



**Australian Muslim Women's  
Centre for Human Rights**  
*Equality without Exception*

**Submission into Review of *Terrorism (Community Safety) Act 2003***

**Australian Muslim Women's Centre for Human Rights**

**11 June, 2021**

## **About us**

This submission has been developed by the Australian Muslim Women's Centre for Human Rights (AMWCHR). AMWCHR is an organisation of Muslim women leading change to advance the rights and status of Muslim women in Australia.

We bring 30 years of experience in providing one-to-one support to Muslim women and children, developing and delivering community education and capacity-building programs to raise awareness and shift attitudes.

We also work as advocates, researching, publishing, and offering training and consultation, increasing sector capacity to recognise and respond to the needs of Muslim women and children.

As one of the leading voices for Muslim women's rights in Australia, we challenge the most immediate and pertinent issues Muslim women face every day.

We promote the rights of Muslim women to self-determination, recognising the inherent agency that already exists, bringing issues of inequality and disadvantage to light.

AMWCHR works with individuals, the community, and government to advocate for equality within the Australian context. This submission is designed to contribute greater awareness and understanding of the unique challenges and barriers facing Muslim women engaging in Australian society and their increased vulnerabilities with the rise in hate and Islamophobia.

## **Acknowledgment of Country**

This submission recognises that gender, race, and religion intersect to create multiple forms of discrimination and violence against Muslim women, particularly in a context of growing Islamophobia. It also recognises that preventing prejudice in all forms is bound to the struggles of Aboriginal and Torres Strait Islander communities. Before we can successfully tackle issues within our communities, we must address the ongoing impacts of colonisation, systemic racism, and discrimination in all its forms in this country.

The AMWCHR acknowledges the Aboriginal and Torres Strait Islander peoples of this nation. We acknowledge the Traditional Custodians of the lands our organisation is located and where we conduct our work. We pay our respects to ancestors and Elders, past and present. AMWCHR is committed to honouring Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters, and seas and their rich contribution to society.

## Terms of Reference

The Stage Two review considers the operation of the *Terrorism (Community Safety) Act 2003* (the Act) in terms of its:

- **Ongoing need:** determine whether the Act's 1 December 2021 expiry should be retained, repealed, or extended
- **Fairness & proportionality:** having regard to the Act's objectives, necessity, and 1 December 2021 expiry, assess whether the system of safeguards designed to ensure the proper exercise of powers set out in the Act is appropriate.
- **Effectiveness:** review any other relevant issues that arise in relation to the operation of the Act, including the issues raised in the Stage One Report.

This review will take into account:

1. the purposes of the *Terrorism (Community Protection) Act 2003*
2. previous reviews of the *Terrorism (Community Protection) Act 2003*; and
3. the relevant rights and freedoms set out in Victoria's *Charter of Human Rights and Responsibilities Act 2006* engaged by the *Terrorism (Community Protection) Act 2003*.

Stage Two of the review may make recommendations to the Attorney-General on these and any other matters.

## General remarks

In our submission to the Victorian Government's Anti-Vilification Protections Inquiry on 31 January 2020, we recommended that counterterrorism measures comply with international human rights law obligations and do not discriminate directly or indirectly based on race or colour, descent, or national or ethnic origin.<sup>1</sup> We testified before the Inquiry in their online hearings with key community stakeholders to convey our policy recommendations for reform to strengthen protections for our community in May 2020.

In 2020, AMWCHR together with the Alfred Deakin Institute published the findings from a study on *Supporting Muslim families and children in dealing with Islamophobia*.<sup>2</sup> A key aim of this study was to identify strategies for enhancing the capacity of Muslim parents and families to support their children to understand and navigate experiences of Islamophobia and public discourses on terrorism.

