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AFP
AUSTRALIAN FEDERAL POLICE



Parliamentary Joint Committee on Intelligence and Security

Inquiry into extremist
movements and radicalism
in Australia

February 2021

Submission by the
Australian Federal Police

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Introduction

1. The Australian Federal Police (AFP) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Intelligence and Security (the Committee) Inquiry into Extremist Movements and Radicalism in Australia.
2. Australia continues to face a diverse and continually evolving threat of terrorism. Operational experience has shown that the radicalisation of persons of interest towards violence may vary between prolonged and steady increased extremist engagement to rapidly mobilising from violent ideology to attack planning and execution. This radicalisation to violence can occur with the encouragement and validation of others with similar views, or in isolation from known extremists which can limit the opportunities to intervene and prevent harm to the Australian public.
3. The threats posed by Islamic extremists is enduring and diversifying and shows no sign of abating. Since January 2020 the threat posed by Extreme Right Wing (XRW) individuals and groups has required increasing attention from the AFP and partners, including through investigations and disruptions by the Joint Counter Terrorism Teams (JCTTs). The globalisation of these extremist groups through online connectivity continues to pose a significant challenge for law enforcement, and acts as a driver for radicalisation and expansion of ideologies to a broader range of individuals.
4. The AFP's longstanding position is to target **criminality not ideology**. We take all individuals or groups with extremist beliefs or views who show support for or a tendency towards violence seriously. The prevention and disruption of terrorism, and protection of Australians and Australian interests at home and abroad, are our primary objectives. Our response to terrorism is multi-faceted: ranging from traditional law enforcement investigations, coordinating the monitoring of convicted offenders now in the community, engaging with international partners, managing the return of foreign terrorist fighters, engagement with our community and contributing to countering violent extremism activities in consultation with Commonwealth, state and territory partners.
5. The current efforts of AFP and other Australian authorities see significant resources dedicated to protecting the Australian community from terrorism. The range of existing powers and tools available mean agencies are able to effectively target those who pose a risk to the community. In addition, there are a number of enhancements being considered by Government to meet the evolving threat, fill gaps in the legislative framework, and provide more tools to target and disrupt those who seek to do harm, and offer additional options to manage those who pose an enduring risk.
6. The Department of Home Affairs, Department of Foreign Affairs and Trade and Attorney-General's Department have also made a joint submission to this inquiry. It provides policy context, while this submission focuses on the AFP's operational experience. The Australian Security Intelligence Organisation (ASIO) has also made a submission outlining the current threat environment. The AFP was consulted on these submissions and recommends they be read alongside one another.

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7. The AFP thanks the Committee for the opportunity to provide this submission and is happy to appear before the Committee as required.

Nature and extent of the threat: AFP's response

8. The AFP supports ASIO's assessment of the current threat environment. Throughout 2020, the operational tempo has remained high, even in light of the COVID-19 pandemic.
9. The AFP conducts counterterrorism investigations in partnership with state and territory police services, the intelligence community and international law enforcement partners to address the changing nature of the terrorist threat in Australia and abroad. Regionally, the AFP Counter Terrorism and Special Investigations Command delivers this through dedicated JCTTs across Australia, who investigate persons of counter terrorism interest, and High Risk Terrorist Offender (HRTTO) teams, who manage released offenders in the community. Internationally, the AFP's International Command deploy dedicated counter terrorism officers offshore to meet the shared challenge of terrorism in our common goal to disrupt, prosecute and manage terrorism
10. Since the Australia's National Threat Level was raised to PROBABLE in 2014, 128 people have been charged as a result of 59 counter terrorism related operations. Authorities have responded to nine domestic terrorist attacks. There have also been 19 major counter terrorism disruption operations in relation to potential or imminent attack planning within Australia. Of the 19 major disruptions, two related to individuals alleged to support XRW ideology.
11. Terrorism-related activity in Australia continues to be geographically dispersed, and is not limited to major Australian cities. For example:
 - In March 2020, the NSW JCTT arrested two men on the NSW South Coast who are now before the courts (detailed further below).
 - In November 2020, a Bundaberg man was charged with other acts done in preparation for, or planning, terrorist acts following a Queensland JCTT investigation. It was alleged that the man intended to undertake a terrorist act in the Bundaberg region.
 - In December 2020, the NSW JCTT charged an 18 year old man in Albury in NSW with terrorism offences relating to online postings urging violence against groups in support of an XRW ideology (detailed further below).
12. During 2020, eight offenders convicted of Commonwealth terrorism offences and foreign incursion offences were released into the community, further changing the threat environment. There are 51 terrorism offenders scheduled to complete their sentence of imprisonment and be released into the Australian community between 2021 and 2060.
13. The ongoing management of these offenders upon release into the community continues to be a key priority for the AFP and our Commonwealth, state and

