



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2015 5012

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Deceased:	Talha WAHAB
Delivered on:	31 July 2018
Delivered at:	Coroners Court of Victoria, 65 Kavanagh Street, Southbank
Hearing dates:	Inquest on 5 and 6 June 2017
Findings of:	Coroner Paresa Antoniadis SPANOS
Counsel assisting the Coroner:	Leading Senior Constable Duncan MCKENZIE Police Coronial Support Unit ¹
Representation	Mr N KANAREV instructed by Melbourne Lawyers and Mediators on behalf of the family. Mr Paul LAWRIE instructed by Russell Kennedy Lawyers appeared on behalf of Chief Commissioner of Police.
Catchwords	Missing person, cannabis, synthetic cannabis, Merri Creek, police search & rescue

¹ Sarah Gebert, Principal In-House Solicitor, assisted with the examination of police witnesses.

TABLE OF CONTENTS

INTRODUCTION	Page	1
INVESTIGATION & SOURCES OF EVIDENCE	Page	2
PURPOSE OF A CORONIAL INVESTIGATION	Page	2
FINDINGS AS TO UNCONTENTIOUS MATTERS - IDENTITY	Page	3
THE FOCUS OF THE CORONIAL INVESTIGATION & INQUEST	Page	3
Relevant Background Circumstances	Page	3
CIRCUMSTANCES IN WHICH THE DEATH OCCURRED	Page	5
Movements on 15 September 2015	Page	5
Missing Person's Report	Page	9
Police response to Mr Wahab being reported missing	Page	9
16 September		9
17 September		12
18 September		13
19 - 22 September		15
23 September		16
24 September		16
25 September - 1 October		17
Location of Mr Wahab on 2 October 2015	Page	17
Other evidence	Page	17
Was there anything located in Mr Wahab's vehicle?	Page	19
Medical Examinations	Page	19
Toxicology	Page	22
CONCLUSIONS	Page	23

I, PARESA ANTONIADIS SPANOS, Coroner,
having investigated the death of TALHA WAHAB
and having held an inquest in relation to this death at Melbourne on 5 and 6 June 2017:
find that the identity of the deceased was TALHA WAHAB born on 27 December 1985, aged 29
and that the death occurred on or about 15 September 2015
in Merri Creek, in the vicinity of the Hare Street bridge, Fawkner, Victoria
from:

I (a) UNASCERTAINED

in the following circumstances:

INTRODUCTION²

1. Talha Wahab was a 29 year old married man who resided in Fawkner with his wife of two years, Tanzeel Memon. Their daughter was born after his death. Mr Wahab was employed by Oxfam in Carlton as a Finance Accountant.
2. On the evening of 15 September 2015, Mr Wahab went missing after he was known to have left work and was expected home by his wife. Subsequent investigations indicated that his mobile phone was last used at 6.28pm to make a telephone call via Skype to his mother in the United Arab Emirates.
3. Mr Wahab's vehicle was located at the Moomba Park Reserve [Moomba Park] in Fawkner at about 10.10pm by a close friend and he was subsequently reported missing to police via a Triple Zero call at 11.49pm and then again at 12.22am, the following morning.
4. Members of Victoria Police commenced searching for Mr Wahab in the early hours of 16 September 2015. Despite extensive searches over the next two weeks Mr Wahab's body was not located until 2 October 2015, during a coordinated line search with State Emergency Service volunteers. He was located in the Merri Creek, which runs through Moomba Park, some 1.65 kilometres downstream from a point on the creek nearest where his car had initially been located on the night of his disappearance.³

² This section is a summary of facts that were uncontroversial, and provide a context for those circumstances that were contentious and will be discussed in some detail below.

³ Statement of Leading Senior Constable Ranik.

INVESTIGATION & SOURCES OF EVIDENCE

5. This finding is based on the totality of the material and the product of the coronial investigation of Mr Wahab's death. That is, the brief of evidence compiled by Detective Senior Constable Jamie Cunningham [DSC Cunningham] from the Moreland, Criminal Investigation Unit [CIU], additional statements obtained by my assistant Leading Senior Constable Duncan McKenzie from the Police Coronial Support Unit, the statements, reports and testimony of those witnesses who testified at inquest and any documents tendered through them, and the final submissions of Counsel.
6. All of this material, together with the inquest transcript, will remain on the coronial file.⁴ In writing this finding, I do not purport to summarise all the material and evidence, but will refer to it only in such detail as is warranted by its forensic significance and in the interests of narrative clarity.

PURPOSE OF A CORONIAL INVESTIGATION

7. The purpose of a coronial investigation of a *reportable death*⁵ is to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death occurred.⁶ It is self-evident that Mr Wahab's death fell within the definition of a reportable death.
8. The *cause* of death refers to the *medical* cause of death, incorporating where possible the *mode* or *mechanism* of death. For coronial purposes, the *circumstances* in which death occurred refers to the context or background and surrounding circumstances, but is confined to those circumstances sufficiently proximate and causally relevant to the death, and not all those circumstances which might form part of a narrative culminating in death.⁷
9. The broader purpose of any coronial investigation is to contribute to the reduction of the number of preventable deaths through the findings of the investigation and the making of recommendations by coroners, generally referred to as the *prevention* role.⁸ Coroners are empowered to report to the Attorney-General in relation to a death; to comment on any matter

⁴ Access to documents held by the Coroners Court of Victoria is governed by section 115 of the *Coroners Act 2008*. Unless otherwise stipulated, all references to legislation that follow are to provisions of the Act.

⁵ The term is exhaustively defined in section 4. Apart from a jurisdictional nexus with the State of Victoria (see section 4(1)), reportable death includes "a death that appears to have been unexpected, unnatural of violent or to have resulted, directly or indirectly, from an accident or injury" (see section 4(2)(a)).

⁶ Section 67(1).

⁷ This is the effect of the authorities – see for example *Harmsworth v The State Coroner* [1989] VR 989; *Clancy v West* (Unreported 17/08/1994, Supreme Court of Victoria, Harper J.)

⁸ The 'prevention' role is now explicitly articulated in the Preamble and purposes of the Act.

connected with the death they have investigated, including matters of public health or safety and the administration of justice; and to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.⁹ These are effectively the vehicles by which the coroner's prevention role can be advanced.¹⁰

10. It is important to stress that coroners are not empowered to determine the civil or criminal liability arising from the investigation of a reportable death, and are specifically prohibited from including in a finding or comment any statement that a person is, or may be, guilty of an offence.¹¹

FINDINGS AS TO UNCONTENTIOUS MATTERS - IDENTITY

11. In relation to Mr Wahab's death, apart from circumstantial evidence, his identity was established by fingerprint and DNA comparison analysis. I find, as a matter of formality, that Talha Wahab, born on 27 December 1985, late of 5/57 Murray Street, Fawkner, was located deceased in Merri Creek on 2 October 2015.

