

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2010 1958

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008*

<b>Inquest into the Death of:</b>	UMUT SELEK
Delivered On:	25 May 2016
Delivered At:	Coroners Court of Victoria 65 Kavanagh Street, Southbank
Hearing Dates:	21 and 22 October 2015
Findings of:	Iain West, Deputy State Coroner
Representation:	Ron Gipp, instructed by Diana Petrolo of the Victorian Government Solicitors' Office, on behalf of the Chief Commissioner of Police. Maggy Samaan, instructed by Colin Grant of Ambulance Victoria.
Counsel Assisting the Coroner	Ms Rachel Ellyard, Counsel, instructed by Ms Jodie Burns, Senior Legal Counsel, Coroners Court of Victoria.

I, IAIN WEST, Deputy State Coroner, having investigated the death of UMUT SELEK

AND having held an inquest in relation to this death on 21 and 22 October 2015

at Melbourne

find that the identity of the deceased was UMUT SELEK

born on 14 October 1986

and the death occurred 24 May 2010

at the Royal Melbourne Hospital, 300 Grattan Street, Parkville, Victoria, 3050

from:

**1(a) UNASERTAINED**

**in the following circumstances:**

1. On 24 May 2010, Umut Selek (**Mr Selek**), aged 23 years old, died at the Royal Melbourne Hospital, at approximately 4:05am, in the context of being apprehended, by a police officer, pursuant, to section 10 of the *Mental Health Act 1986*.

**BACKGROUND**

2. At the time of his death, Mr Selek resided with his mother (**Aygun Selek**), father (**Atila Selek**) and one of his brothers, at 48 Bicentennial Crescent, Meadow Heights.
3. Mr Selek had a history of using illicit drugs including cannabis, speed, cocaine, ecstasy and a homemade drug known as 'dreamtime'. Mr Selek's medical records obtained from the Greenvale Medical Clinic contains a medical history of illicit drug use and mental health issues including anxiety, paranoia, panic attacks, insomnia and agitation. Mr Selek had been prescribed Xanax®, Valium®, Temazepam and Lithium. His last consultation was recorded to be on 30 March 2010.
4. While, Mr Selek did not have a criminal history, on 18 June 2009, he was interviewed by Australian Customs officers and charged with one count of importing anabolic and/or androgenic substances; one count of possessing a drug of dependence (namely anabolic and/or androgenic steroidal agents) and one count of importing gammabutyrolactone. The first court hearing was listed for 25 May 2010, at the Broadmeadows Magistrates' Court.<sup>1</sup>

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<sup>1</sup> Coronial brief, page 737.

## JURISDICTION

5. Mr Selek's death was a reportable death pursuant to section 4 of the *Coroners Act 2008 (the Act)* because it occurred in Victoria, it was unexpected and at the time of his death he was a person placed in 'custody or care.'<sup>2</sup>

## THE PURPOSE OF A CORONIAL INVESTIGATION

6. The Coroners Court of Victoria is an inquisitorial jurisdiction.<sup>3</sup> The purpose of a coronial investigation is to investigate independently a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.<sup>4</sup> The cause of death refers to the medical cause of death, incorporating where possible the mode or mechanism of death. For coronial purposes, the circumstances in which death occurred refers to the context or background and surrounding circumstances to the death, but is confined to those circumstances sufficiently proximate and causally relevant to the death and not merely all circumstances which might form part of a narrative culminating in death.<sup>5</sup>
7. The broader purpose of coronial investigations is to contribute to the reduction of the number of preventable deaths through the investigation findings and the making of recommendations by coroners, generally referred to as the 'prevention' role. Coroners are also empowered to report to the Attorney-General on a death; 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 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.<sup>6</sup> These are effectively the vehicles by which the prevention role may be advanced.<sup>7</sup>
8. It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>8</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.
9. Detective Senior Sergeant Peter Trichias from the Homicide Squad was the coroner's investigators and he prepared the coronial brief.
10. This finding draws on the totality of the material produced for the coronial investigation into Mr Selek's death. That is, the investigation and coronial brief in this matter, the statements, reports and testimony of those witnesses who testified at the Inquest and any exhibits tendered through them. All this material, together with the inquest transcript, will remain on the coronial file. In

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<sup>2</sup> Section 3 of the *Coroners Act 2008* includes in the definition of 'custody or care' a person in the custody of a police officer.

<sup>3</sup> Section 89(4) of the *Coroners Act 2008*.

<sup>4</sup> Section 67(1) of the Act.

<sup>5</sup> *Harmsworth v The State Coroner* [1989] VR 989; *Clancy v West* (Unreported 17/08/1994, Supreme Court of Victoria, Harper J).

<sup>6</sup> See sections 72(1), 67(3) and 72(2) of the Act regarding reports, comments and recommendations respectively.

<sup>7</sup> See also sections 73(1) and 72(5) of the Act which requires publication of coronial findings, comments and recommendations and responses respectively; section 72(3) and (4) which oblige the recipient of a coronial recommendation to respond within three months, specifying a statement of action which has or will be taken in relation to the recommendation.

