




Speech By
Joan Pease

MEMBER FOR LYTTON

Record of Proceedings, 17 August 2016

COUNTER-TERRORISM AND OTHER LEGISLATION AMENDMENT BILL

 **Ms PEASE** (Lytton—ALP) (5.50 pm): I rise to speak in support of the Counter-Terrorism and Other Legislation Amendment Bill 2016. The National Terrorism Threat Advisory System, NTTAS, informs the public about the likelihood of an act of terrorism occurring in Australia. Sadly, the terrorist threat in Australia has not changed. The level is currently set at 'probable'. Not to be alarmist, a statement of public advice accompanying the national terrorism threat level provides that—

Credible intelligence, assessed by our security agencies indicates that individuals or groups have developed both the intent and capability to conduct a terrorist attack in Australia.

That is matter of great concern. It emphasises the importance of information in an emergency, particularly to those agencies charged with public safety. As members would appreciate, the ability to rapidly acquire relevant information is critical for the effective management and resolution of emergencies. This is particularly so when lives are in jeopardy. Furthermore, despite the Information Privacy Act 2009 allowing disclosure of information to prevent a serious threat to life or public safety or for the prevention, investigation and prosecution of offences, there are agencies and organisations that refuse to provide necessary information due to privacy concerns. Private companies are also increasingly concerned about the potential for adverse publicity and civil litigation where they voluntarily release information to the police.

Whilst the Information Privacy Act 2009 provides exemptions for an agency to disclose information, the act requires the agency must be satisfied on reasonable grounds that the disclosure is necessary. This requires the agency to be provided with sufficient information on which to form its own determination that the disclosure is reasonably necessary. That may lead to a delay in the agency releasing the information. As members would appreciate, in situations where this legislation would be invoked, the prospect of delay could seriously compromise public safety.

Currently there is no legislative basis for police to require a person, who is not a suspect but who has intimate knowledge of relevant information that is necessary for the effective management or resolution of the emergency, to provide that information. Additionally, there is no requirement for a person to keep confidential the fact that information is being sought from the person or the nature of the information being sought, even if this disclosure is likely to result in persons being harmed or seriously prejudicing the management or resolution of the emergency.

Clause 28 of the bill amends part 2, emergency situation, of the Public Safety Preservation Act by inserting a new scheme to provide police with the power to require any person, including government agencies, to provide information, a document or answer questions that are necessary for the management or resolution of a declared emergency. The information requirement power applies to terrorist emergencies under part 2 and chemical, biological and radiological emergencies under part 3 of the Public Safety Preservation Act.

Whilst most people will willingly provide information to police, there are a number of reasons why people may be reluctant or refuse to provide the information. That may be a reasonable position to take in ordinary circumstances, but in an emergency, especially of the kind envisaged by this bill, it is an objection that is more difficult to sustain.

The information requirement power is supported by offences with penalties commensurate with the level of risk posed to the community. The bill creates offences for a person to contravene the information requirement without a reasonable excuse, knowingly giving false or misleading information, without reasonable excuse disclosing information matter and without reasonable excuse a disclosure recipient disclosing information matter. The maximum penalty for the simpliciter offence is 40 penalty units or 12 months imprisonment. Each offence contains a circumstance of aggravation where the person commits the simpliciter offence and intends to, knows or is reckless as to whether committing the offence will seriously endanger the health or safety of any person, cause serious damage to property, cause serious pollution to the environment or seriously prejudice the effective management or resolution of a declared emergency. The maximum penalty for the circumstance of aggravation is 10 years imprisonment.

The information requirement power contains a range of safeguards, including: limiting the information requirement power to applying only during the period of declared emergency; requiring that the emergency commander or delegate must be satisfied on reasonable grounds that a person may be able to give the information and that the information is necessary to manage or resolve the declared emergency; further limiting the use of the information requirement power to when it is not practicable to obtain the information from the person in any other way; prohibiting an information requirement from being given to a person who is a suspect; maintaining the privilege against self-incrimination and legal professional privilege; limiting when a person can commit a disclosure offence to the operational period of the declared emergency; enabling police to remove the prohibition on disclosure or authorised disclosure to enable the person to obtain assistance or seek legal advice; and providing extensive protection from criminal and civil liability to a person who provides the information in compliance with the information requirement.

The bill achieves an appropriate balance between enabling police to obtain necessary information for the management or resolution of an emergency to protect the community and protecting the rights and liberties of the individual. This legislation seeks to address those concerns. The legislation seeks to refine the state's counter-terrorism framework by providing police with additional powers within the context of a terrorism-related emergency. Finally, I praise the Queensland Police Service, along with that of other law enforcement agencies for their hard work in putting their lives in danger's way to keep Australia safe. I commend the bill to the House.