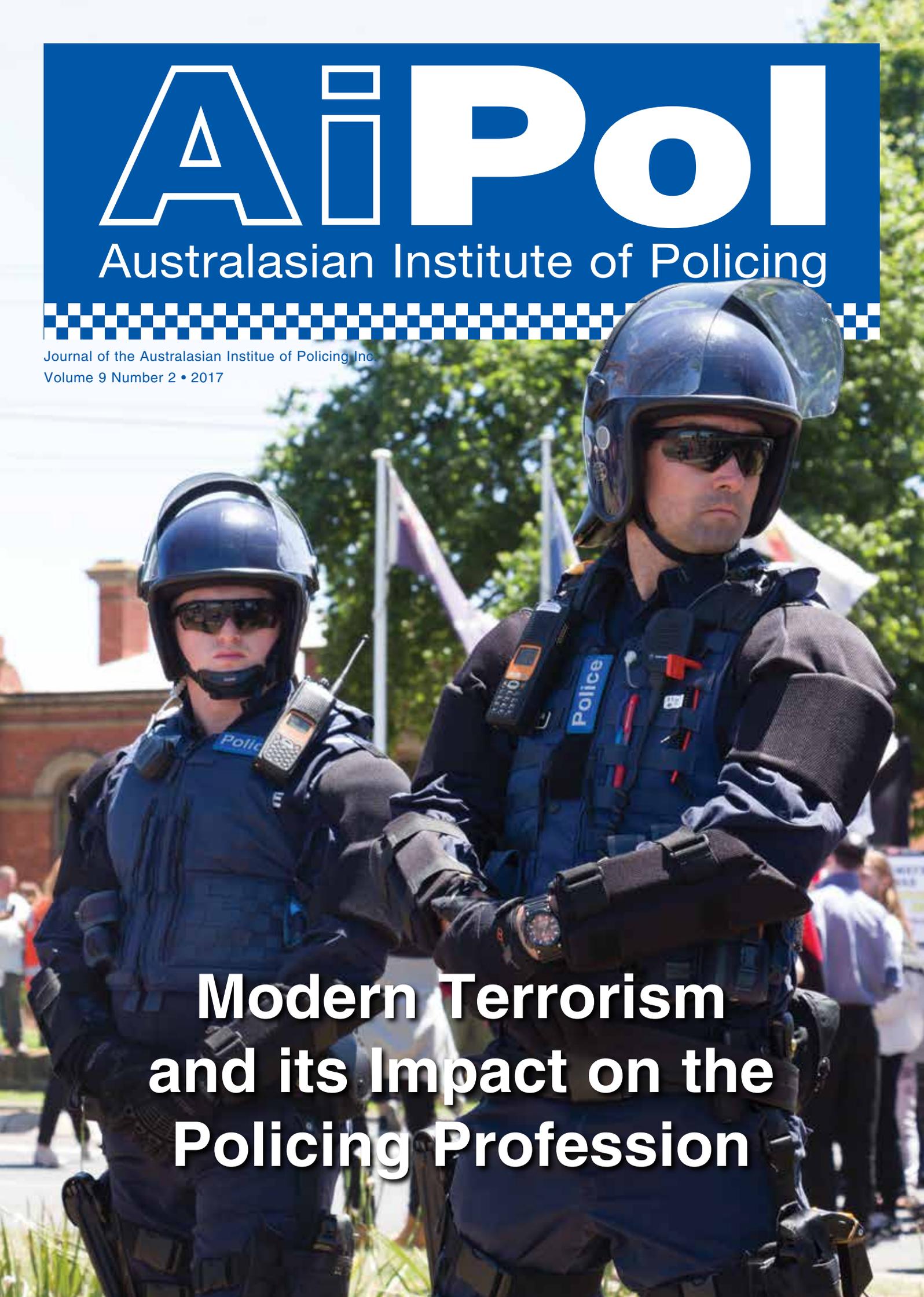


# AiPOL

Australasian Institute of Policing

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A photograph of two police officers in full riot gear, including helmets and sunglasses, standing outdoors. They are wearing dark blue uniforms with 'Police' patches. The officer on the right is wearing a watch and has a radio on his shoulder. The background shows a brick building and some flags.

**Modern Terrorism  
and its Impact on the  
Policing Profession**



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## Contributions

Articles on issues of professional interest are sought from Australasian police officers and police academics. Articles are to be electronically provided to the Editor, corogers@csu.edu.au. Articles are to conform to normal academic conventions. Where an article has previously been prepared during the course of employment, whether with a police service or otherwise, the contributor will be responsible for obtaining permission from that employer to submit the article for publication to Australasian Policing.

Contributors are expected to adhere to the Journal's publishing guidelines. These guidelines are available in this Journal. All papers are peer-reviewed.

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# Editorial

The Australasian Institute of Policing Inc is reorganising its services to members over the next few months as a result of feedback from long standing members of the Institute.

## PROFESSOR COLIN ROGERS

Charles Sturt University, NSW, University of South Wales, UK

However, the Institute will continue to:

- Promote the policing profession;
- Promote professional practice standards within the line of the policing profession;
- Endorse education related to the policing profession;
- Develop, promote and encourage ethical standards of policing practice;
- Lobby for certification of individual police practitioners;
- Facilitate the sharing of research and information as to best practice policing;
- Enhance public confidence in the police profession and the service provided to the public by members of the policing profession; and
- Promote professional mobility of police practitioners.

This will be undertaken in a number of forums utilising the skills, knowledge and experience of our members who we will be encouraging to become more active in their contribution to the Institute and the articles produced in the Institutes journals.

The Institute produces 'topic' based journal articles reflecting current law enforcement and national security issues which impact on the professionals and practitioners within policing and the broader law enforcement environment.

Currently there is a rapidly changing law enforcement and national security environment where the role of traditional policing and the justice system is being placed under significant challenges. Counter Terrorism is one such area that is rapidly growing, redirecting valuable and limited financial and Human Resources, once focused on the traditional law enforcement environment.

The previous edition of the Journal focused on the recent events in the UK

***Currently there is a rapidly changing law enforcement and national security environment where the role of traditional policing and the justice system is being placed under significant challenges.***

and in Australia as well as across the globe involving terrorist attacks.

This edition of the Journal examines the consequences of the Lindt Café incident and the broader counter terrorism response by Federal and State governments and their agencies. These proposed changes may have a significant impact on the policing profession and practitioners. I hope you find this edition of the journal both interesting and educational. Importantly it includes an article from Mr Tony King, who has over 30 years policing experience and who has been a NSW police negotiator for the last two decades. He provides the 'human' perspective of the officers on the ground trying to protect life during the Lindt Café incident.

As identified in the article by Mr Tony King, controversial comments made by lawyers during the Coronial Inquest into the Lindt Café incident were quickly broadcast across the nation and indeed the world causing the level of trust in the police to be questioned. Such comments could even conceivably negatively impact upon the public's support for the police in general. Whether it be a major incident like the Lindt Café or a minor incident,

such incidents can and do, influence the public's perception of the police, either positively or negatively.

The article Social Media and Police: Potential for conflict and mistrust is a guide to those officers going about their job on a day to day basis. Although the Lindt Café, as a major incident, involved all media outlets, social media showing police officers acting in the course of their duties is now common place as a result SMART phones and other electronic devices being readily available to the public.

I trust that the article Police Legitimacy and Engaging with Terrorism will provide balance when decision makers are considering legislative and policy changes within the law enforcement and national security environment. Whilst increased and better technology, coupled with enhanced legislation, can be utilised to deal with potential terrorist threats, the heart of the matter lies in prevention in the first instance, and governments need to recognise that to focus police activity away from local community interactions could well damage police legitimacy issues and provide a fertile breeding ground for those who wish to harm society.

# Statement on NSW Coroner's findings and recommendations into the Lindt Café Siege

May 24, 2017

## **SENATOR THE HON GEORGE BRANDIS QC**

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Attorney-General for Australia  
Minister for the Arts

As honourable Senators would be aware, this morning the New South Wales Coroner, Mr Michael Barnes, handed down the report of his inquest into the Lindt Café siege.

The Commonwealth will carefully study this report and, as appropriate, respond to its recommendations insofar as they relate to Commonwealth agencies or other Commonwealth matters. It is not the purpose of this statement to be that considered response, which obviously will require careful consideration and more time to study Coroner Barnes' recommendations than has been possible today. But I do want to indicate in a necessarily preliminary way, the steps already taken by the Government and in particular, by agencies within this portfolio to deal with matters of the kind that Coroner Barnes addresses.

It is appropriate at the outset to once again express all of our heartfelt sympathy to the families of the innocent victims, Katrina Dawson and Tori Johnson, on their tragic loss. We also acknowledge the profound impact of this event on those who survived the siege, and the role of the NSW Police who risked their lives to bring it to a conclusion. Our thoughts today are also of course with the victims of another horrific terrorist attack, that in Manchester yesterday.

Australia's counter-terrorism environment has changed significantly since the Lindt Café siege. The national terrorism threat level remains at 'Probable' – reflecting credible intelligence that

individuals or groups have developed both an intent and capability to conduct a terrorist attack in Australia. The Lindt Café Siege is one of four terror-related attacks Australia has experienced since September 2014. But it is important to emphasise that in that time, there have been 12 major counter-terrorism disruptions of attack planning in Australia. Due to the skill and expertise of our intelligence and policing agencies, 12 terrorist attacks on Australian soil have been averted since September 2014 and we should be profoundly grateful for the skill and expertise and courage of the men and women of ASIO, the Australian Federal Police, the state and territory police and others who were able to save an unknown number of Australian lives.

Now the report of the coronial inquest makes 45 recommendations. Most of those recommendations deal with matters concerning the NSW Police and or the NSW Director of Public Prosecutions. However the Coroner does comment on the roles of three Commonwealth entities or agencies – the Australian Defence Force, the Australian Federal Police, and the Australian Security Intelligence Organisation. The Coroner does not make any findings adverse to any of those bodies, and acknowledges the support provided by Commonwealth agencies to respond to the siege. He also

makes constructive recommendations in relation to them which the Government will study closely and as a matter of high priority, and which will be acted upon as appropriate.

Without pre-empting that further consideration, in relation to those recommendations that deal with the Attorney-General's Department and agencies within the portfolio, let me identify certain matters.

Recommendation 39 recommends that I, in consultation with the states and territories, review existing arrangements for information sharing between federal, state and territory agencies during terrorist events to determine whether those arrangements adequately facilitate the efficient identification and transfer of pertinent information between agencies. As part of its responsibility for overseeing operational CT arrangements between Australian law enforcement and intelligence agencies, the Australia-New Zealand Counter Terrorism Committee continually considers and facilitates the effectiveness of information sharing between those agencies. In particular, the ANZCTC has already facilitated the implementation of a classified national computer network to communicate sensitive counter terrorism information securely and effectively. In light of Recommendation 39 I will ask the

Committee to consider whether any further improvements may be required in light of the Coroner's recommendation.

Recommendation 40 recommends that I liaise with ASIO to develop a policy to ensure that where correspondence is received by a government agency, minister or public office holder, from a non-government entity, and that correspondence is relevant to the security assessments of the author, the correspondence be referred to ASIO, and a Fixed Threat Assessment Centre. I can advise the Committee that, at my request, the Attorney-General's Department reviewed its correspondence handling procedures in cases where correspondence might raise national security concerns, and implemented those changes in 2015. The consequence of those changes is that such correspondence is now routinely referred to ASIO. In light of the Coroner's recommendation we will of course consider whether to extend such procedures more broadly across Government.

Recommendation 41 recommends that:

- The Commonwealth Attorney-General and ASIO confer with the Australian Psychological Society regarding the restrictions in clause A 5 2 of its Code of Ethics with respect to radicalisation, terrorism and politically motivated violence, and
- The Australian Psychological Society consider amending clause A 5 2 of its Code of Ethics to enable psychologists to report risks of a terrorist nature.

I can advise the Committee that the Commonwealth Counter Terrorism Coordinator with relevant agencies, including ASIO, has already engaged with the Australian Psychological Society and other stakeholders in the mental health sector on this issue. An outcome of that engagement has been an agreement that further work be done to improve information sharing to assist identifying at risk or radicalised individuals. Of course, Recommendation 41 is directed in part to the Australian Psychological Society and the Commonwealth cannot direct it.

In addition to these recommendations, as I said to the Committee this morning, we keep our legislation and capabilities under constant review to meet this evolving challenge. Much has already been done. Shortly after the siege, on

17 December 2014, the Australian and NSW governments commissioned an urgent joint review into the Martin Place siege. The Australian Government has implemented and continues to implement the recommendations from the Joint Review, which reported in February 2015. 11 of its recommendations have already been fully implemented. Those include:

- Recommendations that policing agencies have access to a National Firearms Interface, which provides a single record of each firearm in Australia detailing every event in its history – from importation or manufacture through to exportation or destruction.
- The Commonwealth, states and territories have reviewed and updated the National Firearms Agreement, now the single reference for firearms regulation in Australia, and agreed to hold a national firearms amnesty between July and September 2017.
- As part of our Countering Violent Extremism work, intervention arrangements are now in place across Australia to assist people who may be at risk of radicalisation to disengage from violence and reconnect with their families and communities.
- Legislation passed by the Parliament in November last year includes amendments to facilitate the monitoring of a person who is the subject of a control order, and to provide greater protection to national security information in control order proceedings.
- The Department of Immigration and Border Protection received funding in the 2016-17 Budget to deliver a new Visa Risk Assessment capability at a cost of \$99.2 million over four years. The capability will consolidate a wide range of immigration and border information in real time, enabling earlier identification of visa applicants who may pose a risk to national security and threat to the Australian community.

The Commonwealth has been actively reviewing counter terrorism arrangements to ensure that it is responding appropriately to the terrorist threat, including a Review of Australia's Counter-Terrorism Machinery in 2015. And as I discussed with Senator Wong this morning, we are currently awaiting the report of the L'Estrange Inquiry which is the latest periodic review of our

intelligence community arrangements. As the Coroner noted, the Government is currently undertaking a Review of Defence Support to National Counter-Terrorism Arrangements, but that is a matter primarily for the Defence Minister, so I will not address it here. There are two other reviews currently underway:

- The Australia-New Zealand Counter-Terrorism Committee is currently completing its Triennial Review of Australia's Counter-Terrorism Arrangements, and
- As I've already just mentioned we soon expect to receive the report of the Independent Review of the Australian Intelligence Community, by Mr L'Estrange.

It's relevant to note that since August 2014, the Government has undertaken the most significant programme of national security legislation reform in a generation, delivering eight tranches of counter-terrorism and national security legislation, to ensure that our agencies have the powers they need to respond to the terrorism threat. Our Commonwealth, state and territory governments are working closely together to deal with this threat in a cooperative and collaborative manner. These measures include identifying and responding to the threat posed by lone actors, including assessing and managing fixated individuals who have an obsessional pre-occupation with a person or a perceived grievance, which may ultimately lead to violence. All jurisdictions are working together through the Australia-New Zealand Counter-Terrorism Committee to consider how our existing fixated threat assessment capabilities can inform a nationally consistent approach to identify and deal with those individuals. As part of this effort, it is important that we work together with health professionals, other frontline officials and the broader community to ensure early identification, assessment and management of individuals who pose a risk to the Australian community and themselves.