<sup>8</sup> *Keown v Kalm* (1999) 1 VR 69.

writing this finding, I do not purport to summarise all of the evidence, but refer to it only in such detail as appears warranted by its forensic significance and the interests of narrative clarity.

### **STANDARD OF PROOF**

11. All coronial findings must be made based on proof of relevant facts on the balance of probabilities and, in determining this; I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>9</sup> These principles state that in deciding whether a matter is proven on the balance of probabilities, in considering the weight of the evidence, I should bear in mind:
  - (a) the nature and consequence of the facts to be proved;
  - (b) the seriousness of an allegation made;
  - (c) the inherent unlikelihood of the occurrence alleged;
  - (d) the gravity of the consequences flowing from an adverse finding; and
  - (e) if the allegation involves conduct of a criminal nature, weight must be given to the presumption of innocence, and the court should not be satisfied by inexact proofs, indefinite testimony or indirect inferences.
12. The effect of this case, and other relevant 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.

### **IDENTITY OF THE DECEASED**

13. On 24 May 2010, the body of Mr Selek was identified by his brother, Cem Selek.<sup>10</sup> Mr Selek's identity was not in dispute and required no further investigation. I formally find the deceased to be Umut Selek, born 14 October 1986.

### **MEDICAL CAUSE OF DEATH**

#### **Autopsy and autopsy report (dated 4 November 2010)**

14. On 25 May 2016, at 10.45am, Dr Noel Woodford (**Dr Woodford**), Forensic Pathologist and the Director of the Victorian Institute of Forensic Medicine, conducted an autopsy on Mr Selek's body. Dr Woodford provided a report, dated 4 November 2010, which concluded that he was not able to find the cause of Mr Selek's death. Dr Woodford's report contained the following comments:
  - (a) There was no evidence of petechiae, generally consistent with positional asphyxia.
  - (b) Internal examination showed focally moderate single vessel coronary artery atherosclerosis in the left anterior descending (LAD) coronary artery.

<sup>9</sup> (1938) 60 CLR 336.

<sup>10</sup> Refer 'Statement of Identification' dated 24 May 2010.

- (c) While Mr Selek's heart was not enlarged, there was evidence of biventricular dilation and borderline left ventricular hypertrophy. There were no changes indicative of acute infarction. There was a single small focus of lymphocytic myocarditis in the right ventricle of uncertain significance.
- (d) External examination of the body showed a number of relatively minor bruises and abrasions consistent with the history of agitation and attempts at physical restraint. Marks around Mr Selek's wrists were consistent with the application of handcuffs. Lesions on the back of the torso showed changes of a folliculitis. However, there were no injuries identified of a type likely to have caused or significantly contributed to death.
- (e) Both lungs were heavy and markedly congested and showed patchy, relatively minor inflammation.
- (f) Testing was conducted for bacteria and viruses and none were detected.

15. Dr Woodford's report contained the following statement in relation to Mr Selek's death:

*"The precise cause and mechanism of death are unable to be determined, but one factor likely to have been of significance in the ultimate mechanism of death is prolonged struggling (with consequent biochemical and metabolic derangements...). The degree of coronary artery narrowing identified at autopsy is not considered severe enough in itself to have been the dominant causative factor in the cardiac arrest, but in the settling of all the factors as described ..., a contribution to the development of arrest by suboptimal coronary blood supply is not excluded."*

#### **Supplementary autopsy report (dated 14 June 2011)**

- 16. Dr Woodford provided a supplementary report, dated 14 June 2011, where he addressed a number of specific questions posed by the coroner's investigator, Detective Senior Sergeant Trichias.
- 17. Dr Woodford noted he had been provided statements with references to extra-ordinary strength, aggression, agitation, incoherence and excessive sweating by Mr Selek. Despite there being no ambulance or hospital record of hyperthermia (elevated body temperature), Dr Woodford noted that these observations have much in common with the syndrome described as excited delirium (ED). He noted that hyperthermia is often described as a component of ED, as was delirium, agitation, acidosis, and hyper-adrenergic autonomic dysfunction, typically in the setting of acute-on-chronic drug abuse, or serious mental illness, or a combination of both. Dr Woodford commented that some individuals suffering from ED experience a cardiac arrest despite optimal therapy.
- 18. Dr Woodford opined that whether in fact ED or another entity was the cause of Mr Selek's acute agitation and aggression, prolonged violent resistance and struggling are likely to have resulted in the development of hyperkalemia (raised blood potassium, a potential cause of cardiac rhythm disturbance and arrest), metabolic acidosis (a potentially life threatening biochemical

derangement), relative hypoxemia (lowered blood oxygen) and increased adrenergic drive (raised blood levels of adrenaline resulting in an increase in heart rate amongst other effects).

19. Dr Woodford noted that treatment of acute agitation is considered important in the management of ED and related conditions, and Midazolam is one drug recommended for this purpose.

#### **Neuropathological<sup>11</sup> examination**

20. Dr Linda Iles, Head of Forensic Pathology, Victorian Institute of Forensic Medicine, performed an examination of Mr Selek's brain which suggested the presence of a diffuse acute metabolic white matter injury (leukoencephalopathy), the cause of which was unable to be ascertained. Dr Iles, did not identify any evidence of acute traumatic brain injury.