The study found Muslim women face tremendous difficulties in explaining public discourses on terrorism and political violence to their children. Most women rarely spoke to their children about these issues. Women felt ill-equipped to have these conversations, leading to feelings of inadequacy. They were very concerned about the impacts of these public discourses on their children growing up. The report found:

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<sup>1</sup> <https://amwchr.org.au/resources/submission-to-the-victorian-government-anti-vilification-protections-inquiry/>

<sup>2</sup> Asha Bedar, Nesreen Bottriel, Shahram Akbarzadeh, 'Supporting Muslim Families and Children in Dealing with Islamophobia' (Melbourne: Australian Muslim Women's Centre for Human Rights & Alfred Deakin Institute, Deakin University, 2020).

Muslim youth often feel alienated by this discourse, particularly in classroom discussions. Muslim youth often feel anger and resentment over how they are depicted by their teachers and non-Muslim peers when discussing Islam, the Middle East, and terrorism. Significantly, this section illustrates how this can lead Muslim youth to withdraw from such discussions due to fears of being seen as validating acts of terror. Finally, this section points to a need for greater resources in education, community and health sectors to assist educators and practitioners to support Muslim youth.<sup>3</sup>

Many young people interviewed in the study expressed frustration over constantly having to answer biased questions about Islam, which were evidently informed by media discourses linking Islam with terror and violence. The majority of participants acknowledged the prevalence of Islamophobia in Australia and how this creates an environment where they feel alienated and helpless in having to deal, respond and confront Islamophobia. This in turn impacts their sense of belonging and identity.

Numerous studies have shown that news media misrepresentations of Islam and Muslims contribute to acts of physical and verbal abuse, as well as online hate speech. Those studies have shown that Muslim women and girls in hijab are largely the victims of this abuse because of their visibility and vulnerability. Women and girls are often targeted when they are alone and in public places where there are CCTV cameras, showing that this culture of harassment was becoming more mainstream and brazen.<sup>4</sup>

Media and online discourses also create a hostile atmosphere in which young Muslims feel forcibly detached from owning their Australian identity or Muslim identity, and as if there is no opportunity or potential for them to shape their own narrative about being Australian and Muslim.

It wasn't only Muslim women who conveyed this message. Many professionals interviewed in the study observed that Muslim youth often feel anger and resentment over how they are depicted within the dominant narrative that conflates Islam with terrorism and portrays Muslims as inherently violent.

Muslim families experiencing, or who have experienced trauma or mental illness, face a compounding threat – because police have inappropriately conflated mental illness amongst Muslims with an increased risk of radicalisation; and because families and carers may feel, as a consequence of this, conflicted about approaching authorities for help with difficult behaviours. Women will de-prioritise their own safety for the safety of their children, a response to the propensity of counterterrorism policing to adopt blunt, intrusive and disproportionate means.

For example, a mother of a son with pathological paranoia, connected to schizophrenia, PTSD or psychosis, can live in constant fear of police.

This son may be reported by members of the public or associates because of his erratic behaviour, coupled with his Muslim identity. This can lead into a downward spiral, fuelling paranoia.

The mother may feel constant anxiety about police engaging with her son as it may

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<sup>3</sup> Ibid, 4.

<sup>4</sup> Iner, Derya (ed), 'Islamophobia in Australia Report II 2017-2018' (Sydney: Charles Sturt University and ISRA, 2019).

- a. fuel paranoia that he is being monitored or followed as part of a terror watch list
- b. increase self-isolation and reduce protective layers like community engagement, mosque community connection, family social engagement
- c. increase escalations and incidents of crisis events, leading to more policing
- d. lead to her son seeking out deadly force by police, in a phenomenon now understood by Victorian police as 'suicide by cop'.

This scenario is not only a common source of stress to mothers with children who have a mental illness, but mothers of children with a psychosocial disability, with children who have underlying drug and alcohol problems, and who come from a family that has survived trauma – including trauma related to war.

Women are the social and emotional pillars of families, and the impact of counterterrorism legal frameworks and policing is absorbed intensively by them. From AMWCHR's community consultations with Muslim women they expressed that Victoria Police had been called upon their children at school, and that teachers have labelled their children as 'violent'. Schools also do not attempt to mediate nor support the children with counselling. Several mothers had indicated that they coped with the racism in schools by simply moving their children to another school as multiple efforts by various other mothers to report the matter to the Department of Education, the school systems, and the police had fallen on deaf ears.

