

TERRORISM (EXTRAORDINARY POWERS) AMENDMENT BILL 2015

Third Reading

MRS L.M. HARVEY (Scarborough — Minister for Police) [10.55 am]: I move —

That the bill be now read a third time.

MR D.A. TEMPLEMAN (Mandurah) [10.55 am]: I rise to speak on the Terrorism (Extraordinary Powers) Amendment Bill 2015. I noted in the consideration in detail stage, which took a few hours on this bill and was an interesting debate, an exchange between the shadow Attorney General and the Minister for Police in which the shadow Attorney General said that he would never have envisaged that we would be debating a bill of this nature when he first came into this place. In that exchange, I think the Minister for Police agreed with him. Obviously, this bill is to ensure that we have in place modern legislation that responds to the nature of the threat of terrorism in the modern world and of course the threat of terrorism in Australia. That reminds me of some of the changes to security in this place since I became a member. I have been a member for some 15 years. I was in the 2001 intake. I recall that although security had been tight here in the Parliament, the events of 11 September triggered major changes to how this Parliament was overseen from a security perspective. Of course, subsequent events in more recent years have seen responses to the threat of terrorism to Parliaments and other public places highlighted.

An interesting aspect of both the second reading debate speeches that I listened to in this place and the consideration in detail stage was the discussion and debate about making sure that we have in place effective and responsive processes and laws with reference to the terrorism threat, but that they are balanced with people's rights to participate in society in a free manner. Our democracy is founded on the principles of freedom and free speech. It is important that those fundamental aspects of democracy are upheld whilst at the same time we ensure that we protect our community as much as possible.

I was in my electorate office on Wednesday morning and my electorate officer said to me, "Good speech last night." This was for Tuesday—wait for this. She said, "Great speech, you seemed to know what you were talking about in that speech." I told her that I did not speak on Tuesday night. I could not recall making a speech on Tuesday night. She said, "I have here a Mr D.A. Templeman at about 8.45 on Tuesday night and you gave a very in-depth overview of terrorism issues." It had a particular, I suppose, military flavour to it that is quite unlike me. Then we discovered, of course, that Hansard—very rarely Hansard makes an error—had substituted my name for the member for Willagee. I did not know how to respond to my electorate officer, Kelly McManus, when she said it was a great speech!

Mr C.J. Barnett: She was shocked!

Mr D.A. TEMPLEMAN: Yes, she was. She said, "Unlike most of your speeches, this one looks like you not only knew what you were talking about, but you also did some research." I told her to give me a look at it and discovered it was not my speech. In fact, I made no contribution whatsoever to the debate on Tuesday night. Therefore, with those points in mind, I thought it was absolutely crucial that there be reference in *Hansard* for future reference by the people of Mandurah that their member for Mandurah did actually make a contribution to this bill's passage. I have therefore done that and with that, I will take my seat.

MR J.R. QUIGLEY (Butler) [11.01 am]: I rise in the same vein that I did in my contribution to the second reading debate, which is to voice my support for the amending bill that is before the Parliament, brought on by the government. Of course, the government had to bring it on because there was a sunset clause in the original act, as there will be in this act. The reason for the sunset clause is that we have a lot of legislation that confers quite extensive powers upon authorities, but perhaps none are as extensive as the powers conferred in this legislation. It is appropriate in a democracy in which the people are yielding, not to the executive so much as to the Commissioner of Police, such an extensive suite of powers that the legislation comes forward regularly for review. I share the view with the shadow Minister for Police that 10 years is perhaps a little long and it could be rolled over every five years. However, that is a minor matter and the Terrorism (Extraordinary Powers) Amendment Bill 2015 contains at least the sunset clause. This was very good legislation that was introduced back in 2005 in the wake of the terrorism threat that Australia faced post-9/11 and post the Bali bombings, but, as with all things, the threat has evolved. The amendments being brought on by the government during this session before the legislation expires, because it would have expired at the end of this year, are not so much to plug holes in the original legislation—it was brought before Parliament by Dr Gallop's government—because no holes in the original legislation have been exposed; rather, sensible amendments are being brought on to deal with an evolving situation. As we have mentioned both in the second reading debate and in consideration in detail, one of the huge advancements between 2005 and today is the widespread take-up of electronic communication, especially via Twitter and other means.

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I subscribe to *The New York Times* to get a view of what is happening from the other side of the world. I read in it very recently that a group has now formed in America, but its origins are not known—it may be from Russia—to support Tsarnaev, the terrorist responsible for the Boston marathon bombing, who is under sufferance of the death penalty in Massachusetts. I read in *The New York Times* that a group of supporters is challenging that conviction, but the group is on a closed, secret network—it is not on the web—using the Russian language. It has been very hard for the Federal Bureau of Investigation to pierce the network and to keep up with what is happening in that group. That struck me as an example of how terrorists and their supporters are using what is not the internet as we know it, but worldwide electronic communication to set up their own secret networks in foreign languages. It is Russian in that particular case, but these networks to promote terrorist acts could easily be in any other language, such as Arabic, as is spoken in Syria and Iraq. We saw that very thing happening in a more open electronic network prior to Anzac Day when the plot was uncovered for the promotion of a terrorist act against an unnamed police officer—to stab a policeman on Anzac Day. It was promoted by a young man in the United Kingdom who has already pleaded guilty to doing that. More recently, there was the tragic and despicable murder of Mr Cheng in Sydney a couple of weeks ago. That offence was promoted by the use of communications on mobile telephones, whereby SIM cards were bought in false names, numbers of handsets were bought in false names, and the most terrible plots were hatched.

The government has most sensibly responded to the report prepared by the legal services branch of the Western Australian police force that has watched these developments. It brought forward to the government its suggestions for amendment. We are pleased that the government has taken up all of those amendments. Of course, there would be a case to possibly argue that this legislation could be misused. This is not a proposition advanced by me; indeed, it was canvassed in the report by the legal services branch. If we look at the definition of terrorism, if people are working together to threaten the public or bring about an overthrow of a government, there is capacity—at the extreme end, if we had an unreasonable, totalitarian Commissioner of Police—to misuse this sort of legislation. However, we note that the legislation also requires very regular reporting to Parliament of the number of times that the police department has resorted to using this legislation in law enforcement in Western Australia.