#### **Toxicology**

21. Toxicology testing revealed the presence of Midazolam and cannabis use. Segmental analysis of Mr Selek's head hair indicated previous use of cannabis, amphetamines, ketamine and cocaine.

### **THE CIRCUMSTANCES OF MR SELEK'S DEATH**

#### **Watching TV with friends**

22. On 23 May 2010, at approximately 8.30pm, Mr Selek attended his good friend, Ahmed Soykuvvet's (**Mr Soykuvvet**) house in Broadmeadows. Also present at the house was Burak Sarakaya and Taylan Mindemir.
23. As far as Mr Soykuvvet was aware Mr Selek had not used drugs for at least a month before this day. All four sat together and watched the 'Underbelly' television series. Mr Selek told Mr Soykuvvet that he had not been sleeping well and he felt like someone was sitting on him at night, that he was floating and restless.
24. At approximately 10.30pm, after Mr Selek had not returned from the bathroom for approximately 20-30 minutes, Mr Soykuvvet felt something was not right and forced the door to discover Mr Selek naked, the basin full of hot water and a cigarette lighter on the basin.
25. Mr Soykuvvet's evidence<sup>12</sup> was that Mr Selek had badly burnt his left hand and was very upset. Mr Selek said that he wanted to remove his tattoos. Mr Soykuvvet noted that Mr Selek never complained about his hand or being in any pain.
26. While Mr Selek was showered and dressed, his friends remained concerned for his wellbeing as he repeatedly stated "*I'm going to see Allah*".<sup>13</sup> Mr Selek was sweating excessively and very anxious. At Mr Selek's request he was taken to his uncle's house, Mr Murat Selek (**Murat**).

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<sup>11</sup> Neuropathology is pathology specifically related to the brain and central nervous system.

<sup>12</sup> Coronial brief, page 121.

<sup>13</sup> Coronial brief, page 121.

### **Murat's house**

27. On 24 May 2010 between approximately 1.30 – 2.00am Mr Selek was taken, by his friends, to Murat's house in Meadow Heights. Murat states:

*"Umut looked stressed, I noticed that his hand was badly burnt. Umut was about to cry and said to me that he did some bad things in the past. I asked him what that was, Umut was embarrassed to say what it was. Then he told me that it was drugs. Umut said that he had been clean for a few weeks and promised not to touch it again, and wanted to do good.... Umut was grasping part of his left hand and said that it was hurting him."*<sup>14</sup>

28. Murat then took Mr Selek to his home some 3-4 minutes away to arrange with his parents to take him to hospital to get his hand treated.

### **Mr Selek's family home**

29. Murat, having delivered Mr Selek to the care of his parents at his home, did not stay. At approximately 2.00am, Mr Selek's father, Atila contacted '000', requesting an ambulance to attend the home to assist him as he was concerned Mr Selek had 'lost his mind'.<sup>15</sup> Mr Selek was violent and stated he wanted to hit his father.<sup>16</sup>
30. As a result of the '000' call, at approximately 2.10am, Constables Steven McNiece<sup>17</sup> and Robert Pirruccio<sup>18</sup> arrived at the premises and were met by Atila. Atila's statement,<sup>19</sup> made via his solicitor, confirms that he rang 000 but was shocked police officers attended as he had requested medical assistance for his son.
31. The police officers observed Mr Selek's left hand to be badly injured. Their evidence was that Mr Selek informed them that he had placed his hand in hot water. Mr Selek also stated that he was going to kill his father and that his father had raped him when he was young. At one point Mr Selek threatened to stab his father in front of the police officers. The police officers warned Mr Selek that he did not want to do that and Mr Selek replied, that he would kill them both.
32. Consequently, Constable Pirruccio made the decision to arrest Mr Selek under Section 10 of the *Mental Health Act 1986* because he had threatened to cause injury to other people. Constables Pirruccio and McNiece took Mr Selek by the arms and escorted him out of the house, via the front door. By this stage, two more police officers, were waiting outside to assist. An ambulance had also arrived to provide medical assistance. As Mr Selek was escorted to the ambulance he threatened to kill people and was yelling that he wanted to kill his father.
33. The ambulance officers indicated that they would not sedate Mr Selek because he was in police custody. The ambulance officers also deemed that due to Mr Selek's threatening behaviour he was too great a risk to transport via the ambulance and he remained in the police officers' custody.

<sup>14</sup> Coronial brief, page 130.

<sup>15</sup> Coronial brief, page 452.

<sup>16</sup> Coronial brief, page 453.

<sup>17</sup> Rank at the time of attending Mr Selek's house.

<sup>18</sup> Rank at the time of attending Mr Selek's house.

<sup>19</sup> Coronial brief, page 429.

Due to Mr Selek resisting being placed into the back of the divisional van by Constables Pirruccio and McNiece, they only managed handcuff him to the front of his body.

34. In the back of the divisional van, Mr Selek continued to yell and scream and was observed to bang his head into the internal part of the van. Mr Selek also removed his clothing.
35. The police officers left the home intending that Mr Selek would be transported to the Northern Hospital, and that the ambulance would meet them there. However, this decision changed due to security concerns related to Mr Selek. In particular, Mr Selek had not been searched and he was observed to be looking for something in his clothing.

