

1 Executive summary

1.1 Introduction

The terrorist attacks in the United States in 2001 introduced a new and confronting dimension to the international security environment. Later attacks in Bali, Madrid, Jakarta and London confirmed that the terrorism threat is not limited to the United States. While Australia has not been directly attacked by terrorists, in recent times, its citizens and interests have been attacked offshore.

Since 2001, Australia's national counter-terrorism alert has been at the 'medium' level, meaning a terrorist attack within Australia could occur.

The 11 September 2001 terrorist attacks and the subsequent October 2002 Bali bombings prompted reform and enhancement of the national and Victorian counter-terrorism arrangements, through the introduction of new arrangements and legislation and the improvement of counter-terrorism capabilities.

Australia's counter-terrorism capability operates through a cooperative partnership between national, state and territory jurisdictions, with joint responsibility for developing and maintaining nationwide capability. The Commonwealth has the national coordination responsibility. The formation of the National Counter-Terrorism Committee (NCTC) in 2002 has driven the development of an approach to prepare for, respond to, and recover from potential terrorist attacks. Commonwealth, state and territory representatives make up the NCTC, which, among other things, is responsible for maintaining the national counter-terrorism plan. The plan sets out Australia's high-level strategy to prevent, and deal with acts of terrorism in Australia and its territories. It addresses capability, prevention, preparedness, response and recovery, and policy development, coordination and strategic arrangements.

1.1.1 Background

In November 2002 the Victorian government released its counter-terrorism policy statement *Enhancing Victoria's Domestic Security: New measures for the fight against terrorism*. The policy statement included requirements for Victoria Police to assist operators of essential services relating to electricity, gas, water, transport and fuel, in the development, validation and audit of their risk management plans and the coordination of joint exercises.

In 2003 the *Terrorism (Commonwealth Powers) Act 2003* and the *Terrorism (Community Protection) Act 2003* were introduced, establishing new counter-terrorism powers, including provisions for the protection of declared essential services. Victoria was the only jurisdiction to introduce essential services protection legislation. Later policy responses included *Protecting our Community: Attacking the Causes of Terrorism* released in September 2005 and *A Safer Victoria—Protecting our Community: New Initiatives to Combat Terrorism* in October 2006.

1.1.2 Essential services and critical infrastructure

Protecting essential services and critical infrastructure, is integral to minimising the impact and consequence of a terrorist attack. In June 2004 the Council of Australian Governments endorsed the NCTC's *National Guidelines for Protecting Critical Infrastructure from Terrorism* (the national CIP framework) as part of the broader national counter-terrorism arrangements. Victoria was an early starter in developing an approach to critical infrastructure protection and a significant contributor to and early proponent of the development of the national CIP framework.

Victoria's approach to critical infrastructure protection was influenced by the government's response to the Longford gas crisis of 1998 and by the fact that much of the state's essential services and critical infrastructure is privately owned or operated. Primary responsibility for providing adequate protection rests with owners/operators.

In April 2007 the government introduced the *Victorian Framework for Critical Infrastructure Protection from Terrorism* (the CIP framework), which draws on the national CIP framework, other nationally agreed documents for critical infrastructure protection, and is consistent with the national CIP framework. Among other things, the CIP framework formalised the involvement of Victoria Police in the validation and audit of risk management plans and the coordination of joint exercises for critical infrastructure.

Part 6 of the *Terrorism (Community Protection) Act 2003* (the Act) and the CIP framework together provide for the protection of essential services and critical infrastructure to enable continuity, or quick recovery of, service delivery and operations in the event of a terrorism incident.

The Act and the CIP framework operate within Victoria's emergency management arrangements, which are based on a common set of arrangements for all emergencies known as the 'all hazards, all agencies' approach. Under this approach all emergencies, regardless of their cause, are managed through arrangements set out in the *Emergency Management Act 1986*, the *Emergency Management Manual Victoria* and the *State Emergency Response Plan*. This means that the same agencies and arrangements used to respond to routine incidents and emergencies are also used to respond to terrorism incidents.

1.2 Audit objective and scope

The objective of this audit was to examine the state's preparedness to respond to terrorism incidents, relating to essential services and critical infrastructure.

In scope

The audit examined the governance arrangements established to assist operators of essential services and owners/operators of critical infrastructure to respond to terrorism incidents. The activities of selected Victorian government agencies with roles and responsibilities under Part 6 of the Act and the CIP framework were examined, including how they consulted and interacted with owners/operators of critical infrastructure and operators of declared essential services.