Most women in the group knew that they could report an experience of racism to the police however they were largely not aware of the mechanics of this nor what else could be done to address racism.

Effects of racism and such barriers led women to have little trust in the community, legal and police systems. They would refrain from seeking help from these places preferring to turn to their own communities for support instead.

This review asks whether counterterrorism investigation and detention powers conferred on police and other bodies by this law are necessary, fair, proportional to their aims, and effective.

Due to a lack of diversity within law enforcement, and the underlying problems with the definitions at law that work to conflate religion and terrorism, combined with the intrusive nature of policing and detention powers, this Act does not operate in a way that is fair, proportionate to its aims or effective.

The Act needs to be evaluated, not in a vacuum, but with regard to the practical way that it operates in society and the very real impacts on minority communities.

The 2020 Alfred Deakin Institute- AMWHCR study found:

Importantly, several studies have examined Islamophobia at an institutional level, namely counterterrorism measures, and the impact on Muslim youth. For example, Tahir Abbas and Imran Awan contend that Islamophobia is evident in government counterterrorism measures that 'have seemingly targeted Muslim communities more than any other religious groups'. Similarly, Nahid Afrose Kabir argues that these measures 'have been heavy-handed on the Muslims'. The impact of these measures on Muslim youth is significant. Tufyal Choudhury and

Helen Fenwick observed in their 2011 study, that among their Muslim youth participants, counterterrorism laws reinforced a sense that innocent Muslims were being treated as part of a ‘**suspect community**’. The study found that while some Muslim youths sought to challenge this misconception through engagement, the majority expressed ‘feeling increasingly alienated and isolated’. Similarly, Abbas and Awan contend that counterterrorism measures ‘alienate Muslim groups’, while ‘disenchanting them from integration in wider society’. In line with these studies, some professionals observed that Muslim youth often feel uncertain or afraid of being targeted by government counterterrorism policies, particularly surveillance. [citations omitted]<sup>5</sup>

AMWCHR is aware that Victorian Police have embarked on a joint research project with Victorian University to identify more fine-grained insights about what pushes people towards violence, rather than relying on radicalisation theory that lumps whole communities into ‘suspect communities’ who are overpoliced at any cost.<sup>6</sup>

While such efforts are promising, AMWCHR concurs with the view that criticises the Act’s definition of terrorism as one of the more substantial and insidious problems that the Victorian Government is yet to act upon – even though changes were recommended by the *Victorian Expert Panel on Terrorism and Violent Extremism and Prevention and Response Powers*.

The powers conferred on police by the Act hinge on the definition of a ‘terrorist act’ which includes the fault element of having a motive based on a religious, ideological, or political cause.

[The previous Victorian Expert Panel review](#)<sup>7</sup> found that the current requirement to prove religious, political, or ideological motive was not appropriate for establishing terrorist intent. An intention to provoke a state of terror or terrorise was suggested as the more appropriate threshold.

As the Expert Panel explained, some acts to plan terrorism are not prosecuted as such because of the difficulty in proving their ideological or political cause beyond a reasonable doubt. But moreover:

The present definition has, in practice, a tendency to inappropriately broaden its reach...the presence of the motive element tends at time to induce an assumption that criminal acts **not intended to terrorise a community or coerce a government are nevertheless classified as terrorist acts**. This is a particular danger whenever a Muslim is involved, or whenever a criminal with no connection with any religion adopts the insignia of religiously-inspired violence simply to inflate the impact of his or her actions. Criminality well below the proper threshold for a terrorist act may then be labelled as such...It is, in the Panel’s view, important to concentrate on the intended harm and not to be distracted by an attempt to ascertain motive [emphasis added].<sup>8</sup>

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<sup>5</sup> Above n 3, 22.