### **Broadmeadows Police Station**

36. Consequently, Mr Selek was transported to the Broadmeadows Police Station with the plan to handcuff him to the rear, search him and obtain additional resources to ensure everyone's safety at the hospital, including Mr Selek's safety.
37. At approximately 2.35am the divisional van, containing Mr Selek, reversed into the sally port area of the Broadmeadows Police Station. The attendance in the sally port was recorded on CCTV. Constables Pirruccio and McNiece approached Mr Selek to remove the handcuffs. Their evidence was that Mr Selek resisted and chanted "*Allah will get me through this*". A decision was made to 'take' Mr Selek to the ground. The CCTV depicts, at various times, up to eight police officers restraining Mr Selek, over a 20 minute period. During this time Oleoresin Capsicum spray or foam, or batons were not used.
38. At some stage during restraining Mr Selek, ambulance assistance was requested by the police officers to sedate Mr Selek. The same ambulance officers, from earlier in the evening, attended the sally port. At approximately 3.01am, ambulance officers administered five milligrams of Midazolam<sup>20</sup>, intra muscular, to Mr Selek's right arm. The evidence of the ambulance officers was that Mr Selek was breathing and conscious at the time of administering the Midazolam.

### **Ambulance transportation to Royal Melbourne Hospital**

39. Prior to being loaded into the ambulance, Mr Selek's hand cuffs were removed from the front and re-secured to the rear of his body. Mr Selek was placed face down (prone position) onto the trolley and then placed into the rear of the ambulance.<sup>21</sup> Also in the back of the ambulance was Constable Pirruccio. The ambulance left the police station at approximately 3.17 am.
40. Prior to placing Mr Selek into the ambulance, it was noted that his heart rate had declined. At 3.18 am, Mr Selek was observed to have a very low heart rate, and the ambulance officers

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<sup>20</sup> Midazolam is a sedative and is the first line drug of choice of Ambulance Victoria to sedate patients prior to transport.

<sup>21</sup> Inquest evidence of DSC Pirruccio was that at some point in the ambulance Mr Selek was placed on his left side facing the internal wall and he remembers grabbing him from his right shoulder and turning him in his page, page 55.



requested the handcuffs be removed. Constable Pirruccio assisted to turn Mr Selek onto his back and removed the handcuffs.

41. At 3.20 am, Mr Selek went into cardiac arrest and resuscitation efforts were commenced.

#### **Mica paramedics assist with CPR**

42. At approximately 3.28am, MICA 1, paramedics intercepted the ambulance and assisted with the resuscitation of Mr Selek. Mr Selek was stabilised and transported to the Royal Melbourne Hospital.

#### **The Royal Melbourne Hospital**

43. At approximately 4.05am, Mr Selek was admitted to the Royal Melbourne Hospital. After attempts to resuscitate Mr Selek, a decision was made to cease resuscitation at 4.45 am and he was pronounced deceased.

#### **THE INQUEST**

44. Section 52(2) of the Act requires me to hold an inquest into a reportable death if the death or cause of death occurred in Victoria and the death is suspected to be a result of homicide,<sup>22</sup> or the deceased was, immediately before death, a person placed in custody or care, or the identity of the deceased is unknown.
45. At the time of Mr Selek's death a police officer had apprehended him pursuant to section 10 of the *Mental Health Act 1986*. Therefore, Mr Selek was in police custody at the time of his death and it was mandatory that I hold an inquest into his death.
46. On 21 and 22 October 2015, I conducted an inquest into Mr Selek's death. The following witnesses gave evidence:
- (a) Dr Noel Woodford, Director, Victorian Institute of Forensic Medicine.<sup>23</sup>
  - (b) Dr Linda Iles, Head of Forensic Pathology, Victorian Institute of Forensic Medicine.<sup>24</sup>
  - (c) Sergeant Steven McNiece.<sup>25</sup>
  - (d) Detective Senior Constable Robert Pirruccio.<sup>26</sup>
47. Due to Dr Woodford not being able to identify a cause of death, the scope of my inquest was confined to the medical evidence to ascertain, *if possible*, the medical cause of Mr Selek's death. The Victorian Court of Appeal has determined that the phrase '*if possible*' requires a coroner to "*pursue all reasonable lines of inquiry.*"<sup>27</sup> It is for that reason I called evidence from Drs

<sup>22</sup> Homicide is defined as the killing of one person by another.

<sup>23</sup> Witness gave concurrent evidence with Dr Iles.

<sup>24</sup> Witness gave concurrent evidence with Dr Woodford.

<sup>25</sup> Rank at the time of the Inquest.

<sup>26</sup> Rank at the time of the Inquest.

<sup>27</sup> *Priest v West & Anor* [2012] VSCA 327 at page 2.

Woodford and Iles, both eminent and experienced forensic pathologists. They gave concurrent evidence in relation to the pathological and neuropathological investigations they respectively conducted.

