

cis.org.au



cis.org.au

cis.org.au



**CIS EVENT**

**Friday, 6 November 2015**

## National Security and Counter-Terrorism

Senator The Hon George Brandis QC  
Attorney-General



Can I begin by acknowledging you Greg, as the Executive Director and founder of what is, I think, Australia's most distinguished think tank.

This address gives me an opportunity to provide an overview of the important national security issues which Australia faces, and an account of the Government's response to them.

This is the first occasion upon which I have given an address on national security since the Turnbull Government was sworn in, so it is appropriate to begin this address by affirming that, notwithstanding the change of Prime Ministers, and notwithstanding the change in composition in the membership of the National Security Committee of Cabinet, the Government's national security priorities have not changed. Our appraisal of the challenges and threats facing Australia have not changed. The resolution with which we propose to meet those challenges has not changed – not one iota.

Ever since it was elected in 2013, the Coalition Government has shown the political will to deal with the menace of those who incite fear and terrorism at home, or who travel or assist others to travel to fight as jihadi soldiers in Syria and northern Iraq and that political will has not changed one iota.

Let me begin by saying a few words about the scope of the problem. The best current intelligence, and this is as recent as today, tells us that there are now around 110 Australians fighting in Syria and Iraq. For the most part they are fighting for ISIL. To some, 110 Australians might not seem like a very large number, especially when set against the scale and size of the conflict as a whole. But to put that number into a global perspective, it means that Australia now has more foreign fighters to the conflict than either Canada or the United States.

Then think about this: as of September this year, the number of fighters thought to have travelled to Syria and

Iraq to take up arms since the beginning of the conflict was over 25,000, surpassing Afghanistan, and making this civil war the largest mobilisation of foreign fighters in a Muslim-majority country since 1945.

Fourteen months ago, when Islamic State started calling for attacks within western countries, and when Australia's National Terrorism Public Alert level was raised from Medium to High – meaning that a terrorist attack was likely to occur – around 70 Australians were fighting or engaged with terrorist groups in that theatre. As I have said, the number has since grown to around 110.

In September 2014, 15 Australians were assessed to have been killed as a result of their involvement in the conflict. Today, that number is now believed to be at least 41, almost certainly more. Then, in September last year, around 110 people in Australia were providing support to individuals and groups involved in the conflict, including through funding and facilitation, or were seeking to travel themselves. Today, that number is around 190. Then, around 60 Australian passports had been cancelled to prevent Australians travelling to participate in the conflict in Syria and northern Iraq conflict. Today it is around 146.

That is the international dimension of the problem so far as it directly affects Australia. What is of more immediate concern to us is, of course, is domestic terrorism.

Who would have thought that just a few months after the threat level was raised, we would be turning on our television sets to see a café shopfront in Sydney adorned with the black flag of an Islamist terror group, and seeing two innocent young Australians going about their business peacefully, in the week before Christmas, losing their lives in such unimaginable circumstances? Who can forget those images of a 15 year old boy brandishing a pistol outside the Parramatta police station only just over a month ago?

Since the alert level was raised to High, police have conducted 10 counter-terrorism operations in Australia, resulting in 25 people being charged with terrorism offences. To put that into perspective, that is more than one-third of all the arrests for terrorism related offences which have taken place in Australia since September 11 2001. As of today, there are some 400 high-priority ASIO counter-terrorism investigations being carried out.

How has the Government responded? In the first place, we have given our policing and national security authorities the additional resources they need to deal with the additional demands upon them. Last year, the Government committed to additional resourcing of the agencies to the extent of \$630 million over four years, of which ASIO's additional allocation was \$197 million.

Secondly, there has been a legislative response. In May last year, the National Security Committee of Cabinet directed me to review the entire field of relevant Commonwealth legislation to ensure that Australia's legislative architecture was in the best possible shape to deal with the terrorism menace. That is including reviewing and contemporizing the powers of our principal national security agency ASIO – whose statute has not been the subject of significant review since the changes recommended by the Hope Report were enacted in 1979 – as well of the other agencies within the intelligence community; it included ensuring that the Australian Federal Police had appropriate powers as well, in particular in relation to the two devices introduced by

the Howard Government in its 2004 review of counter-terrorism laws – that is of control orders and preventative detention orders; it included legislating for new obligations on the telecommunications sector, in particular mandating the retention of metadata; and introducing discrete new criminal offences where gaps in the coverage of the criminal law were identified; while, all the while, ensuring that these new powers and capabilities were subject to appropriate safeguards, additional safeguards built upon the safeguards already within the law, and superadded parliamentary oversight.

Since the second half of last year, I have introduced four tranches of counter-terrorism legislation. Taken together that legislation strengthened the ability of our agencies to investigate, monitor, arrest and prosecute home-grown violent extremists and those who support them.

I will introduce a fifth tranche, the *Counter-Terrorism Legislation Amendment Bill No.1* 2015, next week.

One of the legislative amendments made last year was the introduction into the *Commonwealth Criminal Code* of a new offence of advocacy of terrorism. That was done in order to meet a gap in the pre-existing law, whereby it was necessary to demonstrate a relationship between advocacy and a specific act of terrorism. In other words it was based on the old common law crime of incitement. Although there have not yet been any prosecutions brought under the new provision, the Australian Federal Police advise me that its introduction has resulted in a significant reduction in the use of inflammatory language among certain radical elements within the community. That reminds us, by the way, that the test of the success of the criminal law is not primarily in the number of crimes which are prosecuted, but the number of crimes which are prevented: what is sometimes called the prophylactic role of law.

