



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2014 4917

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

Findings of:	<b>MR JOHN OLLE, CORONER</b>
Deceased:	AHMAD NUMAN HAIDER
Delivered on:	31 July 2017
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing dates:	7-8 March 2016, 10-11 March 2016, 15-22 March 2016 and 27-29 April 2016
Counsel assisting the Coroner:	Ms Rachel Ellyard of Counsel instructed by Ms Jessica Wilby, Principal In-House Solicitor
Representation:	Mr Arushan Pillay with Ms Megan Fitzgerald of Counsel instructed by K&L Gates for the Haider family Mr Ron Gipp of Counsel instructed by the VGSO for the Chief Commissioner of Police

Mr Stephen Donaghue with Mr James Forsaith of  
Counsel instructed by the AGS for the  
Commonwealth

Mr Douglas Campbell QC with Dr Ben Gauntlett of  
Counsel instructed by the AGS for Officer E

Ms McNaughton of Counsel instructed by the AGS  
for Ms Mayfair

## HIS HONOUR:

### **BACKGROUND**

- 1 Ahmad Numan Haider (Numan) was born on 18 November 1995 and was the youngest of three boys. Numan and his older brothers, [REDACTED] and [REDACTED], were all born in Kabul, Afghanistan.
- 2 Numan's father [REDACTED] was an agriculturist, and his mother, [REDACTED], was a lawyer in Afghanistan.
- 3 Numan's family had emigrated to Australia when Numan was seven years old to flee persecution at the hands of the Taliban. They settled in South Australia. The practicing Muslim family were granted a permanent visa due to Numan father's previous study and hold dual Australian and Afghani citizenship.
- 4 The family stayed in South Australia for approximately 2 years before relocating to Melbourne. Numan attended Southern Cross Primary School in Endeavour Hills and then Lyndale Secondary College in Dandenong North with his two older brothers, who both went on to attend university.
- 5 Numan completed his high school education in 2013 and enrolled in a Certificate III course at Tafe to obtain qualification as an electrician, and was planning to undertake an apprenticeship.
- 6 Numan had a number of friends, many who describe him as a good friend and kind person. He was a keen soccer player and very proficient at both school and sports.
- 7 In September 2013, Numan commenced a relationship with a fellow Year 12 student at his college, Jinaali [REDACTED]. Jinaali was born in Australia to Sri Lankan parents but never introduced to Numan's parents as they were strong in their cultural beliefs and would not have approved of a non-Afghan girlfriend. The relationship ended in late July 2014, when the pair drifted apart.
- 8 In the two years prior to his death family and friends observed that Numan had become more interested in religious matters and he was a very regular attendee at his local mosque in Hallam, attending most days for morning and afternoon prayers. He had also attended the Al-Furqan centre, which was associated with more extremist views and recruitment to Jihadi groups such as Islamic State.

### *Numan's associates*

- 9 In the months prior to his death Numan underwent a transformation. The happy go lucky teenager lost interest in obtaining his apprenticeship and playing sport. He devoted an inordinate time to a group of new associates and he became more earnest and secretive. He also became obsessed with issues in the Middle East.
- 10 Numan was associating with a group of young males with which he had close contact: Ljindim Sulejmani met Numan at a lecture at the Hallam Mosque in early 2014, and they became close friends. Sevdet Besim also met Numan at the Hallam Mosque in early 2014 and attended the Al Furqan centre with him. Ethan Cruse had known Numan since primary school and with Numan's help became a Muslim. Harun Causevic also met Numan in mid-2014 at the Hallam Mosque, and was aware of Numan's growing feelings regarding the Australian Government.
- 11 Numan's parents were concerned with some of his new associates and his parents made determined efforts to sever ties with them. His mother's dramatic public confrontation at a mosque with an older, self-proclaimed mentor is illustrative of her concern for her son and her need to remove him from these influences.
- 12 Numan's father also approached Imam Hamid, the Imam at the Hallam Mosque, raising concerns about Numan's behaviour; that he was being disrespectful to his parents, attending the Al Furqan centre and he worried who he was associating with.
- 13 Mid way through June 2014 Numan had come to the attention of law enforcement agencies who were concerned he may pose a risk to national security and the Prime Minister of Australia, and ASIO commenced monitoring Numan's movements and communications.
- 14 Numan's girlfriend also noticed dramatic changes in Numan's behaviour and in late July 2014 their relationship ended.

### *Numan's passport*

- 15 In July 2014 Numan's father planned to take Numan and his mother on a holiday in Europe and then Afghanistan. Part of the reason for the trip was to try and find a wife for Numan.
- 16 As Numan's Australian child passport had nearly expired his father suggested he make enquiries as to its renewal, and Numan lodged an application for a new adult passport on 29 July 2014.

- 17 On 31 July 2014 Numan contacted the passport office enquiring as to when he would receive his passport as there were plans to fly out the following week. Numan was told the application had been received, but was on hold for an unknown reason.
- 18 On that day 2014 ASIO officers visited Numan at the family home to talk to him with his father. They discussed his passport application, his travel plans and told him that he should stay away from the Al-Furqan Centre, encouraging him to stay at his local mosque.
- 19 On 1 August 2014 an officer from the Australian Passport Office contacted Numan and told him his application was on hold for 28 days, pending an assessment by a competent authority (ASIO).
- 20 On 23 August 2014 Numan made enquiries through a friend about purchasing weapons including knives and a Taser weapon that resembled an I-phone. Numan told the friend that he was going to start dealing in cannabis and so he needed the weapons for protection. His friend was surprised by this as he thought Numan was not interested in drugs, and told him not to do anything stupid.<sup>1</sup>
- 21 In late August and early September both Numan and his father made further efforts to find out what was happening with his passport application.
- 22 On 10 September 2014 Numan accidentally stabbed a friend in the hand with a knife in the kitchen of the family home. Numan took him to hospital, but they both left before he could get treatment. The friend later told police that he and Numan were mucking around with a knife when he accidentally got cut.
- 23 Between 12 and 14 September 2014 bank and phone records indicate that Numan travelled to Sydney by car and spent time in the Bankstown area, possibly visiting an Islamic centre which had identified links to extremist views.
- 24 On 16 September 2014 Numan was told a request to cancel his passport had been made and a letter stating his passport had been cancelled as on reasonable grounds ASIO suspected that if a passport was issued to him, he would be likely to engage in conduct that might prejudice the security of Australia or a foreign country was sent shortly thereafter.<sup>2</sup>
- 25 In the days following Numan told friends that he thought he was being watched by ASIO.
- 26 Numan also had a telephone conversation with his friend Habib Paygham in which he told Habib not to call or contact him as he believed he was being watched, and that his passport had been

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<sup>1</sup> Coronial brief, exhibit 48

<sup>2</sup> Pursuant to section 14(1)(a)(i) of the *Australian Passports Act*

cancelled. Habib told Numan he would see him after his exams, to which Numan responded '*who knows if I will be alive or what*'.<sup>3</sup>

- 27 On 17 September 2014 in an attempt to find out why his passport was cancelled Numan contacted ASIO. Later on 17 or 18 September 2014 Numan struck up a conversation with an individual selling SIM cards in the Dandenong Plaza Shopping Centre. Numan showed him an Islamic Flag he had with him and told him he was angry about having his passport taken, and that he needed it to travel to Afghanistan to find a wife.
- 28 On 18 September 2014 there were large scale antiterrorism raids conducted in Brisbane and Sydney that were widely reported in the media.
- 29 That day Numan went with his former girlfriend and a friend to the Dandenong Plaza and while walking near a group of police he produced a Shahada flag<sup>4</sup>, waving it as he passed the police.
- 30 When police went to speak to Numan he said to them '*I'm not going to blow up the shopping centre today*' and '*I've got nothing against you personally, it's against your government and Australia. You will pay for what happened in Sydney and Brisbane today.*' Police told Numan to move on as he was disturbing members of the public, and inciting fear.<sup>5</sup>
- 31 Later Numan told Jinaali to delete a recording of the incident that she'd made on her I-phone and to destroy a book he'd bought back from his recent trip to Sydney and given her for safe-keeping.
- 32 At approximately 5:13pm that afternoon Numan called an unidentified male and stated '*the police did not even search me*' and '*if I'd had a knife I would've stabbed 'em.*'<sup>6</sup>
- 33 At approximately 7:47pm Numan had a phone conversation with a Sulaiman Sarwari, telling him he needed to borrow a knife he had previously given him.
- 34 That night Numan changed his profile picture on Facebook to a picture of him wearing army camouflage and a balaclava and holding the Shahada flag, which prompted comments and queries from friends. He responded with reference to the AFP and ASIO being dogs who are declaring war on Islam and Muslims.

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<sup>3</sup> Coronial Brief, Appendix X - Call 22

<sup>4</sup> The Shahada flag is not an Islamic State flag, it's a banner that bears a statement of Islamic faith

<sup>5</sup> Statement of A/Sgt Ellane Clarke, 29 September 2014, page 343 of coronial brief

<sup>6</sup> Coronial Brief, Appendix X - Call 25

- 35 On 19 September 2014 ASIO briefed members of the Joint Counter Terrorism Team (JCTT)<sup>7</sup> and the Security and Organised Crime Intelligence Unit (SOCIU) about Numan. As a result of the briefing a decision was made for the JCTT to make contact with Numan to establish if he posed a threat.
- 36 On that day Numan's father rang him asking him where he was and where he had been all week. Later that afternoon he was seen handing out leaflets about Islam at the Dandenong Hub, and had a coded phone conversation with an associate indicating he was still seeking an I-phone Taser.
- 37 On 20 September 2014 the spiritual leader of Islamic State issued a fatwa<sup>8</sup> calling upon followers to target the Australian government or the public. It was widely portrayed in the media and invited followers to kill in any manner or way.
- 38 On 21 September 2014 Numan exchanged SMS messages with an associate in which he referred to the raids, the bashing of women in hijabs the day before in Melbourne, and that he might be next.
- 39 Later that day Numan bought two knives and a map of Wilsons Promontory from a disposals store.
- 40 On 22 September 2014 Numan received the letter telling him his passport had been cancelled.
- 41 On the same day members of the JCTT received a briefing on matters relating to Numan, and that his passport had been cancelled. It was decided that they would meet with him the next day, at home in the presence of his family.
- 42 At about midday on 23 September 2014 Numan rang the passport office to see if he could get a refund on his application. He then spent the afternoon with a number of friends in Warburton where they collected mountain spring water and then went to a local restaurant, Chicken De-Lish, at approximately 5:20pm.
- 43 The JCTT team duties for the day were to speak to Numan at home but once they became aware he was not there two officers, Officer A and Officer B, went to his home address at approximately 5:15pm to speak to his parents and older brothers.

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<sup>7</sup> The JCTT is a multi-agency task force with the responsibility of conducting investigations to prevent, respond to and investigated domestic terrorism threats or attacks. The JCTT consists of AFP and Vicpol members

<sup>8</sup> A fatwa is a statement of religious opinion

- 44 Numan's family told the officers that they were unaware of the incident at the Dandenong Plaza, but they felt that in the previous two months Numan had been associating with the wrong people. One of Numan's brothers said he thought Numan was frustrated by the government, but not a risk to national security.
- 45 With consent, Officer A and B searched Numan's room but did not find anything of interest, and left.
- 46 Shortly after the officers left, Numan rang his parents. His mother told him to come home as something important had happened. When Numan got off the phone he told his friends he thought that the AFP were at his house and he went home.
- 47 Numan's parents told him the police had been to the house and searched his room. Numan became upset and agitated and left the house again shortly afterwards.