We already have robust arrangements in Australia to protect crowded places, including close cooperation between law enforcement agencies and the owners and operators of venues. Those arrangements include local governments. The public can be reassured that all law enforcement and intelligence agencies in Australia

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*continued on page 6*

work tirelessly to ensure the safety of the community and in particular, the protection of the community when they participate in public events. But of course, there is always more work to do. The Government has committed, as a priority, to develop a national strategy for crowded places, including a consistent approach to assessing vulnerability. This work, led by ANZCTC, is being done through close cooperation with all Australian jurisdictions, local governments and owners and operators of crowded places drawing upon international best practice. Our counter-terrorism arrangements have contributed significantly to developing and enhancing counter-terrorism capability and coordination across all jurisdictions, including:

- Developing common operational doctrine to ensure consistent national responses to terrorism-related activity,
- Establishing training courses to develop additional professional staff

with counter-terrorism qualifications across a range of specialist capabilities – over 40 courses are being run in 2017 alone, and

- Providing specialised equipment to achieve consistent and enhanced capability for states and territories to respond to and resolve terrorist incidents, including armoured tactical vehicles, and bomb disposal units.

The Government has continued to ensure that our police and security agencies are funded for the challenges they face. Since August of 2014, the Government has invested over \$1.5 billion to combat terrorism. The Government will also provide an additional \$321.4 million over four years from 2017-18 to the Australian Federal Police, to strengthen key capabilities and increase investigative resources including intelligence, covert surveillance, forensics and tactical response.

Mr Chairman, Australia faces national security challenges that continue to evolve. Even as ISIL suffers territorial

losses in Syria and Iraq, we do not expect the threat to diminish in the foreseeable future. Our response to this has included our work to encourage increased cooperation on counter-terrorism throughout the South-East Asian region, in particular, through fora of the kind that I described this morning. We continue of course, to engage closely, crucially with our Five Eyes partners and with other nations as well.

Mr Chairman, Coroner Barnes' report provides another opportunity to review the events of the Lindt Café siege, to learn more lessons they have to teach us, and to act upon those lessons. As I said, the Government will carefully consider Mr Barnes' findings and recommendations and insofar as they concern the Commonwealth we will work cooperatively with the states and territories consistent with our already strong national arrangements to give effect to them.

I thank the Committee.

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# The 45 recommendations of Lindt Café Siege inquest

May 24, 2017

The NSW Coroner has handed down a 600-page report of the inquest into the deaths arising from the Lindt Café siege. It makes 45 recommendations.

## 1. ODPF file management

I recommend that the DPP initiate reviews of the training in file management given to lawyers employed by the ODPF to ensure important original documents are not discarded and that the files accurately reflect relevant events.

## 2. Guidelines for when to arrest

I recommend that the Commissioner of Police issue guidelines to assist officers determine when they should exercise their powers of arrest and take an accused into custody rather than proceeding by way of a court attendance notice.

## 3. Access to criminal histories

I recommend that the Law, Crime and Community Safety Council develop a mechanism to ensure that all information on criminal history (including bail) that is relevant to the investigation and prosecution of criminal offences is readily accessible to police and prosecutors across all Australian jurisdictions.

## 4. Policy concerning bail concessions

I recommend that the DPP develop a policy for overseeing lawyers' exercise of the discretion not to oppose bail that takes into account the seriousness of the offences involved; the experience of the prosecutor appearing; and the views of the police officer in charge of the investigation, insofar as those views are based on facts relevant to bail determinations.

## 5. Review of TOU MOGs

I recommend that the NSWPF review the Management Operational Guidelines to resolve any inconsistency between them and relevant counter-terrorism protocols.

## 6. Review of logging systems

The development (recommended in

Chapter 12) of an integrated intelligence system that allows police officers secure access to all information platforms should also provide for the recording of all command decisions, the reasons for them, and the dissemination of those decisions.

## 7. Documenting changes to line command

I recommend that the NSWPF remedy the lack of detailed guidance on how State Protection Group officers should interact and communicate with the Police Forward Commander, and that such guidance be included in policy documents and reinforced with training.

## 8. Police Forward Commander's scope of responsibility

I recommend that the NSWPF review the division of tasks among the various officers responsible for responding to major high-risk situations to enable Police Forward Commanders to focus exclusively on their primary goals and that officers engaged in matters not directly related to the resolution of the incident be required to report to an officer other than the Police Forward Commander.

## 9. Transfer of 000 calls

I recommend that the NSWPF establish procedures and the technical capability to ensure that phone calls from hostages in sieges or the victims of other ongoing high-risk situations are expeditiously transferred to officers involved in responding to the incident.

## 10. Integrated intelligence platform

I recommend that the NSWPF investigate the development of an integrated intelligence system that allows selected officers secure access to all information platforms and to record and share operational decisions.

## 11. Pro forma debriefing sheets

I recommend that the NSWPF consider developing a pro forma debriefing sheet containing standard questions relevant to all or most high risk situations, which can be supplemented by the negotiation coordinator and the tactical commander to maximise the likelihood of all available relevant information being obtained during hostage debriefings. Such measures would also aid contemporaneous documentation of information derived from debriefs and assist in relaying all relevant information to command.

## 12. Acquisition of audio surveillance technology

I recommend that if it has not already done so, the NSWPF acquires the audio surveillance technology that in similar circumstances would allow a device to be monitored in the Police Forward Command Post and/or the Police Operations Centre and that the organisation ensures that its capacity in this regard keeps pace with technological advances in the area.

## 13. Audio and video surveillance

I recommend that the NSWPF review its personnel arrangements and structures for the monitoring of surveillance devices, including the number of officers allocated to a listening or viewing post for monitoring purposes, and the demarcation of roles, including primary monitor, scribe/log keeper, and disseminator. I also recommend that clear communication channels be established for reporting data captured during such surveillance, including via integrated electronic intelligence-sharing platforms or applications.

## 14. Concessions to terrorists

I recommend that the Secretariat of the

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*continued on page 8*

Australia–New Zealand Counter-Terrorism Committee prepare guidelines regarding the interpretation and scope of the restrictions contained Clause 92 of the NCTP 2012. The Secretariat should also update relevant Australia–New Zealand Counter-Terrorism Committee documents and the NSWPF should update State Protection Group documents to refer to the latest versions of the National Counter-Terrorism Plan.

### 15. Negotiator training

The sections above dealing with negotiators' attempts to engage with Monis, their responses to his demands, and their assessment of progress demonstrate deficiencies in current practice. To respond to those deficiencies, I recommend that the NSWPF conduct a general review of the training afforded to negotiators and the means by which they are assessed and accredited. Specifically, the review should consider the training provided regarding:

- measuring progress in negotiations;
- recording of information, including the systems by which that occurs;
- the use of third-party intermediaries;
- additional approaches to securing direct contact with a person of interest; and
- handovers.

The NSWPF should consider drawing on international experience when reviewing its negotiator training.

### 16. Role description for psychological advisers

I recommend that the NSWPF develop a comprehensive policy that describes the role and function of a psychological adviser engaged to assist in responses to high-risk situations and that all those involved be made familiar with that policy.

### 17. Expanded panel of experts

I recommend that the NSWPF consider expanding the panel of psychological advisers it retains and the range of disciplines it consults.

### 18. Review of negotiation team handovers

I recommend that the NSWPF review its procedures to ensure that handovers between negotiation teams are staggered so that a fully briefed officer is always available to receive a call from the stronghold.

### 19. Review of Negotiation Unit staff numbers and profile

I recommend that the NSWPF review the number, rank and function of the officers comprising the Negotiation Unit.

### 20. Rank of negotiators

I recommend that the NSWPF review its policy of requiring negotiators to relinquish that role when they are promoted to commissioned officer rank.

### 21. Specialist training for terrorist negotiations

I recommend that the NSWPF develop a cadre of counter-terrorist negotiators and provide them with appropriate training to equip them to respond to a terrorist siege.

### 22. Recording of negotiation positions

I recommend that the NSWPF develop policies that require the recording of negotiation strategies and tactics, demands made by a hostage taker, and any progress towards resolution (or lack thereof) in a form readily accessible by commanders and negotiators.

### 23. Review of media publication of terrorist incidents

I recommend that the Commissioner of Police consider seeking an agreement with news media outlets whereby the NSWPF will establish a way for such outlets to rapidly and confidentially determine whether publishing specific material could compromise the response to an ongoing high-risk incident and the media in turn will agree not to publish such material without first alerting a nominated senior police officer of their intention to do so.

### 24. Use of force in terrorist incidents

I recommend that the Minister for Police consider whether the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public.

### 25. A sniper coordinator in the PFCP

I recommend that the NSWPF review its policies to ensure that the usual arrangements for placing a sniper coordinator in the Police Forward Command Post are departed from only for sound operational reasons that are recorded.

### 26. Recording EA triggers

I recommend that NSWPF policies be amended to require documentation of triggers for Emergency Actions. Consideration should be given to stipulating that "contingency triggers"—specific events that will require initiation of an EA or some other agreed response—should also be recorded.

### 27. Assessing imminent and immediate risk

I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia–New Zealand Guidelines for Deployment of Police to High-Risk Situations and the Police Tactical Group Operations Manual to ensure that those documents give commanders guidance on how to assess imminent or immediate risk.

### 28. Reform of guidelines to DA planning

I recommend that the Australia New Zealand Policing Advisory Agency and the Australia–New Zealand Counter-Terrorism Committee review the Australia New Zealand Guidelines for Deployment of Police to High Risk Situations and the Police Tactical Group Operations Manual to ensure that they adequately describe all aspects of the DA planning and approval process and present commanders with appropriate guidance on relevant considerations.

### 29. Review of training for DA planning and approval

I recommend that the NSWPF review the training provided to officers in relation to DA planning and approval.

### 30. Reconsideration of response to terrorist incidents

I recommend that the Australia New Zealand Policing Advisory Agency liaise with the Australia–New Zealand Counter-Terrorism Committee to determine whether policies requiring the consideration of more proactive intervention should be developed for responding to terrorist sieges.

### 31. Use of distraction devices

I recommend that the NSWPF develop a policy regarding the use of distraction devices and the training of officers in their use.

### 32. Use of hearing protection devices

I recommend that the NSWPF evaluate whether the use of noise-attenuation devices should be mandated when explosive distraction devices are used.

### 33. Review of alternative ammunition

I recommend that the NSWPF undertake a formal assessment of alternatives to the TOU's current soft-point ammunition to determine whether a more appropriate form of ammunition is reasonably available.

### 34. Family liaison

I recommend that the NSWPF develop a comprehensive policy and set of procedures in relation to family liaison capability for high-risk situations. Those policies and procedures should ensure that:

- The capability is scalable depending on the nature of the incident.
- An appropriately senior officer is responsible for overseeing the liaison process. He or she should have direct access to officers in the Police Forward Command Post for the purpose of conveying and receiving information in a timely manner.
- A dedicated family liaison officer (or officers) is assigned to the family of each victim and given responsibility for managing the needs of that family.
- Officers are given guidance on communicating with families, including the appropriate frequency and content of briefings both during and after an incident.
- Officers are advised of the proper process for gathering and disseminating intelligence from family members.

### 35. Casualty identification and death notice delivery

I recommend that the NSWPF review its policies, procedures and training to ensure the rapid identification of persons killed or injured in high-risk situations. Those policies should provide appropriate guidance on how and when death messages ought to be conveyed following such incidents.

### 36. ADF call-out arrangements

I recommend that the ADF Review confer with state and territory governments about the criteria governing applications for the ADF to be called out pursuant to the Defence Act 1903 (Cth) with a view to determining:

- whether further guidance is required on the criteria to be used by states and territories in determining whether to apply for Commonwealth assistance; and
- if so, what criteria ought to be stipulated.

### 37. Consistency between ANZCTC protocols and the Defence Act

I recommend that the ADF Review give consideration to amending the Australia–New Zealand Counter-Terrorism Committee protocols to ensure that they provide sufficient guidance as to the respective roles of the ADF and state police tactical groups. Such guidance should accord with the legislative framework in Part IIIA of the Defence Act 1903 (Cth).

### 38. Procedures for obtaining ADF assistance

I recommend that the ADF Review, in consultation with the police forces of the states and territories, examine the guidance available to ADF officers and state and territory police regarding:

- the role of ADF liaison officers;
- the availability of ADF assistance in the absence of a call-out; and
- the procedures to apply in relation to requests for, and the provision of, equipment or advice by the ADF.

### 39. Review of information-sharing arrangements

I recommend that the Commonwealth Attorney General, in consultation with states and territories, review existing arrangements for information sharing between federal, state and territory agencies during terrorist events to determine whether those arrangements (and the guidance provided to officers in respect of them) adequately facilitate the efficient identification and transfer of pertinent information between agencies.

### 40. Correspondence referral

I recommend that the Commonwealth Attorney-General liaise with ASIO to develop a policy to ensure that where correspondence is received by a government agency, minister or public office holder, from a non government entity, and that correspondence is relevant to the security assessments of the author, the correspondence be referred to:

- ASIO; and
- a Fixated Threat Assessment Centre.

### 41. Review of Australian Psychological Society's disclosure rules

I recommend that:

- the Commonwealth Attorney-General and ASIO confer with the Australian

Psychological Society regarding the restrictions in clause A 5 2 of the Code of Ethics (2007) with respect to radicalisation, terrorism and politically motivated violence; and

- the Australian Psychological Society consider amending clause A 5 2 of the Code of Ethics (2007) to enable psychologists to report risks of a terrorist nature.

### 42. Privacy legislation review

I recommend that the Premier of New South Wales consider whether the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002 should be amended to ensure that there is appropriate access to health related information available to ASIO (consistent with recommendation 12 of the report of the Martin Place Siege Joint Commonwealth-New South Wales review).

### 43. A Fixated Threat Assessment Centre

I recommend that the NSWPF, in conjunction with NSW Health, establish a Fixated Threat Assessment Centre to identify and gather information about fixated persons, assess the risks they pose, and attempt to mitigate such risks through early intervention.

### 44. Liaison with ASIO

I recommend that ASIO liaise with the Fixated Threat Assessment Centre with a view to both agencies cooperating in the identification, assessment and management of fixated, radicalised individuals.

### 45. The LECC to coordinate critical-incident debriefs

I recommend that the Minister for Police undertake a review of the Law Enforcement Conduct Commission Act 2016 with a view to enabling the Law Enforcement Conduct Commission to facilitate urgent debriefs and confidential internal reviews of critical incidents focused on improving current practice.

This story was found at: <http://www.smh.com.au/nsw/the-45-recommendations-of-lindt-cafe-siege-inquest-20170524-gwc00o.html>



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# Defence support to domestic counter-terrorism arrangements

July 17, 2017

The Australian Defence Force will expand its role in assisting the states to respond to terrorist incidents under new changes being made by the Turnbull Government.

The overhaul will make it easier for Defence to work together with Federal, State and Territory Police in the event of a terrorist incident.

To stay ahead of the evolving threat of terrorism, the Turnbull Government reviewed Defence's support to domestic counter-terrorism arrangements to ensure Australia has a co-ordinated and integrated response.

State and Territory Police Forces remain the best first response to terrorist incidents, immediately after an attack starts.