FOCUS OF THE CORONIAL INVESTIGATION AND INQUEST

12. The focus of the investigation and inquest was on the circumstances in which Mr Wahab's death occurred including the medical cause of death, the role played by cannabis, if any, and the adequacy of the police response following Mr Wahab being reported as a missing person.

Relevant Background Circumstances

13. Mr Wahab lived over a number of years with his cousin¹², Muhammad Aqeel and his friend Jam Aamir Abbas. Mr Wahab and his cousin, married within a day of each other in 2013 and had a joint reception. All three friends invested money together. By all accounts they enjoyed a close relationship with each, although Mr Wahab had less contact with his cousin after they both married. Mr Aqeel and Mr Abbas remained in closer contact as they worked at the same college in Fawkner.

⁹ See sections 72(1), 67(3) and 72(2) regarding reports, comments and recommendations respectively.

¹⁰ See also sections 73(1) and 72(5) which requires publication of coronial findings, comments and recommendations and responses respectively; section 72(3) and (4) which oblige the recipient of a coronial recommendation to respond within three months, specifying a statement of action which has or will be taken in relation to the recommendation.

¹¹ Section 69(1). However, a coroner may include a statement relating to a notification to the Director of Public Prosecutions if they believe an indictable offence may have been committed in connection with the death. See sections 69 (2) and 49(1).

¹² Mr Wahab and his cousin lived together consistently for eight years. They were first cousins. Mr Wahab was Mr Aqeel's mother's brother's son.

14. Mr Wahab had a history of smoking cigarettes and it appears from the evidence of Mr Abbas, that he continued to smoke cigarettes after his marriage and kept this as a secret from his wife (and most of his work colleagues). He was also known to smoke in private or while alone. According to his wife's understanding, he would have a cigarette very rarely, ranging perhaps from once or twice a week at times¹³ to about every 2-6 months.¹⁴ His wife was also of the belief that he did not drink alcohol or take any drugs.
15. Mr Abbas said that whilst they lived together, Mr Wahab smoked cigarettes regularly and also smoked cannabis and synthetic cannabis if he couldn't get the "fresh one".¹⁵ He said that unless Mr Wahab had smoked a lot of cannabis which would make him confused¹⁶, he would otherwise be fine after smoking cannabis.¹⁷
16. According to Mr Aqeel, whilst they lived together, Mr Wahab smoked cigarettes, cannabis and synthetic cannabis, at least up to one year before his marriage to Ms Memon. As regards the effect that cannabis and synthetic cannabis would have on his cousin, Mr Aqeel said, "*it was paralysing...Like he couldn't sense half of his body, that's what he used to tell me.*"¹⁸ He also stated that Mr Wahab preferred cannabis, and he would only use synthetic cannabis when he couldn't get the other. He described Mr Wahab as being "hooked on" both substances¹⁹ and that his consumption was on a daily basis, generally after he got home from work.²⁰
17. Another witness, Habib Sargana, who described himself as a very good friend of Mr Wahab, testified that he had known him since around 2005. They also lived together for about eight months and Mr Sargana said that during that time Mr Wahab regularly smoked cigarettes and also smoked cannabis. However, he did not think that Mr Wahab smoked synthetic cannabis.²¹ In terms of the effect that cannabis had on Mr Wahab, his evidence was that he appeared "fine" after smoking.²²
18. Mr Sargana said that he was aware that Mr Wahab used gloves to help him hide the fact that he had been smoking.²³ According to Mr Sargana, Mr Wahab went to parks to smoke, as he did not want his wife to know and that he did so regularly, "*whenever he goes to the*

¹³ T.22, L14

¹⁴ CB at p. 23.

¹⁵ T 202, L. 5

¹⁶ T. 205, L.13-14

¹⁷ T. 204, L. 29-30

¹⁸ T. 111 L. 18-20

¹⁹ T. 112, L. 10-11

²⁰ T. 113, L. 14-15

²¹ T. 169, L. 24

²² T. 171, L. 13

²³ T. 176, L 11-12

*mosque.*²⁴ Mr Sargana added that “*When he goes to the smoke, he keeps walking and smoke. It’s habit. I know that. His habit is when he’s smoking, he’s walking. He’s walking and smoking.*”²⁵

19. However, Mr Sargana recalled an incident in May or June 2014, when Mr Wahab came to his house after losing his car keys, and locking his wallet and mobile phone in the car, whilst he was at the Mutton Reserve near his house. Mr Habib drove him back to the reserve and Mr Wahab subsequently borrowed Mr Habib’s car to get home, returning it the following morning.
20. Mr Aqeel testified that only he, Mr Abbas and Mr Sargana were aware that Mr Wahab smoked cannabis and synthetic cannabis.²⁶
21. Mr Wahab was left handed and of solid build. He went to the gym regularly and was once a body builder.²⁷ His wife said that he was a good swimmer.²⁸
22. Mr Sargana said that the *wives usually arrange a gathering once a month*, and the last time he saw Mr Wahab was at just such a gathering on 28 August 2015 at Mr Aqeel’s house where Mr Abbas and his wife were also present.

THE CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

Movements on 15 September 2015

23. At 9.16am, Tuesday 15 September 2015, Mr Wahab attended his workplace, Oxfam in Carlton, and worked a regular day. His wife said that he was happy when he left for work and gave her a kiss and hug as normal. An analysis of his work computer indicates that all activity was work related for the day.²⁹
24. At 5.13pm, Mr Wahab contacted his wife by telephone to tell her that he would be home in about 30 minutes.³⁰ Making a call like this to his wife was part of his usual routine.

²⁴ T. 175, L. 9 - 15

²⁵ T. 197, L. 24-27

²⁶ T. 147, L. 14-16

²⁷ T.22, L23

²⁸ T.23, L24

²⁹ Control Risks, prepared a forensic report, which detailed their examination of Mr Wahab’s work computer and revealed nothing unusual that would assist with his location. Nothing of interest to this missing person’s investigation was also revealed in relation to Mr Wahab’s iPad.