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territory partners. The proposed Extended Supervision Order (ESO) scheme in the Counter Terrorism Legislation Amendment (High Risk Terrorist Offenders) Bill 2020, currently before parliament, will further assist the AFP in addressing this activity.

14. The AFP also continues to investigate and monitor the movements of Australian Foreign Terrorist Fighters (FTF) who travelled offshore to fight with extremist groups and remain an ongoing threat.
15. The AFP continues to target criminality, not ideology. Our Counter Terrorism and Special Investigations Command continues to face a high operational tempo, with active investigations into criminal activity covering individuals and groups who support extremist ideologies. Our focus remains on determining whether groups and individuals with these views are transitioning to the planning or facilitation of violent activities which constitute a terrorist act or other criminal activity.

Islamic State

16. The rise of the Islamic State and subsequent fall of the caliphate has changed the threat environment significantly. Globally, the AFP and law enforcement partners face a number of enduring challenges posed by transnational jihadist groups, which are stable and unlikely to diminish. This includes any future attempts to re-establish a geographically controlled area. Domestically, attack planning from a small number of Islamic extremists, principally lone actors or small groups, continue to threaten Australians.
17. Since September 2014, there have been nine terrorist attacks in Australia. All were inspired by Islamic extremists. It is anticipated that any future attacks would involve weapons and tactics that are low-cost and relatively simple, including basic weapons.
18. During this time, there has been no decrease in rhetoric or propaganda from Islamic State terrorist groups. Extremist propaganda from these groups, or Islamic State-inspired individuals, continues to be disseminated online and advocates for domestic attacks globally. Throughout 2020, this online propaganda emphasised caution with regards to COVID-19 and encouraged extremists to commit actions in their own countries. This departed from the consistent calls for migration previously seen during FTF surges into Syria and Iraq between 2013 and 2015.

Recent operational examples

19. Since January 2020, there has been one major disruption operation in response to potential or imminent attack planning, 22 Islamic extremists charged as a result of 10 counter terrorism related operations. The most recent Islamic extremist operational activity occurred in December 2020, when the WA JCTT charged a man with terrorism-related offences following an investigation into his online video-sharing platform account hosting content that called for acts of politically-motivated violence offshore, specifically in Tajikistan. The man has been charged with four counts of advocating terrorism, contrary to section 80.2C of the *Criminal Code* (Cth) (Criminal Code). The matter is currently before the court.

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20. A further example is when a returned FTF was charged with connections to the Jabhat al-Nusra terrorist organisation. In December 2019, Mr Agim Ajazi was deported from Turkey to Australia. Upon arrival in Adelaide, Mr Ajazi was arrested pursuant to an outstanding arrest warrant issued in Queensland and successfully extradited to Queensland. It is alleged that between July and September 2013, Mr Ajazi entered Syria via Turkey, and became a member of Jabhat al-Nusra (now known as Jabhat Fatah al-Sham), which is a proscribed terrorist organisation. Mr Ajazi has been charged with the following terrorism offences which remain before court:

- Engaging in hostile activity in a foreign country, contrary to section 119.1(2) of the Criminal Code;
- Providing support to a terrorist organisation, contrary to section 102.7(1) of the Criminal Code;
- Engaging in hostile activity in a foreign state, contrary to section 6(1)(b) of the Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth);
- Membership of a terrorist organisation, contrary to section 102.3(1) Criminal Code.

Ideological groups including Extreme Right-Wing

21. This threat is growing, as demonstrated by the 2019 attack on Christchurch, New Zealand and as forecast by the Director-General of Security in the 2020 Annual ASIO Threat Assessment.