But Defence can offer more support to states and territories to enhance their capabilities and increase their understanding of Defence's unique capabilities to ensure a comprehensive response to potential terrorist attacks.

Under the changes:

- Defence will offer State and Territory Governments specialised training from Special Forces for select law enforcement teams.
- Defence will offer states and territories placement of officers within law enforcement agencies to assist with liaison and engagement.
- This strengthening of engagement will assist with pre-positioning of the ADF in response to a possible terrorist incident.
- The Government will strengthen Part IIIAAA of the Defence Act to remove some constraints in the provisions to "call out" the ADF to assist states and territories.
- This will include the removal of the provision that currently limits states and territories from asking for ADF

***It is essential that Australia evolves its responses and counter-measures in response to the changing threat.***

support and specialist military skills until their capability or capacity has been exceeded.

- The Government will also make changes to the Act to make it easier for Defence to support the police response, such as the ability to prevent suspected terrorists from leaving the scene of an incident.

These measures are intended to provide increased Commonwealth support to states and territories in their role as first responders to a domestic terrorist incident. In particular these measures will:

- better support states and territories in preparing for terrorist incidents
- enable a more comprehensive ADF response to a terrorist incident if required
- improve information flows between the ADF and police during an incident

Together, these measures will improve the nation's ability to respond to terrorism as well as improve the effectiveness of Defence's contribution to domestic counter-terrorism arrangements. The changes will be made in partnership with State and Territory Governments and we look

forward to future engagement through the Council of Australian Governments and the Australia-New Zealand Counter Terrorism.

## Committee

The Government's number one priority is keeping Australians safe.

We cannot afford to take a 'set and forget' mentality on national security. We must constantly review and update our responses to the threat of terrorism.

The Turnbull Government initiated the review of Defence's support to national counter-terrorism arrangements in 2016 in response to the changing nature of the threat as demonstrated in recent terrorist attacks around the world.

It's the first time Defence's contribution to domestic counter-terrorism has been reviewed since 2005.

It is essential that Australia evolves its responses and counter-measures in response to the changing threat.

Defence must be able to contribute effectively to domestic counter-terrorism efforts, in addition to its offshore counter-terrorism missions and regional capacity-building activities.



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Winner Helen Yan

# Press Conference with Chief of the Defence Force, Air Chief Marshal Mark Binskin AC

July 17, 2017

## **Prime Minister:**

I am very pleased to be here at Holsworthy to outline new measures to enhance Defence's support of the national counter terrorism arrangements.

As you've seen we've been joined by the Chief of the Defence Force, Air Chief Marshal Mark Binskin and the TAG Force East Command, and we're announcing the outcomes of the Government's review into how we can enhance our military support to first responders in our state and territory police.

The measures I am announcing today will ensure that the ADF is more readily available to respond to terrorism incidents, providing state and territory police with the extra support to call on when they need it.

We have to stay ahead of the threat of terrorism. We have to constantly review our law enforcement capabilities. We have to constantly act to improve our ability to keep Australians safe.

This is a key focus of my Government. There is no place for 'set and forget', or for complacency.

Our enemies are agile and innovative. We have to stay ahead of them. We have to ensure that every resource we have – legislative, military, police, intelligence, security – is always at the highest standard and able to be brought to bear to keep Australians safe.

Now, last week as you know I was in Hamburg meeting with the leaders of the G20, the 20 largest economies. We saw there, at what is normally predominantly an economic forum, a very heavy focus on terrorism. You saw a unanimous communique on enhancing our collective response to deal with counter-terrorism, one in which Australia played a leading role in ensuring that we brought it up to the level of dealing with 21st century technologies and ensuring that the internet is not used as a place for terrorists and other criminals to hide from the law.

Following that, I visited Prime Minister May in London. As you know, I met with the first responders at the scene of the terrorist attack at London Bridge and Borough Market where so many innocent

lives were lost, including those of two young Australians Kirsty Boden and Sara Zelenak.

I met with the two metropolitan police officers, two young men, unarmed police officers who had done their best with CPR to revive Sara Zelenak after she'd been attacked and murdered by those terrorists.

Now, we initiated the review into Defence's role in counter-terrorism in May last year in response to the changing nature of the terrorist threat as seen in the terrorist attacks in Paris, Brussels, Ankara both in February and March and in so many other places. Recent attacks in Indonesia, London, Manchester and Melbourne as well as the continuing battle against ISIL in the Philippines, continue to underscore the pervasive and global nature of this terrorist threat.

Since the review commenced, we have worked closely with the states and territories to ensure our national counter-terrorism arrangements can meet the challenges of the evolving tactics and methods of terrorists.

My highest priority and that of my Government is the safety and security of all Australians to maintain our way of life, our values and our freedom.

Now we can all be assured that our law enforcement and security agencies and our military, are the best in the world.

We have just seen first-hand some of the impressive capabilities that our Tactical Assault Group here can contribute in the event of a complex or protracted domestic terrorist attack.

We have a broad continuum of operational responses to terrorist attacks spanning from the initial response by general duties police in the first instance, to the deployment of specialist members of the ADF such as those we've met today.

Now let me be very clear; state and territory police are and will remain, the primary responders to any terrorist attack.

The immediate actions of those first responders will have the greatest impact in terms of saving lives and neutralising any threat.

In the current threat environment, it is most likely that a terrorist attack will use

simple methodologies – a knife, a gun, a vehicle – and the attack itself would be over in minutes.

Now, each state and territory police force also has specially trained police who have expert capability to respond to terrorist attacks.

Where necessary, the Commonwealth will assist states and territories to respond.

The Australian Federal Police has high-end tactical and technical capabilities that are able to operate with state and territory police operational response units. You've seen some of those demonstrated at the centre in Majura in Canberra. In worst-case scenarios, the ADF has a range of specialist capabilities to resolve complex terrorist incidents, especially protracted sieges and hostage situations.

It is the case that our existing arrangements are robust and Defence's primary role in counter-terrorism is offshore; that is, through our operations abroad in the Middle East to disrupt and degrade terrorist networks and in supporting regional capacity building efforts.

Defence's largest counter-terrorism commitment is in Iraq and Syria, where the liberation of Mosul is a milestone in the campaign to defeat Daesh. When Daesh first captured Mosul in June 2014, it signified its emergence as a major threat both to the region and to the world. Mosul's liberation signifies the beginning of the end for this criminal Islamist terror group. The defeat and collapse of its so-called caliphate, which it used to considerable effect as a recruiting tool across the world. But the fight to defeat its extremist ideology and terrorism is not over.

The security of Australians and our interests cannot involve a 'set and forget' attitude. We've demonstrated, as I said at the outset, that we continuously monitor changes in the security environment. We review legislative, policy and operational arrangements to ensure we remain ahead of the threats.

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*continued on page 14*

This is the first time these arrangements have been reviewed in over a decade and we are very clear-eyed about the evolving terrorist threat.

The Defence Minister Marise Payne and I know it is vitally important that Defence is able to respond and assist in domestic counter-terrorism efforts.

So we need to ensure that nationally we have the best laws and abilities to respond to terrorist attacks, whether they are simple, complex, brief or protracted. We have to be flexible and agile in the way we support the states and territories before, during and after an attack.

That's why the outcome of the review is increased practical counter-terrorism engagement between the Commonwealth, states and territories to build on the strong relationships we already have between the military and police.

Now given this is a national issue, consultation with the states is vital. We know there is not necessarily be a one-size fits all in every circumstance, but as much harmonisation as possible is the objective.

So this will initially occur through the Australia-New Zealand Counter-Terrorism Committee, which includes Commonwealth and all state and territory representatives.

It will involve working with states on specialised ADF training to select state and territory law enforcement elements. In other words, to ensure that the skills the men and women we've met this morning, the skills they have are able to be shared with the state and territory police tactical response groups. We want to make sure that they are as well-equipped as they possible can be to respond to the threats to which they will invariably be the first responders.

We will be placing Australian Defence Force liaison officers with the counter-terrorism groups, both at state and territory level. Again that is to ensure that there is the closest possible collaboration between the specialists here in the ADF and the frontline police so that once again each of them knows the capabilities, both the strengths and the weaknesses on each side so that there is the ability for the ADF to be able to say to police in certain circumstances, we can do something that you can't, this is where we may be able to provide some assistance.

It is vitally important that we have that close liaison. There's no point operating in silos. Our enemies aren't.

We have to be completely connected at all times.

And we're clarifying the ability of the ADF to pre-position, both personnel and materiel to fortify and enable the quickest possible response.

We're going to streamline the legislative process for the callout of the ADF under the Defence Act to provide more flexibility for the states and territories to request Defence assistance. Without going into the legalities of it, it is a very cumbersome process at the moment. It basically requires a state to demonstrate that they have exhausted their ability to defend themselves.

What we want to be able to do, and this is consistent with the Constitution, is be in a position where a state government, a state police commissioner, for example, and premier can come to the conclusion that there is a special, it might be a niche assistance, it might be using the rig that we've got behind us here, or some other specialist assistance where that special assistance is required, it can be readily called upon and deployed. Again, we want to make sure that every asset we have, that is designed to keep to Australians safe, is brought to bear to do so when it is needed.

We look forward to continuing our work with states and territories to ensure that they have the powers they need to prevent terrorist attacks and ensure we have the most robust national response. So we're going to continue discussions with the states, for example, to ensure that the penalties for those serious terrorist offences are adequate and terrorists aren't walking the streets on bail or parole. You saw the commitment I secured at the last COAG meeting in that regard. We want to aim to have nationally consistent, pre-charged detention of terror suspects, full legal protections to ensure that police are empowered to use lethal force where the public is at risk.

While it is a state issue, I'm of the view we should have as much uniformity as possible when it comes to protections for our first responders. We'll continue working with industry and other leaders to ensure security and law enforcement agencies can access relevant information when investigating terrorists, paedophiles and violent

criminals' use of the internet. The laws that apply offline must apply online.

I have convened, as you know, a special COAG later this year to comprehensively review the nation's laws and practices directed at protecting Australians from violent extremism and terrorism.

This is all part of our commitment to keep Australians safe. We are constantly reviewing every aspect of our legislation, of our policy, of our resources. The way we deploy our forces. The way we work with States and Territories. The way we collaborate internationally. Everything is focused on securing the safety of all Australians. That is our commitment, that is our duty.

I will now ask the CDF to add to those remarks and we will take questions.

### **Air Chief Marshal Mark Binskin AC – Chief of the Defence Force:**

Thank you Prime Minister. It's great that we are able to host you here at Holsworthy this morning. I'd like to take the chance to thank the team at TAG East for the demonstration and the discussions. This is an important moment for the Australian Defence Force. We fully support the outcomes of the review.

Importantly, it acknowledges the primacy of the state and territories and the police in the domestic policing role, but it gives us the chance to better provide advice either before or during an event. It gives us the chance to provide specialist training to selected territorian and state police organisations and their people.

Importantly, if we're ever required to be called out, it does streamline that process and allows us to support them more quickly and in a better way.

It is a good review. We will now be working with the state and territory police organisations to see how we can best work together to enhance the capability right across Australia.

### **Journalist:**

Can you point to any [inaudible] where it would have made a difference in the Lindt siege scenario?

### **Prime Minister:**

Referring to Lindt, as you know, the coroner's conclusion was that the New South Wales police were fully capable of dealing with that situation. So while there were recommendations made by the

coroner after the Lindt Café siege which we have adopted, this is a consequence of a review I set in place last year after a number of terrorist incidents overseas. What we do is constantly review the pattern of terrorist activity, both internationally and of course at home and then adapt our practices and our policies to adjust to that. But in terms of Lindt, the coroner's conclusion was the New South Wales police had all of the capabilities to deal with the matter and I can't say anything contrary to that.

**Journalist:**

In that case would there be any scenario where it would play out differently under these new laws?

**Prime Minister:**

What this will do is it will give states and the Commonwealth greater flexibility to deploy specialist ADF personnel and assets. You can imagine circumstances, you've seen some of the equipment here today.

Obviously most of the capabilities of TAG East are not on public display I am pleased to say, but we'll have a closer collaboration with the police. It is already close, but we want to make it closer. We want to see more tactical response groups from the police training here. We want to raise their capabilities to respond to terrorist incidents.

Remember, the circumstances in which the tactical assault group here can be deployed to an incident in Sydney itself, is hours. To other cities in Australia it's many hours. Now with these incidents, are resolved typically very quickly. If you go to the London Borough Market and London Bridge attack, the armed response group of the metropolitan police got there in eight minutes and they killed the three terrorists. I walked over the course of that crime scene with Prime Minister May and frankly, it wasn't much more of a walk than we have done this morning. It was in a very short compass. So in a few minutes, those three murderers were able to kill eight people and wound 50. So it was a shocking example of the speed with which these incidents progress.

It is vitally important that front-line police have their skills improved and the training to be able to deal with these incidents on the spot. But when you do get more complex or protracted situations, then Defence can be brought into bear.

I should also add that the ability to pre-position Defence personnel and Defence assets is also important because there will be circumstances where, through our intelligence, we get wind of an attack being likely or being planned and so you can get people in position in advance.

What I am doing is taking a lot of the red tape and the gum out of the works to enable the cooperation between the police and the ADF and particularly, the specialists, the operators we have met this morning, so that they can work together more seamlessly. That's what this is all about. We've got to keep on improving the way we are able to respond to these threats.

As I said, we've got fantastic police, security intelligence and armed forces. They are the best in the world, but we must never be complacent. We can never set and forget.

**Journalist:**

Prime Minister if there is an incident again, how will it work if the ADF are watching an incident and they go: "Well, we could go in there and we could help?" Who is going to actually call them in, because the Army offered their services in Lindt and that was knocked back. How would it work then under the new system?

**Prime Minister:**

Yeah, under the constitution the State has to make the request. That's the constitutional situation. But clearly with both the State police and the ADF working more closely and with those liaison officers working with the counter-terrorism groups in each State, they will have a better understanding of what each can do and what each may not be able to do. You've got that ability to bring the collective talents together in a more effective way.

**Journalist:**

So state police shouldn't feel a bit slighted by this?

**Prime Minister:**

No, no absolutely not. It is absolutely quite the contrary I can assure you. You should never imagine that the first responders are anything other than the state police. I mean they are on the spot. Unlike the United Kingdom, our front line police are armed. That's a very important

things to bear in mind about the London Bridge and London Borough Market incident; the first responders there, the first police were all unarmed.

They were very brave doing their best to deal with these guys with nightsticks and throwing things at them and so forth. They were really courageous but unlike our police, they didn't have side arms. So the key thing here is to make sure we can work more closely and more effectively. What these changes we are making to the Defence Act and the changes we are making to operational practice, will ensure that where the ADF has specialist or niche capabilities that will be of value, they can be called into the situation much more quickly and much more flexibly.

**Journalist:**

Prime Minister do you think we should have a Department of Homeland Security set up to perhaps coordinate these responses?