48. Dr Woodford's evidence was that there was nothing in Mr Selek's pathology<sup>28</sup> (not including neuropathology) that could explain why Mr Selek was behaving in the agitated and distressed state on the night he died. Dr Woodford explained that while he noted a number of injuries to Mr Selek's body, including a burn to his left hand, bruises and abrasions; none of these injuries either individually or collectively caused Mr Selek's heart to slow and eventually stop, resulting in his death.<sup>29</sup>
49. Dr Woodford explained that while he found Mr Selek's heart was "*normal range expected for a male of Mr Selek's height and weight*"<sup>30</sup> he did find "*some moderate narrowing of the coronary arteries, the vessels that supply the heart; and a small focus in one side of the heart of inflammation, the significance of which I'm not able to be, um, sure about*"<sup>31</sup>.
50. Dr Woodford also explained that while the toxicology results suggested remote use of illicit substances, the cannabis identified in the post mortem blood sample did not explain Mr Selek's behaviour leading up to his death or could be attributed to his death. However, hair samples taken from Mr Selek indicated "*remote use*"<sup>32</sup> of cocaine, methamphetamine and ketamine in the "*weeks, months perhaps*"<sup>33</sup> before his death.
51. Relevantly, Dr Woodford qualified this evidence by stating while toxicological testing is able to test for a broad range of substances, including a broad range of steroid type substances:

*"there are novel compounds that were emerging all the time, that we may not necessarily have been able to detect then, and possibly even now.. So things that come to mind would be synthetic cannabinoids, so cannabis-like, um, substances that can be associated with acute behavioural disturbances, and we - look, I don't know. We didn't see them. Ah, we tested for steroids in this man's urine, and some other drugs that we wouldn't routinely test for, such as GHB, and those tests came back negative. Now, that might mean that two days previously they were in his bloodstream and weren't there at the time of autopsy, or they weren't there for some days or weeks prior, but I can just say that we looked for them and we didn't find them."*<sup>34</sup>
52. In relation to the sedative, Midazolam, given to Mr Selek by the ambulance officers at the Broadmeadows Police Station, Dr Woodford noted that this was done to prevent Mr Selek from harming himself or others in his acutely agitated state.<sup>35</sup> Dr Woodford's evidence was that Midazolam was found in the toxicology results "*to a level consistent with the dosage.. given.*"<sup>36</sup>

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<sup>28</sup> Pathology is a branch of medical science primarily concerning the examination of organs, tissues, and bodily fluids in order to make a diagnosis of disease.

<sup>29</sup> Transcript, pages 12 and 22.

<sup>30</sup> Transcript, page 12.

<sup>31</sup> Transcript, page 13.

<sup>32</sup> Transcript, page 8.

<sup>33</sup> Transcript, page 8.

<sup>34</sup> Transcript, page 14.

<sup>35</sup> Transcript, page 24.

<sup>36</sup> Transcript, page 25.

Dr Woodford stated that he did not consider the administration of the Midazolam to have caused Mr Selek's heart to slow and stop<sup>37</sup>. Dr Woodford, while noting that he was not a clinician, stated that he had not seen any similar type of case where such a drug had caused death. He stated "*I don't see - think I've seen a case that caused respiratory depression to the extent that it was life threatening, um, associated with the - the dose of midazolam given in this- or reportedly given in this case.*"<sup>38</sup>

53. When directly asked whether he could exclude an overdose of Midazolam, or the incorrect application of that drug as being the cause of death he stated "*I think that that's very unlikely it's a significant contributory mechanism to this death.*"<sup>39</sup>
54. Dr Woodford's overall evidence was that there was nothing in his examination that explained why Mr Selek's heart slowed and then stopped. However, he explained that metabolic and biochemical derangements<sup>40</sup> can "*cause the heart to go into a funny rhythm...that ultimately causes it to stop beating, so called cardiac arrest.*"<sup>41</sup> Dr Woodford explained that this is not something he observed during the autopsy, or even the consequences of them having happened.
55. Dr Woodford was asked to comment on Mr Selek's '*unusual strength*' experienced by the police officers restraining him both at his house and at the Broadmeadows Police Station. Dr Woodford stated that his examination noted that Mr Selek as having a "*somewhat muscular physique, so he might be strong anyway.*"<sup>42</sup> Dr Woodford addressed the possibility of whether the circumstances within which Mr Selek died could be associated with ED or any other syndrome. Dr Woodford noted that such a syndrome is not universally accepted in the medical literature and that such syndromes are not a diagnosis, but an attempt to aggregate a number of different symptoms or observable signs to define them as an entity, to make them more understandable. He stated that ED is often described as a neuroleptic malignant syndrome (serotonin syndrome) which tends to be associated with known or pre-existing psychiatric conditions and can also be seen in the setting of illicit stimulant use. Dr Woodford's evidence was that due to there being so many overlapping features of the different syndromes and so many different causes "*it's difficult to say this is that syndrome, in this case*"<sup>43</sup> That is, Dr Woodford was unable to say whether the observable signs in Mr Selek was due to ED. While he acknowledged that there were some elements present, such as excessive sweating and unusual strength, that could fit with the description in the literature, he was not able to exclude, or have a firm view, as he was unable to conclusively exclude whether Mr Selek's death was due to an acute decompensation of a psychiatric illness that was previously masked and only came to light during this episode, or was an acute manifestation of drug toxicity

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<sup>37</sup> Transcript, page 25.