22. Law enforcement is seeing an increase in the number of individuals and small groups in Australia espousing XRW views which is leading to an increase in JCTT investigations. Two of the major counter terrorism disruption operations leading to Commonwealth terrorism charges in the past five years related to individuals alleged to support XRW ideology:

- In 2016, the Victorian JCTT charged Mr Phillip Galea who expressed anti-Islam rhetoric and was known to police through his affiliation with a number of right wing groups. Mr Galea was charged with collecting or making documents likely to facilitate terrorist acts (section 101.5(1) of the Criminal Code); and other acts done in preparation for, or planning, a terrorist act (section 101.6(1) of the Criminal Code). In November 2020, Mr Galea was sentenced to 12 years imprisonment.
- In March 2020, the NSW JCTT charged two men who it alleged were attempting and planning to purchase or acquire military equipment, including firearms and items capable of making improvised explosive devices (IEDs). They have both been charged for other acts done in preparation for, or planning, a terrorist act (section 101.6(1) of the Criminal Code). The matter remains before court.
 - The investigation also identified alleged social media links between one of these men and an individual in the United Kingdom. The sharing of this

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information with our foreign law enforcement partners resulted in the arrest of an individual in the United Kingdom for various offences of encouraging terrorism.

23. The AFP's remit in enforcing Commonwealth terrorism laws means that active JCTT investigations constitute a subset of those within the purview of ASIO, who consider broader security threats. There is a growing cohort of individuals who may align with the XRW ideology, but do not meet the thresholds for counter terrorism investigation.
24. State and territory police continue to detect and respond to persons whose activities do not meet the threshold for counter terrorism investigation. Prior to an individual's escalation to violent extremism, our counterparts are often best placed to address manifestations of XRW ideologies (including but not limited to, graffiti and violent protests) through disruption methods and treatments. Where appropriate, agencies share information to support intervention.
25. There has been public commentary that the proportion of state and territory law enforcement efforts to address XRW threats has increased over the last 12 months, and the AFP notes that state and territory agencies have been invited to provide submissions to this inquiry.
26. The AFP observes these small groups are typically less structured than Islamic-inspired extremist groups. The leadership and membership of XRW groups can be fluid, and allegiances may shift rapidly. Individuals with an interest in XRW ideology may be more geographically dispersed or isolated, provide additional challenges for law enforcement and partner agencies to facilitate engagement and identify individuals at risk of radicalisation.
27. The AFP believes the rapid growth and globalisation of XRW groups comes from the increasing move to an online environment and ability to connect internationally with like-minded individuals and small groups online including through social media, encrypted communications and across dark web platforms. Law enforcement have identified young individuals supporting XRW ideologies and espousing them online. JCTTs have taken steps to disrupt extremist activity online to prevent harm to the Australian community, as demonstrated in the example below.
28. AFP operational experience indicates the growing numbers of XRW individuals and groups are geographically diverse, particularly with the ease of access to extremist material online broadening its reach to more mainstream audiences, and accelerating the process of radicalisation. For example:
 - In December 2020, the NSW JCTT arrested and charged an 18 year-old man in regional NSW following an identified escalation in his extremist rhetoric online. It will be alleged in court that the man has regularly used social media forums and communications applications during 2020 to encourage other people to commit violent acts in furtherance of an XRW ideology. This included allegedly expressing support for a mass casualty event and potentially his involvement in that event. The man was charged with one count of urging violence against members or

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groups contrary to section 80.2A(1) Criminal Code and advocating terrorism contrary to section 80.2C(1) Criminal Code.

High Risk Terrorist Offenders

29. Part of the ongoing threat environment is the management of HRTOs and the threat they pose to the community following completion of their sentences. Since 2019, following the release of the first offender who was eligible for consideration of a continuing detention order, the reintegration and continuing risks associated with this cohort has been a priority area of focus for the AFP and partners to ensure protection of the Australian community.
30. In the lead up to the expiry of an individual's head sentence the threat posed by each individual is assessed by the Commonwealth and relevant state or territory partners to determine and develop appropriate risk mitigation strategies. To manage this close engagement with law enforcement and intelligence counterparts and mitigate the risk posed by these offenders, the AFP developed a new HRTO operational stream. New teams were established in Canberra, Sydney, and Melbourne and additional staff were assigned to roles in Adelaide, Perth and Brisbane.
31. Throughout 2020, eight offenders convicted of Commonwealth terrorism offences were released into the community. To date, one eligible offender scheduled for release has been subject to a Continuing Detention Order. Six of these offenders have been released in the community and were subject to control orders.
32. Control orders may also be sought for released offenders not eligible for the HRTO scheme that nonetheless pose a risk to the Australian community. The monitoring and enforcement of control orders for released HRTO subjects has been highly intensive for AFP and state partners to ensure those that pose a risk to the community are complying with orders put in place to manage their risk.
33. Since July 2020, the AFP HRTO Teams have arrested six released convicted terrorist offenders and charged them for breaching a control order. The most recent arrested in January 2021 related to a 25 year old Sydney man aligned with the Islamic State. The man was in the community for two weeks prior to his alleged breach for accessing online material supporting the carrying out of executions, beheadings and torture.