**Prime Minister:**

Thank you for that. That's a frequent question and as you know, I met in the UK with the Home Secretary Amber Rudd and her distinguished predecessor, now the Prime Minister Theresa May. The British have always had a Home Office and these administrative matters are often under discussion and considered but we have got outstanding arrangements in Australia. We are always open to improving them. Again, there is no place for set and forget. My focus as Prime Minister, I can assure you, is on keeping Australians safe. I never rest in my efforts to improve the way our outstanding men and women of the ADF, of the AFP, working with our intelligence and security agencies and their State and Territory counterparts, I never rest, as I focus on how I can ensure they have the maximum support in every respect, to do their job, which they do, bravely and professionally, in keeping us safe.

So thank you all for coming out to Holsworthy.

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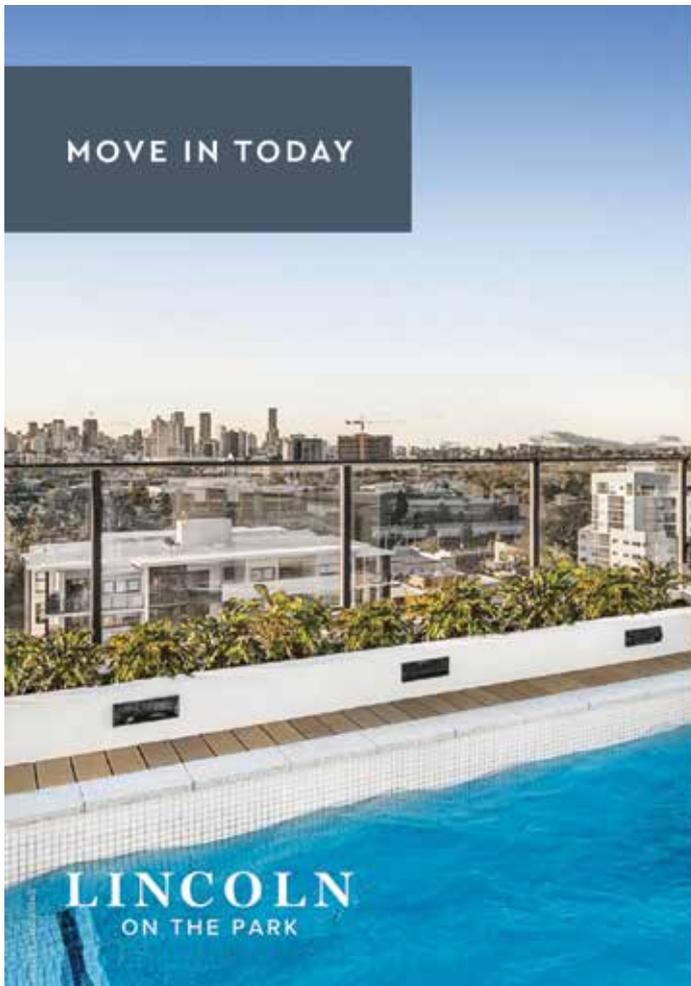
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# A strong and secure Australia

July 18, 2017

## The Turnbull Government will undertake the most significant reform of Australia's national intelligence and domestic security arrangements in more than 40 years.

The reforms will restructure and strengthen Australia's Intelligence Community, establish a Home Affairs portfolio and enhance the Attorney-General's oversight of Australia's intelligence, security and law enforcement agencies.

Australia faces an increasingly complex security environment, evolving threats from terrorism and organised crime, and the development of new and emerging technologies, including encryption.

In view of these developments, the Prime Minister announced a review of Australia's Intelligence Community last year.

Mr Michael L'Estrange and Mr Stephen Merchant, and their adviser, Sir Iain Lobban, have finalised their report to Government. We thank them for their thorough and ground-breaking work.

The review concluded that Australia's intelligence agencies are highly capable and staffed by skilled officers.

It also made many important recommendations to transform these agencies into a world-class intelligence community.

The review highlighted how changing security threats and technologies are driving the need for closer cooperation between our domestic security and law enforcement agencies.

For over a decade, successive Governments have responded to worsening security trends with ad hoc arrangements to strengthen coordination and cooperation between Australia's intelligence, security and law enforcement agencies.

These arrangements have been highly effective. Intelligence and law enforcement agencies have successfully interdicted 12 imminent terrorist attacks since September 2014. Operation Sovereign Borders, has also prevented successful people smuggling ventures for nearly three years.

However, the Government believes that the evolving and complex threats to Australia's security require more enduring and better integrated intelligence and domestic security arrangements.

We have accepted the recommendations of the Australian Intelligence Community review as a sound basis to reform Australia's intelligence arrangements.

The Government will establish an Office of National Intelligence, headed by a Director-General of National Intelligence, and transform the Australian Signals Directorate into a statutory agency within the Defence portfolio.

The Government will also establish a Home Affairs portfolio of immigration, border protection and domestic security and law enforcement agencies.

The new Home Affairs portfolio will be similar to the Home Office of the United Kingdom: a central department providing strategic planning, coordination and other support to a 'federation' of independent security and law enforcement agencies including the Australian Security Intelligence Organisation, the Australian Federal Police, the Australian Border Force and the Australian Criminal Intelligence Commission.

These arrangements will preserve the operational focus and strengths of frontline agencies engaged in the fight against terrorism, organised crime and other domestic threats.

In view of these significant reforms, the Government will also strengthen the Attorney-General's oversight of Australia's intelligence community and the agencies in the Home Affairs portfolio.

Strong oversight and accountability is important to give the public confidence that our agencies not only safeguard our nation's security, but do so respecting the rights and liberties of all Australians.

The Attorney-General will continue to be the issuer of warrants under the ASIO Act, and Ministerial Authorisations under the Intelligence Services Act and will continue to administer the Criminal Code Act 1995 and the Crimes Act 1914.

The Attorney-General's portfolio will incorporate the Inspector-General of Intelligence and Security and the Independent National Security Legislation Monitor. The Government will also consider measures to strengthen the operation of both roles.

In addition, the Attorney-General's portfolio will house the Commonwealth Ombudsman, which will remain an independent statutory body.

These reforms are significant and complex; they will take time to fully implement.

Planning to implement the changes to the Australian Intelligence Community, the establishment of the Home Affairs portfolio and the strengthening of the Attorney-General's portfolio will be undertaken within the Department of the Prime Minister and Cabinet.

The Attorney-General, the Minister for Immigration and Border Protection as Minister-designate for Home Affairs, and the Minister for Justice will work with the Department of the Prime Minister and Cabinet to develop these plans with a view to their implementation from early 2018.

These reforms are driven by serious threats to Australia's security and the Government's determination to keep Australians safe and secure.

They will complement work underway to implement the Government's 2016 Defence White Paper, including investments in new combat capability for the Australian Defence Force.

The Government will also present a Foreign Policy White Paper later this year.

# Press Conference with the Attorney-General, Senator the Hon. George Brandis QC, Minister for Immigration and Border Protection, The Hon. Peter Dutton MP and Minister for Justice, The Hon. Michael Keenan MP

July 18, 2017

## **Prime Minister:**

Today I am announcing the most significant reform of Australia's national intelligence and domestic security arrangements – and their oversight – in more than forty years.

Australia is facing complex and rapidly evolving security challenges.

Our security environment is being shaped by changes in our region and beyond involving the relationships between and actions of key states.

It is being shaped by the very real threat of home-grown terrorism that has increased with the spread of global Islamist terrorism, and by the growth in activity by criminals who continue to test our borders.

It is shaped by new and emerging technologies that complicate the work of security agencies and make the job of keeping Australians safe and secure ever more challenging.

In confronting these threats, Australia has been well served by our intelligence, security and law enforcement agencies – as well as by the Australian Defence Force.

And by the determination of my Government to ensure our agencies have the resources, both financial and legal to keep Australians secure.

I want to acknowledge the dedication and professionalism of our security, intelligence, police and defence forces.

When it comes to our nation's security, we must stay ahead of the threats against us. There is no room for complacency. There is no room for set and forget.

That is why last year, I commissioned a comprehensive review of the Australian Intelligence Community to test the assumptions and identify improvements in our existing arrangements.

The review was conducted by the former Secretary of the Department of Foreign Affairs and Trade, Professor Michael L'Estrange, the former Deputy Secretary of the Department of Defence and Director of the Australian Signals Directorate, Mr Stephen Merchant.

And those two gentleman were ably advised by Sir Iain Lobban, the former Director General of the UK's GCHQ, which is the British counterpart as you know, to the Australian Signals Directorate.

I thank them for their work on a landmark report in the history of Australia's intelligence and security community.

An unclassified version of the report will be released today and the government's response to the matters not dealt with me by this morning will be released following further consideration of those recommendations by the government.

Now this very valuable report offers a comprehensive overview of the nation's intelligence community, concluding that our agencies are highly capable and staffed by very skilled and dedicated officers.

It has made many important recommendations to transform our highly capable agencies into a world-class intelligence community - to ensure, as the review says, that "the whole is greater than the sum of the parts".

The Government accepts the principles of the reviewers' recommendations as providing a sound basis to ensure Australia remains ahead of the threats.

The scope of the recommendations covers all aspects of our intelligence community, including changes to its structure, capability, coordination and oversight, including the establishment of an Office of National Intelligence to ensure more effective coordination of Australia's intelligence effort.

This is a lesson that we have learnt from the UK is that having a central policy making process leads to better operational outcomes. The new Office of National Intelligence will coordinate this central intelligence policy and coordination function.

All of our Five Eyes partners have established a single point of coordination

for reasons the report makes very clear - Australia doing the same will ensure even better collaboration with our Five Eyes partners.

It also recommends and we accept this recommendation the transformation of the Australian Signals Directorate into a statutory authority within the Defence portfolio.

And it also makes recommendations to changes to legislation and oversight arrangements to reflect the increasing demands placed on our agencies by Australia's security environment.

We will also accept recommendations to further boost the nation's cyber security. In recognition that the Australian Cyber Security Centre must have a whole of economy focus, I will appoint my Cyber Security Special Adviser as the Head of the Australian Cyber Security Centre. And we will establish an Australian Cyber Security Centre 24/7 capability to respond to serious cyber incidents. This capability will better meet the needs of the community and the government in relation to rapidly emerging cyber events and we've seen some examples of that very recently.

Now given the scope of recommendations, I have asked the Secretary of my Department to establish a taskforce to manage implementation of the changes and to consider them in detail.

I anticipate the reforms being implemented progressively and to be completed through the course of 2018.

The review has highlighted important considerations for how Australia handles its domestic security arrangements, including our very complex security environment becoming more so, the threats that we face are multi-dimensional, the lines between organised criminals and terrorists are blurred, contemporary threats drive the need for our agencies to work closer together.

For the past decade, as security challenges have become more

difficult, successive Governments have strengthened cooperation between domestic agencies on an ad hoc basis.

A lot of good work has been done, notably the Coalition's own Operation Sovereign Borders which have kept the people smugglers' boats at bay for nearly three years.

But the Australian Intelligence Community review itself noted the existence of a number of ad hoc taskforces which seek to enhance cooperation and coordination between agencies on specific threats.

The challenges the current international security environment poses to the our intelligence agencies, as outlined in the Review, are very similar to those faced by the policy and operational arms of the national security community.

Ad hoc and incremental adjustments to our national security arrangements do not adequately prepare us for the complex security future we face.

In these difficult times, repeated reviews and task forces are not enough. We need to take more decisive action.

We can't take an 'if it ain't broke don't fix it' approach to security arrangements, not least because our adversaries are agile and nimble, constantly adapting and evolving to defeat our defences.

We need more enduring and better integrated arrangements for our domestic and border security.

Arrangements that will preserve the operational strengths and independence of our frontline agencies, but improve the strategic policy planning and coordination behind them.

So I have decided to establish a Home Affairs portfolio of Australia's immigration, border protection and domestic security agencies.

The new portfolio will be similar to the United Kingdom's Home Office arrangement – a federation, if you will, of border and security agencies.

Now let me be quite clear - this is not a United States-style Department of Homeland Security. The agencies will retain their current statutory independence, which is such a vital aspect of our Australian system.

The operational agencies will include ASIO, the Australian Federal Police, the Australian Border Force, the Australian Criminal Intelligence Commission, the Australian Transaction Reports and

Analysis Centre or AUSTRAC and the Office of Transport Security.

They will be supported by a central department that will oversee policy and strategic planning and the coordination of the operational response to the threats we face.

Importantly, ASIO, AFP and the Australian Border Force will all report directly to the Home Affairs Minister.

This will ensure that these three important agencies have direct reporting into Cabinet.

The Home Affairs Minister will have two ministers working to him, on the security side and the immigration side.

Michael Keenan, who has been doing an outstanding job as the Justice Minister, will continue to be that important security-focused minister.

effective oversight, now I'm come to some details about that in a moment.

Now we need these reforms not because the system is broken but because our security environment is evolving quickly, it is becoming more complex, it is likely to remain so for the foreseeable future. We need a better structure to meet the challenge of the times. And that is why we're adopting a model which is closer to the British Home Office than the large scale American Homeland Security Department.

So I want to stress we are taking the best elements of our intelligence and national security community and making them better.

As terrorists evolve their methods, we have to evolve our responses.

***We need more enduring and better integrated arrangements for our domestic and border security. Arrangements that will preserve the operational strengths and independence of our frontline agencies, but improve the strategic policy planning and coordination behind them.***

The Home Affairs portfolio will be complemented by a move to strengthen the Attorney-General's oversight of Australia's domestic security and law enforcement agencies, including, by moving the Inspector General of Intelligence and Security and the Independent National Security Legislation Monitor to the Attorney-General's portfolio.

The Government will also review the role of the Attorney-General in the role in ASIO's operations in the work to design and establish the new portfolio to ensure continued and efficient oversight.

Now, I have always believed strongly in the role of the Government's First Law Officer - it will only become more critical as threats continue to evolve and the challenges of dealing with them more complex. So I am determined to ensure

Now this announcement is a result of years of planning and research. It's a result of considered thought and study. It's a result of extensive consultation.

Last week I was in the United Kingdom where I spoke with the Prime Minister, Theresa May and the Home Secretary Amber Rudd about the structure of the UK system.

The Attorney-General and I have held extensive discussions on counter-terrorism with our partners in the Five Eyes. George having done so most notably very recently, particularly in the context of cyber security.

The overseas experience is clear - a better coordinated, better integrated counter-terrorism structure is of vital importance.

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*continued on page 20*

So the reforms I'm announcing today will entrench the cooperation between the agencies, which has helped us thwart 12 terrorist attacks and stop 31 people-smuggling ventures in recent times.

It will take the cooperation further by ensuring more effective strategic planning and coordination of the agencies and identify opportunities for streamlining back office and other support functions. At the same time we will ensure that our operational agencies will remain nimble and focused on front-line tasks.

The establishment of the Home Affairs portfolio is a complex undertaking.

So, I have asked the Minister for Immigration and Border Protection to oversee the development of the government's governance structures, legislative changes and operational planning as the Minister-designate for Home Affairs. And he'll be working closely with my Department and of course, with the Attorney.

I have instructed the head of my Department to have the taskforce being established to implement and respond to the recommendations of the Australian Intelligence Community Review to ensure that the arrangements to create the Home Affairs portfolio are prepared with a unity of purpose and fully coordinated with changes to the intelligence community. The taskforce will develop the necessary governance, legislative and other changes to effect the Government's objectives. And it will ensure that the changes to the intelligence community, and the establishment of a Home Affairs portfolio, are aligned.