<sup>38</sup> Transcript, page 25.

<sup>39</sup> Transcript, page 25.

<sup>40</sup> The chemicals in the blood that in normal circumstances keep everything functioning healthily can be out of balance for various reasons.

<sup>41</sup> Transcript, page 13.

<sup>42</sup> Transcript, page 16.

<sup>43</sup> Transcript, page 19.

that had taken a couple of days to develop or the result of acute withdrawal from drugs.<sup>44</sup> On this issue, Dr Woodford stated:

*"I don't exclude the possibility of the contribution of drugs that we can't detect from mechanisms that we've talked about. Ah, but there were no acutely operative drugs in this man's system at the time he died, apart from the cannabis, and that's not of significance in what happened to him."*<sup>45</sup>

56. Similarly, Dr Iles' inquest evidence was she was not convinced that there were neuropathological changes that could be observed or identified in cases of ED. Dr Iles stated *"the relation to brain chemistry and behaviour is incredibly complex, and the tools that we have to look for this are really very comparatively primitive... just from looking at the brain, without the ability to assess its kind of functional status, is - it really doesn't get it all that far, apart from excluding some things, which I think that we have."*<sup>46</sup>

57. Dr Woodford's evidence was that while the CCTV did not show close up detail of the police officers' restraint of Mr Selek at the Broadmeadow Police Station, there was nothing that he saw in the CCTV footage and during the autopsy of Mr Selek that suggested his death was due to positional asphyxia. Dr Woodford, noted the evidence that Mr Selek continued to yell during the restraint, up until he was sedated, indicated that he had a patent airway and was conscious during the restraint.<sup>47</sup> Dr Woodford's evidence was:

*"I gathered there was some interaction with Mr Selek while he was on the ground, and in that prone position. It should also be said that there's a body of literature emerging that, um, says that - or indicates that people restrained in a prone position don't suffer as much of an oxygen deficit in their blood as was previously thought, particularly if they're young and fit individuals. You might say something different about people who are obese, and have got very protuberant abdomens, and who when placed face down, or the prone position, that causes some embarrassment of respiratory movement, but didn't appear to be the case here."*<sup>48</sup>

58. Dr Woodford conclusively excluded positional asphyxia as the cause of Mr Selek's death because there were no classic asphyxia<sup>49</sup> signs present at autopsy, such as petechiae.<sup>50</sup> Dr Woodford also excluded the position Mr Selek was placed in the back of the ambulance as having contributed to the death.

59. Dr Iles' evidence explained the neuropathological examination she conducted and the results of that examination. Dr Iles' evidence was that, she could exclude, as the cause of Mr Selek's death, traumatic contributions<sup>51</sup> such an injury to Mr Selek's head. Specifically, Dr Iles noted the evidence that Mr Selek was observed, prior to his death, to have *"banged"*<sup>52</sup> his head very hard.

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<sup>44</sup> Transcript, pages 20-21.

<sup>45</sup> Transcript, page 28.

<sup>46</sup> Transcript, page 23.

<sup>47</sup> Transcript, page 17.

<sup>48</sup> Transcript, pages 16-17.

<sup>49</sup> Asphyxia mean lack of oxygen.

<sup>50</sup> Transcript, page 21.

<sup>51</sup> Transcript, page 8.

<sup>52</sup> Transcript, page 8.

However, she stated that there was no evidence that this act contributed to Mr Selek's death. Dr Iles also explained that an 'ischemic injury' in the brain occurs when it has had an inadequate blood supply, such as brain swelling. However, she confirmed that there was no notable brain swelling in Mr Selek's brain.<sup>53</sup>

60. Dr Iles, as part of her neuropathological examination, investigated whether there was any underlying brain pathology that accounted for Mr Selek's behaviour in the lead up to his death. In doing this, she performed a number of microbiological tests and excluded that infection may have been operating on Mr Selek's brain.

61. Relevantly, Dr Iles found the presence of well-established axonal injury of Mr Selek's brain.<sup>54</sup> Due to the complexity of this finding, Dr Iles provided the following explanation:

*"...axon are the part that - the brain is made up of lots of different types of cells, but in particular there are neurons, and they're very long cells, they have cell bodies, and they have long, um, stems, called axons, from which the nerve impulses travel. Um, and in Mr Selek's case, there was evidence of established, um, injury to those axons. Um, we can establish this using a technique that detects the presence of a specific protein that gets sent down the cell body along the axon to the - the terminal end of the nerve. Um, and you can only detect that type of injury if there has been a period of survival, ah, long enough for that protein to become detectable.*

*Now, in some situations you might see a little bit of this change in someone who's had very good resuscitation for a period of time, as like an agonal type of ischemic change. But the striking thing in this instance was that it was very well established, so it was too prominent to be accounted for by good resuscitation for a period of an hour or so. So that leads one to consider is this part of the underlying pathology that has led to Mr Selek's presentation. Now, unfortunately, the brain can only react to certain insults in very stereotypic ways, so I unfortunately cannot tell you what that specific insult is. It doesn't have a pattern that's consistent with trauma. The pattern is more in keeping with either - either an ischemic or a metabolic type of injury."<sup>55</sup>*

62. Dr Woodford stated that prolonged struggling can be associated with derangements of the chemicals in the blood, which can result in the metabolism switching to another form of metabolism, such as metabolic acidosis which is a derangement that can result in elevated levels of potassium. Dr Woodford noted that lots of people survive such an event of derangements of the chemicals in the blood. However, sometimes what happens in the period after (quiescent phase) arrest can also occur, and that the mechanism for this not entirely understood. Due to this uncertainty, Dr Woodford was not able to exclude the possibility of a delayed effect of the period of exertion contributing to Mr Selek's death.