We note from those reports, and it was confirmed by the Minister for Police, that there has been only one occasion on which they perceived that threat. We do not know what happened because although the warrants et cetera were sought, they did not tell us what they did. But from reading the media and looking at everything, including the reports themselves, there does not appear to have been a threat that was actually active in the sense that anyone was prosecuted, but, rather, it was activated by—dare I say it and go back to that hoary area—reasonable suspicion or belief of the commissioner that something was amiss.

I shall not take any more time in the chamber this morning other than to indicate, as the shadow Attorney General, our most fulsome support for the terms of the amending legislation. We entrust that it will be very soon presented to the Legislative Council and these amendments brought into law as soon as possible.

MRS M.H. ROBERTS (Midland) [11.11 am]: The opposition very strongly supports this amending legislation. The Terrorism (Extraordinary Powers) Amendment Bill 2015 amends the legislation put through the house by me back in 2005 during the time of the Gallop government. They were extraordinary times and it was really the first time that we needed to deal with this terrorist threat from within. It was really a changing of the times for Australia and particularly Western Australia. These matters were not previously contemplated and generally the powers that police can access here are powers that, in a western democracy such as ours, we would not tend to want to equip our police with. However, extraordinary times call for extraordinary measures. Maybe it was a forlorn hope back in 2005 that perhaps these laws would not be necessary some 10 years later and that the world environment may have changed for the better. Unfortunately, that is not the case and these laws are now needed more than ever. It is absolutely essential that they continue beyond the expiry date of 19 December this year. Although aspects of these laws may infringe on people's civil liberties and may inconvenience people and subject some people to greater scrutiny than they perhaps deserve, these laws are absolutely essential to protect the wider community of Western Australia. An often-quoted saying is that it is better to be safe than sorry. In order to be safe and not sorry, we have to provide police with extraordinary powers to deal with the terrorism threat. No-one can be more pleased than I that we have not had to use or deploy these powers in Western Australia in the course of the last 10 years, but we have seen their deployment in other states of Australia and we have seen some very concerning instances of terrorism.

Although the review that was conducted and handed to the minister the best part of a year ago referred to the powers being used in the Lindt cafe siege, there have been other instances since then that have had links to terrorism. All of Australia was stunned by the shooting only a few weeks back of an unsworn officer outside Parramatta police station whose main expertise was in the area of finance and accounts. Sadly and shockingly he was killed by a lone assassin, and that was dealt with swiftly. I do not think in those circumstances there was any

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opportunity to access the powers involved. However it gives us an indication of the kind of threat faced. The Lindt cafe siege that has been reflected on during the course of debate on this bill turned out not be a terrorism event, but police were not to know that at the time. In an effort to protect the community from what could have been a terrorist threat, it was certainly fortuitous that the police were able to avail themselves of the powers of their very similar legislation put in place at a similar time as this legislation was put in place in Western Australia. They were able to designate a particular area in which they could stop people from entering or exiting, and indeed search people. These are powers that most of us thought when we were growing up were more akin to some regimes in countries that we would not like to live in and did not equate with our understanding of the free and open community in which we lived, so it is not lightly that these powers are given by way of legislation. Unfortunately, they have become a necessity to protect those of us who go about our jobs on a daily basis. Sadly, if we look at those examples I mentioned, the man shot in Parramatta had gone to work that day and expected to go home to his family. Sadly, many of people who went into the Lindt cafe for a coffee or a hot chocolate did not get to go home to their families that evening and many of them will remain forever traumatised by the events that unfolded there.

We have seen various acts of terrorism around the world. The first major and most significant one was of the 9/11 twin towers event, which absolutely shocked the world and was something that we did not ever think we would see happen in our lifetime. When some of us saw it on the television, we thought it must have been something from a movie. I was here at Parliament House on that night and one of my colleagues called me in to look at what was unfolding on the TV. Many of us just stood there with our mouths open, totally incredulous that this could be happening in America. Following that, of course, were the bombings in Bali. As Minister for Police back in 2001, I was phoned by the then deputy commissioner of police at about 3.00 am to be told that there had been a terrorist incident in Bali. It was believed that a lot of Australians had been killed or severely injured in that bombing and that we knew that a significant number of those Australians who were believed to have been present that evening would be Western Australians. Because of Western Australia's proximity to Bali, a greater proportion of Western Australians generally holiday in Bali as opposed to people from the east coast. The cost of travel and accommodation in Bali for Western Australians is very cheap and many Western Australians go to Bali as a cheaper alternative to holidaying locally. People from the east coast have other options. They are more proximal to New Zealand, Fiji and other islands in the Pacific. For most Western Australians, Bali had become a holiday island that was, if anything, more popular with families than holidaying at Rottneest Island, where many of us like to go. Western Australians felt very safe going to Bali and holidaying there, and certainly the people of Bali have made Western Australians and Australians very welcome there. Of course, the Bali bombing had a very negative impact on the Balinese and on Australians travelling to Bali, particularly for the ensuing year or two, but indeed I think it has had a permanent impact for some people; some people will not risk going there for a holiday, although I note that travel there has now again increased.

There are unfortunate repercussions because of these terrorism events, none more so than for those people who lose their lives or are severely injured, and their families. But there are also consequences for the economy of places like Bali and for the people who live in Bali or anywhere else where terrorist incidents have occurred. Likewise, if we did not have legislation like this for our police to avail themselves of, Perth and Western Australia would not be as safe as they are today. Legislation of this nature is necessary to keep our community safe. It is necessary to ensure that police have appropriate powers to act on information that may become available to them. There has also been reference during the course of debate on the Terrorism (Extraordinary Powers) Amendment Bill 2015 to the networking that effectively takes place between police forces around Australia. Post the Bali bombing there was a necessity, more than ever before, for the sharing of intelligence and information between police forces around Australia, the Australian Federal Police, the Australian Security Intelligence Organisation and the Corruption and Crime Commission, together with some less likely federal agencies that deal with immigration and the like. They have to work together and they have to have the capacity to share intelligence. It is through that intelligence that police will sometimes get information that hopefully will see them nip potential terrorist threats in the bud. I will not go into detail, but there have been cases in Victoria and elsewhere around Australia in which that has actually occurred; the police have come upon information and have utilised the powers of equivalent legislation to this legislation, or other powers available to them, to detain people, to designate areas, and to seek covert search warrants, as are provided for in this legislation. Although I acknowledge that there will continue to be a section of the community that would rather not see police equipped with these powers, the Labor Party certainly stands on the side of caution and of protecting the community and providing police with these powers.