<sup>6</sup> Debra Smith, Ross Guenther “Understanding Transitions to Violence and the Role of Academic-Practitioner Relationships”, in Leanne Close and Daria Impiombato (eds) *Counterterrorism Yearbook 2021*, Australian Strategic Policy Institute: March 2021, 87. Available online < <https://www.aspi.org.au/index.php/report/counterterrorism-yearbook-2021>>.

<sup>7</sup> Expert Panel on Terrorism and Violent Extremism Prevention and Response Powers Report 2, 2017, accessed online < <https://www.vic.gov.au/sites/default/files/2019-02/Expert-Panel-on-Terrorism-Report-2.pdf>>. The Stage Two Issues Paper says: “Implementation of remaining recommended reforms to the Act in Report 2 is ongoing.”

<sup>8</sup> Ibid, 66.

AMWCHR believes that the Victorian Government must implement Recommendation 14 of Report 2 of the Expert Panel:

That the Victorian Government refer to an appropriate inter-jurisdictional body consideration of amendments to the legal definition of a 'terrorist act' to:

- remove motive as an essential element of that definition; and
- strengthen the distinction between terrorism and other crimes so as to capture terrorism's unique significance and gravity (noting that the Panel has provided an example of a way to accomplish this in Part 3.3.1 of this chapter).

AMWCHR acknowledges that the Commonwealth Department of Public Prosecutors<sup>9</sup> has also argued that mixing motive with intent is problematic and incongruent with criminal law principles, as have legal scholars.<sup>10</sup> Australian Muslim legal advocates have also demonstrated how the inclusion of the religious cause motive has contributed substantially to the conflation of Islam and terrorism by police, judiciary, the media and community. The Australian Muslim Advocacy Network (AMAN) writes:

In a terrorism case, NSW Supreme Court Justice Desmond Fagan asked defendants to publicly disavow specific verses of the Qur'an. Justice Fagan's stated rationale for this request — "The incitements to violence which terrorists quote from the Koran cannot just be ignored by the many believers who desire harmonious coexistence" — ignores the great lengths taken by community to condemn terrorism, and runs contrary to peer-reviewed research which finds that being deeply and personally religious and knowledgeable of one's faith reduces the chances of becoming radicalised. Radicalisation, regardless of the ideology, is a social process. While many Muslims are concerned about Justice Fagan's approach, I am even more concerned with the legal framework that seems to have enabled it.<sup>11</sup>

AMAN has argued that the 'religious cause' aspect of intent fuels the stereotype that religiosity in Islam leads to extremism. AMAN has agreed with the Expert Panel and others that while some extremism will have a religious dimension, ostensibly at law, the relevant intent should be the intent to commit a terrorist act. By changing the law, the discourse may also be a shift over time, and policing and investigations may become far more precise.

AMWCHR is concerned by this legal point because the conflation of Islam and terrorism in media has harmful consequences for Muslim women and their families. We are also concerned that this definition produces more than just distorted public discourse. The Expert Panel has pointed to it contributing to uneven justice outcomes.

AMWCHR is a body that is concerned with human rights. Non-discrimination is our concern. Being free and equal before the law and in dignity is the first article of the Universal Declaration of Human Rights. Based upon the above concerns, this Act's definition of terrorism (s 4 of the Act) potentially impairs the

- a. Effectiveness of the Act, as offenders of one religious/racial background, are investigated, but others are not for the same conduct/behavioural cues.

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<sup>9</sup> Parliamentary Joint Committee on Intelligence and Security, Review of Security and Counter Terrorism Legislation (2006), available online <

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Completed\\_Inquiries/pjcis/securityleg/report/chapter5](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Completed_Inquiries/pjcis/securityleg/report/chapter5)>.

<sup>10</sup> Bernadette McSherry, "Terrorism Offences in the Criminal Code: Broadening the Boundaries of Australian Criminal Laws" (2004) 27(2) UNSW Law Journal 354.