³⁰ T.10, L.31

25. CCTV footage obtained from the Oxfam offices indicates that Mr Wahab left the building at 5.18pm and left a private garage in his vehicle at 5.30pm. He was driving a 2008 white Mazda 6 sedan with registration YXF409.
26. Mr Wahab spoke to his friend, Mr Abbas, by telephone at 5.38pm for 29 minutes and 54 seconds. Mr Abbas said that they spoke about an investment opportunity associated with defence housing in Pakistan, arrangements around the upcoming birth of Mr Wahab's first child, including who would be coming from overseas at the time of the birth, and a minor car accident within the common driveway of Mr Wahab's rental property involving Mr Sargana. Mr Abbas described him as very happy about the birth of his child and said that he was normal like any other day.³¹
27. At 6.19pm, Mr Wahab made a 14 second call to his father, Abdul Wahab in the United Arab Emirates. This phone call was to arrange a telephone call via Skype which subsequently took place at 6.28pm with his mother, Kausar Wahab. This was a call initiated by Mr Wahab. They spoke mainly about religious matters and the call lasted for 6 minutes and 23 seconds. It was agreed between them that Mr Wahab would call back in 30 minutes after he returned home when his father would have returned from prayers.
28. Ms Memon tried to call Mr Wahab at 7.15pm but said that his phone was silent at first and then went straight to voicemail.
29. By 9.35pm, Ms Memon was concerned enough to called Mr Wahab's cousin, Mr Aqeel to notify him that her husband had not come home and she could not raise him. Mr Aqeel told her that he would make some enquiries and call some friends so they could look for him.
30. At 10.07pm, Mr Abbas received a call from Mr Aqeel to help search for Mr Wahab.
31. As he knew of Mr Wahab's habit of going to parks or reserves to smoke, Mr Abbas attended Moomba Park a short time later. He chose this park as opposed to any other as it was closest to Mr Abbas' home and "*at this time I knew that he was going there frequently.*"³²
32. In order to get to Moomba Park from work, Mr Wahab would have had to drive past his home in Fawkner.
33. Mr Abbas located Mr Wahab's vehicle within the eastern car park of Moomba Park in McBryde Street, Fawkner. At 10.30pm, he called Mr Aqeel saying that he had located Mr Wahab's vehicle. He also called Mr Sargana and remained on the phone with him as he was searching the area.

³¹ T. 208, L. 27 and 29-31.

³² T. 209, L. 8-9

34. At 11.00pm, Mr Aqeel arrived at the car park with his wife and 16 month old son.
35. Mr Aqeel said that there were no noises in the park but when he arrived there were six or seven other cars and some people had just finished playing soccer and were collecting their cars to leave. One of those people told Mr Aqeel that they had not seen the driver of Mr Wahab's vehicle.
36. Other friends arrived at different times to assist with the search and including Farooq Dar, a friend and work colleague, and Mr Sargana.³³
37. The weather was noted to be damp and wet that night.³⁴ The grass areas were searched but those searching were unable to venture more than a car length towards the creek due to the long reeds and grass. They used torches but were unable to see anything. Mr Aqeel's evidence was that they searched for some two hours.
38. Ms Memon was notified that they had located the vehicle and went to the scene with the spare keys and her husband's laptop. Mr Aqeel testified that he had asked for the lap top so they could try and use the Find My iPhone App to locate Mr Wahab's mobile phone and hopefully Mr Wahab. Ms Memon arrived with Mr Aqeel's wife, Misbha, at about 12.10am. They observed that the car was parked straight within the lines of the parking bay which she thought was unusual for her husband. Photos taken of the vehicle (before it was moved) do however suggest that it was parked somewhat askew; significantly closer to the right hand line of the parking bay but still within the lines.³⁵
39. Mr Aqeel said that he unlocked Mr Wahab's vehicle with the spare key and opened the driver side door to look inside. He used a torch to search the front of the vehicle for ten minutes³⁶ but didn't touch anything and closed the door again so as not to disturb any fingerprints. Mr Aqeel said that Mr Abbas was also searching the vehicle while Mr Sargana said that he was present but did not put any part of his body in the vehicle.
40. In a statement made on 13 March 2017, Mr Abbas said "*I remember Muhammad saying that he found a chemical drug in the dashboard (glove-box), but he left it there for police. I didn't see it myself, I only heard about from Muhammad. There is no way that Muhammad would have taken it, or anything else, from the car.*"³⁷ He later recalled during evidence that there was a clear sachet in the front console and that he sighted it but does not recall the contents.³⁸

³³ Mr Sargana arrived after Mr Wahab's wife.

³⁴ T. 120, L. 18

³⁵ CB at p. 185, photo 4.

³⁶ T. 125, L 25

³⁷ CB. At p. 591

³⁸ T. 214, L. 1-13

41. In a statement made on 15 March 2017 and also during the inquest, Mr Aqeel said that he saw an open packet of synthetic cannabis on the dashboard,³⁹ and that he told police about it on the evening.⁴⁰ He also said that Mr Sargana disposed of some synthetic cannabis but was less sure of his assertion at inquest – *“I can’t be sure...I assume somebody has removed.”*
42. Mr Sargana strongly denied that he removed anything from the vehicle, and said that he did not see Mr Aqeel or Mr Abbas remove anything either, nor did he observe any synthetic cannabis in the vehicle.⁴¹
43. Ms Memon’s father, Anwar Memon, said that Ms Memon told him of a conversation she had with Mr Aqeel on the night of 16 September 2015, where he told her that he had seen drugs scattered around Mr Wahab’s car.⁴² Mr Aqeel denied that he had said this but said that he had seen police take some items from the car which looked like they could be drugs and that he had assumed were drugs.⁴³ Mr Aqeel said that he did tell Ms Memon that he had seen synthetic drugs in the car and that Mr Wahab used to smoke cannabis,⁴⁴ but denied his observations about drugs to Mr Memon out of respect for Mr Wahab and for his relationship with his father in law.⁴⁵
44. It appears that amongst the items observed in the vehicle were a sandwich, a thin blanket or shawl, a cushion, a shirt and milkshake bottle.
45. Mr Aqeel initially said that he accessed Mr Wahab’s computer on the evening of his disappearance, with the assistance of Mr Abbas who guessed the password, but ‘Find my iPhone’ showed the phone as switched off.⁴⁶ He later said in evidence at inquest that he could not access the application on the night as there was no Wi-Fi in the area.⁴⁷ He did recall a second occasion a few days later at an Apple Store, which was confirmed by both Ms Memon and Mr Abbas, where they were able to access the computer with the assistance of Mr Abbas who was called and guessed the password. On that occasion, however, the iPhone was not operating.
46. Mr Aqeel remained at Moomba Park until 8.00am on 16 September 2015 in case Mr Wahab returned and, if not, to find out the results of the search.

³⁹ CB at p. 594

⁴⁰ T. 130, L. 12-15

⁴¹ T. 183, L 22-24, CB at p. 588-9

⁴² Also referred to in Ms Memon’s statement of 20 February 2017.

⁴³ CB at p. 581

⁴⁴ CB at p. 594

⁴⁵ CB at. 594

⁴⁶ T. 138, L. 3-4

⁴⁷ T. 158, L. 2-3

47. In the early stages of his disappearance, friends of Mr Wahab made telephone calls to hospitals but there were no reports of Mr Wahab.