When I introduced this legislation back in 2005 I said that I hoped it would never have to be used, and of course that is the ideal situation: that the threat does not exist and that police do not get intelligence of terrorist operatives in our midst or people seeking to cause harm or injury to Western Australian citizens; but

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unfortunately, we have to mitigate against that risk. It is because of that that we need to equip the police with these powers.

In respect of the review that my colleague the shadow Attorney General mentioned, when we put this legislation in place, we included a 10-year sunset clause; that was a fairly common course around Australia. I also put into the legislation that there had to be a review after one year and every three years after that so that during that 10 years, matters would be reviewed so that if there needed to be changes to what was then groundbreaking legislation, those changes could potentially be brought before the house. There was no necessity to wait the full 10 years before bringing an amending bill forward; one could have been brought forward prior to now. I understand that those early reviews noted some matters that are now part of this amending legislation and also brought to light some matters that were dealt with in other ways.

I also note that in these changing times—we reflected on this during the second reading debate—technology has advanced greatly. It is advancing at an exponential rate. When the London bombings and Bali bombings occurred, it was effectively a new thing for bombs to be set off remotely, utilising mobile phones. The concept of suicide bombers giving their own lives in an effort to cause explosions and kill huge numbers of people was also new. We are seeing technology advance and advance and advance at an exponential rate, so it is important that legislation like this is kept up to date to take account of those advances in technology. The last thing we want is for a case to fall over before a court because some aspect has not been covered off. When collecting evidence, be it under a covert search warrant or in any other way, police have to collect it according to the law. If they collect evidence via some technology or form that is not provided for under the law, they risk that evidence not being usable and being thrown out of court, so it is always important, particularly with this kind of legislation, to make sure the i's are dotted and the t's are crossed, that the legislation is as thorough as possible, and that we take into account all the potentialities. If we do not, we run the risk of not having a successful prosecution because certain evidence is not allowed in court.

That also makes it imperative that police are properly trained in, and informed about, the utilisation of legislation of this nature because unfortunately any slip-ups on their part and any failure to follow the procedures or laws provided under legislation like this can lead to prosecutions not succeeding. It is not sufficient to just pass laws of this nature; we have to have a police force that is capable of using these powers. They need to be linked in through their own intelligence and through national intelligence, and they need to be fully briefed on the utilisation of the law. As we know, some of the people who are involved in terrorist acts are exceedingly well connected and exceedingly well financed. They have access to top accountants, top lawyers and top professionals of various kinds, so if they can find a loophole to use, they will utilise it. That is why our job as legislators is very important and why the job of our police in implementing and enforcing legislation is also absolutely critical. It is critical for the safety and wellbeing of all Western Australians.

MR P. PAPALIA (Warnbro) [11.28 am]: I just want to make a few comments in the third reading debate on the Terrorism (Extraordinary Powers) Amendment Bill 2015. I am sorry I missed the minister's response to the second reading debate; I was not in the chamber at the time. She may have addressed some of the things I raised, but there was no great issue, really. As has already been stated by the lead speaker on our side and the shadow Attorney General, the Labor Party essentially supports the legislation and acknowledges that it is largely an evolution of legislation that was introduced 10 years ago. This amending legislation acknowledges the technological advancements of the interim period and seeks to ensure that the police have the capacity to intercept or garner evidence from those technologies, as necessary, in the course of countering terrorism.

I will reiterate a couple of the concerns I aired during the second reading debate. Firstly, I do not think that the protections of civil liberties and freedoms in this country in the face of threats and fears associated with any type of threat, including terrorism, should ever be lowered lightly. I was concerned that the threshold regarding the Commissioner of Police's covert search warrants had been dropped. I was not necessarily concerned about whether WA Police believed there was a need for it, but whether the minister, in providing oversight of the process on behalf of Parliament and the people of Western Australia, had ensured that she had been adequately convinced of the need for that change. During consideration in detail it became clear that part of the justification was the analysis of incidents that had occurred in other jurisdictions over a 10-year period. Part of the justification was also lessons learned from the large-scale counterterrorism exercises that are held probably annually at a state level. Beyond that, as part of the national counterterrorism plan, constant exercises involve our and other jurisdictions, as well as federal authorities. Every time one of those exercises is conducted, a post-exercise debrief and analysis is conducted by the people running the exercise, and there are always people who perform the role of umpiring or exercise management. At the conclusion of the debrief process, an exercise report is always produced. Findings are made in the report as a consequence of the lessons learned during the exercise and all the scenarios envisaged.

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As the minister's advisers indicated during consideration in detail, part of the reasoning behind the need for the lowering of the threshold to the commissioner holding a suspicion rather than a belief came from some of the lessons learned and the perception within the minds of the police whom deal with this challenge that it could represent an impediment to them doing their tasks efficiently if the commissioner was compelled to come to a belief rather than just a suspicion. That is fine and I accept that. I am not the minister and I do not have the oversight, but I would ask that any Minister for Police, any of the senior police or anyone else involved in developing our state's response to terrorism demand from the police actual justification for these changes. The senior people should not just accept a report that the police think there may be a potential for a challenge or a difficulty in the event that that demand is placed on the commissioner, and that that report was derived from some of their observations or analysis of an exercise, overseas incident or an incident in another jurisdiction. There should be a document. I know that the military and police regularly compile thorough reports. They regularly do detailed written analysis, come to conclusions and justify them. I think, without revealing too much detail and compromising, perhaps, security or classified material, it would be possible for the minister's advisers to come to this place armed with more justification than just referencing, in a fairly superficial manner, lessons learned from an exercise or an overseas incident. They should not use that throwaway line. That is fine for the journalists, but a lot of people are concerned about any erosion of our civil liberties and community freedoms that I think we have a role in defending. In the face of this sort of behaviour, the worst thing we can do is roll over and become the thing we are trying to defend against. We always have to question whether extra powers are required, and WA Police is more than capable of justifying any extension of its powers. There are some really capable, intelligent and educated people out there who can provide more than a throwaway line. It is the responsibility of any minister who brings additional powers to the chamber to be prepared, and have their advisers prepared, to justify the changes with more than a light, superficial reference. I know more material and justification is available, and I would not want us to be seen to be not doing our duty in defending the freedoms of the state.