The Bill I will introduce next week includes a new crime, advocacy of genocide. This is consistent with our international obligations as a party to the Genocide Convention. In the Government's view, the preaching of the genocide of a race or population can never be regarded as being the equivalent of the mere expression of a radical political opinion: it is an injunction to violence and slaughter. Yet advocacy of genocide does go on, unpunished, in Australia today – in particular, directed against Jewish people and against the state of Israel. It will no longer be lawful to engage in such conduct.

Another provision of the Bill is that a control order may be imposed on a person as young as 14 years of age. At the moment the minimum age is 16. The Government will legislate in that way because, both here and elsewhere, we know that children younger than 16 years of age have been identified as being involved in terrorism-related activities. We certainly know that here in Sydney in the case of the Parramatta episode. We recognise that our laws already permit the prosecution of a person younger than 16 years of age. So what we are doing is recognising and dealing with an existing trend – and doing so in a way that balances the needs of the child, the community, and the justice system. The Bill also provides that any person, including a child, subject to a requirement to wear a tracking device under a control order is required to take reasonable and specified steps to ensure the tracking device is operational and contains a number of other essentially technical measures in relation to the maintenance of tracking devices.

The proposals will facilitate the monitoring of individuals subject to control orders through targeted amendments to search, telecommunications interception and surveillance device regimes. And finally, the changes will provide for the protection of sensitive information during control order proceedings by allowing the court to consider evidence in exceptional cases that is not disclosed to the respondent.

However, a law-enforcement led response is never sufficient to deal with a multi-layered and complex problem. Also of importance is the prevention of people – and, specifically, let us be frank, young Islamic men – from falling into the hands of recruiters and those who seek to radicalize them. So the Government, in collaboration with the States and Territories, has focused upon the development of programs to counter violent extremism to arrest and interdict the problem at source. This has been the particular responsibility of the junior Minister in my portfolio, Michael Keenan.

In June this year, here in Sydney, I hosted the first regional summit on countering violent extremism. Many of the participants in that summit described Australia's approach to CVE as world's best practice. Australia has become a regional leader in this field.

The Government has increased its investment in countering violent extremism programmes – from around \$3 million per annum to more than \$40 million over four years. This includes \$21.7 million to understand, limit access to, and undermine the appeal of online extremist material.

The Government is working closely with States and Territories in this area. State and Territory governments, of course, have the primary policing function, are very much at the front line. And their response, I might say, has been outstanding and I thank them for their co-operation, at both a ministerial and an operational level, through the national counter-terrorism architecture, including the Australian and New Zealand Counter-Terrorism Committee and the Joint Counter-Terrorism Team.

On 15 October 2015, the Prime Minister convened a National Meeting on Countering Violent Extremism in Canberra, bringing together policy and law enforcement officials from federal, state and territory agencies to share experiences and discuss challenges. That meeting identified opportunities for further work in relation to families, schools, youth, high priority communities, the online environment, correctional facilities, and research and evaluation. Of course, there will continue to be discussions with states and territories, along with industry and the community, and ideas will be brought to the Council of Australian Governments for consideration at its December meeting.

The issue of federal and state co-operation was also on the agenda of the Law, Crime Community Safety Council, which is the Ministerial Council of Federal and State Attorneys-General, Justice, Police and Emergency Services Ministers, which met in Canberra yesterday, along with Police Commissioners, who received briefings from the Director-General of ASIO and the Acting Commissioner of the AFP and resolved to continue our collaborative efforts.

The Commonwealth will continue to provide the overall leadership and perform the national coordination function in CVE. That said, we support the states and territories in their work, the sharing of their experiences, ideas and best practice to tailor local approaches that meet the individual needs of each community. There is no one single model for CVE. CVE programs need to be shaped and are shaped to the particular requirements and characteristics of at risk communities.

This is a highly changeable environment, in which the shape of the threat is never a constant. We know that terrorist tactics adapt and change rapidly and that they evolve quickly – as we have seen, for instance, in the speed and sophistication with which ISIS and other terrorist groups have mastered social media. Do you know by the way that ISIS is assessed to generate some 100,000 social media messages every day. Our response must be just as rapid or – to use the word *du jour* – agile.

While all of the measures I have mentioned – well-resourced security and policing agencies, appropriate law reform, world's best practice community programs to counter violent extremism, effective co-ordination between agencies and between governments – while all of those measures are important, the best outcome in of our efforts to counter terrorism is to build a strong, multicultural society that is resistant to violent extremist influences and ideologies – a society in which our citizens are resilient to the lure of terrorist recruiters because they have a commitment to, and feel respected as members of, the broad Australian community, whose tolerant, liberal and democratic values they share along with all of us. That is our goal. But in striving to achieve such a cohesive and peaceful Australian community, we must be under no illusions about the clear and present danger which terrorism poses to all of us today. I have outlined some of the measures which we have already taken and that we propose to take in the near future.

Just as its predecessor was under the leadership of Tony Abbott, the Turnbull Government is resolute in its determination to defeat terrorism, to defeat the terrorist challenge, to thwart its agents, and to keep our community safe. Thank you.