Missing Person's Report

48. At 11.49pm, Mr Aqeel made one of two calls to Triple Zero to report Mr Wahab missing. There were no particular issues raised with respect to Mr Wahab, such as health issues or suicidality, and so all that was reported was that he was an adult male who was missing.⁴⁸

49. At 12.22am, Mr Aqeel made a second call to Triple Zero. Similarly, during the second call Mr Aqeel did not raise any issues of any particular vulnerability in Mr Wahab but he did note that he had been missing for six hours by that stage.⁴⁹

Police response to Mr Wahab being reported missing

16 September 2015

50. As a result of the Triple Zero calls, a job was dispatched by the Police Communication Centre at 12.26am, 16 September 2015 for police to attend Moomba Park in Fawkner.

51. At about 12.44am, the first police members attended the scene. They were First Constable Rhett Killeen and Constable Fleur Greateorex (with call sign NFK31). Their observations were of approximately *“ten to fifteen people milling about and a number of cars in the car park. There were also a number of people with torches that appeared to be searching along the tree line of the Merri Creek Trail.”*⁵⁰

52. Mr Aqeel advised police that Mr Wahab usually *“attends the reserve and walks along the Merri Creek trail smoking synthetic cannabis.”*⁵¹

53. The police members made the decision not to utilise the canine unit given that the presence of so many people searching up and down the Merri Creek would have contaminated any track that might have been left by Mr Wahab, rendering the deployment of the canine unit of no value.⁵²

54. A search was conducted by police members of Mr Wahab's vehicle. They did not locate his phone or wallet but they did find a diary. No one present told the police anything about drugs, synthetic or otherwise, being located in Mr Wahab's vehicle.⁵³

⁴⁸ CB at p. 602

⁴⁹ CB at p. 602

⁵⁰ CB at p.50

⁵¹ CB at p.51. The Electronic Patrol Duty Return (ePDR) Form notes that the police were advised 'Comes down here to get high – walks along the tracks for a while.' CB at p.603.

⁵² CB at p. 51

⁵³ First Constable Killeen said: *'We were informed by Aqeel that they have already gone through the vehicle and also did not find anything.'* CB at p. 52.

55. A further police unit arrived at 1.02 am, comprising Sergeant Sean Foley and Constable Dimitri Hrissanis (with call sign NFK252).
56. Police patrolled in a van along the Merri Creek trail south from the car park to Jukes Road, Fawkner, and said, “*we did not sight any persons or any signs of disturbance along the way.*”⁵⁴ They returned to the car park along the same trail with the same result.
57. Police members also patrolled in the van using high beams, west along the Merri Creek and north up to Sydney Road, and then through to Mahoney’s Road. They also undertook a foot patrol 500 metres either side of car park, that is south along the creek line for about 500 metres and from the foot bridge and the northern end of the reserve back to the eastern carpark for about 500 metres and found no signs of any person or any disturbance.
58. Meanwhile, the Police Air Wing were requested to attend at 12.44am and were overhead at 12.54am. They conducted a FLIR⁵⁵ search of the creek line and bush area about two kilometres north and two kilometres south of the location. The Air Wing cleared the area at 1.23am after being unable to find any sign of life.
59. At 2.40am, unit NFK252 also cleared the area followed by unit NFK252 at 2.53am, both being aware of the results of the Air Wing search.
60. Sometime before 2.55am, police members spoke to Ms Memon by telephone and she told them that overseas Muslim clerics had advised her that her husband had been abducted by Muslim radicals.⁵⁶ Police members were tasked to meet with her and investigate the claim.
61. The police subsequently compiled a missing person’s report. Amongst their immediate activities were contact with local hospitals and the Immigration & Border Security agency. Mr Wahab’s diary was examined but yielded nothing of interest.
62. Police attended at Mr Wahab’s home at about 5.00am, where they met with Ms Memon and amongst other things, obtained an updated description of what her husband was wearing and searched the house. At that time Ms Memon said that she had been speaking to between five to six religious philosophers who suggested that her husband “*had been kidnapped and that he has been tied up against his will in some unknown room.*”⁵⁷

⁵⁴ CB at p. 51

⁵⁵ Forward Looking Infra-red technology which (put simply) can detect people or bodies due to their core body temperature and its difference from the ambient temperature.

⁵⁶ The following is recorded by police: *S/T Memom (wife) on phone who was adamant MP had been abducted by Muslim radicals after receiving information from Muslim cleric overseas. NFK311 tasked to att address and s/t Memom and put her at ease/ascertain if there is any substance to claim.* CB at p. 603.

⁵⁷ CB at p. 52

63. At this time, Ms Memon did not want to sign a media release to enable her husband's photo to be released to the media, as she feared that if he had been kidnapped this would put him at risk of harm. However, she did agree that if he wasn't located in the course of the morning, she would be prepared to do so.⁵⁸
64. At about 6.30am, Coroner's Investigator, DSC Cunningham first became involved in the investigation. In terms of missing persons investigations in general, he said that as person could be missing for a multitude of reasons, police methodology is to "*just have to look at the information that we have in front of us and then we've just got to start just picking scenarios and just running from there and seeing what best fits into the information that we currently have, and then we just got to run with that until we either hit a hurdle, a dead end, or another avenue pops up that takes the investigation into another - into another way.*"⁵⁹ He stressed that police do not necessarily give any scenario primacy but pursue a number of enquiries at the same time.
65. At 8.15am, three police units attended at Moomba Park. A Keep a Look Out (KALOF) alert was broadcast across three of the nearest police regions and hospitals, airports, local hotels, train stations, mosques & custodial centres were directed to be contacted.
66. Triangulation of Mr Wahab's phone was attempted but was not effective as his phone was not operating at the time. I was advised that, successful triangulation requires a mobile phone to be sending (or receiving signals) from a mobile phone tower and is not achievable if the mobile is switched off or otherwise not working.⁶⁰
67. The Operations Response Unit, the Canine Unit, the Mounted Branch, Special Solos, Search & Rescue, Air Wing and the State Emergency Service were all contacted to assist with the search for Mr Wahab. The State Emergency Service attended at 10.30am, the Air Wing were again overhead at 9.50am, the Mounted Branch attended at 1.10pm and Special Solos attended at 1.30pm. The Search & Rescue Unit was unavailable as they had been dispatched to another incident.
68. The Air Wing searched Moomba Park and Merri Creek south from the Metropolitan Ring Road to the Darebin City Works (Queens Parade south) until 10.05am. As to how they conduct a flyover LSC Andrew Edmonds, Tactical Flight Officer, Air Wing stated that "*We fly high or low, straight lines or orbits, fast or slow, depending on what we can see and how we need to manoeuvre the aircraft to look closer at something that sparks our interest. Our*