I now outline a concern I did not talk about during the second reading debate that I think is probably worth including in the third reading debate. I am shadow Minister for Corrective Services, so I look into prisons, view concerns about them and look into the issues confronting the Western Australian prison system on a regular basis. Something that came to my attention more than a year ago is that there is at least one Islamic radical individual in one of our maximum security prisons. I have met him. He has tried to recruit vulnerable prisoners within our prison system. Members can easily imagine the type of person he is looking for, and he is in close proximity to hundreds of them. I talked to him, and became aware of what he had been doing through conversation with prison officers. Having recently put a series of questions to the Minister for Corrective Services about a paedophile's access to the prison system and individuals who could be potential victims, in the case of juveniles, and potential collaborators in the case of visiting adult prisons, the dismissal of my questions and apparent lack of ministerial interest in the potential —

Mrs L.M. Harvey: What?

The ACTING SPEAKER: Member —

Mr P. PAPALIA: It is related to where I am going with terrorism.

I am referring to the potential for that individual to have made contacts in our prison system on a much greater scale than is being reported in the media, and beyond the scope of what has been reported as the case with which he is charged. The government's lack of interest in that case causes me to have some concern as to whether potential terrorist threats are being adequately investigated in our prison system, and whether there has been appropriate investigation, analysis, surveillance of not just the one individual I am aware of, but the, doubtless, others. Junaid Thorne has been widely reported on in the media. He is a Western Australian who has been active in this state for some time. Doubtless, he has encountered other people. I do not know whether they are in the prison system or whether other people in the prison system are attempting to recruit disaffected individuals. I do not know. But I know I am not comfortable because no evidence in related fields of endeavour, including security in the prison system and potential intelligence gathering or interception of criminal and inappropriate behaviour, has been produced. I am not convinced that there has been that much interest. I am concerned to know that in the course of countering terrorism and planning to counter terrorism we are ensuring that all bases are covered, particularly those in other jurisdictions who it is very clear are most vulnerable to terrorist infiltration—disaffected individuals being recruited for radicalisation and expansion of the networks that are clearly active inside Australian society. I wanted to raise that. The minister may well be comfortable that it is all under control, and if that is the case, I welcome any comment. I understand some degree of confidentiality must be maintained, but I think we can still provide assurance to the public without compromising security. We can provide better assurance than has been offered to date. I think there is an opportunity to do it in the course of addressing this legislation.

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Beyond that, I wish those whose role it is to protect our state from the threat of terrorism and radicalisation all the best. I reiterate my calls on the government to be far more robust in advocating on behalf of Dr Anne Azza Aly of Curtin University and her advocacy for the Hayat program, a proven program for intercepting and changing the behaviour of radicalised individuals, particularly young people. I think it is the best and most viable proposition in that field right across the country. I do not think the federal government gets it because most members are east-coast based.

Mrs L.M. Harvey: WA Police has a very strong collaborative relationship with Dr Aly, and it is very willing and enthusiastic about continuing that relationship.

Mr P. PAPALIA: Good; I welcome and embrace that enthusiastically. I will say that we have a lot to offer, she in particular. I have witnessed that program in action. As we have discussed, it approaches young people way in advance of them being radicalised or of a terrorist incident. This is the stuff that works at the other end where we intercept the behaviour. We need to convince potentially disaffected young Muslim Australians that they are part of Australian society. The Australian Muslim community is our strongest intelligence gathering asset. It is our best counterterrorism asset, bar none. Members of that community will see and understand very early potential threats. They are the ones who can bring that to the authorities' attention. They will only do so if they think they are part of Australia. We need them to know that and I think they need to make that commitment. A lot of people have been aggressively trying to convey that message but we need to let young people know that, firstly, they have a responsibility to Australia. They are all Australian; we are all Australians, but they need to know that. We should embrace them; they are Australians and I see them as our greatest asset in countering this threat. No number of laws or amount of power given to the police will stop this. The only thing that will stop it is people refusing to buy into someone else's advocacy—an international advocacy on behalf of disaffected people who suggest that young Australian Muslims have a greater potential acceptance in that environment than they have here in their own country. I welcome the indication that WA Police is working with Anne Azza Aly.

I would like to see the Minister for Police and the Premier speaking very robustly to their federal colleagues to try to bring them around to see that, actually, not all the best solutions to this challenge reside in western Sydney or the suburbs of Melbourne where the problems are. I understand why; they are reaching out; they are doing the same thing. People are reaching out to the communities and they think they are the problem communities and they may have the solution. They may do, but I have seen no evidence of it. The only evidence I have seen of anything really practical and pragmatic, backed by experience in other jurisdictions such as Denmark where it has been active for some time, is the Hayat program. We have someone who is an expert and capable of rolling it out in Australia and who can reach out to the communities on the east coast, but they need the authority and the funding from the federal government to do that. I think the Minister for Police is in a position to advocate for her and I would appreciate it if she took that up.

MS J.M. FREEMAN (Mirrabooka) [11.45 am]: I too rise to briefly make a contribution to the third reading debate on the Terrorism (Extraordinary Powers) Amendment Bill 2015. I note that this amendment bill's purpose is to extend the expiry date of the legislation to 19 December 2025, and it will retain the same important review provisions contained in the act so that its operation and its effectiveness can be reviewed. I imagine that any detrimental aspects of the legislation will also be part of a review process.

I certainly acknowledge that these extraordinary powers have never been needed and hope that that continues. I acknowledge that the amendment bill is to modernise the law. I listened to some of the remarks around that during consideration in detail and understand that it is in response to some of the technological changes that have occurred in the last 10 years. I recognise Western Australia's good work in policing and in other areas that has meant that these extraordinary powers have not been used. It is my strong belief that that should continue to be the case if we focus on strategies other than laws and legal avenues to combat violent extremism in our community. We must continue to be a community of tolerance and opportunity that prevents the disillusionment that leads to movements such as ISIS bringing people into its clutches with a vision for the future that disillusioned people in our community see as some sort of opportunity. As long as we have opportunities and capacities that prevent them from being captured by such a violent extremist view, that can only benefit people in our community. That is certainly done by the good work of community policing in our area. The minister will be well aware of some great community police who work in this area and work with young people and our diverse communities to ensure that there is tolerance and capacity and an understanding of the role of police and of a civil society. That understanding is in many of those communities because of the good work of police.