*The incident on 23 September 2014*

- 48 At 7pm on 23 September 2014 Officer A rang Numan and asked him to come to meet him at the Endeavour Hills Police Station so that they could talk about the incident that had taken place at the Dandenong Plaza. Officer A gave Numan a mobile number and asked him to call him back.
- 49 Numan then rang Officer A and said he wanted to meet him at Hungry Jacks. Officer A told Numan they needed privacy to talk and so Hungry Jacks was not an option. Numan said he would let police know and hung up. He then rang back and said that he would come to the police station in fifteen minutes and asked if they could meet out the front, to which Officer A agreed.
- 50 At 7:33pm, much sooner than the 15 minutes he had said, Numan arrived in the carpark of the police station and rang Officer A to tell him he was there.
- 51 Officer A and B went outside to meet Numan, who was sitting on the bonnet of his car. The officers, who were wearing standard police equipment including semi-automatic pistols, walked across the carpark to meet him.
- 52 Both Officer A and Officer B shook Numan's hand when they reached him. Officer A then told Numan he needed to search him, and asked him to turn out his pockets.
- 53 Numan pulled out a knife and lunged towards Officer A. Officer A managed to block several blows, but was stabbed in the arm before he lost his footing and fell to the ground.



- 54 Numan then approached Officer B, who was looking in Numan's car. Officer B saw Numan approaching with a knife before he stabbed him several times causing him to fall over. Numan crouched over him and continued to stab him. Officer B was bleeding heavily from his eye and tried to reach for his firearm, but could not.
- 55 Officer A, realising that Numan was now attacking Officer B, got to his feet and saw Numan crouched over Officer B attempting to stab him in the stomach. Believing that Numan was trying to kill Officer B Officer A drew his weapon and fired one shot, which hit Numan in the head and he fell to the ground.
- 56 Officer B then ran to get help while Officer A remained with Numan. It was later confirmed that Numan died instantly from the bullet wound.
- 57 CCTV footage that was obtained during the investigation shows that it was dark and the area where Numan's car was was poorly lit. The CCTV footage does not show the incident clearly.
- 58 CCTV footage from the police station shows Officer A and B leaving the station to meet Numan in the carpark, and then Officer B coming back in to seek help. The CCTV shows that the entire incident took place in a very short period of time, approximately one minute.
- 59 Numan was 18 years old at the time of his death and had no known history of mental illness.

## **THE CORONIAL JURISDICTION**

- 60 Numan's death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) (**the Act**), as his death occurred in Victoria, and was violent, unexpected and not from natural causes.<sup>9</sup>
- 61 The jurisdiction of the Coroners Court of Victoria is inquisitorial<sup>10</sup>. The purpose of a coronial investigation is independently to investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.
- 62 It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>11</sup> It is not the coroner's role to determine criminal or civil liability arising from the death under investigation, or to determine disciplinary matters.

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<sup>9</sup> Section 4 *Coroners Act 2008*.

<sup>10</sup> Section 89(4) *Coroners Act 2008*.

<sup>11</sup> *Keown v Khan* (1999) 1 VR 69.

63 The “cause of death” refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.

64 For coronial purposes, the circumstances in which death occurred refers to the context or background and surrounding circumstances of the death. Rather than being a consideration of all circumstances which might form part of a narrative culminating in the death, it is confined to those circumstances which are sufficiently proximate and causally relevant to the death.

65 The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the ‘prevention’ role.

66 Coroners are also empowered:

- (a) to report to the Attorney-General on a death;
  - (b) to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice; and
  - (c) to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.
- These powers are the vehicles by which the prevention role may be advanced.

67 All coronial findings must be made based on proof of relevant facts on the balance of probabilities. In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>12</sup> The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about individuals, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.

## **THE CORONIAL INVESTIGATION**

68 At my direction, the months immediately prior to Numan’s death, were the focus of my investigation. I consider this time frame most relevant to my jurisdictional obligation in relation to the circumstances of Numan’s death.

69 Numan’s family have queried what they and others could have done differently to prevent Numan’s final rash actions and hope that the coronial investigation will prevent such tragedy

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<sup>12</sup> (1938) 60 CLR 336.

affecting others in the future.<sup>13</sup>

- 70 Numan's family have expressed gratitude to the investigators and the Court for the thorough attempts that were made to ascertain the truth in determining how Numan's death came about.<sup>14</sup>
- 71 As this was a police shooting investigators from the Victoria Police Professional Standards Command conducted oversight of the police investigation.
- 72 A Critical Incident Review regarding the Victoria Police Operational Response on any issues identified through the incident was provided to me during my investigation, as was a Post Incident Review Team review report that is conducted in all instances where Victoria Police discharge a firearm.

### *National Security Aspects*

- 73 There was marked sensitivity around some of the evidence that was gathered during my investigation by the Coroner's Investigators. As Counsel Assisting outlined at the commencement of the inquest some of these sensitivities arise because some police witnesses are engaged in ongoing police operations, not necessarily related to this case, or hold roles which require a degree of confidentiality.
- 74 In addition to this the broader law enforcement environment within which police had contact with Numan included matters of national security that was not in the public interest to be disclosed during the inquest.
- 75 A number of applications were made for certain police witnesses to be given pseudonyms when they gave their evidence, and their identities were protected as a result. In line with the evidence these pseudonyms are also utilised throughout this finding.
- 76 The first directions hearing in this matter was called pursuant to the Court's Practice Direction 4 of 2014, entitled 'Police Contact Deaths' on 3 October 2014, and at this initial hearing an overview of the case was given, the initial date for the delivery of the coronial brief was set and the independence of my investigation was outlined. A second directions hearing was held on 23 July 2015. During this directions hearing it was conveyed that the coronial brief had been filed with the Court, but could not immediately be distributed to all of the parties who had registered as interested parties.

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<sup>13</sup> Submissions of behalf of the Haider family, paragraph 1

<sup>14</sup> Submissions on behalf of the Haider family, paragraph 2

77 The coronial brief itself was very complex and contained statements from 155 witnesses and close to 4000 pages of exhibits.

78 Due to the nature of the incident there was information contained within the brief including statements, documents and exhibits which encompasses material from the AFP, Victoria Police, the JCTT and ASIO.

79 It was therefore necessary for relevant applications, confidential affidavits and submissions in respect to any sensitive material, proposed redactions, suppression and public interest immunity to be considered before the brief was distributed to interested parties' representatives.

80 As a result the coronial brief was redacted to remove matters which were the subject of a proper public interest immunity claim by either Victoria Police, the Australian Federal Police (AFP) and/or the Commonwealth and I issued a number of proceeding suppression orders in relation to some of the police evidence.

81 With an investigation of this magnitude it would be remiss not to acknowledge the significant work of all those who were involved in assisting me.

82 I want to thank Counsel Assisting, and Counsel and solicitors for the various interested parties for their work and comprehensive submissions. In addition I note that there were a number of legal representatives who appeared pro bono at the inquest to make various applications.

83 At the initial Directions Hearing, I described as sacrosanct, the independence of a coronial investigation. The diligence and unwavering professionalism of my coronial investigators, has ensured that my investigation has been comprehensive, and conducted with the upmost integrity. I commend Homicide Squad Detectives Steven Martin and Leigh Smyth.

84 Further, I commend Ms Jessica Wilby, Principal Solicitor Coroners Court, whose tireless dedication has greatly assisted my task.

This finding is based on the entirety of the investigation material including the coronial brief of evidence, additional statements and viva voce evidence of those witnesses who appeared at the Inquest.

### **Identity**

85 The identity of Numan was confirmed through visual identification and no further investigation was required.

## **Medical Cause of Death**

86 A post mortem examination was conducted on 24 September 2014 by Dr Michael Burke, Forensic Pathologist of the Victorian Institute of Forensic Medicine (VIFM). He determined the cause of death to be:

1(a) Gunshot injury to the head.

87 Dr Burke noted that the entrance wound was at the top of the head and no other significant injuries were detected. Examination of the gunshot injury established that death would have been immediate, and that the shot was fired at a distance.

88 Toxicological examination showed no alcohol or any other drug present in Numan's blood.

89 I accept the cause of death as proposed by Dr Burke.

## **CIRCUMSTANCES IN WHICH THE DEATH OCCURRED**

90 The following is an overview of the comprehensive facts and circumstances that were established throughout the investigation.

### The ASIO / JCTT briefings

91 ASIO's monitoring of Numan had revealed a number of issues of growing concern that ultimately led ASIO to share their assessment of Numan and seek assistance from the JCTT in an approach to Numan.

92 On 19 September 2014 a briefing concerning Numan was delivered by ASIO to Officer E and K of the JCTT and members of the Victoria Police SOCIU. The outcome of this briefing was a decision for the JCTT and SOCIU to take joint action and speak to Numan on 22 September regarding his cancelled passport, and to establish if Numan posed a threat.

93 Office E, an AFP member of the JCTT, received an electronic copy of an ASIO Briefing Note<sup>15</sup>, and notified the AFP Counter Terrorism Executive of the threat posed by Numan. Officer E then sent emails to numerous JCTT and AFP members providing a brief outline of the potential threat and proposed joint action.<sup>16</sup>

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<sup>15</sup> Coronial Brief, page 999 (Exhibit 50)

<sup>16</sup> Statement of Officer E, dated 14 February 2015, page 436 of coronial brief

- 94 On the morning of 22 September 2014 Officer E chaired a weekly JCTT Operations meeting, in which Officer H from the JCTT was advised that Numan had had his passport cancelled and was assessed as representing a possible threat to a political figure.
- 95 A strategy was formulated and agreed between AFP and Victoria Police for JCTT members to meet with Numan to assess his intentions, and the meeting was to take place that day.
- 96 At approximately 11:15am Officer E briefed Officers B and C from the AFP who were tasked with speaking to Numan, telling them what he had been informed by ASIO and SOCIU. Officer E informed them that Numan may be in possession of a knife and concealable Taser, and had been informed by DFAT that his passport had been cancelled. Both Officer B and C then read the ASIO briefing note.
- 97 Officer E also spoke to Officer N from the SOCIU, and it was determined to delay the meeting with Numan until 23 September 2014 to facilitate greater planning, including that Numan was separate from his associates, and would be spoken to at home with his parents.<sup>17</sup>
- 98 At approximately 5:30pm that afternoon Officer E received an email from Officer A indicating that he and Officer D would be assisting Officer B and C to approach Numan.<sup>18</sup> Later that day Officer E briefed Officer H and advised the four AFP and JCTT members were tasked with managing the approach to Numan, and that the JCTT members had been fully briefed regarding the available intelligence concerning Numan.
- 99 The initial plan was for Officer B and Officer C to speak to Numan while Officer A and D observed.
- 100 Officer A had been briefed in relation to Numan's activities, and had knowledge of the flag waving incident at Dandenong Plaza on 18 September 2014. Officer A conducted criminal record checks on Numan on the Victoria Police LEAP data base, and was aware that he did not have a criminal history.
- 101 The proposed plan was for the four officers to leave the office in the middle of the day in an attempt to locate Numan, to speak to him and find out his motivations for being at Dandenong with the flag, elicit his thoughts on the Australian Government and to see if he posed a threat to any political figures.

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<sup>17</sup> Ibid

<sup>18</sup> Ibid

102 Officer C received information that Numan was not at home and it was determined that a call would be put to Numan from Endeavour Hills Police Station to get him to return home to allow the JCTT members to speak with him.