⁵⁸ CB at p. 53

⁵⁹ T. 277, L. 22-29

⁶⁰ T. 282, L. 16-18

best search tool during day light hours is eyes out the window and if we want to scrutinise something more closely, we will use the camera. At night-time, we will use the FLIR to identify an object by its heat signature. An object that has no discernible temperature difference when compared with its surroundings will be invisible to us.'⁶¹

69. Searches were conducted by the Operations Response Unit, the State Emergency Service and a number of police units between the Metropolitan Ring Road in the north and Lawson St in the south on both sides of the creek. A door knock was conducted in McBryde Street, Fawkner, which is adjacent to Moomba Park.
70. The police again attended Mr Wahab's house where they located relevant information including bank account and phone service provider details and took a statement from Ms Memon.
71. Mr Wahab's vehicle was still in situ at Moomba Park and was searched by DSC Cunningham and Sergeant Andrew Todorov. No illegal drugs or synthetic cannabis was found in the vehicle. DSC Cunningham said that the inside of the car was very *messy* with stuff everywhere including Tupperware containers with partially eaten food and a half eaten sandwich on the front passenger seat.⁶² DSC Cunningham said that if police had located anything that looked like drugs they would have seized them. He said that he was not aware at this time of any allegation that there may have been drugs in the vehicle, illegal or otherwise, and did not become aware of this allegation until later in the investigation.
72. DSC Cunningham said he took photos of the outside of the vehicle in situ but did not take photos of the inside of the vehicle because they are normally taken by crime scene officers when the forensic analysis is conducted. Unfortunately photos of the interior of the vehicle were never taken and he opined that this may have resulted from miscommunication.⁶³
73. The police also initiated enquiries with AUSTRAC to check for any large overseas money transactions. Security and Organised Crime Intelligence Unit checks were conducted for evidence of any extremist/terrorist activities or links with the missing person. Police also made enquiries at Mr Wahab's workplace.

17 September 2015

74. On 17 September, Mr Abbas attended the Fawkner Police Station with a couple of friends and family members and said that "*the 'religious philosophers' have given them an update as to the location of Wahab. These 'philosophers' have told the family that they have seen the*

⁶¹ CB at 605.

⁶² T. 281, L 1-9

⁶³ T. 287, L. 20.

*kidnappers move Wahab from the room that they were keeping him in and have put him in an unspecified location along the Merri Creek.*⁶⁴ DSC Cunningham said that there was little police could do with that information and it was just conjecture.⁶⁵

75. Bank enquiries continued to be made by police including canvassing sixteen major banks for any accounts in Mr Wahab's name. DSC Cunningham was aware that Mr Wahab had more than one bank account and said *"So we were going through all the banking institutions to try to work out what those accounts were, to see if there was any activity in those accounts since he disappeared, because that ultimately could lead in us finding him."*⁶⁶
76. Police conducted another door knock and canvassed for CCTV near the entry to Moomba Park. In addition, police made enquires at the Meadow Inn Hotel, Fawkner.
77. The Search & Rescue Unit was available and also conducted a wade search of Merri Creek covering 300 metres along the creek line upstream from where the car was located to about 100 metres along the creek line downstream from this point. Leading Senior Constable Simeon Ranik [LSC Ranik] gave evidence at the inquest. He conducted the search with a fellow officer and explained that they picked a spot to start the search where the creek was narrow, a reasonable distance from the vehicle and slightly up from an area where two paths joined. The flow and level of the creek was noted to be quite low, although there were areas where the creek was narrow so there may have been a bit of a flow in those places.⁶⁷
78. The search ended at a deep wide pool which contained *"a large dead tree lying down in the middle with many branches sticking out of the water."* He noted that the pool acted as a *"natural catching feature for the large objects such as bodies, floating or submerged."*⁶⁸
79. LSC Ranik was able to eliminate Mr Wahab from being anywhere in the area searched that day.⁶⁹ However, whilst a person could not have travelled through the deep wide pool, it contained areas that were very deep that were unable to be searched and so a dive search was organised for the following day for that purpose.

18 September 2015

80. On 18 September, the investigation was transferred to the Moreland Crime Investigation Unit [CIU] from the Fawkner uniform police who had carriage of the investigation up until that

⁶⁴ CB at p. 54

⁶⁵ P. 292, L. 4.

⁶⁶ T. 290, L. 27-30.

⁶⁷ T. p236 L. 3-29

⁶⁸ CB at p. 440.

⁶⁹ T. p. 237, L. 19.

time. DSC Cunningham became the lead investigator with oversight from Detective Sergeant Todorov [DSgt] and assistance from DSCs Zammit and Bull, amongst other police members.

81. DSC Cunningham said, *“At this stage it appeared as though there was no foul play, however it could not be ruled out. Therefore, at this stage of the investigation, it was not clear as to whether Wahab left of his own volition, was abducted, murdered, committed suicide, or died through misadventure.”*⁷⁰
82. Also that day, LSC Ranik along with three members of the Search & Rescue Squad returned to the deep wide pool where they were able to eliminate it as a location which may have trapped Mr Wahab. A wade search was also conducted downstream for a further 420 metres where it appeared that another large tree had fallen across Merri Creek, described as a large strainer tree, near where Larson Street would have intersected with the creek had it extended that far. This large strainer tree would have caught any large objects attempting to flow through it. There were no sightings of Mr Wahab in the areas searched that day.
83. DSgt Todorov searched Mr Wahab’s vehicle. The only item of value was a receipt from Coles Express. The police spoke to both Mr Abbas and Mr Aqeel. In addition, police attended the Ibis Motel, Fawkner, and Cigs N Things, where Mr Wahab was known to purchase tobacco products and ascertained that he had not been seen there for over one week.
84. Other inquiries followed concerns raised by Ms Memon in relation to their neighbour⁷¹ and her concern regarding a chance meeting between Mr Wahab and a person known only as “Simon” at the Taste of Thai Restaurant.⁷²
85. Bank enquiries from ANZ, CitiBank, Westpac, NAB & ING yielded no transactions after Mr Wahab’s disappearance. Police requested CCTV footage around the time of Mr Wahab’s last known transaction at the Coles Express in Fawkner.
86. DSC Cunningham also made contact with the local Council and made various enquiries including when bins were collected from Moomba Park and who locked the gates at night. In addition he spoke to the manager of the soccer club who advised that a game which was scheduled to be played at Moomba Park on the night of Mr Wahab’s disappearance was moved to a different venue.
87. Enquiries at Oxfam were ongoing and included banking details and requests for CCTV footage of Mr Wahab arriving and leaving work as well as enquiries about his general work conduct.