I want to commend speakers on seeking to ensure that there is an understanding that the bill is just one tool in response to violent extremism and that this house understands that people being radical does not mean they are violent extremists. Being radical and radicalising can mean a person is radicalising for change. This bill's extraordinary powers are about violent extremism, and as a community of tolerance, we embrace differences and different points of view and radical points of view are not necessarily views that we do not invite

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into our community. I thank other speakers and the shadow Attorney General for making this quite clear in consideration in detail.

On the weekend Parliament House held an open day at which the right for women to vote was championed and the life of Edith Cowan celebrated. Those women in their day would have been considered radicals. They were not considered to be violent extremist radicals; they were considered to be radicals who wanted change. That point was made very clear in members' contributions and during the consideration in detail stage.

I also commend speakers and the consideration in detail stage for teasing out the multifaceted approach needed for success in countering violent extremism. I note that the *Police Practice & Research: An International Journal* conducted an investigation in 2015 into how New South Wales Police has carried out community policing in counterterrorism. It found that the community that had been working with community police considered it to be important to establish successful partnerships and relationships. The report also cautioned that we cannot stigmatise one section of the community and that it is indeed about partnerships and opportunities. I think that is on display in our community policing section, not only through people such as Don Emanuel-Smith, who has been mentioned in this place before, and his team at the police diversity unit, but also at such events as the Mirrabooka Police Station open day held on Sunday—or was it Saturday; the days are a blur! A comment was made by one of the senior police officers at the station that there had been some push back about the opening of Mirrabooka Police Station from people internally due to the high security alert, and that there was a feeling that it would put them at risk. But they felt that they could manage that risk and that being open in the community was much more important to their relationship with the community and their inclusiveness in the community than being closed off and saying that they were fearful and therefore were going to rely on their powers. Power can be exercised only reasonably and in a manner that is related to people. If people exercise the powers that have been given to them unreasonably, they will be considered to be using those powers for the wrong reasons. I am not sure whether the minister went to the Mirrabooka Police Station open day—I understand that she needs a Sunday off—but the police there were astounded at the number of people who came through. Mirrabooka is a community of difference, diversity and richness, and that was on display in every person who came through.

Mrs L.M. Harvey: I wasn't able to attend, but I received very positive feedback about it second-hand from the police officers who were there that they really enjoyed their interaction with the community

Ms J.M. FREEMAN: This is probably not related to the third reading, but I have to say that the unfortunate thing about the new policing model is that there are a bunch of police officers who can do community neighbourhood policing and a bunch of police officers who just respond to baddies and the difficult crimes in the community and who suffer burnout as a result of that, and that caution needs to be exercised in that area. Opening their arms to the broader community and hearing what the community has to say about the valuable role the police play in the community to maintain community safety and all those things must have been really affirming for those police officers and runs counter to the small number of people who turn up to events held by neighbourhood police. I have been trying to get people to attend community policing events in the area that I represent, but only a small number of people turn up. Maybe that is because they are held at night, or for various reasons, but I reckon that a couple of thousand people turned up at the open day at Mirrabooka Police Station on Sunday. That was certainly something. I refer to this matter in my contribution to the third reading because I think it is a tool to teach respect to those who see only hate in our community and to show how that respect can translate into real people, real practice and real lives. That event was really good.

I also think—this has been raised with the minister—that the recruitment of difference is really important. We all know about Zen, a police officer who is warmly embraced in the Mirrabooka community. I should know her full title, but the minister knows who I am talking about. The great thing about Zen is that she wears a hijab, and so when she goes into the community the Muslim community feel included—they see themselves in her. We know how important that is, but the crux of the matter sometimes is about money and funding. I note that since 2011 the federal Attorney-General's department has provided grants of about \$4.2 million to fund 50 projects across the country to support local communities to counter homegrown violent extremism. Unfortunately, not a lot of that money has come to Western Australia, and I think more of it needs to come here. I was privileged to attend the recent University of Western Australia's International Conference on Women and Jihad: Radicalisation, De-radicalisation and Human Rights. One of the most interesting factors in violent extremism is understanding why young women go on jihad.

Mr W.J. Johnston interjected.

Ms J.M. FREEMAN: Did I not hear the member for Cannington's speech? I apologise.

Mr W.J. Johnston: No, I was going to refer to something.

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Ms J.M. FREEMAN: There is a view that they do not know or they do not understand, but the reality is that they are becoming involved in jihad because they are fully engaged with their faith, and they believe that this is a mechanism for faith. When we talk to people of faith, they will say it is because there is a misunderstanding of faith and we need to have those conversations and it is important that those conversations are able to be had. It is not wrong to want to choose to believe strongly in a faith—it is about peace and tolerance and things like that—but when that is channelled into violent extremism, it is directed in the wrong way. It is really important to remember that aspect. The conference was quite enlightening for me and I had a couple of aha moments. It is clear that people are disillusioned by what they see happening in their communities in terms of non-tolerance and other matters such as violence or non-respect. But after attending the conference, I realised that it is not as simple as just saying, “Do not go.” People must have an understanding of why violent extremism does not meet what they are being sold by people who project that as a way forward. Samina Yasmeen hosted that conference at UWA, and it was very enlightening. As policy developers we need a greater capacity to hear that sort of policy review.

Mr R.F. Johnson: She was here on Tuesday.

Ms J.M. FREEMAN: I had been sent off by the shadow Minister for Local Government to see the local government swearing in. Do not put that interjection in *Hansard*!

Samina Yasmeen and Dr Aly are at the forefront of having a good understanding of the complexities of these issues.

In conclusion, I think the issues raised by the member for Warnbro need to be highlighted again, and I suppose given further endorsement. There needs to be clarity and transparency in how these laws operate and how they are used—if they are used—and any other aspects of how police are policing issues around violent extremism. That gives people faith and reassurance in our community because the worst thing we can do is live in fear. Fear would be the worst thing for the community that I represent because it is a diverse community that needs to welcome and embrace difference, not fear difference. It certainly would not be positive for that community. I think that transparency and feedback into the community allays people’s fears. If we give ourselves extraordinary powers, we have a responsibility to ensure that we allay people’s fears through that transparency, both on the side where people think we should be doing something and on the side where people think that they are too extreme. That sort of transparency is really important for us to go forward and ensure that we look at all those important areas and many of the tools that we need.