103 At approximately 2:35pm that afternoon, when Numan was still not home a decision was made by the JCTT team to attend Numan's home and speak with his parents. The team's intention was to try to locate the flag and obtain some background information from Numan's parents.

#### The visit to Numan's family home

104 At approximately 5:15pm Officers A and B attended Numan's family home and spoke to his parents and brothers about the Dandenong incident, of which they had not been aware.

105 The officers sought permission to search Numan's room, but found nothing of interest.

106 Officer A gave his business card to Numan's father and asked if they could contact him to return home to speak with them. At approximately 6:15pm Numan called home, and his mother told him to come back as something important had happened.

107 Numan's parents told him the police had searched his room, which upset him and he said he was going to his room to pray. Numan's father gave him Officer A's business card. Numan went to his room for a short time and then told his parents he had to leave to give some property back to a friend. Numan's father said that he was upset and agitated when he left, but that there was no signs of anger.<sup>19</sup>

108 At approximately 6:55pm Numan told his friend Ljindem Sulejmani over the phone that the '*dogs came to my house, searched my house, my stupid parents let them, they gave them everything*' and arranged to meet him at the local Hungry Jacks.

#### Endeavour Hills Police Station

109 When Officer A and B returned to Endeavour Hills Police Station Officer A briefed Officers C and D as to what had happened at the Haider family home. At approximately 6:30pm Officer C mentioned to Officer A that he'd been informed that Numan had been seen playing with a knife but he was otherwise unsure of the circumstances.<sup>20</sup>

110 It was agreed to call Numan and ask that he attend the Police Station.

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<sup>19</sup> Statements of [REDACTED] and [REDACTED] Haider, dated 13 November 2014, pages 253 and 264 of coronial brief

<sup>20</sup> Statement of Officer A, dated 26 September 2014, page 495 of coronial brief (Exhibit 67)

- 111 At approximately 7:02pm Officer A called Numan on his mobile phone and asked him to meet at Endeavour Hills Police Station. Numan asked if they could meet at Hungry Jacks Hallam, but Officer A said that he would prefer to talk in private about the incident at Dandenong Plaza the previous Thursday.
- 112 Officer A then gave Numan Officer C's mobile number and told him that he was not going to be arrested, it was just a chat. Numan said he would call back. A friend who was with Numan said Numan told him he had been speaking to the police and that they had raided his room. The friend told Numan he had bought it on himself and they talked about him posting a photo on Facebook dressed as a terrorist.<sup>21</sup>
- 113 At approximately 7:15pm Numan rang Officer A and asked if he was one of the ones who searched his room, which Officer A confirmed. Numan again asked to meet at Hungry Jacks. Officer A said that due to the need for privacy they should meet at the police station so they could chat about the incident, and also whether he posed a threat to national security. Officer A told Numan he was not going to be detained, and could leave at any time. Officer A's safety concern was that he could not control the environment at Hungry Jacks and it was unknown who might be there.
- 114 At approximately 7:26pm Numan called Officer A and told him he would meet him in 15 minutes outside the Endeavour Hills Police Station. Numan said he wanted to talk outside. Officer A agreed and said he would be out the front, and Numan said he would be in his mother's Nissan Pulsar.
- 115 The JCTT team then discussed what they proposed to talk to Numan about regarding national security, his involvement in the Dandenong incident and his thoughts about the Australian Government. Officer A made a note in his police diary of the topics to be discussed.
- 116 The team discussed various tactical options and decided that Officer A and B would meet Numan out the front to ascertain his state of mind and behaviour whilst Officer C and D would provide cover, possibly using a vehicle in the carpark for observation.
- 117 The team also discussed that Officer A would search Numan for security, to ensure he did not possess anything he could use to harm himself, or others. Whilst Officer A searched the deceased, Officer B would provide cover.

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<sup>21</sup> Statement of Ljindim Sulejmani, dated 28 September 2014, page 421 of coronial brief (Exhibit 7)



- 118 Other options canvassed included talking to Numan in one of the police vehicles that was seen to be unsafe due to close proximity, or to speak to him in a witness room in a non-arrest situation.<sup>22</sup>
- 119 At approximately 7:30pm Numan drove his mother's car into the carpark of the Endeavour Hills Police Station, having come straight from Hungry Jacks. At approximately 7:32pm Numan tried initiate a 'Facetime' call to a male associate, which did not connect and was cancelled by Numan.<sup>23</sup>
- 120 Numan telephoned Officer A and told him he was outside the police station. Officer A and B prepared to go outside to meet Numan and Officer C offered for he and Officer D to also go out to meet Numan, or be in the vicinity, but as there was no time to properly put a cover in place. It was decided that Officer C and D would remain inside the police station to keep things low key and to not intimidate Numan.<sup>24</sup>
- 121 At approximately 7:35pm Officer A and B exited the police station via the front door and CCTV of the foyer area show both members exiting, Officer A holding his police diary and Officer B holding a notebook.<sup>25</sup>
- 122 Officer B saw Numan leaning on a car parked in front of the Little Stars Child Care Centre and indicated this to Officer A, who observed Numan sitting on the front left of the car. When they were about 20 metres away Officer A called to Numan who alighted the bonnet of the car and walked towards them with his right hand in his pocket, and his left hand by his side.<sup>26</sup>
- 123 Numan shook hands with each officer. He responded in the affirmative when asked by Officer A if he was happy to talk. When Officer A told Numan he was going to search him and asked him to turn out his pockets, Numan pulled out a 6 – 8 centimetre knife, and lunged towards Officer A with his fist clenched in an under-arm manner. Officer A blocked the blows with his left arm, and was stabbed in the arm.
- 124 As Officer A was moving backwards he lost his footing and Numan moved towards Officer B, who was glancing in Numan's car. Officer B heard yelling and turned and saw Numan with the knife in his right hand, but could not see Officer A. Within a split second Numan set upon Officer B, who fell backwards, not realising he had been stabbed. Officer B was bleeding heavily from

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<sup>22</sup> Statements of Officers A, B, C and D

<sup>23</sup> A Facetime call would provide live audio and video footage from Numan's phone

<sup>24</sup> Statements of Officer A,B,C and D

<sup>25</sup> Exhibit 8 of the coronial brief

<sup>26</sup> Statement of Officer A, dated 26 September 2014, page 495 of coronial brief

his eye and recalls Numan going past him and around behind his head. Officer B reached for his firearm, but could not get the holster button to release it.

125 Officer A regained his footing and observed Numan crouching over Officer B and saw him attempting to stab Officer B in the stomach. Officer A quickly considered his options and withdrew his firearm and fired one shot.

126 Officer A told Officer B, who had been stabbed in the left side of his head and chest, to leave and get an ambulance.

127 A neighbouring resident heard the gunshot and attended the scene and complied with Officer A's request to call 000. Numerous other civilian witnesses, who have provided statements, said that they heard yelling, shouting and then a single gunshot.

128 One of two civilians in the foyer of the station when Officer A and B left the station, observed Officer B return a short time later, holding his head with blood dripping and yelling for an ambulance.

129 Officer C went outside and observed Numan and the wounds to Officer A. The crime scene was secured and ambulance officers attended the scene and pronounced Numan dead.

130 Examination of the scene revealed that Numan had a folding knife in an open position clasped in his right hand, a knife in a sheath tucked into the right front waistband of his pants and a folded black flag, wallet and I-Phone next to him.

131 Biological examinations that were conducted revealed that blood from both Officer A and B were located on the blade of the folding knife and only Numan's DNA was located on the handle of the knife and the sheath.

132 CCTV Footage from the Endeavour Hills Police Station was provided during my investigation, and no other CCTV footage or mobile phone footage was identified that clearly showed the incident.

133 An analysis shows the incident took approximately 53 seconds from when Officers A and B left the station until Officer B returned to the station injured.<sup>27</sup>

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<sup>27</sup> Statement of Detective Sergeant Steven Martin, dated 14 July 2015, page 834 of coronial brief (Exhibit 100)

### Numan's mobile phone

134 The I-Phone located with Numan was examined by the Victoria Police E-Crime Squad. An analysis established that between 21 and 23 September 2014 Numan's phone had been used to access a substantial number of websites inciting jihad and martyrdom, extremist views, radicalised Islamic ideology, graphic material of executions and beheadings, recruitment propaganda for Islamic State and Islamic State soldiers depicted dying in triumph and glory.

135 On 21 September 2014 Numan's phone had accessed an ISIS released video recruiting young men to perform 'Jihad' and contained graphic and instructional content on how to use weaponry to kill and maim non-believers. The video also depicts images of deceased men said to have achieved martyrdom.

136 Analysis indicated that 'Google' searches had been conducted on Islamic State related subjects and searches related to political figures.

137 The phone also contained video footage of the incident at the Dandenong Plaza sent by Jinaali [REDACTED].<sup>28</sup>

### Numan's access to knives

138 Over approximately one hour between 10:00am and 11:00am on 21 September 2014 a series of seventeen text messages were communicated between Numan's and another male's mobile. Numan said in these messages that he had been away from home for a week, he made reference to the Sydney raids and said he may be next.

139 At approximately 11:40am Numan attended the Aussie Disposals store at Westfield Fountain Gate, where he purchased a Muela Survival 16 knife and sheath, an Excalibur Royal Black King knife, a folding lock blade knife and a map of Wilson's Promontory. Financial records show Numan used his CBA debit card to make these purchases.<sup>29</sup>

140 Inquiries conducted by investigators established the flag was the same flag that Numan had waved at police at Dandenong Plaza on 18 September 2014, and the knives used in the incident matched those purchased by Numan at Aussie Disposals on 21 September 2014.

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<sup>28</sup> iPhone Extraction report – Appendix AA to the coronial brief

<sup>29</sup> Coronial brief – Appendix OO

## The fatwa and flag

141 Professor Barton outlined that a fatwa is a statement of religious opinion made by a religious scholar; it is not automatically binding and its power or influence depends upon the esteem in which the scholar is held.

142 When issuing the fatwa on 20 September 2014 Shayk al-Adani ash-Shami, the spiritual leader of Islamic State, spoke as the official spokesman of ISIS. Up until this point Islamic State had focussed on drawing foreign fighters to assist in Syria and Iraq. After this initial fatwa Islamic State repeated its call for lone wolf style attacks, particularly in western capitals.<sup>30</sup>

143 Professor Barton stated that the black flag displayed by Numan had a statement of faith known as 'Shahada'. This is a statement of faith shared by all Muslims, whatever their traditions or beliefs. Having a flag in itself is not evidence of extreme belief, however Jihadi groups such as Al Qaeda and Islamic State fly a black banner with the Shahada text on it as a symbol of their identity.

## JCTT investigation - Numan's associates

144 An investigation into the activities of some of Numan's associates commenced in 2015 which resulted in arrests and charges linked to conspiracy, planning of terrorist acts and possession of prohibited weapons.

## **INQUEST**

145 It is well established in the coronial jurisdiction that as coroners we exercise our powers with the benefit of hindsight and that care must be taken not to hold the actions under consideration during an investigation to an unfair standard.

146 As Counsel Assisting highlighted at the commencement of the inquest my investigation was not about finding fault, or apportioning blame for Numan's death: *'In looking back at what was done or not done, or known or not known, coroners have the great benefit and luxury of hindsight, something which is not granted to those who live out the events, which coroners then review in the calmness of a courtroom. The question is not what was known now, but what was known and could have been known and could have been done and by whom at the time.'*<sup>31</sup>

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<sup>30</sup> A monthly email of IS Dabiq later described the incident with Numan as being a glorious attack in response to its call

<sup>31</sup> Transcript of Inquest, p 16, lines 14-20

147 The scope of the inquest focussed on Numan and about what was or could have been known and done about the risks he posed. It focussed not only on the final moments of Numan's life, but the days and weeks beforehand, and decision-making and risk assessments in the days leading up to the tragic encounter outside Endeavour Police Station.