The NSC will approve the portfolio implementation plan later this year, with its roll out to be complete by 30 June, next year.

Now throughout this transition period, our operational agencies will continue to report to their current ministers, pending the finalisation of new arrangements.

There will be no reduction in frontline capacity, focus or operational tempo.

At the same time we are strengthening our security arrangements, we will also strengthen our oversight, accountability and integrity structures by increasing the powers and the remit of the Attorney-General in relation to Australia's intelligence communities and agencies of the new Home Affairs portfolio.

The principles of oversight of our intelligence agencies were core recommendations of the Hope Royal Commissions of the '70s and '80s. Strong oversight and accountability is important for public confidence that our agencies not only safeguard our nation's security, but do so respecting of Australians' rights and liberties.

The Attorney-General will retain his current role in the issue of warrants and ministerial authorisations.

Now I understand that some of those who are concerned about the enhancement of our national security arrangements I am announcing today want to be assured that the civil liberties of Australians are not eroded.

I am determined that the protections and oversight we're establishing today on very strong foundations will remain a fundamental feature of our system. There will be stronger oversight, stronger oversight under these new arrangements.

The AIC review has made some detailed recommendations regarding the oversight of our intelligence agencies and they will as I noted be explored in detail by the work led by my Department.

However, the key institutions charged with overseeing the intelligence agencies will be moved from my portfolio to the Attorney-General's portfolio.

That includes the Inspector General of Intelligence and Security and the Independent National Security Legislation Monitor and these will join existing portfolio bodies such as the Australian Commissioner for Law Enforcement Integrity.

I have also decided that the Commonwealth Ombudsman should be brought into the Attorney-General's enhanced oversight role, remaining as an independent statutory body.

The Ombudsman, as you know, plays a vital role in considering and investigating public complaints about unfair or unreasonable treatment by Government departments and agencies – many of which are involved in these reforms.

Its placement within the Attorney-General's portfolio complements other changes announced today and cements the vital role of the First Law Officer in ensuring Governments act lawfully and justly.

The First Law Officer is the minister for integrity, the minister for oversight and integrity and that role is being reinforced.

Without creating any new unnecessary bureaucratic layers,

these reforms ensure a higher level of checks and balances than we have ever had before. It is an important part of our constant effort to get the balance right between security and civil liberties.

Taken together, these changes are the most significant security and oversight reforms, as I said, in four decades.

They reflect the evolving and complex security environment at home and abroad – and the enduring need to stay ahead of them.

They reflect the professionalism of our operational agencies and our determination to ensure that they remain the world's best.

And above all, these reforms reflect my Government's tireless determination to keep Australians safe.

I'll ask the Attorney to add to these remarks and then the two ministers.

### **Attorney-General:**

Thank you very much indeed Prime Minister.

These are historic reforms and they have my strong support and I want to thank the Prime Minister for his close engagement of me in the shaping of these reforms.

These reforms are important for two reasons, in particular. There are many reasons why they are good reforms, but there are two that I want to emphasise.

First of all, they mean that for the first time, Australia will have, as a senior Cabinet Minister, a minister whose exclusive focus is on national security.

For the nearly four years that I have been in the Attorney-General's portfolio, the principle responsibility for national security has lain with the Attorney-General. But of course the Attorney-General has many other responsibilities as well. He's responsible as the principal legal adviser to the Government. He's responsible for the administration of and recruitment to the courts. He's responsible for government information, including the Freedom of Information Act and the Archives Act. He is responsible for very extensive, individual Acts of Parliament, as various as the Family Law Act and the Bankruptcy Act.

What that means is that much though my focus has been on national security, it has not been able to be an exclusive focus. There are always other things within the Attorney-General's portfolio which also occupy my attention.

That issue was ameliorated somewhat two years ago by the appointment of Michael Keenan as the Minister Assisting the Prime Minister on Counter-Terrorism. But it remained the anomaly that responsibility for national security was shared between a senior Cabinet Minister, who could not give it his exclusive attention, and a junior minister. That is an unsatisfactory situation.

The announcements the Prime Minister has made this morning will correct that anomaly. It will ensure that we have within the Government, as a senior member of the Cabinet, a minister who can give 100 per cent of his time and his attention to national security, both domestic national security and border security.

The complementarities, the synergies between Mr Dutton's new roles are more natural, more obvious and better than the complementarities between the domestic national security function and the other functions within the Attorney-General's portfolio until now.

There is a second reason why I welcome this announcement because, as the Prime Minister has said, it does return or restore the Attorney-General's portfolio to its traditional, orthodox, familiar function as the First Law Officer of the Commonwealth.

That is what the Attorney-General is meant to be.

He or she is meant to be the minister with responsibility for the rule of law.

He or she is meant to be the minister that holds other government agencies to account. In particular, when one is considering agencies with intrusive powers, including intelligence agencies, it is extremely important that the Attorney-General's function, as the minister who protects the rule of law within the structures of governance, be respected, and I am grateful for the fact that that role has been enhanced by the announcement that the Prime Minister has made this morning by the transfer into the Attorney-General's portfolio of a number of the integrity agencies of government, which had hitherto lain elsewhere.

It is also important, as the Prime Minister has mentioned, that the Attorney-General will continue to be the officer who issues ASIO warrants and ministerial authorisations for the operation of the other members of the Australian Intelligence Community. So, that aspect of the Attorney-General's function and engagement with the intelligence community continues.

I think that we will look back on this day as a day when we have turned the page from a set of arrangements which work well, to a set of arrangements which will work even better. They will unburden those officers, those officials who work within our agencies of the awkward arrangement of functions that has been the case hitherto and present them with a much more logical and lineal set of arrangements.

### **Minister for Immigration and Border Protection:**

Prime Minister, George, Michael - thank you very much everyone for being here today. I want to say thank you very much for the words from the Prime Minister and from the Attorney as well.

A few years ago we said that we would stop the boats, that we would defend our borders and we would restore integrity to our borders; this Government has done that.

We've not only have stopped the boats, but we have turned back boats where it has been safe to do so. We are getting people out of detention centres and we have restored that integrity which, if it is not with that integrity, it is impossible for a government to say that they can ensure national security.

Having made the promise to stop the boats and to make sure that we can keep our borders secure, we make this announcement today with this promise; the Home Affairs portfolio is dedicated to keeping Australians safe, to doing everything that we can to defeat the scourge of terrorism, but beyond that, to work with our agencies in relation to transnational crime, in relation to organised crime, in relation to many other aspects of criminal activity within our country.

So, the dedication of this portfolio, in a similar way that we promised an outcome in the Immigration and Border Protection portfolio, is to make sure that we can do everything within our power to keep Australians safe.

We do that in the construct as described by the Prime Minister today. We get the balance right and we provide support to the agencies who will retain their statutory independence, but will be coordinated in a way that we see in the United Kingdom and elsewhere.

We have over a long period of time been discussing how this would work, whether it's best for our environment

and the answer is yes. It is the time for this change and it is going to allow us the greatest capacity to keep Australians safe.

My job is to make sure, along with the other ministers, that we provide every support possible to our agencies, our law enforcement and intelligence agencies to keep Australians safe. That's exactly what we dedicate ourselves to do.

### **Minister for Justice:**

Thanks Prime Minister, George and Peter. When we came to office in 2013, we didn't realise that we would be facing a national security situation like we have, particularly since 2014 with the emergence of Daesh in the Middle East and that essentially supercharged radical Islamic terrorism and it means the terrorists are behaving in very different ways than before.

The Government has needed to work with our law enforcement and intelligence communities to respond to that to make sure that they had new powers and the resources that they needed to deal with this threat as it now stands.

That's involved very significant reform, eight tranches of legislative reform. The announcement's here today are a continuation of that pattern of reform.

We've worked with our agencies. We work with them to see what they need to deal with this threat and then we act to make sure we are doing everything that we can to keep the Australian people safe.

Whilst a lot of has been driven by the national security imperative, our law enforcement agencies have much more significant responsibilities beyond that as well, particularly dealing with organised crime, drug smuggling, serious criminal activity. We have used the immigration system in particular, in a way that no government has before, to help us with other enforcement priorities.

Bringing all the law enforcement agencies under one ministerial authority, is the way forward.

We can continue to work together to use all of the resources, all the agencies at the disposal of the Commonwealth to enhance our national security arrangements, but also do everything that we can to stamp out other criminal activity as well.

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*continued on page 22*

**Journalist:**

Prime Minister did the L'Estrange Report specifically recommend the Home Office or did it come from other recommendations?

**Prime Minister:**

No, the L'Estrange report is focused on the Australian intelligence community and did not cover the Home Office matter. It wasn't within its remit.

**Journalist:**

Will the Immigration Department be renamed the Home Affairs department?

**Prime Minister:**

There will be a new Department of Home Affairs, which will include the agencies that I have mentioned and Peter will be the minister and it will include Immigration, Border Protection, AFP, ASIO and so forth.

**Journalist:**

Prime Minister you said there would be additional checks and balances, with ASIO's special powers to intercept communication, raid premises, obtain [inaudible] and so on, they will need the Attorney-General's approval, will they also need the Home Affairs Minister's approval? Will this add to the red tape, I suppose, before they can act urgently? And can I ask, will that also mean the Attorney-General, has to weigh the pros and cons –

**Prime Minister:**

Well, the Attorney-General will be under this arrangement, will be much better able to fulfil the role of First Law Officer and making the judgement to defend the rule of law, as George just described so eloquently, because he will not be the portfolio minister responsible for ASIO.

Plainly, the agencies - you know, if you like, the operational detail of this is going to be worked through very carefully by the task group that I have described, but the object is to ensure that you get exactly as George described. You have an Attorney-General who is the First Law Officer, the minister for integrity, the minister for oversight, the minister for the rule of law. On the other hand, you have the Minister for Home Affairs – in the UK you call the Home Secretary – who is responsible for all of those domestic national securities agencies.

I mean, if you were designing the allocation of these agencies from scratch, you would not have them in the different portfolios they are at the moment. I think we all recognise that.

So, what we are doing is making a rational reordering. It is a historic change but it is one that will enable those agencies whose cooperation, whose intimate cooperation and collaboration is so vital to keep us safe that will be enhanced reporting to one minister.

**Journalist:**

Sure but Prime Minister is it going to need two approvals? And if they get yes from one and no from another, how does that work? Who takes precedence?

**Prime Minister:**

George can explain how it works.

**Attorney-General:**

It is not at all unfamiliar David, because that's the way it works at the moment in relation to other members of the Australian intelligence community for example, ASIS and the Australian Signals Directorate.

Where there is a request to collect intelligence on an Australian citizen, then the minister with the responsibility for those intelligence agencies makes the request of the Attorney-General. So there is a double- there are two hands, as it were, on the mechanism to ensure that a warrant or an authorisation has the oversight and scrutiny of two ministers and not one.

But to come to the point that you make, this is a very familiar and established process. It is also, by the way, an all-gilt of the process that operates in the United Kingdom.

**Journalist:**

Prime Minister – Britain of course doesn't have states. Isn't it the case that the biggest cooperation issue in Australia is between the states and the Commonwealth? Isn't it the case this won't actually do anything to address that?

**Prime Minister:**

Well, I mean Britain has a different constitutional structure, that is true. It has, you are right, it is not a federal system, at least not quite the same way that Australia is, but it has regional systems, but these changes are focused

on improving and optimising the already outstanding operation of Australia's domestic security agencies.

**Journalist:**

But it won't fix-

**Prime Minister:**

Well if you are saying it won't fix all of the challenges of Federation, you are right.

**Journalist:**

Prime Minister – could I ask about terrorism? A previous review on CT made the observation that a super agency would be less, not more, responsive as large agencies tend to be less agile, less adaptable and more inward looking. Are you convinced that Minister Dutton's department will be small enough to be nimble?

**Prime Minister:**

Yeah, I am. In fact, that very review put, the one you are referring to, which is 2015, is that right?

**Journalist:**

Yes.

**Prime Minister:**

It actually said the creation of a small, flexible, coordinating Department of Home Affairs reporting to a Minister for Home Affairs could avoid many of the drawbacks associated with a big bureaucracy of the kind, of the US Department of Homeland Security.

I mean, we have a very, very good template in the UK Home Office which has been around for a long time and which we understand very well because of the very close cooperation between Australia and the UK through the Five Eyes and other circumstances.

Look, these agencies work together well now. What this will enable them to do is work together even better.

It will better define the role of the Attorney-General as the minister for the integrity, for the rule of law, the First Law Officer and it will ensure that you have at the Cabinet table a senior minister who is responsible for those agencies that are directly responsible for our domestic national security measures, at the border, the AFP and ASIO and so on.

I think the combination, the reordering is an absolutely logical one. It is, and it is consistent for the practice in most other similar jurisdictions.

**Journalist:**

Prime Minister did the heads of the AFP and ASIO ask questions?

**Prime Minister:**

Well, I am not going to go into discussions of that kind. This is my decision. These machinery of government decisions are taken by the Prime Minister, obviously, with a lot of consultation with colleagues and others, but they are a decision of the Prime Minister.

**Journalist:**

On that point Mr Turnbull, many experts in the security area have said over recent weeks and months that this sort of change is neither necessary or in some cases they have said it is not desirable.

**Prime Minister:**

Well I disagree.

**Journalist:**

And it has been interpreted as political.

**Prime Minister:**

Well it's not political.

**Journalist:**

What is your counter argument to those who say primarily this is driven by politics?

**Prime Minister:**

Well this is driven by operational logic Michelle.

**Journalist:**

Why don't they see that?

**Prime Minister:**

Well you've got to ask them.

It is driven by operational logic.

You have a domestic security challenge, which gets greater all the time.

Now, my job as Prime Minister and our jobs as ministers is to keep Australians safe.

We have the best agencies in the world. We want them to work closely together.

You saw yesterday the announcement that I made which will ensure that the Australian Defence Force will be able to work more closely and flexibly with state and territory police forces in counter-terrorist actions.

What I am doing at every stage, every day is seeking to ensure that our professional security services can

do their job even better at keeping Australians safe.

That is what this is all about. It is not about politics. It is about safety - Australians' public safety.

The arrangements that I have announced are ones that are logical, they're rational, they make operational sense and they will enable Peter Dutton as the Minister for Home Affairs to be able to have the responsibility for those key agencies that are defending, preserving, protecting our national security at home.

**Journalist:**

Prime Minister – will any of this require a vote in Parliament or any amendment to legislation? Will Labor get a briefing?

**Prime Minister:**

Yes - the answer is Labor will get a full briefing on both the intelligence community review and on the announcement I have made.

Labor will get a full briefing, of course.

We always seek to have bipartisanship on national security matters. So that is what we will be seeking.

The creation of a Home Office, if you like, on the UK model is one that has been considered on many occasions in the past. It is a familiar proposal because it is so logical. It stands out as a logical reform. What I am doing now is making sure that it happens.

**Journalist:**

Does the ASIO Act need changing? Does the AFP Act need changing?

**Prime Minister:**

There will be some legislative changes, but that will all go through with the detailed work that my department will be working on.

**Journalist:**

Based on the rights of the people –

**Prime Minister:**

Yes.

**Journalist:**

It's not going to [inaudible] at the Press Club a couple of months ago, Dennis Richardson did say that if you're imposing another bureaucratic step on the issuing of ASIO warrants that would not be a good idea.