Another tool that I noted when I read about this issue is more research. I wrote down some of the tools. Intelligence is one. We need to ensure that we gather really good intelligence. Part of gathering intelligence is informing communities. One of the things that I know—the minister would know too because it has been raised with her—is that many women in the community feel that they need to be given a capacity to have dialogue and understand what is going on if their young people are persuaded or engaged by people around violent extremism. If they give intelligence to people, they need to know that it will not have a detrimental effect on their families and young people. I know of only one example in which someone was contacted by social media. They were able to go with their mum to one of our very good non-government organisations, who worked with this young person and their mother, giving this young person a capacity to be able to respond, or not to respond as the case may be, and give some assurance to the family. I know of only one case; the minister probably knows of more because she is the police minister. It is about giving local members a capacity to know what to do. In this case I was lucky; I knew to call an NGO. I am not sure that other local members have the same connection to some of the organisations that I do. It is really worthwhile making people aware of those things.

Again, we certainly do not want to cause fear. It is a bit unfortunate that the education pack that went out caused misunderstanding and fear instead of just giving information and allowing people to grow into the realisation that violent extremism is exactly the sort of thing that we do not want, and have not wanted, in Australia. It is what makes Australia a sought after place to settle, live and thrive, along with community liaison, which I have already spoken about.

Again, I note that this bill extends the expiry date of the Terrorism (Extraordinary Powers) Act 2005. I think it is important that it has another expiry date. That is a crucial aspect. Hopefully, whoever is in this Parliament in 2025—I am sure I will not be here; maybe, maybe not—does not have to come back here and extend it again. Hopefully, we have done all that good work around community prevention and community policing and moved on so that this cannot happen. When anyone says that we will always have this problem, I just point out that when I was growing up, that is what my mother used to say about Ireland. Ireland still has issues but it is no longer the place of terrorism that it once was. Our history shows that there is great hope. We move forward when we move in peace, which is what they did in Ireland.

MR W.J. JOHNSTON (Cannington) [12.06 pm]: I rise to make a few remarks at the third reading stage of the Terrorism (Extraordinary Powers) Amendment Bill 2015. In particular, I want to draw attention to the exchange

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between the member for Warnbro and the Minister for Police about the need to have proper oversight of the legislation. We are here to defend democracy and freedom. That is why we are dealing with this legislation. It is important that we understand that that is what we are trying to achieve. If we keep that in mind, we will not do things that we will regret. I made the point the other night that in the 2011 census, eight per cent of the population in my electorate indicated that they were following the Islamic faith. That is 3 414 individual people. At least 45 per cent of people in my electorate are migrants and 65 per cent of residents in the electorate have at least one parent born overseas.

We are not dealing with legislation aimed at ending Islamic radicalisation. We are not dealing with legislation that is in any way focused on the Islamic community. We are providing the police with tools to deal with terrorism matters if they run into them. Nobody refers to Timothy McVeigh as a Christian terrorist for killing all those people in Oklahoma, which I outlined in my speech on the second reading. It is irrelevant to the victims of terrorism what faith a person followed and what misinterpretation of a particular faith they might have. It is important that the community is protected from extremism and violence. Yesterday I was very disturbed, just as an aside, with the violence outside our building against my good friend Seamus Doherty, who was prevented from carrying out his lawful business in the precincts of the Parliament. I was shocked by that, and I would be shocked by any terrorist attack in Western Australia. I note the minister's comments about the violence in Port Arthur all those years ago. The families of those victims are no less deserving of sympathy than any other family that is a victim of violence.

I want to make some comments about the path to radicalisation. I join the member for Mirrabooka in her comments about opportunities for de-radicalisation. An interesting article titled "How facts backfire" published in *The Boston Globe* on 11 July 2010, reports on academic studies. The article reads —

"The general idea is that it's absolutely threatening to admit that you're wrong," said political scientist Brendan Nyhan, the lead researcher on the Michigan study. The phenomenon—known as "backfire"—is "a natural defence mechanism to avoid the cognitive dissonance."

That means that a person's worldview does not match the facts that are available to them in world. We have a more complex issue to deal with than simply trying to identify a person with views that do not match the views of the balance of the community. Before I rose to speak, I googled the phrase "the CIA made ISIS" and found pages and pages of articles from all sorts of different media organisations around the world in which people purport to provide evidence that the CIA or Mossad established ISIS. I have seen no such evidence that that is true and that argument makes no sense at all, yet there are plenty of people who might well believe it. Certainly, as I explained the other night, some personal friends of mine actually have that strong belief. It is a problem for us to deal with.

I want to congratulate WA Police. Every time I am at an event with the Islamic community in my electorate, there is almost always a police officer—generally quite a senior police officer—in attendance. It is clear that WA Police has identified that reaching out to the Islamic community is an important part of its activities. Recently I was at a festival in Gosnells, where it was great to see the community climbing in and out of police cars at the police display with the lights and the sirens on. It was fabulous to see WA Police connecting with the whole community. That is the way that we will work. These laws are important—we are voting for them and we support them—but the laws themselves will not stop a terrorist attack or extremist violence or prevent terrorism. The laws are a response to terrorism; they are not the solution to terrorism.

The other night I mentioned *The New York Times* article "ISIS and the Lonely Young American", which was published on 27 June 2015. It is a fascinating article that almost made me teary. I want to read a couple of lines —

Alex, a 23-year-old Sunday school teacher and babysitter, was trembling with excitement the day she told her Twitter followers that she had converted to Islam.

For months, she had been growing closer to a new group of friends online—the most attentive she had ever had—who were teaching her what it meant to be a Muslim. Increasingly, they were telling her about the Islamic State and how the group was building a homeland in Syria and Iraq where the holy could live according to God's law.

One in particular, Faisal, had become her nearly constant companion, spending hours each day with her on Twitter, Skype and email, painstakingly guiding her through the fundamentals of the faith.

But when she excitedly told him that she had found a mosque just five miles from the home she shared with her grandparents in rural Washington State, he suddenly became cold.

Extract from Hansard

[ASSEMBLY — Thursday, 22 October 2015]

p7888b-7899a

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The only Muslims she knew were those she had met online, and he encouraged her to keep it that way, arguing that Muslims are persecuted in the United States. She could be labeled a terrorist, he warned, and for now it was best for her to keep her conversion secret, even from her family.