Foreign Fighters

34. Since 2012, around 230 Australians (including former Australians) have travelled to Syria or Iraq to fight with or support groups involved in the conflict. As of January 2021, around 120 of these individuals are believed to be deceased. The cohort of FTF remain a priority for the AFP.
35. The AFP works with law enforcement and intelligence partners to collect information and evidence of criminal offending by FTF and supports government efforts to manage their return, whether that be deportation or voluntary repatriation.

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36. Australians fighting with, or providing material support to or associating with listed terrorist organisations are committing serious crimes and will be subject to the law. To date, the AFP, together with domestic and international partners, has obtained 42 arrest warrants relating to persons of interest to counter-terrorism operations.

Broader scope of extremist threats: issue motivated groups

37. The AFP supports ASIO's observations that the COVID-19 pandemic has exacerbated a range of anti-government, anti-5G, anti-vaccination and pro-conspiracy narratives raising public awareness of different issue motivated groups. The AFP will become involved where such groups support or seek to use violence.

Response to these threats

Commonwealth terrorist organisation listing framework

38. To date, sixteen individuals have been charged and prosecuted for terrorist organisation offences relating to listed organisations (particularly Islamic State) under Division 102 of the Criminal Code since 2002. These are detailed in the Home Affairs-led submission.

39. The framework continues to be of utility to the AFP, as a listing provides the basis for establishing that an organisation is a terrorist organisation in a criminal proceeding. While a listing is not the only way to demonstrate an individual is undertaking activities with a terrorist organisation, it does allow law enforcement to allocate more time and resources to establish other elements of offending.

40. The AFP supports the Department of Home Affairs and ASIO in reviewing and considering whether existing or emerging groups meet the legislative threshold for listing.

Australia's Counter-Terrorism Strategy

41. The AFP continues to see the utility in an Australian Counter-Terrorism Strategy, to detail the threats Australia faces and the comprehensive counter-terrorism framework established to combat it. The AFP has supported the development and review of the strategy, following the 2019 Council of Australian Governments agreement to task the ANZCTC with updating the document.

Disrupting and deterring hate speech, symbols and insignia associated with terrorism and extremism

42. The AFP and our partner agencies are aware of the serious consequences caused by the possession, viewing, sharing and distribution of material (including images and written content) relating to extremist ideology, both in the physical world and online.

43. It is the operational experience of the AFP that the possession of such material by persons of counter terrorism interest ranges from documents connected with terrorist acts, instructional terrorist material and other offensive extremist

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materials. JCTT investigations often identify subjects exchanging in extremist ideological dialogue and viewing and sharing abhorrent, extremist material including beheading videos and other violent content linked to extremist symbols. Persons of counter terrorism interest have been linked to extremist symbols online or at their private premises, including photos with ISIS paraphernalia and Nazi flags.