Specifically, we examined whether:

- governance aspects of the related state agencies—including roles, responsibilities and accountabilities—were clearly defined and understood
- inter-agency risks were identified and managed
- meaningful consultation and communication across government agencies and bodies and owner/operators occurred
- adequate performance monitoring occurred to assess progress with the implementation of Part 6 of the Act and the CIP framework
- the agencies audited had arrangements for monitoring the preparedness and capability of operators of declared essential services and owners/operators of critical infrastructure to respond to terrorism incidents.

The audit also considered funding for counter-terrorism initiatives including for preventing, responding to and recovering from terrorist attacks.

The activities of Victoria Police and seven Victorian government departments were examined.

Out of scope

Because of the focus of the audit on response, it did not examine:

- prevention activities involving collecting, analysing and disseminating intelligence about terrorist intentions and capabilities
- the implementation of additional powers to police, mandatory reporting of theft or loss of specified chemicals and substances, or the protection of counter-terrorism information introduced in the Act.

Regardless of the cause of an emergency, the response and recovery efforts of Victorian public sector agencies are set out under the state's 'all hazards, all agencies' approach to emergency management established by the *Emergency Management Act 1986*, the *Emergency Management Manual Victoria* and the State Emergency Response Plan. This means that the same agencies and arrangements used to respond to routine incidents and emergencies are also used to respond to terrorism incidents.

Given the audit scope, the audit did not examine the state's broader emergency management arrangements. Nor did it consider the public sector's preparedness to respond, or its recovery activities involving the support of disaster affected communities in the restoration of services, reconstruction of physical infrastructure and restoration of emotional, social, economic and physical wellbeing following terrorist incidents. An examination of the structures, arrangements or activities established under the emergency management approach would have diverted the focus of the audit from arrangements introduced by the government to specifically address the effects of terrorism on essential services and critical infrastructure.

1.3 Conclusion

Victoria was the first Australian jurisdiction to develop arrangements for protecting essential services from the effects of terrorism, including at the national level. Victoria has played a significant part in developing capability for protecting essential services and critical infrastructure, nationally and in other states, in particular the capability development of crisis centres of other states and territories.

The government has invested around \$255 million in counter-terrorism initiatives, since 2002, to protect the community against terrorism including prevention, response and recovery. Victoria Police, emergency services, health services and other government agencies have been provided with new tools to combat terrorism and its consequences.

The establishment of a governance structure comprising the Security and Emergencies Committee of Cabinet, the Central Government Response Committee, Government Security and Continuity Network Coordination Group (G-SCN-CG) and Security and Continuity Networks (SCNs) to underpin the arrangements for protecting essential services and critical infrastructure is a positive initiative. However, the governance arrangements could be more effective:

- The co-existence of Part 6 of the Act for essential services and the CIP framework for critical infrastructure is confusing to agencies and hinders coordination.
- SCNs are not fully operational with varying levels of progress. Two of the nine are operating well, one other has recently converted to the SCN format after operating for some time under other arrangements. Two are in the early stages of operation. Another held its first meeting in October 2008. The remaining three have not been established. Timeframes for implementation of the CIP framework have not been set.
- The effectiveness of the G-SCN-CG has been reduced by the delayed development of the SCNs and the co-chairing arrangements between the Department of Premier and Cabinet (DPC) and Victoria Police. The requirement under the arrangements for the G-SCN-CG to focus on the CIP framework rather than both critical infrastructure and essential services has limited its potential effectiveness.

- Respective roles and responsibilities of agencies involved are unclear, particularly in the CIP framework.
- Efforts to identify and mitigate inter-agency risks associated with joined-up arrangements for managing the framework were not evident.
- An adequate performance measurement and monitoring framework has not been developed.

Governance arrangements to assist owners/operators of critical infrastructure and operators of declared essential services to prepare to respond to terrorism incidents are at different stages of development across sectors. In the absence of an overarching performance monitoring framework success in implementing Part 6 of the Act and the CIP framework is difficult to measure.

Three departments audited have 'declared' essential services under the *Terrorism (Community Protection) Act 2003* (the Act). The sectors managed by these three departments—energy, transport and water—are the most significant industry sectors in terms of providing for business continuity and the state's ability to recover from a terrorist incident. The alternative arrangements in place for the police and emergency services sector to prepare to respond to terrorism incidents are considered reasonable.