148 The inquest scope encompassed the following questions:

- What signs were there of Numan becoming radicalised and/or planning attacks?
- Who was in a position to observe and/or act on those signs, if they existed?
- How were Numan's attitudes and actions affected by the cancellation of his passport, his awareness that he was under investigation, the arrests that had occurred in Sydney and Brisbane on 18 September 2014, and the fatwa that had been issued on 20 September 2014?
- What was known by the JCTT and ASIO about Numan and his potential to act as he did on 23 September 2014?
- What risk assessments were undertaken in relation to Numan, prior to 23 September 2014, and how was the decision to speak with him reached?
- The events of 23 September 2014: how did the JCTT members prepare for the meeting with Numan? What risk assessments and plans were undertaken and how appropriate were they in the circumstances?
- How did the JCTT's attendance at the family home affect subsequent risk assessments that they made? And how did the knowledge they had attended affect Numan himself?
- What was the nature and the impact of the JCTT contact with Numan during the day?
- How was the decision to meet Numan outside the Endeavour Hills Police Station reached? And what was planned and undertaken appropriate in the circumstances?
- Training, information and risk assessments: was all of the information and intelligence available properly passed between agencies prior to the decision to approach Numan on 23 September 2014?

- How were JCTT members trained and resourced to undertake risk assessments of the type they did, interviews of the kind proposed to be undertaken with Numan, or to respond to the kind of threat that he posed?
- What were the alternative measures that could have been employed by JCTT members in their approach to Numan on 23 September 2014?

149 The police's actions in shooting Numan was ultimately not focussed on during the inquest as the evidence gathered during the coronial investigation supports the conclusion that after Numan produced the knife and used it to attack Officers A and B, the options for them were very limited.

150 The following witnesses gave evidence at the inquest:

- [REDACTED] Haider
- [REDACTED] Haider
- Sulaiman Sarwari
- Ljindim Sulejmani
- Jinaali Vishni [REDACTED]
- Habib Paygham
- Khalifur-Rahman Hamid
- Acting Sergeant Ellane Clarke
- Ali Torkamanyer
- Mark Adams
- Professor Greg Barton
- Anthony Loney
- Officer H
- Officer E
- Officer C
- Officer D
- Officer B
- Officer A

- First Constable James McKay
- Constable Bianca Sanzaro
- Detective Leading Senior Constable Jennifer Booth
- Inspector Andrew Falconer
- Inspector Darryl Thompson
- Natalie Mayfair, ASIO
- Julie Carrington, ASIO
- Tom McKenzie, ASIO
- Rebecca Heathmont, ASIO
- Officer Q
- Officer N
- Officer P
- Officer K
- Detective Inspector Michael Hughes
- Detective Senior Constable Leigh Smyth
- Detective Sergeant Steven Martin

Section 57 applications

151 A number of applications pursuant to section 57 of the Act were made during the inquest, I excused some witnesses from giving evidence due to other legal proceedings that were on foot at the time, or issued self-incrimination certificates to witnesses who then proceeded to give evidence.

152 Witnesses who were excused from giving evidence at the inquest included:

██████████  
██████████  
██████████

## Assessment of the evidence

153 I will now consider the evidence in relation to each of the identified topics highlighting circumstances sufficiently proximate to Numan's death, together with any identifiable prevention aspects.

154 As Counsel Assisting indicated in addition to the 13 days of inquest evidence a significant body of documentation and written statements were obtained during my investigation, which bear on how the inquest evidence is assessed.

155 It is important to note at this juncture that particular care needs to be taken in regards to hindsight. Of this Counsel Assisting said the following: *'Hindsight does not just affect coroners. It can affect witnesses too. Knowing what Numan did on 23 September 2014 casts a shadow back over memories and it is possible for witnesses to come to believe that they can identify links which could not reasonably have been made at the time or to give an event a degree of importance in hindsight that it did not in fact have at the time they occurred.'*<sup>32</sup>

156 I have taken particular care to weigh the evidence of all of the witnesses with the possibility that the evidence may have been unconsciously affected by hindsight.

157 The evidence before me has clearly established that Numan was killed by a shot to the head fired by Officer A and at the time Officer A fired the shot Numan was crouching over Officer B, stabbing him in the stomach, having already stabbed Officer A. And it has been established that there was no time or opportunity for either Officer A, or Officer B to use a lower level of force to disarm Numan to prevent further injury to Officer B.

158 Neither Officer A nor B, who both sustained serious injuries in the attack, knew Numan had attended the meeting with an intention to stab them, and they cannot be criticised for the way in which they responded once Numan produced the knife.

159 Furthermore, it has been established that Numan's death was not preventable, other than at the expense of Officer B's life, from the time he produced the knife and commenced stabbing at the officers.<sup>33</sup>

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<sup>32</sup> Submissions of Counsel Assisting, paragraph 25

<sup>33</sup> Submissions of Counsel Assisting, paragraph 11



The pattern of Numan's behaviour leading up to his death

160 A number of Numan's family and friends gave evidence of Numan's background and personality and how his mood and attitudes began to alter, particularly throughout 2014.

161 Each of Numan's friends who gave evidence at the inquest including his former girlfriend, Ljindim Sulejmani, Sulamain Sarwari and Habib Paygham presented as concerned to protect their own and Numan's interests and reputation and did not give full and frank answers to the questions posed to them. As such I give very little weight to their evidence.

162 Sulamain Sarwari gave unconvincing evidence as to his involvement with Numan and the incident with a knife, and Habib Paygham presented as a generally untruthful witness.

163 I am cautious in accepting substantial portions of Ljindim Sulejmani's evidence, except where it accords with other evidence. Intercepted telephone calls between he and Numan show they spoke openly about very personal matters and in this context it appears implausible that he would not have known or seen anything in respect to Numan's increasingly extremist views. Despite Numan's parents opposition to the friendship it is clear that Sulejmani was giving Numan advice, and considering the contact they had it is not plausible that he did not know what he did when he went to Sydney.<sup>34</sup>

164 The three associates of Numan whom I excused from giving evidence due to the other charges they were facing at the time of the inquest had previously provided statements that were not supported by the evidence available from other sources, and as such I have treated their statements with caution.

165 As Counsel Assisting highlighted the best evidence of Numan's activities and attitudes in the weeks and months leading up to his death comes from the telephone intercept material and the evidence of ASIO officers who had access to this and other intelligence.

166 Through this evidence it is clear that Numan was becoming somewhat estranged from his family in the weeks prior to his death, and they had limited knowledge of his activities as he was not telling them what he was doing.

167 Numan emerged as a typically troubled teenager who was at odds with his parents, potentially as he was not following or living up to their hopes for him, and partly as he saw them as

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<sup>34</sup> Submissions of Counsel Assisting, paragraph 34

unsupportive of his religious choices and friends. This culminated in him leaving home for a few days and not letting his family know where he was.

168 In the months before his death he was accessing violent images and videos online including scenes of graphic terrorist violence and took a very close interest in matters relating to Islamic State and events in the Middle East. As Counsel Assisting submitted, all of these influences seemed to have combined to make Numan think, and be capable of, engaging in violence towards police.<sup>35</sup>

169 Numan's former girlfriend's evidence that she knew very little of his belief cannot be accepted as subsequent ASIO evidence clearly establishes that she and Numan spoke about Islamic State and travelling overseas together.

170 However I do accept her evidence that Numan had changed considerably from when they were estranged in July until his death as it is consistent with other evidence, including evidence from Numan's family.

#### Was Numan radicalised?

171 At the conclusion of the inquest the issue squarely arose as to whether Numan could fairly be described as radicalised or dangerous.

172 Professor Barton described the sophisticated messaging and exploitation of social networks and relationships through which extremists attract adherents, and it appears Numan was vulnerable to this.

173 His family have acknowledged that Numan expressed uncritical support for Islamic State in telephone conversations, but at times he also expressed views which may indicate that he was opposed to ISIS, such as when he supported the Taliban, a group fundamentally opposed to ISIS.

174 The family has submitted that prior to 23 September 2014 Numan had no plans to attack Officers A and B and that his actions were rash ones, borne out of the many pressures he faced at the time.<sup>36</sup>

175 As Counsel Assisting outlined as difficult as it may be for Numan's family to accept, in the final months of his life he clearly was drawn into extremist views and had been actively seeking to

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<sup>35</sup> Submissions of Counsel Assisting, paragraph 22

<sup>36</sup> Submissions on behalf of the Haider family, paragraph 7

travel overseas to join Islamic State.<sup>37</sup>

176 His religious beliefs had intensified throughout 2014 and he had begun associating with males who shared his beliefs. He had also attended the Al-Furqan Centre and potentially become further radicalised through this attendance. Numan was supportive of extremist views and therefore by June 2014 had come to the attention of the authorities through his activities.

177 Numan was frustrated at the situation with his passport and was becoming increasingly conspicuous that he was being monitored. He engaged in significant internet research and actively tried to source weapons.

178 On 19 September 2014 Numan was still trying to source further weapons and the issue of the fatwa together with his reaction to counter-terrorism raids may have been a catalyst for Numan to conduct a 'lone-wolf' type attack.

179 On 23 September 2014 Numan took a knife to an arranged meeting with police and within seconds of their approach Numan launched an unprovoked knife attack. As Counsel Assisting indicated there is ample evidence that Numan attended armed with a knife and that it was his choice to produce and use it. The fact that he brought the Shahada flag with him suggests a political and religious motive, influenced by Islamic State rhetoric, and his posts on social media also support this.

180 At inquest Professor Barton explained that for all the young Muslim men who feel aggrieved or alienated by the way Australian society or the media characterise Islam and Muslims, very few take that path. However on the night of Numan's death he did fit the stereotype of a dangerous young man motivated by an extreme and non-representative form of Islam.

181 The Commonwealth highlighted it is very likely that some of Numan's associates could have given relevant evidence as to how Numan became radicalised, however their evidence was not available to the inquest because of pending proceedings against those individuals at the time.<sup>38</sup>

182 As the Commonwealth submitted the coronial brief contains abundant evidence of the fact that Numan was becoming radicalised, and that the further evidence of ASIO offered further confirmation.<sup>39</sup>

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<sup>37</sup> Submissions of Counsel Assisting, paragraph 12

<sup>38</sup> Commonwealth submissions, paragraph 24

<sup>39</sup> Commonwealth reply submissions, paragraph 16

## The impact of Numan's passport cancellation

183 Four matters were identified during the inquest that potentially had an impact on Numan's increasing radicalisation. The cancellation of his passport, his awareness that he was being investigated, the counter-terrorism raids in Sydney and Brisbane on 18 September 2014, and the fatwa that was issued on 20 September 2014.