I want to make a point about that: even extremist recruiters for ISIS who are trying to get people involved in their outrageous behaviours know that the local Muslim communities that live amongst us are not their supporters. Here we have a recruiter telling a person whom he has been grooming for a long time not to talk to Muslims. We can see that the recruiters understand that the Muslim community in the west is not their friend. The Muslim community that lives alongside me and alongside other members of this Parliament is the actual enemy of ISIS and the people who will protect Australia from terrorist attacks. As the member for Warnbro commented, the Muslim community is where intelligence comes from. The reporting I have read of every thwarted activity on the east coast of the country makes it clear that intelligence came from within the Muslim community, sometimes from parents or other family members, which led to the antiterrorism actions.

This is a great article and members should take the time to read it. The article goes through the way ISIS recruiters even kept pressure on this young woman to continue to attend and provide Sunday school lessons at her local church. But then they isolated her from the very few friends and the small number of family connections that she had. The article continues —

On Feb. 19, Faisal suggested she meet him in Austria so that he could introduce her to her future husband, she said. Alex would need to be accompanied by her “mahram,” or male relative. When she asked whether her 11-year-old brother could fulfill that role, Faisal said that would be acceptable.

Two days later, he began asking how and when Alex could get herself and her little brother to Austria.

“Tickets 2 Austria rtn are not that expensive inshallah when (your brother) is ready both come 4 hloiday I’ll buy ur tickets,” he messaged on Feb. 21.

Three minutes later he added: “how long it goin to take (your brother) 2 get out?”

Members can see the way the recruiters were operating in that case. When the family finally intervened and rescued the girl from her relationship, everything went well and they went away on holiday. The conclusion of the article reads —

Alex found she could not stay away from her online friend for long, though. Even though she had come to feel she couldn’t trust him, she still missed his companionship.

Waiting until her grandparents were out clamming on a windy beach on the Washington coast, Alex logged into Skype, the one account her family had forgotten to shut down.

Faisal wrote her right away, and months later they are still exchanging messages.

“I told her I would not communicate with you,” he wrote. “But I lied.”

It is very sad to see the way these people operate, but it is not exceptional. When we see how these things occur, we can understand that these people are not being recruited to blow themselves up in some violent activity; they are being recruited to what they are being told is actually a peaceful organisation. That is a tragedy. It is such a difficult situation that we think that somehow Islam is the problem, when it is not.

If a person has violent intentions, they have violent intentions. If a person wants to strike at others, that is what they will try to do. Our strongest bulwark against an unforgivable extremist attack is not the legislation we are passing today—no matter how needed it is; it is a strong community. That is where our resources should principally be focused because that is where they will have the biggest benefit.

MRS L.M. HARVEY (Scarborough — Minister for Police) [12.20 pm] — in reply: I am very pleased to rise and close the third reading debate on the Terrorism (Extraordinary Powers) Amendment Bill 2015. During consideration in detail, I undertook to clarify some aspects that were raised by members during that stage of the bill. I will go to those points that I undertook to clarify. I thank members for their contributions on what is a very important piece of legislation. It is unfortunate, but in these changing times and in this atmosphere of a heightened terrorism threat that we are experiencing in Australia at present this legislation is required. When this legislation was first proposed, it was to extend a very extensive suite of extraordinary powers to police to enable them to respond and react to acts of terrorism that may be in the planning stages or, indeed, may have been unfolding at the time. Some sensible amendments have been put forward in this amendment bill to ensure that we can respond to the evolving situation we are currently in, both in the world environment and in the Australian environment. With the benefit of hindsight, after a number of disturbing incidents that have occurred over the 10-year period of the operation of the Terrorism (Extraordinary Powers) Act 2005, we have made a number of improvements that will make the legislation more workable and more contemporary.

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Much was said about acts of terrorism not being linked to religion, and that is correct; they are not necessarily linked to what we would call formal or stable religions. However, this legislation is required regardless of what causes terrorists may align themselves to and perpetrate these awful acts on the community in the name of that cause.

I undertook to clarify the proposed amendments to section 17 regarding the Police Act and the appointment provisions of special constables. Section 35 of the Police Act 1892 states, “The Commissioner may appoint any person as a special constable”; therefore, no restriction technically applies to the appointment and it could include a person from a foreign jurisdiction. However, the amendments we proposed to section 17 to allow the appointment of a law enforcement officer of a foreign jurisdiction as a special officer are specific to incidents of terrorism and, as such, provide a more appropriate mechanism for their appointment. For the benefit of members, an agreement currently exists between Australia and New Zealand for the complementary use of police officers for counterterrorism purposes. There are no current agreements in place with other foreign jurisdictions that are similar to this agreement with New Zealand, but the proposed amendments to section 17 will allow the ability to appoint without the need for further legislative change, should an agreement be established in the future. In the event that it may be necessary or desirable to engage officers with specialist counterterrorism skills and/or experience from a foreign jurisdiction, the proposed amendment to section 17 will provide the commissioner with the capacity to appoint those officers should they be required. Once passed, section 17 will be considered the appropriate means to appoint a law enforcement officer of a foreign jurisdiction for the purposes of the legislation. I hope that clarifies members’ concerns about the use of the Police Act and the commissioner’s ability to potentially appoint special constables from foreign jurisdictions should that be required in an urgent scenario.

Another area that I undertook to clarify concerned the authorised applicant in applications for covert search warrants and commissioner’s warrants. To round off what happened, we had a long debate on these proposed amendments and many salient points were raised. There was quite a lot of discussion and debate about the difference between the threshold tests of “reasonable grounds to suspect” and “reasonable grounds to believe”. To clarify the commissioner’s warrants, before issuing a commissioner’s warrant, the commissioner must be satisfied of two things. Firstly, there must be reasonable grounds to suspect that a terrorist act has been, is being, or is about to be, committed, whether in or outside this state. Secondly, the commissioner must be satisfied that there are reasonable grounds to suspect that the exercise of the powers in division 3 will substantially assist in achieving one or more of the following purposes: prevent a terrorist act; minimise the risk to the safety or health of the public or any section of the public in this state arising from the act; find a person in this state who is or may be connected with a terrorist act; find a vehicle in this state that is or may be connected with a terrorist act; and carry out investigations in this state into a terrorist act and obtain evidence in this state relevant to the terrorist act. This will be outlined in section 7(1) and (2) as amended.

As a general rule, the commissioner cannot issue a commissioner’s warrant without the prior approval of a Supreme Court judge. If there is an urgent need to issue a commissioner’s warrant and a judge cannot be contacted to request approval, the commissioner may issue it without such approval. If a Supreme Court judge refuses to approve its issue, or a Supreme Court judge does not approve its issue within 24 hours, the warrant ceases to have effect. This will be outlined in section 7(3) and (4) as amended.