44. Existing Commonwealth Criminal Code sections 101.4 and 101.5 offences make it an offence to possess things connected with terrorist acts and collect or make documents likely to facilitate terrorist acts. The offences require a connection to preparation for, engagement in, or assistance in a terrorist act, and are targeted towards offending at the higher end of criminal activity. Though there does not need to be a connection to a specific terrorist act, this offence can still be challenging to prove where there is no evidence of *why* the suspect possessed terrorist material.
45. These offences cannot always adequately address the current threat environment, exacerbated by online activity where often incidents of viewing/possessing violent extremist material may not be directly connected but act as a precursor or catalyst for acts of terrorism.
46. The *Crimes Legislation Amendment (Sharing Abhorrent Violent Material) Act 2019* was passed in the wake the Christchurch terrorist attack in 2019, as a result of the live-streaming and mass sharing of video produced by the perpetrator. The legislation specifically targets the sharing of abhorrent violent material (defined as material produced by the perpetrator of terrorist acts and other violent conduct) by content, internet and hosting providers, but does not cover ordinary possession of abhorrent violent material.
47. Other Criminal Code offences for urging violence and advocating terrorism or genocide require evidence demonstrating an intention to threaten harm or incite others to threaten harm, and do not consider the degree of insult felt by a group. They do not extend to capture a number of instructional or extremist materials, including extremist symbols.
48. As a result, law enforcement experience a gap in being able to pursue individuals who simply possess or disseminate abhorrent or violent content that is not instructional or does not meet these thresholds, resulting in investigators being unable to disrupt individuals and small groups at an earlier stage in the attack planning continuum.
49. In addition, AFP engagement with state and territory police partners has identified numerous requests by police for home owners to remove flags considered offensive by the community, including the Nazi flag. Though individuals have complied, there does not appear to be a criminal offence which prohibits the display of these items. Nor does there appear to be any prohibition on the ability of suppliers and business outlets to important and sell such items.

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Reinforcing social cohesion and countering violent extremism

50. The AFP supports the Department of Home Affairs Counter Violent Extremism (CVE) Centre activities. This includes the AFP acting as a conduit between Commonwealth and state-led CVE programs to assist in identifying and assessing individuals for referral. These programs provide a mechanism for Commonwealth de-confliction and information sharing.
51. The AFP also partners with the CVE Centre to contribute to a consistent Whole-of-Government approach in the implementation of the National Living Safe Together Intervention Program, which provides a treatment option for individuals at-risk of radicalising to violent extremism, or already on a pathway to violence. These intervention programs take an ideology neutral approach and cater for all drivers of radicalisation to violence.

The role of social media, encrypted communications and the dark web

52. Law enforcement experiences in 2020 identified an emerging trend of online extremists exploiting the increased public fear, isolation, unemployment, family stress and financial hardship associated with the COVID-19 pandemic. During this period, Islamic extremist, XRW individuals and small groups, and certain issues motivated groups sought to take advantage of these factors and recruited new members online by promoting their ideology, spreading disinformation, and in some cases inciting violence.
53. The reach of such messaging is furthered by social media, encrypted communications platforms and anonymising technologies, which allowed for rapid and wide spread dissemination. Online content advocating for terrorist acts to be carried out has the potential to reach people anywhere in the world, including Australian communities. The AFP is aware of an incident where intelligence from a domestic JCTT investigation identified an alleged link to an internationally-based extremist who was subsequently arrested and charged for inciting an attack on a foreign high-office holder.
54. Further, the increased prevalence and ease of access online makes it easier to radicalise young people and encourage their alignment with international extremist groups. As noted above, the AFP is aware of individuals as young as 13 years old holding XRW views.
55. The JCTTs work diligently to pursue those responsible where they are identified. However, increased criminal use of anonymising technologies on such platforms degrades the ability of Australian agencies to address extremist movements, radicalisation of individuals and preparations for acts of terrorism. As such, it is equally important that AFP and partner agencies prevent those people in our community who are vulnerable to radicalisation from being exposed to such material in the first place.
56. The new powers proposed in the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020 currently before parliament respond to some of these challenges

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and strengthen the AFP and partner agencies' ability to discover, target, investigate and disrupt cyber-enabled crimes, including terrorism.

57. The Bill proposes new data disruption warrants, network activity warrants, and account takeover warrants, which will allow the AFP and ACIC to keep pace with technological advancements. This will empower the AFP to more effectively fulfil our mission to protect the Australian community and cause maximum damage to the criminal environment.
58. Criminal behaviour, and particularly conduct which encourages or incites violence against others, should not be tolerated or immune from prosecution merely because Australia's laws have not kept pace with technology to apply equally to the physical and virtual or digital world, allowing criminals to exploit technology and operate outside our reach.

Conclusion

59. Australia continues to face threats from small groups and individuals whose ideologies motivate them to engage in acts of violence in an attempt to advance their cause: be it political, religious or ideological. Advancements to the online environment enable radicalisation to occur in diverse communities across Australia - both urban and remote - in isolation from known extremists and increasingly in younger people. The AFP is working closely with all our partners to effectively respond to this challenging environment, using all available frameworks, programs and strategies.