184 Numan's family submitted that whilst he may have expressed radical views in the weeks and months prior to 23 September 2014, he was intensely frustrated by his situation including the pressures at home, his failed relationship, his inability to obtain information about his passport and his awareness that authorities had an interest in him and he was upset by the police attending his home on 23 September 2014.<sup>40</sup>

185 Towards the end of the inquest, following a request from his family, further evidence was provided by ASIO regarding the circumstances in which Numan came to the attention of ASIO. This evidence clearly indicates that Numan was actively interested in travelling overseas and had an active interest in Islamic State and other extremist groups prior to when he applied for a new passport. As Counsel Assisting submitted while the subsequent cancellation of Numan's passport may have diverted his focus from international to local actions, he was already on a path to extreme views before the cancellation.<sup>41</sup>

186 Numan was actively distancing himself from other parts of his life and telephone intercepts reveal references to possible planning and him saying he would 'do it soon'.<sup>42</sup>

187 By 18 September 2014 Numan:

- Had made multiple posts on Facebook indicating a growing support for extremist views;
- Had been involved in the flag-waving incident at Dandenong Plaza and had claimed he would have stabbed police in attendance if he had had a knife;
- Had asked his friend Sulamain Sarwari for his knife back;
- Told Jinaali he never wanted to see her again, to delete the footage from her phone of the Dandenong incident, and to burn the book he had given her;

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<sup>40</sup> Submissions on behalf of the Haider family, paragraph 9

<sup>41</sup> Ibid, paragraph 36

<sup>42</sup> Transcript of inquest, page 1012

- Was actively seeking extremist material on the internet; and
- Was staying away from home and refusing to contact his family.

188 Subsequent events include him continuing to seek out a Taser on 19 September 2014, purchasing knives on 21 September 2014, and being formally advised in writing of his passport cancellation on 22 September 2014.

189 On the morning of 23 September 2014 Numan drove to the airport with an associate who was believed to be leaving to fight overseas. In addition to this, although the evidence does not establish with any certainty Numan's movements in Sydney, his location in inner Western Sydney suggests that he attended an extremist bookstore and he may have met with Islamic State recruiters, or people who encouraged him to commit politically motivated violence.

190 Overall it is not able to be clearly established from the evidence whether any of these things had a direct causal relationship to the violence Numan engaged in on 23 September 2014. As suggested by Counsel Assisting it is not clear what active steps Numan might have taken to engage in a violent attack, and when, had he not been invited to meet with Officers A and B as there is insufficient evidence to suggest he had detailed or advanced plans to attack police or any other target.<sup>43</sup>

#### The risk Numan posed

191 An important factor in this investigation was the authorities' decision-making and risk assessments in the week or so before Numan's death.

192 On 17 September 2014 ASIO members met with SOCIU to provide intelligence obtained by them in relation to Numan and one of his associates. Officers P and Q were advised that Numan's behaviour had escalated over recent weeks or months, and the intelligence related to Numan showing interest in obtaining a balaclava, a large and small knife, which ASIO believe had been obtained by him.<sup>44</sup> Further to this ASIO advised SOCIU members that Numan's passport had been cancelled, that Numan had made internet searches of the Holsworthy Army Base, 'home made suppressor', 'firecrackers wrapped in metal sheet' and the Prime Minister's schedule, and he had told an associate he would 'do it soon'.<sup>45</sup>

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<sup>43</sup> Submissions of Counsel Assisting, paragraph 44

<sup>44</sup> Statement of Natalie Mayfair, dated 12 April 2016 (Exhibit 86)

<sup>45</sup> Transcript of inquest, page 1011 - 1012

- 193 It was thought the perceived risk he posed was to institutions and/or public figures, primarily the Prime Minister.
- 194 It was decided at the meeting that the JCTT should be consulted as it was the more appropriate body to make contact with Numan.<sup>46</sup> The JCTT response occurred specifically at the request of ASIO as it was deemed Numan posed an unacceptably high risk to ASIO officers as he might have a knife, and they are not trained to deal with an individual potentially armed with an edged weapon.
- 195 An urgent need to speak to Numan was identified as double pronged to establish any risk he posed. Firstly to the Prime Minister and secondly whether he could be distracted from radicalisation
- 196 On 19 September 2014 senior members of the JCTT became aware of Numan's activities following a briefing with JCTT and SOCIU members. A briefing note was circulated and spoken to during the meeting. In addition to this the JCTT members who spoke to Numan had access to the report about the incident at Dandenong Plaza, and that Numan had recently spoken to police as a witness.
- 197 In submissions Counsel Assisting identified three varied risks that Numan could have, or did pose. The initial risk identified through a review of the evidence is the risk that he would travel overseas to engage in terrorist activities, which was clearly mitigated through the cancellation of his passport.
- 198 Another risk, which was the focus of ASIO and the JCTT's involvement, was that Numan may engage in politically motivated violence in Australia, due to his internet searches of various political figures and public locations. It was this risk that the JCTT plans to meet with Numan were to disrupt.
- 199 Finally was the risk that Numan would engage in a reactive style attack resulting from his attitude to law enforcement.
- 200 In my view the crucial consideration<sup>46</sup> is to identify the true sense of risk attributed to Numan on 19 September and 23 September 2014.

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<sup>46</sup> Transcript of inquest, pages 86-87 and page 93

201 By 19 September 2014 Numan was exhibiting escalating behaviour. In particular he was seeking to obtain knives and Tasers, he wanted to transfer fines, he did not believe he would be alive by exam time, and was expressing anti police sentiments.

202 ASIO intelligence highlighted the urgent need to assess Numan to ascertain what it was he thinking, and how dangerous he was. He had the potential, and by now the means, of carrying out an edged weapon attack on police. The likelihood of him carrying out such an attack was not established.

203 Although ASIO intelligence conveyed to the JCTT on 19 September or shortly thereafter identified Numan having likely obtained a knife he was considered low risk of a knife attack. Officer E gave evidence of this: *'...he was a low risk engagement. Ah, the tone of the meeting on the 19<sup>th</sup> was that, although his behaviour was concerning, we were made aware that he may have obtained a weapon..the tone of the meeting was, in my view, he was low risk. That was the risk notwithstanding that he might have a knife?—That's correct.'*<sup>47</sup>

204 It is important to note that one of the urgencies to speak to Numan was to ascertain his intentions. On 19 September 2014 it could not have been perceived what impact, if any, the fatwa would have on any individual, including Numan. It follows, absent hindsight, there was no reasonable basis to conclude Numan would comply with the fatwa.

205 An issue raised in Counsel Assisting's submissions was whether information was available which, if known, may have altered the manner in which Officers A and B were prepared to meet with Numan. Such information included briefings they received, the information they were given access to, the information they sought out themselves, how they liaised with other members of the JCTT, and how they ultimately planned for the meeting with Numan.

206 Counsel Assisting submitted that on one view, material potentially relevant to Numan's risk to police officers, was not available to Officers A and B when they met with Numan, because the focus to that point related to Numan's risk of instigating an attack on a political figure.<sup>48</sup>

207 The Commonwealth however have submitted that there is no evidence of a misplaced risk focus as the briefing note set out ASIO's assessment that Numan had likely obtained knives, an iPhone Taser and a balaclava, and that during the briefing Officer E made a note in his diary that it does

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<sup>47</sup> Transcript of inquest, page 1254

<sup>48</sup> Counsel assisting submissions, paragraph 52

not take many skills to stab someone.<sup>49</sup>

208 Another issue that arose during the inquest were whether information about Numan's Facebook posts was or should have been available to the JCTT members and the unavailability of a comment made on 18 September 2014 in which Numan refers to stabbing police.

#### The Facebook posts

209 On 18 September 2014 Numan had posted a picture of himself on his Facebook page with a balaclava, military style clothing and the Shahada flag in the style of images posted by members of Islamic terror groups. He had expressed views supportive of the Taliban and of killing Shia Muslims, had warned of impending raids on mosques, and had called the AFP and ASIO officers 'dogs'.

210 The extent to which Numan's Facebook posts, obtained by ASIO on 19 September 2014, were discussed at the 19 September 2014 briefing became a significant issue during the inquest, and in subsequent submissions.

211 Extensive evidence was given on this point by nine witnesses, and a clear conflict in the evidence arose; ASIO officers who gave evidence at the inquest said the Facebook posts were discussed and distributed, whereas JCTT and SOCIU members gave evidence they were not, except in passing.

212 It is clear that Ms Mayfair from ASIO intended to share the Facebook information with police, as evidence illustrates she specifically sought permission to do so prior to the meeting.<sup>50</sup>

213 Contemporaneous notes of the 19 September 2014 meeting were taken by Officers E and P and suggest there was some reference to Facebook or social media, but Officers E, P, Q and K all gave evidence that they did not see printouts of any specific Facebook posts.

214 Officer E said he was not aware that Numan had made Facebook posts suggesting an extreme ideology until a meeting after Numan's death, and Officers P, Q and K all said that material was such that they would have remembered if they had seen it.

215 Of the ASIO witnesses who were present at the meeting Ms Mayfair said she had discussed and circulated the posts, Ms Carrington recalled at least one copy of the posts being present and recalled an 'awkward feeling' about derogatory remarks by Numan about ASIO and AFP

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<sup>49</sup> Commonwealth submissions in reply, paragraph 48

<sup>50</sup> Commonwealth submissions, paragraph 75



members, which she attributed to the posts being discussed at the meeting, although she could not recall what if any detail was discussed. Ms Heathmont recalled documents being present at the meeting but had no recall of what they were and Mr McKenzie believed the Facebook posts were discussed due to ASIO Record of Conversation records.

216 The Record of Conversation records that were subsequently prepared by ASIO officers clearly refer to Numan's Facebook posts getting more extreme, however this record was not finalised until 6 October 2014, after Numan's death.<sup>51</sup>

217 Notably there was another further meeting on 24 September 2014, after Numan's death, at which the Facebook posts were discussed.

218 Counsel Assisting has suggested that it would therefore be open for me to prefer the recollections of the JCTT and SOCIU witnesses on the basis that it is possible the recollections of the ASIO witnesses were influenced by their participation at subsequent meetings, or by an assumption they had been discussed when they had not.

219 There is however no probative evidence that the ASIO officers' recollection was influenced by their attendance at subsequent meetings<sup>52</sup>, and it was alternatively submitted that it is possible that the JCTT and SOCIU officers were unable to recall being told about seeing the Facebook posts, and therefore had understandably come to the belief that such information had not been provided to them.<sup>53</sup>

220 Counsel Assisting suggested that it can fairly be said that the sharp difference in recollection between ASIO and JCTT/SOCIU members may be demonstrative of a communication failure.<sup>54</sup>

221 In response Ms Mayfair's representatives submitted that describing it as a communication failure needs to be examined with considerable care, and that a lack of precise recollection does not constitute a communication failure.

222 The Commonwealth and Ms Mayfair have submitted that this rejects the possibility the Facebook posts were discussed, at whatever length, but then forgotten by some attendees at the meeting because they were not regarded as significant.<sup>55</sup>

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<sup>51</sup> Exhibit 86, Annexure F

<sup>52</sup> Submissions in reply of Natalie Mayfair, paragraphs 8-9

<sup>53</sup> Submissions in reply of Natalie Mayfair paragraphs 23-25

<sup>54</sup> Submissions of Counsel Assisting, paragraph 68

<sup>55</sup> Commonwealth submissions in reply, paragraph 46

223 Officer E submitted that having identified a potential risk of harm to the Prime Minister he noted everything material from the 19 September 2014 meeting so that he could properly assess whether the JCTT was the appropriate unit to conduct action with respect to Numan, form a view about level of urgency, and brief the JCTT officers tasked with carrying out the approach so that they could plan the approach safely.