<sup>11</sup> Rita Jabri Markwell, "Does Australia have double-standard when it comes to "terror" convictions?" ABC Religion and Ethics. Available online <<https://www.abc.net.au/religion/does-australia-have-double-standard-on-terror-convictions/13180824>>.

- b. Fairness of the Act, as offenders of one religious/racial background, will be disproportionately subjected to powers under the Act.

First, we urge the Victorian Government to address the Expert Panel's recommendation on this matter.

Second, we also urge the Victorian Government to conduct a more transparent review of this Act, allowing for public hearings and submissions from various parties, and allowing both civil society and government to coherently and holistically consider the legal framework from hate incidents and hate crime, all the way to potential acts of terrorism.

If Victorian police are involved in policing both hate crimes and terrorism, and if we are to maintain confidence in the justice system (by avoiding double standards of justice), it is important that civil society, community, authorities and government are able to address the full spectrum of these issues together.

The frame of the *violent denial of diversity* can be used to capture hate incidents, hate crime, and potential acts of terrorism.

In general, we wish to express that the repeated extensions of the sunset clauses, the preventative detention orders, including their extension to children aged between 14-17 years old, are all very problematic for our communities here in Victoria.

However, the short timeframe of this review and the inability to review the Stage One or Two submissions compromises our ability to contribute fully. The high stakes of this legislation to fundamental human rights demands that it be given longer timeframes and more open processes for public scrutiny.

Below we address some of the specific questions raised in the Issues Paper.



## **Responses to specific questions in issues paper**

### **Ongoing need**

#### **1. *Re existing level of threat***

Given the current level of threat is listed as “probable” without clear transparency or visibility as to the underlying reasons or assumptions that have led to this classification it is difficult to come to an unequivocal stance on whether this allocation is correct. As most matters relating to national security are highly and strictly confidential there is an inherent trust and regard that is paid to those making these allocations. A suggestion would be to have a criteria outlining broad assumptions that lead to different classifications of threat and what this allocation specifically warrants in terms of a proportionate response.

ASIO’s reference to Raghe Abdi as a radicalised ISIL supporter or his alleged actions as religiously motivated terrorism in the March 2021 Annual Treat Assessment was prejudicial. The matter involving the late Raghe Abdi is yet to go before Coroner.

While the Right-Wing Extremism threat is taking up more of the caseload, it has always existed. It appears it was not prosecuted as terrorism until Galea’s conviction in 2020. White nationalists have been charged and prosecuted under other non-terrorism offences, accordingly whether these underlying assumptions about who can be guilty of terrorism needs to be reassessed or those investigating to address implicit unconscious and sometimes very conscious biases. If the rise of RWE is in fact to be seriously considered as a rising threat to Australian society then it should be clearly enunciated as one of the contributing factors towards the current level of threat.<sup>12</sup>

#### **2. *Re whether this Act is necessary***

AMWCHR queries whether this Victorian legislation is better at safeguarding human rights than Commonwealth legislation. If so, it may be preferable to keep it in place until federal laws are repealed or amended.

AMWCHR queries whether the Independent National Security Legislation Monitor’s Report into the Prosecution and Sentencing of Children for Terrorism (April 2019) has any recommendations of relevance to this legislation.

AMWCHR advises it would like to access advice from the Law Institute of Victoria and Liberty Victoria on the necessity and proportionality of these powers compared to existing police detention powers.

#### **3. *What does the sparing use of the powers in the Act indicate about the ongoing need for the Act?***

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<sup>12</sup> See AMAN’s submission to the Parliamentary Inquiry into Extremist Movements and Radicalism, February 2021. Available online at: [http://www.aman.net.au/?page\\_id=596](http://www.aman.net.au/?page_id=596).

#### **4. *What is the best way to assess the ongoing necessity of the Act and the powers contained within?***

Firstly, the necessity of the Act needs to be considered as part of a broader legal response to violent extremism. If one considers the whole continuum of violence involved in the violent denial of diversity – from vilification, hate incidents and crime, incitement to violence, to acts of terrorism – it is possible to plan more consistent responses, regardless of the race or religion of the offender.