⁷⁰ CB at p. 71.

⁷¹ See Family Concerns.

⁷² See Family Concerns.

88. Enquiries were made concerning taxi usage as well as enquiries with the Residential Tenancy Bond Authority [RTBA] and the Land Titles Office [LTO] in order to ascertain if Mr Wahab owned other properties in his name unbeknownst to his family and friends.

19 - 22 September 2015

89. On 19 September, the police discussed the possibility of a media conference with the Ms Memon and other family members. Again, the family were reluctant to participate in a media conference on the basis of the information provided by prophets. Finally, a media conference was arranged for 23 September 2015.
90. Optus records were obtained and scrutinized. Mr Abbas was questioned in relation to the 29 minute telephone conversation he had with Mr Wahab on the evening of his disappearance.
91. Police attended at Moomba Park on 19 September and a door knock and CCTV search was conducted between 258 to 296 McBryde Street. Other activities on this date included the collection of CCTV footage from Coles Express, Fawkner, an attendance at the Taste of Thai Restaurant and a review of CCTV footage from nearby railways stations.
92. On 21 September, Mr Wahab's vehicle was examined by forensic officers for fingerprints and DNA, amongst other things, but the vehicle was found to have been contaminated by contact with family and friends. A police request of senior command to use Luminol to look for blood not visible to the human eye was refused as there were no signs of foul play.
93. The results of other enquiries were returned including passport/immigration information, telephone related enquiries and the results of the RTBA and LTO searches returned but there was nothing of value to the investigation.
94. On 22 September, police spoke to Oxfam staff and Mr Wahab's office and desk were searched and photographed. They ascertained that Control Risk, a company engaged by Oxfam to provide digital forensic support, were analysing the contents of Mr Wahab's work computer.
95. Mr Wahab's parents were spoken to by police and emailed from Dubai.
96. In addition, on 22 September, a police information truck was set up in Moomba Park which was at the same time and day of the week as when Mr Wahab went missing. DSC Cunningham said, *"so it was exactly a week to the day and time he was reported missing. So we thought it to be beneficial an information truck sitting in the exact spot where his car was parked, ..., so then that way we could capture people that might cycle past - ...I actually cycle there myself to get to and from work and therefore you get a lot of people walking and running and - going past there that a doorknock wouldn't capture so therefore we thought*

we'd set a truck up there and hopefully we can get a witness that way but unfortunately we didn't."⁷³

23 September 2015

97. On 23 September, a media conference was held at the Victoria Police Centre. A number of other enquiries were initiated including whether mail redirection was requested of Australia Post. Enquiries concerning taxi usage returned no results.
98. Police went back to Mr Wahab's home for further discussions with Ms Memon and other family member. Items were collected including items with potential for DNA comparison analysis, two passports and two home computers which were also proposed to be examined by Control Risk.
99. A fingerprint report confirmed that both Mr Wahab's fingerprints and the fingerprints of a number of unidentified people were found on Mr Wahab's vehicle.

24 September 2015

100. At this point in the investigation, a wider search of Merri Creek was proposed. It was clear that despite numerous enquiries being made, there were no further leads beyond the location of Mr Wahab's vehicle. Arrangements were made for a search by State Emergency Services volunteers on 2 October 2015 as it was a public holiday which would maximise the number of volunteers able to participate in the search.
101. Members of the CIU did a further walkover of Moomba Park to identify the area to be searched. In addition, the Air Wing conducted another search, on this occasion north as far as the quarry, situated to the north of the Metropolitan Ring Road, and south as far as the BT Connor Reserve in Broadhurst Avenue, Reservoir. They were in the air at 5.32pm and cleared at 6.08pm.
102. Additional enquiries continued to be made by police including of CityLink/EastLink/Traffic Camera Office, Medicare records, Optus SMS records, domestic travel enquiries through the domestic airline carriers and the Tasmanian ferry service, Optus & iPprimus subscriber details and Telstra subscriber details, backpacker hostels and with Mr Wahab's real estate agent.⁷⁴
103. On 24 September 2015, a witness statement was taken from Mr Aqeel. In addition, a significant transfer of money made to Mr Wahab by his parents was investigated by police and eliminated as an issue in his disappearance.

⁷³ T. 299, L. 7-17

⁷⁴ Tony Barkho made a statement on this date.

25 September - 1 October 2015

104. Between 25 September and 1 October 2015, the police continued their investigation including forward planning for the search of Merri Creek scheduled to take place on 2 October.
105. Additional enquiries continued to be made including an examination of CAD data and inquiries with the Australian Federal Police exploring the possibility that Mr Wahab could have used a false passport or alias to leave the country. Records from the Traffic Camera Office were reviewed but did not yield any useful leads.
106. Witness statements were taken from Mr Abbas⁷⁵, Mr Dar⁷⁶ and Mr Wahab's parents⁷⁷.
107. On 25 September, a further search was conducted by the canine unit, north to just south of the Ring Road and south to Hare Street on the western side of Merri Creek. Although not known at the time, this was just south of the place where Mr Wahab was eventually found.
108. On 29 September, the Search & Rescue Unit continued to search of Merri Creek, this time searching from the Metropolitan Ring Road downstream to the place where the search of 17 September had been conducted. This search covered 1.3 kilometres in total and the area was eliminated as an area of interest as they found nothing of any significance.

Location of Mr Wahab – 2 October 2015

109. Mr Wahab's body was discovered just before 10.35am on 2 October 2015 by Detective Senior Constable Bryan Strangland in Merri Creek, between Emma Street and Hare Street, just north of a foot bridge which crosses the creek. He was located about 1 km in a direct line south from where his vehicle had been parked in Moomba Park and about 1.13 kilometres downstream, as the creek flows, from the large strainer tree mentioned above. There were 45 SES volunteers in attendance on that day and the area searched had been divided into five sectors.
110. LSC Ranik described Mr Wahab's location as being up against the reeds, not out in the open. He said that searchers had actually gone past him initially and had only located him as they were looking back over an area they had already searched.⁷⁸ Moreover, Mr Wahab was wearing an olive green jacket which was covered in mud, as was his head, which meant that he was essentially camouflaged.
111. The depth of the creek at that point was about 1.2 metres and Mr Wahab was found floating face down. The hood of his jacket was over his head, his wallet in his right front pocket and

⁷⁵ 25 September 2015

⁷⁶ 25 September 2015

⁷⁷ 30 September 2015

⁷⁸ T. 243, p. 1-6.

he was wearing an earphone connected to a white Apple iPhone located in his pocket running under his t-shirt with the ear pieces near his head. His wallet contained his identity cards, bank cards and \$114.00 in cash. There was a disposable glove on his left hand. There were no obvious signs of injury to Mr Wahab's body or his clothing.