Does it mean, does this new double-headed structure mean that the Attorney-General needs to be briefed on operations in continuous fashion as well as the new homeland security minister, so does ASIO now have a dual track with two ministers that it has got to keep informed and does ASIO support those arrangements?

**Prime Minister:**

Well, the oversight of the Attorney-General is vitally important and it will be enhanced by the fact that the Attorney-General will not be also the portfolio minister for ASIO.

I can assure you that this will enhance both the oversight and the operational capability of ASIO and if there are any details or issues that arise from this, obviously we will work through them in a pragmatic way. But I can assure you my focus is on both protecting the security of Australians and ensuring that the rule of law prevails and the oversight prevails.

**Journalist:**

Is there a timeframe for the swearing in of Mr Dutton and does it allow for a wider Cabinet reshuffle?

**Prime Minister:**

There are no other changes. This is not a reshuffle or any changes. These arrangements will be worked through over the next several months and will become operational I would think early in the New Year.

There is a lot of detailed work that has got to be gone through and so everything, all of the ministers, all of the portfolios, all of the officials will continue in their current responsibilities while the details of the transition are worked through.

It is complex and it is not something that can be just worked up in a backroom and then announced in one hit. So there is a lot of work that has been done already. A lot of preparatory work has been done but now it is important to make the announcement so that people understand what we are doing, the direction in which we are heading and then the further work will continue over the next several months.

So, thank you all very much, indeed, and I am sorry I have kept you out in the cold for so long.

Thanks.

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# Inquest finding into the death of radicalised teen Numan Haider

**JAMES DOWLING**

AAP, Herald Sun, July 31, 2017

**A missed phone call in which a radicalised youth boasted he would have stabbed police officers if he had a knife was the only piece of information that may have stopped a fatal meeting with detectives.**

While ASIO had been monitoring Ahmad Numan Haider's conversations because of his threats to the Prime Minister, the call was listed as unanswered and not transcribed before he was shot and killed by police.

Haider was shot once in his head as he launched a frenzied stabbing attack on two counter-terrorism officers given the task of talking to him. The meeting with Haider, the stabbing and the fatal shooting took just 53 seconds.

Coroner John Olle found that police had no choice but to use lethal force when the 18-year-old pulled out a knife in the dimly lit Endeavour Hills police station carpark in September 2014.

Officer A, who had been stabbed, shot the teen as Haider straddled over Officer B, plunging a knife into his stomach.

Mr Olle said non-fatal tactical options would not have stopped Haider potentially killing Officer B.

But Mr Olle said the missing phone call would have likely changed the Joint Counter-Terrorism Team's "softly approach" or cancelled the meeting altogether.

Haider made the comment following a confrontation with police at Dandenong Plaza a week before his September 23 meeting with detectives from the JCTT. He told his friend "if I have a knife, I would've stabbed them".

Mr Olle found in the days before his death, Haider was in a mind to carry

out an attack but his choice was an opportunistic response to the detectives' approach.

"Numan engaged in a course of conduct that involved radicalisation and behaviour that was increasingly dangerous, ultimately causing his death," Mr Olle found.

Haider's family had submitted the teen had "snapped" due to having his passport cancelled the day before the meeting, and other pressures.

But Mr Olle said significant factors like the Islamic State issuing a Fatwa to attack Australians days before, his cancelled passport and response to highly publicised counter-terrorism raids might have culminated in his decision to carry out the attack.

Mr Olle said Haider's decision to attack could not have been foreseen by counter-terrorism officers and issued no adverse findings against them or their bosses involved in the interaction with Haider.

He said the "safety-first approach" of Officer A was beyond reproach.

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

Haider had become estranged from his family and was spending an "inordinate amount of time" with a new cadre of friends who reinforced his religious beliefs. He had also been attending an extremist hotspot – the Al Furqan Islamic Information Centre.

## KEY FINDINGS

- Haider was radicalised in the months before his death and his behaviour became increasingly dangerous
- In the days before his death, he was likely planning to commit a terrorist attack
- But his attack on police was opportunistic
- Non-fatal tactical options available to Officer A would not have stopped Haider killing his partner, Officer B
- No adverse findings against any of the officers involved in the incident
- Haider's passport was cancelled because it was likely he wanted to become a foreign fighter
- A telephone recording, not found until after his death, shows Haider boasting to his mate, if he had a knife, he would have stabbed police officers who confronted him in the days before his death
- The whole meeting, stabbing and shooting took just 53 seconds

# Reviewing the ADF's role in domestic counter-terrorism responses

**MICAH BATT**

August 2, 2017

Responses to the federal government's announcement two weeks ago that it's expanding the ADF's role in domestic counterterrorism (CT) responses were quickly subsumed by public discussion about the new Home Affairs portfolio. But with public discourse now moving on, it's worth taking a closer look at how the announcement came about and what it might mean for the ADF into the future.

The review into the ADF's role in domestic CT matters was commissioned in early 2015 following the rapid rise of Islamic State in 2014 and the early findings on the Sydney Lindt Café siege. The review involved the Department of Defence and various policing agencies and took nearly two years to complete.

Over that time, the importance of the review only increased. Driven by protracted unrest in the Middle East and Central Asia, the influence of Salafist-inspired extremism has spread from the ungoverned regions of conflict to the ungoverned digital domains of the internet. The threat from returning foreign fighters, and the increasing efforts by the Islamic State to inspire attacks in Western countries following its impending military defeat in Iraq and Syria, further cemented the government's commitment to redefining the ADF's role in support of law enforcement agencies.

The protracted time taken to finalise the review was due in part to the timing of the NSW Coroner's inquest into the Lindt Café siege and in part to the complexity associated with making changes to the Defence Act.

Achieving a balance between effective military responses and the primacy of civil authority is a vexed



issue in any democracy. Identifying the appropriate policy effects without overtasking the ADF or undercutting the constitutional rights of the states is the central premise of the reforms. To that end, the changes are designed to:

- improve the CT capabilities of state and territory police through the transfer of relevant skills and technology from the military
- increase the capacity of domestic police and security agencies to tap into niche military capabilities that will remain under ADF control

- develop a greater capacity to rapidly scale up domestic CT responses should a situation require a response that's beyond the capacity of state and territory agencies.

While some of the initiatives announced were already in place to some extent, they haven't been consistently supported. Interagency training and liaison efforts, for example, have historically taken a back seat to competing operational priorities. A stronger focus on joint training activities, particularly if they're expanded beyond the purview of special

forces and police tactical units, has considerable merit. The experience that both regular military units and general-duty police gain through joint training is highly valued, but the organisation of such activities has relied on the initiative and interest of those at a working tactical level. Increasing the frequency of those activities and their importance at an enterprise level is significant and will improve the potential CT responses of both the police and the ADF.

The placement of more dedicated liaison staff within state and territory policing agencies with defined roles to bridge capability gaps will be another positive development. Those liaison staff may assist in undertaking planning support functions, filling technical intelligence gaps or supporting logistical capacity. Greater attention to effective liaison between the ADF and law enforcement agencies will increase access to a wider range of ADF capabilities through greater awareness of and confidence in their employment.

The most substantive component of the reform agenda concerns the responsiveness and scalability of ADF capabilities. Those changes will require an amendment to Part IIIAAA of the Defence Act. By removing the clause that limits state and territory authorities from asking for ADF support until their capability has been exceeded, the government will effectively be allowing the ADF to respond at an earlier juncture when circumstances warrant a more proactive approach.

Given the scale of the attacks in Mumbai, Paris and London, this is a

***The key to the success or otherwise of the government's proposed changes will not necessarily be what difference they make to domestic CT capabilities through people and training, but how effectively they bridge the cultural divide between the law and order and Defence communities.***

prudent step, but it's one that will need close management by state and federal authorities. When it amends the Defence Act, the government should also consider revising the provisions associated with the ADF's use of force and powers of search and arrest in support of the civil authorities. The existing legislation is vague on those issues and the language of the provisions has previously been cited as an area of the Defence Act that needs strengthening.

Increasing the scalability of ADF response options will also require close attention to further contingency planning by the ADF and individual policing agencies. The recent attacks in Manchester and London demonstrated the utility of large-scale 'callouts' in support of the civil authorities. While such contingency plans do already exist in Australia, their utility relies heavily on effective execution in time-compressed and ambiguous circumstances. Rehearsing

such contingencies regularly and with public awareness will ensure increasing confidence by all parties and, most importantly, by the general community.

The key to the success or otherwise of the government's proposed changes will not necessarily be what difference they make to domestic CT capabilities through people and training, but how effectively they bridge the cultural divide between the law and order and Defence communities. The ADF is an important component of Australia's domestic and international CT response capabilities, but its involvement alone will never be a guarantee of ultimate success.

Micah Batt is a visiting fellow at ASPI's Counter Terrorism Policy Centre. Image courtesy of the Department of Defence.

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# Police legitimacy and engaging with terrorism

**PROFESSOR COLIN ROGERS**

Charles Sturt University, NSW, University of South Wales, UK

## Introduction

Recent events across the world, particularly in Australia and the UK, have demonstrated that terrorist activity is still ongoing, despite an increase in resources and improvements in technology introduced to deal with the threat. Whilst there has been no doubt a dramatic improvement in technology and its use in this sphere, and that governments have introduced legislation designed to curb or at least control activities linked to terrorist acts, events such as those witnessed in London and Sydney continue to occur.

One conclusion that could be reached is that there needs to be consideration given to a different and yet concurrent approach to traditional law enforcement attitudes to dealing with this problem.

Pickering et al (2008) suggest that certain subgroups in society not only perceive their relationship with the wider society as being different, but that this affects their view of the state and state representatives, such as the police. For example, negative experiences with racism or other forms of exclusion can be intensified if reproduced in

a groups dealings with the police or other authorities. Taking this one step further, they suggest that a key ambition of groups such as terrorists is to delegitimise the state and its moral authority with exclusive rights to exercise legitimate force. Once the state is delegitimised in this way, violence by non-state actors, such as terrorists, is more easily justified. Therefore, one way of assisting to tackle the threat of terrorism is to enhance and increase

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*continued on page 30*

the concept of legitimacy of the state and therefore the police, in the eyes of those would become involved in terrorist activities, as well as other members of the community.

### Legitimacy

Legitimacy is a property of an authority that leads people to feel that the authority or institution is entitled to be deferred to and obeyed. (Sunshine and Tyler 2003)

In modern democratic societies police legitimacy rests on public consent. Policing by consent encourages public trust in police thereby facilitating an ongoing interchange of information between the public and the police and voluntary compliance with the law. Given that effective community style policing relies so heavily on citizen support such findings have important implications for how the police can enhance public satisfaction. The police should develop strategies that enhance the procedural justice aspects of their encounters with the public. A study by Hinds and Murphy (2007) concluded that there is support for the argument that views about police legitimacy influence public satisfaction with police and people who view police as more legitimate are more likely to be satisfied with police services. However, police legitimacy is acceptance of the scope of the occupations claim, not an absolute or unchanging matter. There are cycles of expanding and contracting powers and tasks, and in some senses they have widened the functions in which the police engage with community even whilst it has to enforce the law in some areas more stringently

The task that confronts any agency in any criminal justice system in any society concerns how they can secure the establishment of relations, whilst still making it possible to complete collective goals of that agency. The task will be greatly assisted if the agencies are widely regarded in that society as in the fullest sense, the right to rule; that is to say, their authority is regarded as truly legitimate. (Bottoms and Tankebe 2012).

Trust and shared values were found also to be key aspects of legitimacy. These attitudes were largely fostered by the perception of police fairness and not by the perception of police effectiveness (in terms of responding to emergencies, preventing and detecting crime, and

keeping order). In other words, the legitimacy of the police in the eyes of the community was primarily based on people thinking officers would treat them with respect, make fair decisions and take time to explain them, and be friendly and approachable. Therefore the most important factor motivating people to cooperate and not break the law was the legitimacy of the police.

### Policing by Consent

The changes to the policing landscape in England and Wales, and elsewhere in the world, prompted by the economic crisis and a growing emphasis on democratic accountability have the potential to radically transform the relationship between the police and the

*In simple terms, the police would cease to function without the active support of the people it serves.*

public. In this context, it is worth revisiting the notion of 'policing by consent' – the idea that the police can only function because of the support given to it by the public. This notion has been at the heart of the relationship between the police and public historically in England and Wales, and which harks back to an earlier 'golden age' (Reiner 2010). However, given that public support is conditional and unlikely ever to be universal, 'consent' raises important questions about the role the police are expected to play in society, how they should behave in general, what tactics should be used, and how officers should exercise their discretion on a daily basis. These issues have been brought sharply into focus in recent public debates about policing protest, widespread disorder, incivility complaints, and the response to terrorism.

'Policing by consent' has continuing relevance to present day policing not only because it can help define the

remit of the police service, but also because it marks out an important way in which officers can fulfil their 'core mission'. By thinking broadly in terms of 'institutional trust', it is possible to demonstrate that, by improving public perceptions, the police can enhance its legitimacy which will ultimately help in its efforts to reduce crime. In simple terms, the police would cease to function without the active support of the people it serves. While these links may appear obvious to many practitioners and policymakers, little attention has been expressly paid to how the legitimacy of the police can be enhanced and to what end.

### Community Engagement

Effective engagement with the community should provide the police with a more detailed understanding of the demographics of the community it serves, and this should regularly provide updates of the community's needs, priorities and preferences. Whilst engaging in this activity it is important that the police consult all sections of the community in the process so that an accurate and clear reflection of all their needs is obtained. It further provides the police with the opportunity to share information regarding crime and disorder issues with partnership agencies and to receive feedback from the community regarding the engagement process itself, allowing them to tailor engagement strategies accordingly. Effective engagement with communities therefore is vital if policing is to be delivered successfully, and should not be considered an 'add on' (Home Office 2004). Every community is different, and needs and preferences will vary, consequently there is no 'one size fits all' model for community engagement (Myhill 2006). Further this is a long-term commitment and ongoing process that will help increase public confidence in the police, and the majority of effective strategies that improve confidence are apparently those that increase the amount of community engagement (Rix et al 2009).

In addition, when obtaining an understanding of the demographics of each community the police should be able to identify those individuals who may be considered as vulnerable or are in danger of being marginalised. There is a clear need for the police to engage with '...hard to reach and vulnerable' members of our communities

(Crawford et al 2005:33) as their vulnerabilities mean they could be easy targets for general and specific crimes especially as, historically, they are less likely to report these to the police (Gillen 2009). If the expectations of the community are managed ineffectively by the police and partner agencies then there will be a negative impact on communities and indeed individuals (Myhill 2006), particularly for vulnerable, marginalised groups and individuals. Lessons in this vital area can be learned from other agencies. The NHS in the UK for example, are a public agency that endeavours to engage closely with its consumers in order to ensure the service provided is effective, economical and efficient.

