engagement with the person to mitigate that threat following their release from preventative detention¹. ”

As specified in Section 6.2.3 of the Harper-Ley Review above, engagement with families and community leaders and institutions are crucial to supporting Victoria Police in post-release support from PPO’s. The AMF recommends that the Review discuss how it could strengthen Government and law enforcement relationships with community leaders and organisations to adequately achieve this safeguard. To achieve this end, the Review could discuss how P/CVE community engagement and programming is funded and future opportunities to strengthen these relationships.

Beyond a discussion on children and young people, when discussing the treatment of adults subject to PPO’s the Review fails to discuss the distinct lived experiences of women. Applying a gendered lens to individuals subject to PPO’s is crucial as women have a different set of physical and emotional needs as distinct from males. For example, at what stage during a woman’s PPO will she have access to her children and how will she ensure adequate care of her children’s needs during her period of detention? The Review can also use a gendered lens to future proof its legislative framework for the potential arrival, treatment and reintegration of Australian women and children from Syrian refugee camps.

The AMF recommends the Review discuss the adequacy of safeguards and oversight mechanisms under the Act as it applies to women. This discussion may lead the Review to consider other relevant Government institutions, such as the Victorian Department of Families, Fairness and Housing or Women Victoria for inclusion into legislative safeguards and oversight mechanisms.

Issue 6.1.2: What safeguards and oversights will be required to ensure the proper exercise of a pause mechanism and to protect a persons’ rights? Is this of particular concern for children?

The introduction of a pause mechanism should only be exercised under exceptional circumstances for preventative police detention and preventative detention orders. It should be clearly stated that pause mechanisms are also to ensure the legal and human rights of the detainee (children 14-17 years) are protected. The necessary safeguards and oversights that are required should include, an upper time limit set for detainees (children 14-17 years) and that the special circumstances be clearly detailed as per examples given in the issues paper under 6.1.2. However, this may not be an exhaustive list therefore it is worth considering a

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comprehensive and detailed list that explores other unexpected circumstances to ensure greater coverage, clarity and protection.

On behalf of the AMF, I would be pleased to respond to any questions or provide further information and explanation relating to the matters raised in this submission.

Yours sincerely,



Dr Bulent (Hass) Dellal AO
Executive Director.