112. Police including members from the E-Crime Unit tried unsuccessfully to obtain data from the Apple iPhone phone but were unable to do so. It appears that submersion in water destroyed the phone.
113. Once Mr Wahab's body was discovered, the Homicide Squad attended the scene and arrangements were made for them to be provided with regular updates of the investigation.
114. LSC Ranik had 35 years' experience in the Search & Rescue Unit. Based on conditions in Merri Creek and rainfall recorded in the area since Mr Wahab's disappearance, LSC Ranik expressed the opinion, that if Mr Wahab had entered the water near the car it would not have been possible for him to float downstream beyond the deep wide pool or the large strainer tree, as described above. This suggested that Mr Wahab must have walked past the large strainer tree and entered the water at a location beyond this point.⁷⁹
115. LSC Ranik also expressed the opinion that Mr Wahab was more likely to have come to the area where he was located from the water, that is having floated downstream from a point beyond the *strainer tree* rather than from having walked to the place where he was located, as the reeds were tall and there was no visible crush line in reeds adjacent to the area where he was located.⁸⁰
116. I accept LSC Ranik's evidence in relation to both these matters.

Other evidence

117. Mr Wahab's mobile telephone call and SMS records were obtained from Optus for the period from 5 to 16 September 2015. As already noted, Mr Wahab's last telephone call was at 18:28 hours to his mother and last about six minutes. Thereafter the Optus records show a series of successful text messages from Mr Abbas and Ms Memon until 20:57:24 hours. After this time, the messages show as unsuccessful.
118. DSC Cunningham concluded that the phone was either switched off or essentially immobilised.⁸¹ It was known that Mr Wahab did not generally turn his phone off.

⁷⁹ CB at p.441

⁸⁰ P.260, p. 2-12

⁸¹ T. 308, L. 26

119. This evidence is consistent with Mr Wahab's mobile phone becoming submerged in the waters of Merri Creek some time before 20:57:24 and ceasing to work.
120. Further Optus records, namely the Visitor Register data obtained from 1800 hours to 2000 hours on 15 September 2015 identifies the mobile phone towers used for mobile phone activity and the data is entirely consistent with Mr Wahab leaving work and travelling to Moomba Park.

Family concerns

121. Ms Memon raised a number of concerns which she thought may indicate that there was foul play surrounding her husband's death.⁸²
122. Ms Memon was suspicious of the behaviour of one of their neighbours in particular. Having investigated this concern, DSC Cunningham advised that – *“the neighbour was visited. ...and conversations held with him ...and he was obviously looked at through ...the Security and Organised Crime Intelligence Unit....they were requested to do a search on those names ... to which it came back with nothing. ... and all information suggested and provided by him was that ...he's certainly not an extremist, he's just someone who preaches to others to basicallycome to the mosque more. ...and that was pretty much it. So it was just to try to get him to be, I don't know how to put it, more religious.”*⁸³
123. Ms Memon also advised that on 14 September 2015, the evening before her husband's disappearance, he worked back late and brought home takeaway food for dinner from the Taste of Thai Restaurant. He told her that he met an Australian male named “Simon” there who had converted to Islam and was sporting a beard. Ms Memon said her husband was *“very much shocked and surprised to see him”*⁸⁴ but she was otherwise unable to say why she thought this might be significant. The police investigated this concern by attending the premises and talking to the manager but could not take the matter any further. The CCTV camera at the restaurant was installed to discourage theft by employees and was not of sufficient quality to enable customers to be identified.⁸⁵
124. Ms Memon also reported suspicions concerning a man who rang her door bell on the day of her husband's disappearance at about 4.30pm, calling himself a sales agent. Ms Memon said that she didn't open the door but observed a red cheeked male in a grey hoodie on the other

⁸² She was suspicious of the manner in which Mr Wahab's car was parked. I dealt with this in paragraph 38.

⁸³ T. 292, L. 31 to T. 292, L. 1-14

⁸⁴ T.43, L.17-18

⁸⁵ There was a reference to a Simon at p. 237 of the CB who was spoken to by police and had no relationship with Mr Wahab. He was a realtor who was not able to sport a beard as part of his profession, was an atheist and could account for his whereabouts at the time of Mr Wahab's disappearance. T. 294, L.1-19.

side of the door. She said that she spoke to her neighbours but none of them were visited by this man that day. The police were unable to take this matter any further and I note in this regard that this issue was not raised with the Court or with the police until early 2017.

Was there anything located in the vehicle?

125. The evidence of Mr Wahab's friends about the search of his vehicle is somewhat confusing and contradictory. In particular, it is not consistent as to whether items resembling drugs, synthetic or otherwise, were found in the vehicle; the description of any of such items and where they were located; whether such discovery was made before or after the police searched the vehicle; whether police were told of any such find; and who removed and/or disposed of any such items.
126. While I am unable to resolve their contradictory accounts, I am of the view that if something resembling drugs, synthetic or otherwise, had been found in the vehicle by one or more of his friends and was disposed of, this was likely done out of loyalty to Mr Wahab at a time when it was still hoped that he would be found alive and well, and they did not want to get him into trouble because of the presence of drugs, with his family. Similarly, I find it unlikely that any of Mr Wahab's friends or family members brought the presence of drugs to the attention of the police on the night of 15 September 2015 or at any other time before the discovery of his body on 2 October 2015.

Medical Examinations

127. Forensic Pathologist Dr Jia Hao Wu from the Victorian Institute of Forensic Medicine [VIFM] reviewed the circumstances as reported by the police to the coroner, reviewed post-mortem CT scanning of the whole body undertaken at VIFM and performed a full post-mortem examination or autopsy.
128. Dr Wu noted that there were advanced signs of decomposition and, within those limitations, no signs of injury on the body, including to the fingernails. That is, there was no post mortem evidence of any injuries which may have caused or contributed to the death.
129. Dr Wu noted that Mr Wahab's general practitioner was Dr Adeel Tariq from the Epping Medical & Dental Centre who stated that Mr Wahab did not have any serious medical conditions and medically fit and well.
130. Dr Wu said that the post-mortem examination showed minor coronary atherosclerosis involving one coronary artery. There was no discernible myocardial fibrosis (scarring) or

evidence of an acute myocardial infarction (heart attack). No significant natural disease was identified after the post-mortem examination. However, the internal organs showed advanced decomposition which rendered interpretation difficult.