### Reducing police and community contact

Writing in the Guardian newspaper Britain's former counter terrorism chief suggests that a loss of community based intelligence has occurred because of recent government cut backs in the police budget (Quick 2017). The suggestion is that the current austerity programme introduced by the Conservative government in the UK has increased the risk of terrorism. In part this would appear to lie in the fact that community policing, with its visible form of Neighbourhood policing teams, has been eroded to supply

resources for reactive policing major crime public order and counter terrorism. This coupled with cuts in other major public services means that demands upon police for other issues such as mental health have increased. In support of Quicks comments, the chief constable of Northumbria, Steve Ashman, has suggested the police service is very close to not being able to deliver a professional service because of the economic cuts. (Ashman 2017). What appears to have happened therefore is that with rising demand for police time on a myriad of issues, coupled with a need for core business such as dealing with emergency calls, in a framework of austerity and economic cuts, the basic work of policing involving community engagement and dealing with the public on a face to face daily interaction, has reduced dramatically. In its place we have seen attempts to introduce technology and a rationalised approach to dealing with the public involving greater use of the internet and other forms of contact for day to day interaction.

### Concluding thoughts

Good police and community interaction is a delicate balance that can be influenced by many things such as public disorder, major crimes, corruption incidents etc. However, where the police are shown to positively engage with community

and where community members believe in the legitimacy of the police as state agents, people are more inclined to obey the law. Coupled with a strong ethical and fair approach to dealing with individuals from all backgrounds, this means the interaction between police and communities can positively influence the flow of information and hence intelligence regarding terrorist activities, and possibly assist in reducing those at risk of radicalisation. However, the problem of economic austerity has meant that, particularly in the UK, the vehicle used for this function, namely the Neighbourhood Policing Model, has been substantially eroded, with local community contact also being substantially reduced. This in turn it could be argued, has not only led to a reduction in opportunities to gather information and intelligence, but also may assisted in damaging the legitimacy of the police in the eyes of those individuals who have the potential to be radicalised into terrorist activity. Whilst increased and better technology, coupled with enhanced legislation, can be utilised to deal with potential terrorist threats, the heart of the matter lies in prevention in the first instance, and governments need to recognise that to focus police activity away from local community interactions could well damage police legitimacy issues and provide a fertile breeding ground for those who wish to harm society.

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Social media and police:

# Potential for conflict and mistrust



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### Introduction

The recent 'Twitter' debate between the Chief Constable of Essex Police in the UK and apparent members of that organisation, has once again focused many upon the use and impact of social media on Policing. It was reported by the BBC that the Chief Constable apologised for the poor parking of one of the force's police vehicles to the public on Twitter. In response, members of that force apparently berated the Chief Constable, questioning how he spent his working day, and his priorities. The important point about the Chief's Tweet however, was that he regretted that his officers had behaved in a manner that could cause the public to question their fairness and integrity. This incident, is therefore, useful for

understanding how social media can in fact influence the public's perception of police.

Effective policing within a contemporary environment requires all those involved to be engaged, open minded and innovative in their approach. Developments in the political, economic, sociological and technological environment in which policing currently takes place means that the challenges officers faced just a decade ago, will be viewed and dealt with very differently today. The actions of police officers and the use of their discretionary powers are now often dissected, scrutinised and judged quickly and publicly as a result of the increased use of social media. Some may consider this a growing phenomenon that must be tolerated and controlled,

where possible, by legislation, but this article aims to highlight the potential harm that may be caused in terms of police and public relations by the increasing use of smart technology to record the behaviour of on duty officers. In particular, the harm such incidents can have to potential community engagement. Positive community engagement can foster fruitful relationships between police and the communities and create conditions where such trust and subsequent knowledge transfer can be achieved. Rogers and Coliandris (2016) point out that community policing, for example, helps to bolster and support police legitimacy and it is a positive step to have the community and police working together to deal with crime and other types of disorder.

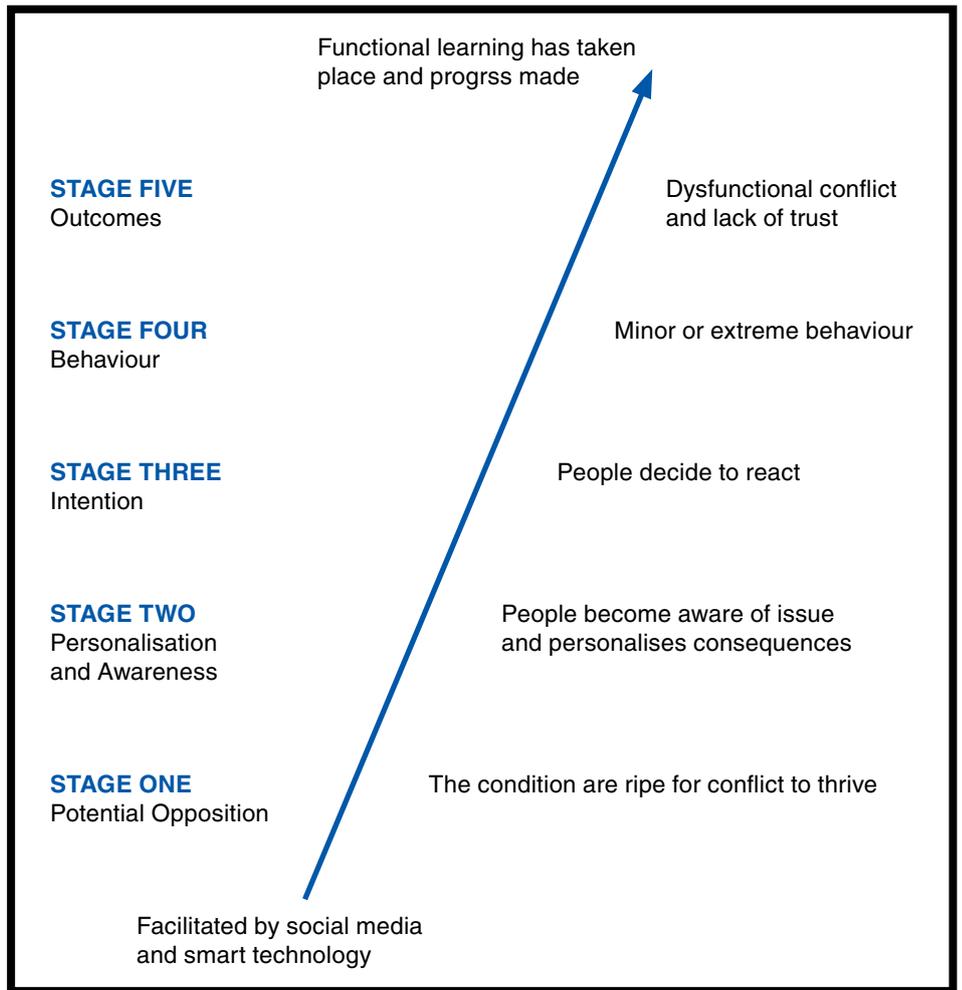


Diagram 1: Five stage process to conflict.

### A case in question

BBC News (2016) reported how a Tweet sent by the Chief Constable of Essex Police apologising for poor parking caused a backlash as he was criticised for poorly judged priorities by the public and what appeared to be serving officers. In his Tweet the Chief Constable apologised and expressed regret that his officers had acted in a manner that could cause the public to question their fairness and integrity. According to Jackson and Sunshine (2007) a concrete way for the police to show that they embody the moral underpinning needed to engender trust from the public is to treat citizens respectfully and fairly and that citizens would expect the police to typify and defend the value structure of their community. So the Tweet in question, may be viewed as a way of portraying the police as fair and just. Such a Tweet may be construed as contributing to an outward facing image to the public demonstrating that police behaviour needs to set examples to all. The conflict that followed however demonstrates how

difficult it may be to attempt to manage such perceptions of the police using social media. In order to exist and cause people to behave in a certain way the parties involved in the conflict must perceive it to exist. Robbins et al. (2010, p. 400) defines conflict as "A process that begins when one party perceives that another party has negatively affected or is about to negatively affect, something that the first party cares about." Robbins et al (2010) went on to suggest that conflict may be viewed as a five stage process starting with potential opposition, cognition and personalisation, intentions, behaviours and ending in outcomes.

The above diagram can be discussed and explained as follows:

#### STAGE ONE: Potential Opposition

Conflict will stem from conditions that facilitate and allow conflict to flourish. Conflict from this stage will not be inevitable but when viewing a conflict situation this stage allows observers to establish the causes of conflict. Potential opposition could lie dormant as members of a community have different viewpoints.

If those viewpoints are never exposed, then no conflict will be perceived. No conflict will then exist.

#### STAGE TWO: Cognition and Personalisation

If those affected by the conditions mentioned above perceive there to be a negative effect on them then they will personalise and start to 'feel' the conflict on a personal level causing possible tension, anxiety, frustration and hostility. If different viewpoints are exposed through a public meeting for example, then individuals can become aware of and personalise decisions made causing the conflict to move from stage one to stage two.

#### STAGE THREE: Intentions

Intentions can interpose between people's emotions and perceptions and their obvious behaviour. These intentions are conscious and deliberate decisions to act in a given way (Thomas, 1979). People may feel strongly enough about an issue to choose to act moving the conflict to the next stage.

*continued on page 35*

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#### STAGE FOUR: Behaviour

This stage of the process is where people's behaviour becomes noticeable and visible to all. This stage shows the actions chosen by those who perceive there to be conflict. These actions may be minor such as the decision not to attend a function, or more serious, for example to start a fight at a function. The conflict will thus have progressed from stage three to stage four.

#### STAGE FIVE: Outcomes

Once all other stages have been completed and the consequences of actions taken are obvious to others the final staged is reached and the outcome of the conflict becomes apparent. If managed effectively it is possible at this stage to see a functional outcome from which lessons are learned. However, if the previous stages are not managed positively then a dysfunctional outcome will emerge where the conflict is unresolved and set to commence once again taking the process right back to the beginning in order to create further conditions for conflict to flourish.

Robbins' (2010) explanation of the conflict process is useful in helping to identify causes of conflict and identifying flashpoints that serve to elevate the conflict into people's consciousness. The likelihood of movement from stage one to stage two of the conflict process in our current contemporary environment has, with the help of SMART phones increased. Even small minor incidents can escalate and gather considerable momentum to progress into conflict situations due in part to the lack of context available in which these incidents can be seen.

#### Applying the model

An example of this is illustrated in the reaction to the Tweet sent by a senior police officer and highlighted in this article. Using the conflict process to help view the reaction to the Tweet helps us understand some of the causes of the reaction

- Officers who think it acceptable to park a police van across two parking bays (Stage One: Potential Opposition).
- Someone with a SMART phone who disagrees that this is acceptable and who thinks if this was a civilian vehicle action would be taken against

them (Stage Two: Awareness and Personalisation)

- Someone with internet access who chooses to act after experiencing what they perceive to be an injustice. (Stage Three: Intention)
- Someone uploads to social media and an interested audience views the picture (Stage Four: Behaviour)
- Conflict arises and as two-way communication takes place online and the incident is viewed without sufficient context the conflict is unresolved and adds to the potential opposition of another possible conflict situation and even social media 'frenzy'.

The context of the Tweet sent, however is not apparent. The van may have parked across two parking bays in order to leave space for a 'blue badge holder' for instance. A decade ago many such encounters would have gone unnoticed (remaining at stage one of the conflict process) but in the world of social media and the SMART phone, even the briefest of encounters taken out of context can escalate to erode and damage any trust built up between the police and communities.

#### Discussion and conclusion

The wealth of YouTube clips showing police officers from all over the world going about their job on a day to day basis is now common place. The mundane, run of the mill and eventless do not attract attention, hits or 'go viral'. The more dramatic, controversial or violent often do. The words and actions of officers are viewed in real time and as the technology used in creating SMART phones improves, it means the quality of these recordings are no longer grainy and at all distorted; on the contrary, fitted with anti-shaking facilities it means that the quality of such recordings are high definition to the point that in some circumstances they could resemble one of the 'docu-dramas' watched by so many. The relatively low cost of such technology also means that the ability to record and disseminate everyday interactions is now open to all, young or old and from all walks of life.

The speed at which such clips are passed on is also increasing with social media applications (known as Apps) now allowing image or video upload and transfer within seconds. Rosen (2012) reported that the game Angry Birds

'went viral' reaching 50 million users in 35 days, so it is clear to see that there are new challenges facing those who work under constant public scrutiny as communication is to some extent almost uncontrollable. Despite new restrictions placed on what is deemed acceptable to post online and a plethora of news reports of those who have fallen foul of these laws, many still post such material. The police must now accept that their behaviour, their public interaction and the use of their discretionary powers will be judged through the lens of the phones of the communities they aim to protect and serve. They have to create conditions whereby when the context of social media messages is not clear, the level of trust that exists is robust enough to prevent minor incidents gaining momentum and moving quickly through the five stages of the conflict process.

Within any democratic policing model, the issue of police legitimacy is fundamental to success (Tyler and Huo, 2002) and therefore the interaction and close collaboration between police and the community, in order to be effective must be acceptable to all, valid and will inevitably rely on trust. Trust, may prove a cornerstone to any proactive collaboration and can help steer an issue causing conflict between the police and the public to a functional fruition. Whether it is the police officers' trust in members of the community (Van Craen, 2016) or the community and its citizens' trust in the police (Nix et al. 2015) relationships between the police and the community rely on co-operation and the informal support for societal norms needs to be fuelled by trust.

When an incident occurs that causes the level of trust to be questioned, then the community and the police may well enter into a conflict situation that can serve to erode this trust. Conflict between the police and the public may range from a minor incident for example, a bystander witnesses an incident which they perceive to be unjust, or through to a major incident such as a violent public protest. It therefore beholds all members of the police to realise that despite the apparent triviality of such an internal, yet publicly available, discussion, such incidents can and do, influence the public's perception of the police, and could even conceivably negatively impact upon the public's support for the police in general.



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# The true story of the Lindt Café

In the early hours of 15 December, fourteen serving NSW Police officers called their loved ones and said their goodbyes.

**BY TONY KING**

Reproduced courtesy of NSW Police News.

They were preparing to storm the Lindt Café where a mentally ill criminal Man Haron Monis, out on bail, was holed up with four of the 18 hostages he had taken 16 hours earlier. They had been advised there was a bomb that the hostage-taker would likely detonate. Entire city blocks had been cleared with this expectation.

Under established anti-terror protocols, it was time to bring the crisis to a head. What followed over the next few minutes would see one of the hostages shot by Man Monis, triggering an Emergency Action that led to another tragic fatality and the death of the gunman.

For those who stormed the café – and the hundreds of officers who supported them that day – there would be no peace once the guns went silent. Instead they have been subjected to a two-year ordeal, a coronial inquest, driven by lawyers, who were hell-bent on turning the inquiry into a public witch-hunt.

I've had over 30 years policing experience and have been a police negotiator for the last two decades. I've worked on sieges where kids have been kidnapped by their parents and stand-offs where a mentally ill person has locked themselves away with high-powered firearms. I've had to talk mentally unstable individuals down from the abyss.

In those decades I've learnt that successful siege negotiations take time, they take empathy, they take courage. I've learnt to read the moments where a hostage taker can be engaged and when they can be pushed over the edge. I know what good policing looks like and I know that when confronted with disturbed people in stressful situations how important it is to stick to the well practised procedures.

In NSW we have developed a world-regarded system for dealing with sieges, where the negotiators work hand in hand with tactical police to attempt to secure a peaceful resolution. The policy of contain and negotiate is what NSW Police are required to adhere to and for the most part it works well, ensuring the safety of all involved.