224 Ms Mayfair highlighted that four days before the meeting with Numan ASIO had briefed the JCTT and SOCIU orally and in writing regarding the significant concerns they had that:

- Numan was a young man who adhered to an extremist ideology;
- He may be preparing to engage in an act of politically motivated violence in Australia;
- Numan was likely to have obtained a large knife and a small concealable knife, a taser and a balaclava;
- He was likely to support Islamic State;
- Because Numan had obtained a knife ASIO had safety concerns about their officers interviewing him; and
- It did not take many skills to stab someone.<sup>56</sup>

225 An ASIO analyst who assessed Numan's Facebook posts on the morning of 19 September 2014 communicated to Ms Mayfair that there was nothing specific regarding Numan's intentions, but that it is a concerning representation of his ideology.

226 Ms Mayfair gave evidence that the Facebook post was an expression of frustration by Numan rather than an implied threat against law enforcement officers<sup>57</sup>, and that she did not consider anything in his Facebook posts added to ASIO's assessment of the threat he posed of conducting an act of politically motivated violence.<sup>58</sup>

227 Representatives for the CCP suggested that whilst ASIO did not consider the Facebook postings changed its assessment, as they did not consider it threatening, there was a failure to appreciate that it should have passed on all relevant information as it may be relevant to the manner in which Numan would be approached by the JCTT.

228 When asked why the Facebook post would be relevant Officer A said that it was very militaristic and *‘.It shows that there is some, ah, form of aggression in that by wearing the balaclava, the*

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<sup>56</sup> Submissions of Natalie Mayfair, paragraph 23

<sup>57</sup> Transcript of inquest, pages 1057-1058

<sup>58</sup> Transcript of inquest, page 1036

*camouflaged appearance of his tope and also the jihadi flag, which had been hijacked by terrorist groups at this stage.*<sup>59</sup>

229 When asked, with the benefit of hindsight, how having access to the Facebook information, might have altered that assessment as to the approach to Numan Officer A responded with *'Ah, that would have been applied to the risk assessment. It would have been fed to Officer E and H and the decision made with them as to whether we proceed with any planned interactions with him.'*<sup>60</sup>

230 Furthermore in reference to the post stating that AFP and ASIO were dogs who should 'go fist each other up the arse' Officer A said it was relevant to their risk assessment: *'The comment itself is, ah, it's turning his attention away from political figures and turning them towards law enforcement and intelligence. So that is concerning.'*<sup>61</sup>

231 As to how the Facebook information would have affected Officer A's approach to Numan on 23 September 2014 Officer A said: *'An approach I think would still have been likely, but certainly it would have – would not have occurred in the circumstances of how we planned it, ah proceeding...I believe it would have still occurred, but not in the format of what it did.'*<sup>62</sup>

232 Officer C was recalled to give further evidence at the inquest when it was revealed that he had searched for and seen the Facebook posts on his own initiative at the time, but had no recall of advising other JCTT members of their content.

233 Representatives for the CCP have said that Officer C's failure to pass the Facebook information to Officers E, A, B and D was unfortunate as this was crucial information which needed to be considered as part of a proper risk assessment.<sup>63</sup>

234 Officers A and B clearly expressed the view in their evidence that the Facebook posts would have made a difference as to how they planned for their meeting, which with hindsight is understandable.

235 However as Counsel Assisting has highlighted it is not possible to say with any degree of certainty whether had Officers A and B known about the Facebook pages it would have led to them not meeting with Numan that night. Both Officers A and B say they would have done it

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<sup>59</sup> Transcript of inquest, page 842

<sup>60</sup> Ibid

<sup>61</sup> Transcript of inquest, page 843

<sup>62</sup> Transcript of inquest, 844-845

<sup>63</sup> Reply submission on behalf of the CCP, paragraph 5

differently, but neither said definitively that they would have decided not to meet with Numan.<sup>64</sup>

236 The family have submitted that the statement against the AFP and ASIO as posted by Numan on Facebook must be taken in context as it was done on the day that counterterrorism raids were conducted in Sydney and Brisbane and that the media coverage of the police actions was distressing for Muslims of all faiths.

237 The family have submitted the posts were no more than a representation of concern that many Muslims would have had in the days following the raids.

238 The Commonwealth submitted that the Dandenong Plaza incident, which occurred just hours before Numan posted on Facebook is the immediate and essential context for assessing the Facebook information, and should be accepted as a continuation of his actions hours before at Dandenong. It is submitted that on a fair reading of the Facebook posts they are not-threatening, and when compared to what he said to police at the Dandenong Plaza his rhetoric is more vulgar, but less threatening.<sup>65</sup>

239 Mr Bruce Maxwell, State Manager of the Victorian ASIO office stated the following: *'In my opinion, there is nothing in the Facebook information that warranted any change in ASIO's assessment of Numan, or affected whether or not it was appropriate for the JCTT to seek to interview him.'*<sup>66</sup>

240 Assistant Commissioner Gaughan of the AFP stated that even with the benefit of hindsight he was of the view that the Facebook posts did not provide an overwhelming reason to alter the plan to approach Numan: *'Whilst, with hindsight, some may think a different approach to Numan may have been warranted, in light of all of the information that is now at hand, I believe taking into consideration Numan's age and the fact that was known about him clearly already called for caution in approaching the interview (including that Numan was known to support IS, that he may have sourced a knife, that he had displayed escalating behaviour in recent days, and that he may have been planning to attack the Prime Minister) there was no overwhelming reason to change the plan that had been developed. It should be acknowledged that the Facebook posts had been made days after the terrorism raids in Sydney and Brisbane, in which police were criticised for our actions. Numan's Facebook posts were very similar to a large number of other*

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<sup>64</sup> Submissions of Counsel Assisting, paragraphs 70 -72

<sup>65</sup> Commonwealth's submissions, paragraph 108-109

<sup>66</sup> Statement of Bruce Maxwell, paragraph 35 (Exhibit 101)

*Facebook posts made around this time that made derogatory remarks about the police and ASIO.*<sup>67</sup>

The missed comment: 'If I had a knife I would've stabbed them'

241 On 18 September 2014 during a call to a friend Numan said that if he had had a knife he would have stabbed the police at Dandenong Plaza.<sup>68</sup>

242 The comment was made while Numan was trying to make a call that did not connect and ASIO does not review recordings of calls that don't connect.<sup>69</sup> Due to the nature of ASIO monitoring this comment was not captured at the time, namely that ASIO monitors listen to calls, but not calls that go unanswered.<sup>70</sup> It was listed in the system as an 'unanswered call'.

243 As part of the coronial investigation, during his review of all of the ASIO telephone intercept material, Coroner's Investigator Leigh Smyth identified the comment, immediately identifying its relevance.

244 Numan's family submitted that Numan's actions do not indicate a pre-meditated plan to perform a radical act on the evening of 23 September 2014, and that his expressed intent to stab police officers if he had had a knife shows no detailed plan that he was intending to carry out, and could alternatively be seen as a show of bravado in a conversation with friends.<sup>71</sup>

245 As Counsel Assisting expressed it was this information that Officer A gave evidence of that he says might have led to him cancelling the meeting with Numan. Clearly the knowledge that Numan had enunciated an expressed intent to stab police officers would have had bearing on how the meeting with him occurred, and it is unfortunate it was not captured.

246 The family has submitted that none of the material was clear enough in itself to definitively say what was going on in Numan's mind on 23 September 2014 when he committed the acts, and that he 'snapped'.<sup>72</sup>

247 The Commonwealth supported previous submissions that there is no evidence that Numan was planning on carrying out an attack on 23 September 2014 until he was presented with a target.

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<sup>67</sup> Assistant Commissioner Gaughan's statement, dated 22 April 2016, paragraph 43 (Exhibit 101)

<sup>68</sup> Coronial brief, page 1193, Call 25

<sup>69</sup> ASIO affidavit of Mark Lister, dated 19 February 2016

<sup>70</sup> Commonwealth reply submissions, paragraph 25

<sup>71</sup> Submissions on behalf of the Haider family, paragraph 18

<sup>72</sup> Submissions on behalf of the Haider family, paragraph 20

The Commonwealth however submit that this does not, as the family have suggested, indicate that Numan simply ‘snapped’ due to a combination of pressures.<sup>73</sup>

248 I accept that the evidence strongly indicates that Numan was minded in the days before his death to carry out some form of attack, albeit that his choice was an opportunistic response to the JCTT’s approach.

#### The JCTT approach to Numan

249 Of considerable note during the inquest was Officer A’s relevant and extensive experience in dealing with young men suspected of having extremist views, and the careful and considered approach he outlined. Given their experience it was appropriate that Officers A and B were those selected to meet with Numan and their decision to try and meet with him with his family was also proper.

250 As representatives for the CCP have submitted it was warranted for the JCTT to approach Numan for a discussion considering the information they had about him, and that on that information it was reasonable to expect that whilst Numan held a particular ideology towards the Australian government, he did not pose an immediate physical threat to police.<sup>74</sup>

251 It was the domain of the JCTT to determine how to approach Numan. Clearly safety concerns for both the officers and Numan were the primary considerations, with a ‘soft’ or non-confrontational approach determined. On the available information there was no reasonable basis to believe Numan had an intent to carry out an edged weapon attack, nor was there any indication from Numan’s family that Numan may react in an angry or adverse manner.<sup>75</sup>

252 As the Commonwealth has highlighted the ‘soft’ approach, which was an approach by two plain clothed officers without their weapons drawn was imperative to build rapport and engage with Numan.<sup>76</sup>

253 Officer A approached Numan in a professional and comprehensive manner. His safety focus was paramount including:

- Surveillance and meeting at the police station ensured Numan was alone;

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<sup>73</sup> Commonwealth reply submissions, paragraph 19

<sup>74</sup> Reply submissions of the CCP, paragraph 19

<sup>75</sup> Transcript of inquest, page 896

<sup>76</sup> Commonwealth submissions in reply, paragraph 61

- His approach to Numan had the clear focus of assessing the risk that Numan was armed. He did not take his eyes off Numan at any stage observing his demeanour, hands, body language and negating any signs of imminent attack; and
- His greeting was low key and clear, and he immediately explained that he would conduct a pat down search.

254 Numan's early arrival allowed Numan to reverse park some distance from the police station entrance. The lighting was not ideal, however I accept Officer A's evidence that radiant light from the police station allowed him to adequately assess Numan.

255 Numan's early arrival also prevented Officers C and D from taking positions outside. However given the ferocity and speed of the attack support officers would unlikely have altered the outcome.

256 Officer A explained Numan exhibited no signs of imminent danger. He displayed no level of agitation, no change in posture, no defensive stance and no verbal indicators. One aspect that concerned Officer A was that Numan's right hand was in his jacket pocket. He thus extended his hand in greeting from a distance requiring Numan to remove his hand from his pocket, which he did.<sup>77</sup>

257 I consider the manner of Officer A's approach, from a safety first perspective, was beyond reproach.

258 The family submit that shortcomings in the briefing, planning and risk assessment process engaged in by government authorities ultimately contributed to the circumstances that resulted in Numan's death.

259 It is open to me to make an assessment on what the facts were, and what was known, the reasonableness and appropriateness of what was done by people who had access to the information, or what could have been done if people had been given the opportunity to be more informed.