63. Dr Iles also explained that a 'metabolic injury' to the brain is when the "*basic cellular functions of the nerves go wrong for some reason*".<sup>56</sup> Dr Iles' evidence on this issue was that drug taking can potentially precipitate a metabolic injury to the brain. However, she had never seen it to the extent she observed in Mr Selek's brain before. Her view was that there had been some underlying

<sup>53</sup> Transcript, page 10.

<sup>54</sup> Transcript, page 9.

<sup>55</sup> Transcript, pages 9 and 10.

<sup>56</sup> Transcript, page 10.

pathology that had occurred prior to Mr Selek's death. She noted that his behaviour married with the changes in the brain that she observed. Dr Iles, in relation to this issue, stated *"quite persuasive that they are linked. Um, but unfortunately I can't take that any further."*<sup>57</sup>

64. Dr Iles' evidence was that, while it was difficult to be precise, the underlying pathological condition that was observed in Mr Selek's brain occurred *"in the order of least several hours"*<sup>58</sup> prior to his death.

65. In conclusion Dr Woodford stated that could not say why Mr Selek's heart slowed and then stopped. He stated that:

*"if you marry the .. the negative findings, so the absence of trauma, the absence of acute drug toxicity, to some positive findings, so the presence of a degree of narrowing of his coronary arteries, a single focus of inflammation of the heart muscle, which I'm not able to be - determine the significance, we're left to infer that perhaps - well, perhaps it's likely that the cause of the cardiac - the cardiac slowing, and then arrest, has been some sort of metabolic or biochemical derangement. I think that's the most likely explanation of what happened to this man. We're got the history of the - the struggling, and the attempts at restraint, and we know from clinical studies that that can be associated with significant disturbances of the body's biochemistry, such as acidosis, and abnormalities of the ah, the biochemical components of the blood. So putting all of that together, I think that the arrest is caused by these abnormalities, but what has caused the acute confusional states I'm at a loss to explain."*<sup>59</sup>

66. Dr Woodford's evidence was that he could not say one way or the other whether Mr Selek's 20 minute struggle with the police officers at the Broadmeadows Police Station was associated with the derangements in Mr Selek's body. However, he did say *"I don't think I ever say definitely, but I would say that I think it's likely that - that the derangements that we've talked about have occurred or been exacerbated by this constant strenuous struggling, and - and the need for restraint, and struggling against that restraint."*<sup>60</sup>

### **Family submissions**

67. On 4 November 2015, the family, provided me with the following written submissions:

*"After 5 long years, we as a family would finally like to gain some sort of closure on what really happened on the 24th of May 2010. We understand you have a big decision to make and hope that you will fully read and take into consideration the following.*

*Firstly we ask you, was it really necessary for the police officers to take Umut to the police station when it was clear that his hand was severely burnt and he was suffering from a mental episode.*

*Also the question of why our family was not notified on the change of route from The Northern Hospital to Broadmeadows Police station. Atila and Aygul (parents of Umut Selek) desperately waited at the Northern Hospital for several hours, not having any idea on the whereabouts of their son.*

*Another issue we find to be puzzling is the number of officers that were restraining Umut in the Sally port for such a long period of time. We wonder if this could be linked to the cause*

<sup>57</sup> Transcript, page 10.

<sup>58</sup> Transcript, page 11.

<sup>59</sup> Transcript, page 28.

<sup>60</sup> Transcript, page 29.

*of Umut's heart failure. Before the sedative (Midazolam) was administered, Umut stated to the police officer that he "black[ed] out". Was Umut's blacking out taken into consideration that something was wrong and why was the sedative still given? One final issue we suggest you consider is the delay in time from when Umut was put into the back of the ambulance vehicle to when the handcuffs were taken off him. At 3:09am Umut was put into the vehicle but handcuffs were taken off at 3:18am. We feel that he should have been on his back, handcuffs off and properly monitored after being sedated. We thank you in advance for your time and for upholding the law and hope your decision assists our family in understanding what has happened and why it has happened."*

## **COMMENTS**

Pursuant to section 67(3) of the *Coroners Act 2008*, I make the following comments connected with the death:

68. Although certain matters can be excluded as the cause of Mr Selek's death, I am not satisfied I can find with certainty what caused of his death.
69. I accept Drs Woodford and Iles' concurrent evidence that positional asphyxia, the cannabis found in Mr Selek's post mortem blood sample, the administration of the Midazolam and any form of closed head injury did not cause Mr Selek's death. Despite this, it important to note Dr Woodford's evidence that the post mortem toxicology results should be treated with caution as it is not possible to test for all drugs that may have been present in Mr Selek's system at the time of his death.
70. In addressing Mr Selek's family's concerns in relation to whether it was necessary for the police officers to take Mr Selek to the Broadmeadows Police Station "*when it was clear that his hand was severely burnt and he was suffering from a mental episode*", I am satisfied that the diversion was appropriate to ensure his safety and the safety of the hospital staff who were to receive him once the police officers' custody had ceased.
71. Mr Selek's family's also raised concerns regarding why they were "*not notified on the change of route from The Northern Hospital to Broadmeadows Police station. Atila and Aygul (parents of Umut Selek) desperately waited at the Northern Hospital for several hours, not having any idea on the whereabouts of their son.*" I note the submissions of Mr Gipp<sup>61</sup> that the Victoria Police protocols and training require police officers, where practicable, to inform family members of all relevant matters when a person is under the apprehension of a police officer. I also acknowledge the apology made by Mr Gipp, on behalf of his client, the Chief Commissioner of Police:

*"... the family should have been notified about these matters as they progressed, but in the circumstances of an obligation on Mr Pirruccio and Mr McNiece, it's understandable that with the urgency and the emergency situation they were facing at that particular time that it never entered their mind to make direct contact with the family. It's unfortunate that perhaps, say, the supervising sergeant may not have given thought to that matter, or the*

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<sup>61</sup> Transcript, page 83.

*D24 operator hadn't given thought to the matter, who'd taken the initial 000 call, but it's an oversight, we apologised that the family were kept in the dark.*<sup>62</sup>

72. In this case there were two separate and distinct decisions made in relation to where Mr Selek's was to be transported while he was under apprehension. The first decision was when the police officers decided to transport Mr Selek to the Broadmeadows Police Station. This should have been communicated to the family, there was no urgency, and there were a number of police officers present at the Broadmeadows Police Station that could have notified the family of the diversion. The second decision to transport Mr Selek to the Royal Melbourne Hospital, while a decision of the ambulance officers, was known to the police officers. The police officers should have notified D24 of the change in hospital. I urge Victoria Police to review its processes and training to ensure all reasonable attempts are made to contact relevant family members when a situation changes where a person is apprehended by a police officer under the *Mental Health Act*. It is important that police officers not only exercise their *Mental Health Act* powers appropriately, but are able to account for the continuity of a person while under the exercise of those powers. Having said this, I have no issues with police officers' exercise of their *Mental Health Act* powers to apprehend Mr Selek.
73. The family also raised concerns regarding *"the number of officers that were restraining Umut in the Sally port for such a long period of time. We wonder if this could be linked to the cause of Umut's heart failure. Before the sedative (Midazolam) was administered, Umut stated to the police officer that he "black[ed] out". Was Umut's blacking out taken into consideration that something was wrong and why was the sedative still given?* I note the medical evidence that Mr Selek's prolonged period of exertion, including the 20 minute struggle with police officers at the Broadmeadows Police Station, may have had a role to play in his death. However, there is insufficient evidence to find that it enhanced or contributed to metabolic changes in Mr Selek's body to the extent that it caused his death. The medical evidence suggests that the metabolic changes had already commenced prior to the police officers' restraint of Mr Selek. The evidence also identifies that Mr Selek's coronary artery narrowing was suboptimal for coronary blood supply.
74. I note the family's concerns regarding Mr Selek's care in the back of the ambulance, particularly, *"the delay in time from when Umut was put into the back of the ambulance vehicle to when the handcuffs were taken off him. At 3:09am Umut was put into the vehicle but handcuffs were taken off at 3:18am. We feel that he should have been on his back, handcuffs off and properly monitored after being sedated."* I am satisfied, based on the medical evidence, that positional asphyxia was not the cause of Mr Selek's death and that the position Mr Selek was placed in the back of the ambulance played no role in his death.

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<sup>62</sup> Transcript, page 84.



75. Based on the current evidence before me, I make no adverse comments about the ambulance officers or the police officers in this matter.

### FINDINGS

Pursuant to section 67(3) of the *Coroners Act 2008*, I make the following findings connected with the death:

76. I find the deceased's identity to be Umut Selek, born 14 October 1986.
77. Despite extensive investigation, I am unable to find the medical cause of Mr Selek's death. Drs Woodford and Iles, both experienced and eminent pathologists, knowing all of the circumstances, have not speculated on the cause of Mr Selek's death. It is for those reasons that I find that the cause of death remains unascertained.
78. Where it is not possible to find the cause of death, it impacts on the considerations of what the relevant circumstances of the death might be except for those matters that can be positively excluded as being part of the mechanism of death. In this case, I find that Mr Selek's death was not due to positional asphyxia, the administration of Midazolam or a closed head injury.

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

- Mr Selek's family.
- Mr Graham Ashton, Chief Commissioner of Police.
- Ambulance Victoria.
- Detective Senior Sergeant Peter Trichias (Homicide Squad), coroner's investigator.
- Detective Inspector Michael Hughes, Homicide Squad.

Signature:



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IAIN WEST, DEPUTY STATE CORONER

Date: 25 May 2016