At the centre of this approach is a series of guidelines that dictate when to intervene through a Deliberate Action (DA) order and when to sit tight and only intervene when the situation escalates to such an extent that an Emergency Action (EA) trigger is reached.

Every siege is a judgment around whether to escalate or not, everyone involved should have the benefit of a debrief where the levels of escalation are reviewed to allow us to learn and improve. It is inexact but it is a science – and it is a science that saves lives. I am proud to say that NSW Police do it better than most other jurisdictions in the world. The training, protocols and expertise of NSW Police Negotiators has been exported, implemented and utilised by numerous western countries around the world.

I am also an Executive member of the Police Association of NSW, where I represent the interests of my members every day. Having watched this Coronial Inquest unfold I just can't sit back and let what's been allowed to happen within the courtroom go unchallenged.

In putting this post together, I have spoken to many of my colleagues who were in the field that day. Some of them were called to give evidence by the Coroner, others didn't seem to have anything the Coroner wanted to hear.

But, within the limits of what can be legally disclosed, I believe these officers deserve to have their story told, before the history of the Lindt Café siege is written as a story of a botched police operation. The reality is that nothing could be further from the truth.

## The Police

The morning of December 15 was to be the second day on the street for nearly 20 probationary constables from Sydney Central. That was the day they would get allocated their lockers, receive induction briefings and meet their education officer.

Only days earlier they had sworn their oath of office.

"I will well and truly serve our Sovereign Lady the Queen as a police officer without favour or affection, malice or ill-will until I am legally discharged, that I will cause Her Majesty's peace to be kept and preserved, and that I will prevent to the best of my power all offences against that peace, and that while I continue to be a police officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me God."

As these new recruits were being briefed, a highway patrol cyclist rode into Martin Place, news was breaking of a disturbance in the Lindt Café. The first officer on the scene went to the window to get as much information as possible, via non-verbal communications with the hostages.

That officer stayed at the window, putting himself at risk, to understand what was happening. With no body armour, only a Glock, he placed himself

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at extraordinary risk to obtain first hand intelligence for the operation to come. Such was his commitment to protect the lives of the hostages, he had to be directed by senior police to withdraw from the area he was in.

Other police were also risking their lives to gather intelligence: a group of plainclothes detectives were placing themselves directly in harm's way to get a view from the café windows.

Even more police rushed towards Lindt to assist, also placing themselves in the line of fire, securing a perimeter to stop people entering or leaving the area. Some of these police were in these positions for extended periods of time as it was deemed too dangerous to remove them from the areas they were in.

Police on Elizabeth Street were turning around buses and in doing so placed themselves in the direct line of fire from the café to achieve this feat. The law Courts were also closed to free up officers to deploy on foot.

The real spectre hanging over operations that day was the credible threat that Monis had a bomb in a backpack and was willing to detonate it. Police believed there was a bomb up until Monis was stopped. When the assessment was made that this was a terrorist incident the operation became more complex.

A Command centre was established.

Under the Counter Terrorism Protocols a clear chain of command was implemented and clear protocols required to be followed by police. An operations centre was established to allocate resources and gather intelligence.

Because of this heightened terror risk, police from across Sydney were redeployed to assist. Police came from the Central Metropolitan Region to lock down the area, remove traffic and pedestrians and clear nearby buildings.

Due to the threat posed by the bomb, the initial exclusion zone was seen as too small – and had to be expanded. This meant more evacuations, more road

closures and more people and traffic to be moved to safety.

These were uniformed police trying to clear the busiest part of Sydney during the busiest part of the day and get people out of the locked down area.

Across Martin Place, the Channel Seven building went into lockdown, while the government offices including State Ministers whose offices' are in the vicinity, were quickly and quietly moved to safety.

As the threat escalated calls started coming into police that there were other bombs across the city. There was a report, possibly from one of the hostages under duress, that there was a bomb in the Channel Seven building. Police entered, cleared the building of staff and utilised it during the entire operation, despite this bomb threat.

There was a report of another bomb at Town Hall and another at The Opera House. There was a report of a man with firearms in the Martin Place Tunnel. Police responded to each of these calls as an immediate threat to public safety as well as the Lindt Café.

# Premier on the siege

## NSW Premier Gladys Berejiklian told NSW Parliament:

There is no doubt that the New South Wales police and first responders on duty relive what they experienced on that day. Their acts of bravery are simply extraordinary. They entered the café with the knowledge that they may not come out alive—and they did so without a backwards look.

The tragic events of December 2014 also had a lasting effect on the rest of New South Wales. As a community we still feel the effects today. We will always remember Tori, Katrina and the other hostages, and my thoughts today are with their families, friends and colleagues. Our community was shaken to the core on December 2014, and the outpouring of grief was immediate. As the sea of flowers in Martin Place grew, the world saw all of us come together. Our spirit and our sadness was on display. Our grief, raw and powerful, was also clear for all to see.

Today we have received the findings of the inquest into the deaths arising from Lindt Café siege. I thank the New South Wales Coroner, Michael Barnes, for his comprehensive and extensive inquest. I acknowledge that this process has

been extremely distressing for the families of the victims and for all of those involved.

The Coroner's report contains a number of recommendations for relevant areas of the New South Wales Government. I give my absolute commitment today that each recommendation will be thoroughly considered in a timely and comprehensive manner. The Government will make a preliminary response in as short a time frame as possible, and a comprehensive response will follow. The New South Wales Government's response will be given the highest priority.

Make no mistake: what happened in Martin Place in December 2014 was an act of terror, and it was carried out by a vicious maniac. The Coroner confirmed both of these facts this morning. As we have seen in recent years overseas—and most recently in the disgusting, horrendous attack in Manchester in the last few days—the threat of terrorism we face is serious and ever changing. There is no room for complacency.

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**Note:** The NSW Government recently announced it accepted and supported all 45 recommendations made by Coroner Michael Barnes. The Turnbull Government has announced it will accept all Commonwealth related recommendations of the Lindt Café siege inquest.

Across the city the terror threat sparked broader ground operations in line with the citywide terror response plan. Police were placed on high alert and directed to perform overt patrols to re-assure the public and protect critical infrastructure.

Police from State Crime Command, Bass Hill Region Enforcement Squad, the Public Order and Riot squad and other specialist commands were all called into the city.

Inside the café Monis forced his hostages to ring radio stations, post updates on Facebook and call relatives. Recognising that providing a terrorist with a public forum is one of the most dangerous elements of a siege, police negotiators were deployed to radio newsrooms to deal with incoming calls.

Police Commanders were also fending off unhelpful suggestions from third parties, including Islamic clerics and others seeking to intervene. Monis demanded to speak to then Prime Minister Tony Abbott. After all, what better way for a terrorist to make a statement than set a bomb off while talking to the PM?

As this was all being managed, two uniformed police officers establishing the perimeter were approached by the family of one of the hostages. Other family members gravitated to them and they assumed responsibility for caring for the loved ones of the hostages.

These police secured a room in the old Supreme Court building for the families and stayed with them for the next 14 harrowing hours, assisted by a Police Chaplain. These two officers managed their welfare as the hostages were texting and calling them, forming deep bonds with the family members.

My point? In all these varied ways, police were doing what we are trained to do. Putting public safety first and ahead of their own well-being.

As the day unfolded specially trained Police worked to develop scenarios and make the critical decision of when to intervene with force. Paramount in these considerations were two factors: the well-being of the 18 hostages, and the belief that Man Monis had a bomb that could be triggered at any time.

Police Commanders worked in cooperation and consultation with other agencies. Under the terrorism protocols officers were liaising with ASIO, Defence, AFP, and Foreign Affairs officials.

Defence personnel recreated the café and planned a range of responses.

A consensus emerged that there was no credible Deliberate Action Plan that would not result in a loss of civilian life.

It is also worth noting that while these events were unfolding, Police were also dealing with three other sieges going on across the State. It was more than business as usual in the rest of the State too, as police in all Commands were deployed to protect and reassure their communities.

### **The Entry**

With the real prospect that Man Monis would trigger a bomb, 14 members of the Tactical Operations Unit prepared to enter the building.

In this scenario, the survival of the officers was unlikely, which is why they called their loved ones and said their goodbyes. Reflect on that. These people expected to die and still did their jobs. Who does that?

Ultimately, the call to enter the building came when Monis made the decision to execute a hostage. Prior to this point he had not harmed anyone.

There was much debate about the timing of this decision and I don't think it is appropriate for me to pass judgment.

But I do know that the Operation Commander was acting on the information before him with a focus on avoiding the loss of life.

As they forced entry into the building one of the TOU team was hit by a bullet fired by Monis, but he continued into the building regardless. Tactical Police shot and killed Monis. Tragically, one of those bullets fragmented and hit one of the hostages.

At this stage, tactical police and negotiators began retrieving hostages, still under the belief there was the bomb which could detonate via a dead man's switch or timer. But these Police stayed in the danger zone, clearing the building.

Once the hostages were released, bomb technicians entered the building with an expectation that the bomb could go off.

When the building was finally cleared, a "Critical Incident" was declared and seventy officers were deemed involved. These Police were interviewed and subjected to drug and alcohol testing by the Critical Incident Investigation Team.

The basic proposition appeared settled: a Person of Interest – Monis,

had dictated the tragic outcome. Police had followed national guidelines and proven tactics.

While two innocent people were killed, that tragic outcome was not as devastating as any of the predicted outcomes from scenarios developed during the day.

Police acted not just professionally, but heroically and were applauded from the Premier down. This was the story of the Lindt Café Siege. Until the Inquest commenced.

### **The Coronial Inquest**

There was always going to be an inquest, as there should be. In fact global terrorism events have proven the benefit of fast and thorough operational reviews. The theory is that terrorist tactics are moving so fast that incidents need to be reviewed quickly, so lessons can be learned and new processes taken on board.

For example, in December 2014, terrorists had not begun to use vehicles as a weapon, now it is their *modus operandi* as evidenced by tragic events overseas.

Overseas jurisdictions have recognised that terrorism matters require a thorough, expeditious judge-led commission of enquiry, typically with a six-week time frame.

Instead of a fast turnaround, the NSW Coronial Inquiry took 18 months to commence. A purpose-built court room in the CBD was constructed, lawyers were employed and a standalone media room was also fitted out. This time delay robbed police of the opportunity to properly debrief and review their operation.

As with any major Police operation issues such as communications systems, timing of the EA, and other aspects should have been reviewed in a professional, robust and confidential way.

Police decisions should be scrutinised, because we need to make the right decisions. If there are areas where performance can be improved the focus is to identify them quickly and rectify them.

It is worth noting that coronial inquests are run as inquisitorial processes, designed to determine identities of the deceased persons, the times and dates of their deaths and the manner and cause

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of their deaths. It gives the Coroner, a magistrate not a judge, the scope to make recommendation in relation to matters in connection with an inquest or inquiry (including recommendations concerning public health and safety and the investigation or review of matters by persons or bodies).

But instead of scrutiny, police officers were subjected to what can only be described as a media circus. Instead of a sober inquisitorial process it descended into an adversarial attack and instead of a search for the truth we witnessed taxpayer funded lawyers on a frolic, cross-examining police officers as if they were on trial.

For some lawyers the focus appeared to be not just to attribute blame but moral culpability, twisting words to belittle experienced officers. And every negative comment was being amplified by a media contingent breathlessly tapping the evidence straight onto social media platforms.

If there was a particularly egregious example of this, it was when a senior police officer was challenged for using the language that the siege was a 'high stakes game'. The lawyer zeroed in on the Senior Commander to suggest that he had not taken his responsibility seriously, that he thought he was actually playing a game and that he should apologise the families.

How could a lawyer think so little of a Police Commander who had the lives of his officers and the general public in his care? How could the media seriously report this attack as news? How was this allowed to occur?

Sadly, it was not an isolated incident.

The conduct of this inquiry is a low point in a trend I have witnessed in Coronial Inquests over the past decade. They have gone from being sharp and focussed inquiries to an opportunity for lawyers to grandstand under the guise of advocating on behalf of the families of victims of tragedies. Of course, families should have a right to know what happened to a loved one, but I can't help feeling the coronial processes has been abused.

Why? I can only start by pointing to the taxpayer funded fees of counsel assisting and many of the lawyers occupying row after row in that court room.

On conservative estimates this inquiry cost upwards of \$20 million of taxpayers'

money to fund lawyers to attack police officers who had risked their lives for the NSW public.

Think about that?

What bothers me is that if this is how our system treats police officers – including senior incident commanders – why on earth would anyone put themselves forward to lead or be trained in this form of policing.

More fundamentally, such an aggressive system undermines public confidence in our ability to respond to terrorism. What impact this will have if, God forbid, we are confronted with another terrorist incident?

Of course, police officers expect to be accountable, but Police operations should not be a source of entertainment in such a calculating way.

And for all this money there were lines of inquiry that just do not seem to have been pursued to their conclusion. Most fundamentally why was Man Monis released on bail? Why didn't they appeal the ruling?

When this line of questioning was opened the DPP claimed legal privilege and then sought and was granted public interest immunity from being questioned.

Thus, the fundamental driver of the deaths, the very fact that Man Monis was free, despite serious charges, was never publicly scrutinised by the inquest. This smacks of a double standard between the treatment of the legal fraternity and police officers.

I am also concerned that the detailed questioning of police officers has placed extensive information about sensitive operational information into the public domain.

For example, the tactics and capabilities of the Police snipers, were published and played out in a very public way. This was not an episode of 24, our police officers were operating within the constraints of the law and guidelines all designed to reduce the loss of life.

Police still mourn for the victims of the Lindt Café siege. Members live with the memories of that day. Those thoughts will never leave the officers involved.

The 'Lindt Café diet' has become a turn of phrase to discuss the loss of weight from stress and tension experienced by many of the officers who worked that day. Everyone asks themselves "could we have done it better?"

What these brave officers needed from the Inquest was a fair process to think those questions through. Not this extravagant taxpayer funded show trial.

### Where to Now?

Two innocent and remarkable people died at the Lindt Café and that's a tragedy. But it was not a tragedy caused by the actions of police. It was the actions of a mentally ill individual out on bail for reasons that are still to be explained.

In my best estimate 21 police officers could have been killed if a bomb went off. Nine other members would have watched their mates blown up. And all the wives and partners and families who watched their loved ones running into the building to try and save people thinking they would never come home. The scale of what was at stake when those officers entered the building cannot be white-washed from history.

So what should happen now? I have three constructive ideas which are supported by the Police Association of New South Wales, hopefully the general public and most impossibly, the legal profession.

First, I would like to see a review of coronial processes around terrorism incidents to ensure they are faster, fairer and genuinely inquisitorial. I believe we need to use special senior judicial officers trained and involved in terrorism powers and legislation. And I don't believe the evidence should be held in public.

Secondly, I would like to see a review of the DPP processes around bail applications with a particular focus on the decision not to appeal the Man Monis case.

And finally I would like to see someone publicly thank the scores of police who put their lives on the line for their community that day more than two and a half years ago.

Doesn't actually seem like too much to ask, does it?

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### About the author:

Tony King is the PANSW Treasurer and was the Acting President in May when the State Coroner, Magistrate Michael Barnes handed down his findings and recommendations from the Inquest into the deaths arising from the Lindt Café Siege.



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