260 The family has submitted that there were shortcomings in the JCTT planning and risk assessment in that they should have met Numan with his family, that their search of his room caused him great distress and the JCTT members who were aware he had attempted to obtain a knife should

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<sup>77</sup> Transcript of inquest, page 873-874

have assumed he had obtained one.<sup>78</sup>

261 In respect to the approach Officer E has outlined that Numan was not under investigation by the JCTT, and there was no evidence to arrest him. The purpose of the meeting was to engender his co-operation, make an assessment of his potential harm that he may have posed to the Prime Minister and to carry out disruptive activity.<sup>79</sup>

262 Officer E refutes the family's submission that the briefing of the JCTT was inadequate and believes it is unfounded. He submits the decision-making processes of the JCTT to approach an individual that ASIO had accessed as potentially armed was adequate and appropriate.<sup>80</sup>

263 I accept the Commonwealth's submission that whilst Numan was unhappy that his room was searched by the JCTT, it is at best speculative to suggest that Numan may not have attacked the officers if it had not been for the search of his room: *'...there is considerable evidence to support Numan was contemplating such an attack, and had armed himself accordingly, several days before he became aware of the room search, and before he even knew that police wished to meet with him. By far the better view of the evidence is that the actions of the JCTT officers did not cause Numan to do anything. They merely gave him an opportunity to carry out an attack that he had already decided to undertake.'*<sup>81</sup>

264 Significant focus and evidence was directed at which discussions, meetings and/or documents were relied on and distributed and have been subject to thorough analysis in parties' submissions.

265 Leaving aside Numan's social media commentary, which senior police describe as unusual, but not atypical of individuals such as Numan, I consider that there is one piece of information which may likely have altered the manner in which police approached Numan and possibly abandoned the planned approach on 23 September 2014: that Numan had expressed to a colleague after the Dandenong incident – *"If I had a knife I would've stabbed 'em"*;

#### *The 19 September 2014 meeting*

266 Police officers who were at the meeting on 19 September 2014 concede to the possibility that social media was mentioned. Indeed one noted as such. Having formally obtained permission from her superiors on 19 September 2014 to refer to specific Facebook entries at the meeting it

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<sup>78</sup> Submissions of the Haider family, paragraphs 28-31

<sup>79</sup> Reply submissions on behalf of Officer E, paragraph 30

<sup>80</sup> Reply submissions on behalf of Officer E, paragraphs 32-33

<sup>81</sup> Commonwealth's submissions, paragraph 41



is clear that Ms Mayfair intended to, however it is an open possibility that the displaying of the posts was overlooked.

267 In my view Numan's commentary on social media was consistent with rhetoric expected of a young man, categorised with the risk assessment attributed to him. His behaviour was escalating and unsurprisingly authorities considered it was increasingly important to engage him to assess the risk he posed to the Prime Minister and institutions and making him aware of their interest in him, hopefully to divert him.

268 Absent hindsight bias, it is difficult to comprehend what information on Numan's Facebook page would have altered or heightened his assessed risk and I am unable to specifically identify information on the Facebook page which alone would have reasonably altered the proposed course of engagement by the JCTT.

269 I accept the evidence of ASIO and relevant officers that information contained in the briefing note was more compelling than the contents on his Facebook page. Specifically, that Numan had likely obtained knives.

270 There were weighty matters canvassed in the meeting on 19 September 2014 regarding Numan and another person of interest. In this context the information which was not available to the JCTT and/or ASIO was his comment about Dandenong Plaza: *"If I had a knife I would've stabbed 'em"*.

271 Although the briefing note clearly identified the risk of a knife attack, an expressed intention to use the knife on operational police would be expected to elevate the risk assessment. Whilst knowledge of the expressed intention may not have altered the need to engage Numan, it was important new information to be factored into any risk assessment.

#### *The meeting with Numan*

272 Based on the assessment by the JCTT of the risks posed to police in speaking to Numan at that time, no overt signs of the threat that Numan would eventually pose, coupled with the lack of any pre-attack indicators the representatives for the CCP have submitted that the decision to meet with Numan was reasonable.<sup>82</sup> I do not consider that there is any reasonable basis to criticise the decision to meet Numan at the Endeavour Hills Police Station.

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<sup>82</sup> Submission on behalf of the CCP, paragraph 37

273 Further, absent hindsight, and in all circumstances, I do not consider the Facebook page contained any information that would reasonably alter the plan to meet Numan. The Facebook page contained rhetoric consistent with the description of Numan as detailed in the distributed briefing note.

274 In my view the expressed intention to stab police at Dandenong Plaza, in addition to intelligence that he likely possessed a knife was important information to factor into risk assessment and could have altered his assessed risk on 23 September 2014.

275 At Endeavour Hills Police Station the members' plan to engage with Numan with a soft, non-confrontational approach was not unreasonable on the basis of the information they had. Nor, in the circumstances, was their acquiescence to Numan's request to meet outside. The plan would not negate or significantly limit the ability of the members to maintain control of the meeting.

276 The factor that was not anticipated was Numan's early arrival. He arrived within five minutes of the agreed time from speaking to Officer A, a full ten minutes early. This denied police the opportunity to adopt positions in the carpark to await his arrival.

277 Numan parked in a poorly lit section of the carpark, placing police at a disadvantage and effectively wresting control from the members. Officer A and Officer B were placed in an invidious position and, in my view, it would be unfair to criticise any decisions of the police members in respect to the manner in which they endeavoured to engage Numan, including their efforts to ensure he was not carrying concealed weapons.

278 It would also be unfair to criticise police for continuing with their plan by virtue of Numan's early arrival.

279 At approximately 6:30pm Officer A was informed by Officer C that Numan had previously been seen 'playing' with a knife. He immediately requested further enquiries but was unable to ascertain anything further. This graphically illustrates Officer A's focus on the possibility of Numan being armed.

280 In an email on 19 September 2014 JCTT members had been informed by ASIO that Numan had likely obtained knife, or knives. He was considered a low risk, but with the potential to carry out an edged weapon attack. In all circumstances I do not criticise this assessment.

281 In my view, the crucial piece of information which was not available to Officer A, was not available to any party; Numan's stated intent to stab police.

## Analysis and Conclusions

### The Facebook posts

282 Officer E's case note acknowledged social media was discussed at the 19 September 2014 meeting, but was not distributed. Officer K had a case note referring to 'Facebook rhetoric'. Officer P from SOCIU in evidence recalled that Numan had a social media presence and Officer Q neither saw nor heard a Facebook reference.

283 ASIO witnesses were however of the belief the Facebook commentary was referred to in the meeting, at the very least spoken to by Ms Mayfair. The ASIO briefing note makes no reference to Numan's Facebook posts<sup>83</sup> and nor do Ms Mayfair's contemporaneous notes of the meeting.<sup>84</sup>

284 The Haider family submitted that evidence of the police officers ought to be preferred to that of the ASIO witnesses, in effect that they were not provided with the photos of Numan in fatigues and posts directing animosity to law enforcement<sup>85</sup> and submissions invited me to find that the relevant Facebook postings were not passed on by ASIO at the meeting on 19 September 2014.  
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285 I found all the witnesses to be doing their best to recall the transmission of information. However, the tragic and unprecedented event which shortly unfolded would render it difficult, if not impossible, to negate any hindsight bias: namely, was the material referred to and if not, what significance would it have held, absent hindsight?

286 I endorse the submission of the Commonwealth that the fact that Numan posted the Facebook information did not differentiate the risk he posed from that posed by a significant number of persons of interest to ASIO and the JCTT.<sup>87</sup>

287 The Commonwealth submitted that the significance of Numan's Facebook posting has been overstated in other submissions, and that evidence as to the potential significance of the Facebook information should not be accepted as the posts did not contain any direct threat to law enforcement, and the overwhelming evidence is that the posting of provocative comments and imagery on social media is not unusual, particularly in the wake of publicised counter-terrorism operations.

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<sup>83</sup> Annexure A to Ms Mayfair's statement (Exhibit 86).

<sup>84</sup> Annexure G to Ms Mayfair's statement (Exhibit 86)

<sup>85</sup> Submissions of the Haider family, paragraph 25

<sup>86</sup> Reply submission on behalf of the CCP, paragraph 2

<sup>87</sup> Commonwealth submissions in reply, paragraph 41

288 The Commonwealth submits the significance of the Facebook information should be properly assessed against what else was known at the time, and that Officer A was aware of the express threats that Numan had made to police at Dandenong Plaza, saying that they would pay.<sup>88</sup>

289 As a result of the information contained in the ASIO briefing note of 19 September, 2014, I am satisfied that JCCT planning in respect to the manner in which members would approach Numan, would be based on the knowledge that he had likely accessed knives and although assessed as a low risk, Numan had the potential to carry out an edged weapon attack.

290 The Commonwealth further submits that I am not required to make findings as to what transpired at the ASIO briefing and should not. Irrespective of this the Facebook post was taken into account by Officer C when the JCTT were planning their approach.<sup>89</sup>

291 There are no contemporaneous documents available that clearly record what happened at the briefing in regards to Numan's Facebook posts.<sup>90</sup>

292 A contemporaneous measure of the significance of the material is provided by Officer C. Officer C personally accessed Numan's Facebook commentary, prior to meeting with Numan. It follows, his assessment of the material is unaffected by hindsight.

293 The Commonwealth submits it is unnecessary to find whether Officer C discussed the Facebook posts, and further, that I cannot be satisfied on the evidence to the requisite standard.

294 I accept the Commonwealth's submissions that if Officer C did not tell others about the Facebook information this would be unremarkable in light of his assessment of the information, which accords with Assistant Commissioner Gaughan's evidence.<sup>91</sup>

295 Accordingly, I do not consider it necessary to determine whether or not Numan's Facebook entries were expressly referred to at the 19 September 2014 meeting.

296 In weighing all the evidence I have formed the view that each of the witnesses who gave evidence on this point appeared to be giving their honest recollection and that it is possible that one or more of the witnesses has had their memory affected by subsequent events.

297 The extent of conflict between the evidence of these credible witnesses means they cannot all be

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<sup>88</sup> Commonwealth submissions in reply, paragraph 41

<sup>89</sup> Commonwealth submissions in reply, paragraph 45

<sup>90</sup> Commonwealth's submissions, paragraph 79

<sup>91</sup> Commonwealth's submissions in reply, paragraph 37

correct, but I am unable to reconcile them.

298 That Officers A and B in hindsight consider the Facebook material significant, is clearly at odds with ASIO officers, and others. I do not consider either position unreasonable or inappropriate. Rather, I consider it impossible to remove hindsight bias in consideration of the assessed significance of this material, prior to this tragic event.

299 The principles as enunciated in *Briginshaw* indicate that the seriousness of an allegation that Ms Mayfair did not provide sufficient information to the JCTT, and the consequence flowing from an adverse finding means that a finding can only be properly grounded when there is direct and unequivocal evidence.<sup>92</sup>

300 Ms Mayfair submitted there is no causal connection between the information that was, or was not, passed in relation to the Facebook posts and the manner and cause of Numan's death<sup>93</sup>, and I agree.

301 I accept that the evidence before me on this issue is not direct and unequivocal, and I therefore in turn make no adverse finding against Ms Mayfair, nor Officers E or C.

#### Numan's access to knives

302 ASIO evidence confirms that as at 19 September 2014 ASIO had assessed that Numan had potentially obtained a knife. This was included in the briefing note that was circulated to the JCTT.<sup>94</sup> The briefing note refers to Numan having sought and likely obtained a 'big knife and a small pocket knife that can be hidden', an iPhone 4 taser and a balaclava.<sup>95</sup>

303 It is evident that Numan purchased knives from Aussie Disposals on 21 September 2014, however this was not known to the JCTT, and particularly Officers A and B when they approached Numan.<sup>96</sup>

304 Officer E initially briefed Officer B and C on the content of the briefing note on 22 September 2014. According to Officer C's evidence Officer E told him he may have an interest in a knife, and a concealed Taser. Officer C was aware that Numan may have sourced a knife from not only Officer E, but from having read the briefing note himself on 22 September 2014, as did Officer

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<sup>92</sup> Submissions in reply of Natalie Mayfair, paragraph 31

<sup>93</sup> Submissions of Natalie Mayfair, paragraph 2

<sup>94</sup> Statement of Natalie Mayfair, dated 12 April 2016 (Exhibit 86)

<sup>95</sup> Ibid

<sup>96</sup> Submission on behalf of the CCP, paragraph 39

B.