As part of this, the neutrality of the Act's operation needs to be assessed. The terrorist label carries a high level of stigma. So, it is troubling there appears to be a historical pattern where Muslim lone actors are treated as terrorists. In contrast, white nationalist lone actors are charged with more minor weapons-based offences or criminal vilification. AMWCHR supports the idea that the whole continuum of violence needs to be addressed together for policy congruency and to eliminate perceived double standards of justice, which have harmful impacts on social cohesion.

Secondly, the powers contained in the Act should be evaluated against evidence from Victorian University study with Victorian Police on how counterterrorism (CT) tactics can dramatically change stakes and accelerate the transition to violence. CT powers are so intrusive; they can change the stakes of acting/versus acting. AMWCHR highlights the 'cornering', isolation, alienation and stigmatisation effects of CT powers on communities and families, especially youth. We have highlighted in our general remarks the disproportionate impacts this has on Muslim women, their sense of belonging and identity which in turn leads to detrimental impacts.

Third, AMWCHR queries the degree to which the Act contributes to the creation of 'suspect communities', including the extent to which this Act encourages police contact and checking of Muslim community members, leading to feelings of isolation and distrust.

Fourth, AMWCHR queries the degree to which this Act contributes to highly charged and prejudicial adverse media reporting. In our general remarks, AMWCHR has highlighted the effects on the community via hate speech and incidents – harm disproportionately experienced by Muslim women and their families.

Fifth, AMWCHR queries the degree to which the Victorian Police's participation in CT law enforcement impacts community confidence in police and willingness to seek help from police in matters where they are the victim of crime. This creates a disparate trust deficit when Muslim women may be seeking assistance for other non-CT related offences in the home. For example, Muslim women victims of family violence, with children or family members who are mentally unwell and exhibiting dangerous behaviours or hate crime/incidents are less likely to seek support from the police.

Sixth, AMWCHR queries the degree to which youth with disabilities, mental illness, history of trauma, history of family violence, drug and alcohol are overpoliced due to these CT laws. The extent to which police believe that mentally ill Muslims are prone to terrorism needs to be uncovered and addressed. The degree to which CT powers adversely affect mentally ill Muslims needs to be exposed, especially affecting those

who are pathologically prone to paranoia (schizophrenia). In our general remarks, we have explained how women as mothers and carers, often have to absorb the failings of this system and can live in constant fear of harm coming to their children.

Seventh, AMWCHR highlights the phenomenon of 'suicide by cop'. In their submission to the PJCIS inquiry into Extremist Movements and Radicalism, Victoria Police acknowledged the correlation between suicide ideation and police shootings. The women carers of mentally unwell children live with the real fear of this eventuality, causing immense anxiety and impairing their human rights and dignity. This product of the legal framework must be treated as a central and serious concern.

***5. Are all the powers in the Act still necessary and appropriately tailored to current and emerging terrorist threats including right-wing extremists, lone actors, and emerging technologies?***

AMWCHR notes it is impossible to properly assess this without evidence of how Victoria has dealt with white nationalists and RWE extremists previously in criminal justice system. At the moment, there are very elaborate terrorism laws and powers, but very few prosecutions of RWE extremists under them. Lone actors have always been a problem; it's just that RWE lone actors cannot be connected to listed terror organisations. Only one RWE organisation listed in Australia. Moreover, the listing mechanism is of limited help for lone actors that don't have any connection to any organisation. Addressing the definition of terrorism in the Act to refocus intent on an intention to terrorise (as the Expert Panel has previously recommended) may very well help with this.