Concerning covert search warrants, before authorising a police officer to apply for a covert search warrant, the commissioner must be satisfied of two things. Firstly, that there are reasonable grounds to suspect that a terrorist act has been, is being, or is about to be, committed, whether in or outside this state; or that a person has committed an offence under section 102.3 of the schedule to the commonwealth Criminal Code Act 1995; or that a person has committed, or is committing, an offence under section 80.2C of the schedule to the commonwealth Criminal Code Act 1995. Secondly, the commissioner must be satisfied that there are reasonable grounds to believe that entry to, and search of, a place in this state will substantially assist in preventing an act or investigating an act or offence; and that the entry and search needs to be carried out without the knowledge of the occupier of the place or person in charge of the vehicle. This will be set out in section 23(2) and (3A) as amended.

When an authorised applicant applies for a covert search warrant, he or she must state certain things on the application, including the grounds on which the applicant suspects that a terrorist act or commonwealth terrorist offence has been, is being, or is about to be committed, whether in or outside this state; the grounds on which the applicant believes that entry to and search of the target place or target vehicle will substantially assist in preventing or investigating the act or offence; and that the entry and search needs to be carried out without the knowledge of the occupier of the target place or the person in charge of the target vehicle. That is set out in proposed section 24(3)(d) and (ea).

Concerning a judge’s responsibilities, a Supreme Court judge may only issue a covert search warrant for a place or vehicle if the judge is satisfied, amongst other things, that in respect of each of the matters in section 24(3),

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the applicant suspects or believes there are reasonable grounds for the applicant to have those suspicions and beliefs. That will be outlined in section 26(1)(a) as amended. This means that the judge must be satisfied of the following. Firstly, that there are reasonable grounds for the applicant to have the suspicion—required to be set out by section 24(3)(d)—that a terrorist act or commonwealth terrorist offence has been, is being, or is about to be committed, whether in or outside this state. Secondly, that there are reasonable grounds for the applicant to have the belief, required to be set out by section 24(3)(ea), that entry to and search of the target place or target vehicle will substantially assist in preventing or investigating the act or offence; and that the entry and search needs to be carried out covertly. The Supreme Court judge must also be satisfied of the matters contained in the proposed amendments to section 26(1)(b) and (c). I hope that clarifies those points. We did get somewhat bogged down in consideration in detail with differentiating between the establishment of “reasonable grounds to suspect” or “reasonable grounds to believe” and I thought it was worthwhile to round off on the differences between those two terms and how they apply to the various sections in the legislation.

In response to members’ contributions to the third reading debate, I concur with the member for Mirrabooka’s comments about the actions that Western Australia Police is taking through its multicultural and diversity unit. It provides very important outreach opportunities into the community, and obviously by being more inclusive with the community and bringing it into the fold, the police will develop better relationships with the community and engender that respect and support we need if we are going to have the support of those communities to help us prevent acts of terrorism and people being groomed for acts of terrorism. I am very proud of the work that it does; its officers work very hard. That unit in particular embraces the diversity that we have about our state and the officers love what they do. I thank the member for bringing that unit to the attention of the house.

The member for Warnbro raised some concerns about the infringement of this legislation on people’s civil liberties. It is important to reassure the house that the government does not take lightly the extension of powers of this nature to police, but we are confident, given the considered review of the legislation, that we have the appropriate checks and balances in place to ensure that the powers are exercised with restraint and with their intended purpose. Police, as the first responders in Western Australia, need to respond to an incident effectively and efficiently, but ultimately the purpose of this legislation is to better protect the community. I am confident that we have the tensions right in this legislation to ensure that the checks and balances are there and that a considered decision is made before the Commissioner of Police applies to the court or the government to access these extraordinary powers. The member for Warnbro raised concerns about the potential for prisoners in our Department of Corrective Services’ institutions to be subject to radicalisation attempts. I would like to reassure the member that WAPOL works very closely with DCS on a wide range of areas, including but not limited to fulfilling its responsibilities with regard to counterterrorism activities.

There was also some debate about the Lindt Chocolate Cafe siege. It is important that members get this in context. Whether the Lindt cafe siege—as we refer to it—was a terrorism event is really a matter for the New South Wales Police Force, and the State Coroner of New South Wales is investigating the deaths. There was some conjecture as to what the involvement was with respect to the Lindt cafe siege and whether it was appropriate to use the powers, but it is appropriate that we wait for the outcome of the New South Wales coroner’s investigation into those deaths. I am aware that the federal government had to declare that event as a terrorist incident to ensure that the affected businesses could receive some insurance payouts, but I am not aware of any definitive statements made by the New South Wales police about whether it happened due to the actions of a mentally ill person or a terrorist act. The police are awaiting the outcome of the coronial inquiry, and that is appropriate.

In closing, I would like to remind members that we do not work in isolation in this space. We have a very proficient and ably qualified counterterrorism unit sitting within WA Police, but through our collaboration with our counterparts in Canberra, other states and New Zealand as part of the Australia–New Zealand Counter-Terrorism Committee we are developing a robust skill set to allow us to not only respond to incidents or acts of terrorism that might occur, but also prevent and interdict any planned acts of terrorism. We have certainly seen some successes with that over the past 12 months, which have somewhat contributed to the delay in bringing this legislation to the house. It was important to understand those incidents if we needed to amend our legislation to make it more responsive to interdict those acts of terrorism. That committee also works collaboratively with the intelligence gathered from our international counterparts in this space. Generally, there is a worldwide push and desire to see these acts of terrorism reduced in the community. The Australian counterterrorism strategy acknowledges that part of the key to that is building resilient communities and putting in place strategies to embrace multiculturalism and ensure that we do not have these pockets of discontent and malcontent in our community that make people susceptible to being groomed in the way that the member for Cannington mentioned with regard to that young girl Alex and her brother, who were being groomed online by the Islamic State of Iraq and Syria. Finally, I would like to place on the record my appreciation of the police officers and the intelligence analysts that we have in WA Police and our multicultural unit. Their commitment

Extract from *Hansard*

[ASSEMBLY — Thursday, 22 October 2015]

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and dedication to their work is part of the reason that we enjoy living in a lovely environment of freedom here in WA—they do a great job. I would also like to thank members for their considered contributions to the third reading debate and all stages of this bill. I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.