305 Officer A was also aware from Officer E that Numan had sought and likely obtained a big knife and small pocketknife<sup>97</sup>, and Officer D was aware he had been attempting to purchase knives.<sup>98</sup>

306 Representatives for the CCP have submitted that on 23 September 2014 there was no suggestion that Numan had actually obtained access to a weapon. Irrespective of this Officer A implemented security precautions as he attempted to search Numan immediately before the attack as Officer B was simultaneously conducting a visual check of Numan's vehicle.<sup>99</sup>

307 The Commonwealth highlights that the topic of Numan having accessed a knife was discussed between Officer C and Officer A, and then between Officer A and E in the hour or so prior to the meeting with Numan. Officer A asked Officer C to check with ASIO whether there was anything more known about Numan's access to weapons. Officer C contacted Ms Carrington and they discussed the intelligence that Numan had been 'playing with a knife', which Officer C conveyed to Officer A.<sup>100</sup> The Commonwealth submit that the prospect that Numan was armed with a knife was therefore prominent in the minds of the JCTT officers shortly before the meeting.<sup>101</sup>

308 The Commonwealth submit that the CCP's submission that there was no suggestion that Numan had actually obtained a knife is incorrect as ASIO had shared with the JCTT its assessment that Numan had 'sought and likely obtained' weapons including knives<sup>102</sup>, and that this was known to Officer A.<sup>103</sup> The Commonwealth further submit that even in knowing that Numan may have had a knife, it was appropriate for the JCTT officers to engage with him the way they did.<sup>104</sup>

309 In respect to their planned approach Officer A held two concerns regarding a potential knife attack and that was access and intent. The ASIO briefing note would have addressed the access to knives concern, however intent could only have been addressed by the unidentified comment "*If I had a knife, I would've stabbed 'em.*"

310 It remains a matter of speculation if the actual access to weapons knowledge alone would have altered the course of action, but it certainly may have factored into planning. The representatives for the CCP have submitted that, on balance, even with the information a decision would still

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<sup>97</sup> Transcript of inquest, page 835

<sup>98</sup> Transcript of inquest, page 708

<sup>99</sup> Submission on behalf of the CCP, paragraph 29

<sup>100</sup> Statement of Officer C, dated 11 March 2016 (Exhibit 53)

<sup>101</sup> Commonwealth submissions in reply, paragraph 48

<sup>102</sup> Annexure A to statement of Natalie Mayfair

<sup>103</sup> Transcript of inquest, page 835

<sup>104</sup> Commonwealth submissions, paragraphs 95-96

have been made for the JCTT to meet with Numan in any event, although it is likely the security measures may have been increased.<sup>105</sup>

### Information transfer

311 It is trite to say that seamless transfer of relevant information is essential for thorough risk assessment, and the more information available will mean an informed assessment.<sup>106</sup>

312 However I note, as the Commonwealth have submitted, that information transfer will always require the exercise of judgment and as there was a much raw material that had been collected over ASIO's three month investigation of Numan it was appropriate for ASIO to inform JCTT as to their assessment of Numan, provide a briefing note and conduct a briefing outlining his background and his recent activities of particular concern.<sup>107</sup>

313 The briefing note recorded ASIO's assessment that they had not identified Numan expressing an intention to undertake a specific act of politically motivated violence in Australia; they had not detected mention of specific targets, tactics or timing, nor was there any additional information to indicate planning is underway.<sup>108</sup>

314 I make no adverse finding against Ms Mayfair or of JCTT members in respect to information conveyed to the officers at the Endeavour Hills Police Station.

315 Further, I make no adverse finding against Officer E or any member responsible for planning the engagement with Numan on 23 September 2014.

### **Prevention aspects**

316 I endorse the submissions of Counsel for all parties who describe this incident as tragic. It is hoped there are endeavours to identify and divert young men and women who may be vulnerable to radicalisation to another path.

317 Events such as these highlight what underpins the insidious manner in which those who seek to radicalise young Australian operate, including their ability to alienate youth from their families and effectively fracture family relationships.

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<sup>105</sup> Submission on behalf of the CCP, paragraph 40

<sup>106</sup> Submission on behalf of the CCP, paragraph 47

<sup>107</sup> Commonwealth's submissions in reply, paragraph 31

<sup>108</sup> Commonwealth submissions, paragraph 60

318 Useful evidence was given during the inquest by both Imam Hamid and Professor Barton as to the consideration of prevention aspects. In focussing on youths who are vulnerable to radicalisation Imam Hamid identified four areas where he believed work was needed: the media, politicians, the general community and the Muslim community.

319 Professor Barton noted that it is rare for someone to self-radicalise, and that overwhelmingly the experience is that young people are radicalised through carefully managed relationships by recruiters.

320 Numan's family endorsed Professor Barton's theory as to intervention that would try to assist the individual back to healthy social networks, and away from dangerous influences, together with the involvement of a relevant Imam was useful from a prevention perspective.<sup>109</sup>

321 The Commonwealth usefully highlighted research of the Australian Research Council that radicalisation is non-linear and it can happen at the fringes of centres like Al-Furqan, where like-minded people can meet, exchange ideas and listen to charismatic speakers. Radicalisation is generally characterised by simultaneous behaviour change in three areas: relationships, strong ideas and trouble with authority. Observable changes in these areas can therefore serve as indicia to trigger further analysis and, if appropriate, a tailored intervention.<sup>110</sup>

322 Counsel Assisting submitted ultimately it is the process of radicalisation that needs to be disrupted as there is a potential fertile pool of individuals vulnerable to being radicalised because of what may be legitimate concerns about events in the Middle East or perceptions of the way Islam and Muslims are characterised and/or treated in Australia.

323 In November 2014 the AFP established a dedicated Diversion Team that attempt to reverse the radicalisation process, and consider the suitability of diversion in individual cases that come to the AFP's attention through its own investigations, partner agencies of the community. Programs are now running or under development in all states and territories.<sup>111</sup>

324 As the Commonwealth outlined unfortunately it is not always possible to intervene as it is necessary to ensure the safety of any community members involved in an intervention, and an intervention may be inappropriate where an individual presents a risk of harm or is too far along

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<sup>109</sup> Submissions of the Haider family, paragraphs 40-42

<sup>110</sup> Commonwealth's submissions, paragraph 4

<sup>111</sup> Statement of Assistant Commissioner Gaughan (Exhibit 101) and AFP website – JCTT Diversion Team



in terms of their radicalisation. Because diversion requires engaging with an individual it has the potential to conflict with investigations being conducted by ASIO, the JCTT, or other police.<sup>112</sup>

325 It is those closest to the individual, such as Numan's friends and associates in this case, that were best placed to be aware of his increasing radicalisation, but they did not act on it, for reasons which are unclear.

326 One possible goal in prevention is to identify opportunities for young people who are aware of others who are becoming radicalised to seek help for an intervention, although this in turn is complicated by the need for a willingness by individuals to notify as to the activities their associates are engaged in.

327 In my view, a prevention opportunity to help undermine the radicalisation process, and hope to avert a similar tragedy reduce is the creation of a social services network which offers timely, specialist support to persons at risk of carrying out an act of terrorism. Such a service could complement the excellent Victorian initiative - the Community Integration Support Program (CISP) which involves assessment by Victoria Police for participation in the CISP. An intervention plan is developed by police working together with the Islamic Council of Victoria and this plan is then implemented through case managers with the involvement of family and community wherever possible. The Commonwealth contributes through support, funding and coordination. The Commonwealth also funds training for willing community organisations.<sup>113</sup>

328 It is beyond my role to recommend improvements in the manner in which authorities gather intelligence and communicate with their counterparts in the field of counter terrorism. In my view, despite the horror of this tragic event, the endeavours of the personnel involved in Numan's investigation were exemplary. There will always be scope for improvement, however I have not identified aspects of the investigative decision making which properly attracts criticism, or should be subject to recommendations.

## COMMENTS

329 Despite the magnitude of the Haider family's loss, and I note they are understandably bereft given Numan's conduct and the circumstances of his death, at the outset of the inquest they expressed genuine sorrow to the injured officers. The family have displayed unstinting courage and dignity throughout this process.

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<sup>112</sup> Commonwealth's submissions, paragraph 139-140

<sup>113</sup> Commonwealth submissions, paragraphs 141-142

330 My investigation has revealed that the men and women who work in this increasingly complex field of counter-terrorism are committed, courageous and worthy of our utmost respect, and their commitment to preserving our national security is exemplary.

331 It must not be forgotten that the events which I have investigated occurred in a vastly different landscape to the present.

332 Numan's death occurred within days of an Islamic State fatwa, the impact of which could not be reasonably foreseen. There had been no terrorist attack, world-wide of the nature of Numan's attack on Officers A and B.

333 My investigation has revealed differences in recollection between various individuals involved. In my view, without exception, these differences are understandable and do not discredit any individual.

334 In the months prior to his death Numan had settled on a course to fight overseas. He had been radicalised. In hindsight, several significant events occurred in the days prior to his death that may have culminated in Numan's decision to carry out an opportunistic attack on police officers including the highly publicised raids, the issue of the fatwa and the cancellation of his passport.

335 However, absent hindsight, I consider the risk assessments and decisions made to meet with Numan on that fateful night could not reasonably be subject to criticism.

336 Officers A and B were the unwitting victims of Numan's opportunistic conduct, and I praise both their courage and dedication.

## **FINDINGS**

Having considered all the evidence, in the circumstances described above:

337 I find that Ahmad Numan Haider born on 18 November 1995, died on 23 September 2014 at Endeavour Hills of a gunshot wound to the head.

338 I find that Numan engaged in a course of conduct that involved radicalisation and behaviour that was increasingly dangerous, ultimately causing his death.

339 I find that the gunshot that caused Numan's death was fired by Officer A, but that other non-fatal tactical options available to Officer A would not have prevented the potentially fatal injuries being inflicted on Officer B by Numan.

340 I make no adverse finding against any of the officers involved in the incident.

341 I express my sincere condolences to Numan's family who have acted with unwavering composure throughout my investigation, irrespective of the immense grief they experience.

342 I also express my condolences to all of the officers who were involved in this incident, in particular Officers A and B, whose lives have been changed immeasurably.

Pursuant to section 73(1) of the *Coroners Act 2008*, I order that this Finding be published on the internet.

I direct that a copy of this finding be provided to the following:

- (a) Representatives for the Haider family
- (b) VGSO on behalf of the Chief Commissioner of Police
- (c) AGS on behalf of the Australian Federal Police and the Commonwealth
- (d) AGS on behalf of Officer E
- (e) AGS on behalf of Ms Mayfair
- (f) Detective Senior Sergeant Allan Brown, Professional Standards Command, Victoria Police
- (g) Detective Sergeant Steven Martin and Detective Senior Constable Leigh Smyth, Homicide Squad
- (h) Other registered Interested Parties, as appropriate.

Signature:

**MR JOHN OLLE**  
**CORONER**

Date: 31 July 2017