#### **Part 4: Sunset and review**

**7. Are the review and sunset mechanisms relevant and effective safeguards on the powers in the Act?**

**8. Is the original purpose of the sunset clause still relevant given the ongoing threat posed by terrorism?**

**9. If a sunset clause is retained, when should the Act next expire?**

**10. Would the Act benefit from a more prescriptive review mechanism that contains, for example, explicit review criteria or a clarification of review objectives?**

First, AMWCHR suggests the review might include data on

- use of lower level policing powers provided by this Act – number of police interactions and disaggregated by the cultural community. Including interactions by CT' community liaison' team
- number of interactions with persons with mental illness or disability
- number of interactions with minors
- how CT powers by Victoria police impacts on willingness to report crime where they are a victim from disproportionately affected communities.
- the number of residual risk investigations by police (following up reports to national security hotline) leading to no further action. Consider the impact on the community and social cohesion.

Second, the review should consider the full continuum of violence against diversity to understand whether same-for-same conduct is being treated consistently and fairly by the law. Specifically, whether individuals sympathising with extremist ideologies were investigated and detained using terrorism powers should be reviewed to consider whether counterterrorism laws operate consistently and without discrimination.

Fourth, the rights of the child, the rights of disabled people, and women's rights need particular human rights analysis by a resourced independent monitor.

Future reviews should publish submissions from various stakeholders with permission.

## **Part 5: Safeguards and oversight**

- 11. Do the changes to the threat environment over time impact the justifications previously used for the limitation of rights under the Act?**
- 12. Are the safeguards and oversight contained in the Act adequate and workable? If not, how could they be improved?**
- 13. Are the safeguards and oversights adequate and workable for children and young people?**
- 14. Are there safeguards and oversights from other jurisdictions that could be incorporated into the Act?**

First, AMWCHR notes the Commission for Children and Young People Monitor the treatment and promotion of the interests of children detained under Part 2AA (preventative police detention) or part 2A (PDOs). AMWCHR suggests a similar statutory oversight function is needed to monitor the treatment and promotion of interests of persons with disabilities detained under Part 2AA or part 2A.

Second, the Commission for Children and Young People and Victoria Legal Aid raised concerns (it's alluded to in the Stage One report), but no detail is provided. AMWCHR would like to see these reports. Given the high stakes of this legislation to human rights, we query why Stage one submissions were not published or provided to Stage Two stakeholders.

Third, AMWCHR would like to access advice from the Law Institute of Victoria and Liberty Victoria.

Fourth, AMWCHR suggests the National Security Independent Legislation Monitor's Report on Prosecution and Sentencing of Children for Terrorism (from April 2019) be reviewed for applicable recommendations.

## **Part 6: Specific issues raised in Stage One**

**15. Is expanding the purposes for taking DNA under the Act reasonable and necessary? For example, are the general provisions in the Crimes Act provisions sufficient in the context of terrorism investigations?**

**16. Will it assist with the prevention of a terrorist act or preservation of evidence relating to a recent terrorist act?**

**17. Would the corresponding impacts on human rights from any changes to the Act be reasonable and justified? Would additional safeguards be required? Is this of particular concern for children?**

There is insufficient information or evidence to justify this expansion of powers provided in the issues paper.

**18. Should a pause mechanism be inserted into Parts 2AA and 2A of the Act?**

**19. How would this improve the effectiveness of the Act?**

**20. 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?**

There is insufficient information or evidence to justify this expansion of powers provided in the issues paper.

**21. Should special police powers be extended in this fashion?**

**22. How would this improve the effectiveness of the Act?**

**23. If this extension were adopted, what safeguards or protections would be required to ensure the powers are exercised fairly and proportionately (eg. to minimise the risk of inadvertent non-compliance)?**

As background, the issues paper says:

Special Police Powers may be authorised if a prominent person is attending an event in Victoria which could reasonably be the subject of a terrorist attack. The exercise of the powers is limited to the event which is subject to the authorisation. Victoria Police has requested that consideration be given to extending special police powers. Hence, they follow the prominent person regardless of what events they attend and where they travel within Victoria. Victoria Police believe that this would aid its ability to protect the prominent person from a potential terrorist attack.

The 'special powers' conferred on police by this Act are extensive and intrusive on individual rights and personal liberties. The risks opened to the general public by extending these powers to the 'travel route' of a visiting prominent person far exceeds the known benefits to such an extension of powers.