As departments in the remaining sectors have yet to consider whether such declarations are necessary, we were unable to gain assurance whether all essential services have been declared.

Three lead departments were not aware of the critical infrastructure listed on the critical infrastructure register for their industry sectors. This inhibits their ability to work with owners/operators to encourage them to take up the recommended practices identified in the CIP framework.

There is a requirement for risk management plans of declared essential services to be audited annually and annual audits of risk management plans for critical infrastructure are encouraged. However, what would constitute such an audit has not been defined. Similarly there is no guidance on the qualifications required of an auditor who can audit the plans.

Apart from a 'lessons learned' database that is maintained by Victoria Police and records the outcomes of all NCTC coordinated exercises, there was little evidence of a systemic capacity to capture information about training exercises conducted under Part 6 of the Act and the CIP framework. The lack of a central repository for exercise reports makes collective analysis of outcomes difficult. We saw no evidence of strategic analysis of recommendations and consequently, it is not apparent that reports are driving continuous improvement.

It is clear from the government's policy document *Enhancing Victoria's Domestic Security: New measures for the fight against terrorism* that DPC has responsibility to coordinate Victoria's major incident management, including for counter-terrorism policy and planning. While responsibility for oversight of operators of declared essential services in specific sectors rests with the relevant minister and department, DPC should exercise firmer leadership in administering Part 6 of the Act and implementation of the CIP framework and remove barriers to their effective implementation.

Since the emergence of national arrangements, subsequent to introduction of the 2003 Victorian legislation, and given the issues identified during the audit, it is timely to review the arrangements for protecting the state's essential services and critical infrastructure. Such a review should aim to reduce the complexity of the state's arrangements and streamline practices, consistent with maintaining regulation and coordination to mitigate risks specific to our highly privatised service delivery environment.

DPC has advised it intends to examine Victoria's critical infrastructure protection arrangements including Part 6 of the Act and the CIP framework and to assess their effectiveness and appropriateness for the near to medium term.

1.4 Recommendations

The Department of Premier and Cabinet should:

- establish clear oversight and coordination of the arrangements for both Part 6 of the *Terrorism (Community Protection) Act 2003* and the CIP framework by an appropriate body, such as the Government Security and Continuity Network Coordination Group with expanded responsibilities (**Recommendation 4.1**)
- lead the development of a performance management framework for measuring, monitoring and reporting on the implementation of Part 6 of the Act and the CIP framework. The framework should include key indicators, targets and reporting arrangements for assessing the extent to which departments, agencies and industry have fulfilled their obligations, as well as measures for monitoring achievement of joint objectives (**Recommendation 4.2**)
- clarify the roles and responsibilities of departments and agencies under Part 6 of the Act and CIP framework to reduce confusion and gaps (**Recommendation 4.3**)
- provide definitive guidance on identifying essential services for declaration to better inform relevant departments in discharging their responsibilities under Part 6 of the Act (**Recommendation 4.4**)
- identify risks arising from the joined-up nature of the approach to protecting essential services and critical infrastructure, and to assist departments and agencies to develop associated risk management arrangements at the whole-of-government level (**Recommendation 4.5**)
- clarify the requirements in relation to establishing Security and Continuity Networks in designated sectors, so that there is a shared understanding of those requirements. (**Recommendation 4.6**)

Representatives of lead departments should obtain necessary security clearances so appropriate officers can access information relevant to their sectors.

(Recommendation 4.7)

The Department of Premier and Cabinet, in consultation with Victoria Police, should develop clear guidance to distinguish between declared essential services and critical infrastructure to assist departments, Victoria Police and industry in implementing Part 6 of the Act and the CIP framework more effectively. **(Recommendation 5.1)**

The Department of Premier and Cabinet should provide clear guidance on terms such as 'audit', 'auditor' and 'adequacy of the exercise' to assist departments, Victoria Police and industry to implement requirements more reliably. **(Recommendation 5.2)**

The Department of Premier and Cabinet and Victoria Police, in consultation with departments, should standardise reporting on training exercises conducted under Part 6 of the Act and the CIP framework to promote greater consistency and to enable better identification of lessons learned and continuous improvement.

(Recommendation 5.3)

Reports on the training exercises should be retained in an appropriately secured central repository so that consolidated results of the exercises can be drawn together effectively. **(Recommendation 5.4)**