131. Dr Wu ultimately advised that the medical cause of Mr Wahab's death was 'unascertained', despite a full post-mortem examination or autopsy and ancillary investigations.
132. Associate Professor David Ranson [A/Prof Ranson], Senior Forensic Pathologist from VIFM gave evidence at inquest regarding Dr Wu's findings and also deposed that he was unable to provide a medical cause of death based on the examination. That is, that there was no evidence to provide an unequivocal cause of death in this case on the pathology examination process.⁸⁶
133. A Prof Ranson noted that all internal organs showed advanced decomposition which he indicated was always variable depending on the weather, the key feature being ambient temperature.⁸⁷ In hot weather decomposition could take a few days but in colder weather it could take a few weeks. He did however say that, whilst there was variation depending on a range of factors, there was nothing in Mr Wahab's appearance which belied a history of being missing for some 17 days – *“all I can say is that the 17 day period is a - certainly a reasonable time period for a person to be seen in this condition, but it could be weeks either way.”*⁸⁸
134. As to whether he could discern any features of drowning, A/Prof Ranson's evidence was that it is difficult to identify features of drowning in the presence of advanced decomposition.⁸⁹ With respect to whether or not death by drowning was probable as opposed to merely possible, A/Prof Ranson really could not say, as although there was the environmental information that Mr Wahab was found in water, there were no pathological features that allow one to infer that this was a drowning.⁹⁰
135. As regards other potential causes or mechanisms of death, A/Prof Ranson's evidence said that while they found no any anatomical reason to suggest that there had been significant head trauma, concussion was not excluded as this has a functional as opposed to an anatomical effect on the brain. Moreover, decompositional changes obscure minor injuries which might

⁸⁶ T. 61, L.14-18

⁸⁷ T. 72, L. 13

⁸⁸ T. 59, L.4-7

⁸⁹ T. 60, L.16-18 – *“you're in a no-win situation with regards to trying to identify...features of drowning...when there is advanced decomposition.”*

⁹⁰ T. 61, L.9-12

be associated with a concussion.⁹¹ Similarly, while there was no positive evidence of neck compression or an asphyxial component to death, the possibility could not be entirely excluded.⁹²

Toxicology

136. Dr Dimitri Gerostamoulos, Head of Forensic Science and Chief Toxicologist from VIFM gave evidence at inquest regarding the toxicological report.
137. His report noted that the onset of decomposition can change the concentration of drugs. With respect to whether it was possible that synthetic cannabis may have been present in Mr Wahab's blood but was masked by decomposition, Dr Gerostamoulos said that decomposed blood prevents the detection of a number of drugs not just synthetic cannabinoids. In addition, there were hundreds of different synthetic cannabinoids and the laboratory has limited capacity to measure these substances. That is, there may have been synthetic cannabinoids present in Mr Wahab's blood that were not among the substances the laboratory was able to test for.
138. Dr Gerostamoulos also testified about the potency of synthetic cannabinoids, saying that some of these can be far more potent or toxic than cannabis with adverse effects on the heart and kidney function, an association with seizures and sudden death which has been reported with many of the synthetic cannabinoids. In terms of the impairment effects of synthetic cannabinoids, Dr Gerostamoulos said that these had been insufficiently studied and were not really known.⁹³
139. As to the presence of alcohol in Mr Wahab's blood, he was unable to say conclusively that the level of alcohol detected being .03 grams per 100 mL was solely the result of the fermentation (or decomposition) process, but in his experience this was the most likely conclusion.⁹⁴
140. The results of Mr Wahab's post-mortem blood analysis show there was Δ -9 tetrahydrocannabinol [THC, the active form of cannabis] at a level of about 36 ng/mL detected in cavity blood. Dr Gerostamoulos was not able to deduce the time when Mr Wahab ingested cannabis. His evidence was that – *“36 nanograms per ml maybe be consistent with recent use, just prior to death. It may also be consistent with someone who's used that more*

⁹¹ T.77, L. 9-24

⁹² T.78, L. 26-28

⁹³ T. p. 99, L.8-22. Dr Gerostamoulos noted that subsequent to Mr Wahab's death (but not necessarily related to it), the Victorian government has moved to ban all substances regarded as “psychoactive” by passing the Psychoactive Substances Act 2017.

⁹⁴ T. p. 91, L. 13-15

remotely, and you have a post-mortem release of the drug after death, which does not mean recent use. It maybe that it was used 24, 48, 72 hours prior ... because it's not possible from the post-mortem specimen to tell that that was a recent use of cannabis."⁹⁵

141. Dr Gerostamoulos agreed that at a minimum we could say that if something is found in a post-mortem sample, even in a decomposed body, that the drug must have been ingested at some time prior to death.⁹⁶
142. In terms of the level of impairment likely to result from the ingestion of cannabis, he was not able to say what 36 nanograms would produce, but testified that people "*who have a measurable THC concentration either post mortem or ante mortem, are likely to exhibit signs of impairment. And that can be compromised motor coordination, compromised judgment, compromised perception. And we do know through our drugs and driving studies, that people who have a concentration greater than five nanograms per mil do exhibit some of these symptoms, and are largely affected by cannabis, and therefore are significant - have a significant risk of having an accident when they have measurable levels of cannabis on board.*"⁹⁷

CONCLUSIONS

143. The standard of proof for coronial findings of fact is the civil standard of proof, on the balance of probabilities, with the *Briginshaw* gloss or explication.⁹⁸ Adverse comments or findings are not to be made with the benefit of hindsight but only on the basis of what was known or should reasonably have been known or done at the time.
144. Having applied the applicable standard of proof to the available evidence, I find that:
- a. As a result of Mr Wahab's failure to arrive home after work on 15 September 2015 as expected, a search by friends and family was commenced and his vehicle located in a car park at Moomba Park in Fawkner at 10.10pm that evening;
 - b. Mr Wahab was reported missing to police at about 11.49pm on 15 September 2015 and again at 12.22am on 16 September 2015;

⁹⁵ T. p. 92, L. 15-22

⁹⁶ T. p. 94, L. 3-5, T.p.95, L. 1-2

⁹⁷ T. p. 91, L. 13-15

⁹⁸ *Briginshaw v Briginshaw* (1938) 60 C.L.R. 336 esp at 362-363. "The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issues had been proved to the reasonable satisfaction of the tribunal. In such matters "reasonable satisfaction" should not be produced by inexact proofs, indefinite testimony, or indirect inferences..."

- c. Victoria Police commenced an extensive search for Mr Wahab in the early hours of 16 September 2015 and search efforts continued until the day Mr Wahab's body was located in Merri Creek, Fawkner on 2 October 2015;
- d. There were multiple, concurrent lines of enquiry embarked upon by Victoria Police, which were systematic and thorough. There is nothing to suggest that the police response to the report that Mr Wahab was missing was anything other than reasonable and appropriate in the circumstances;
- e. Mr Wahab attended Moomba Park sometime after work on 15 September 2015 to smoke cigarettes, synthetic cannabis or cannabis, or a combination of these. The precise substance and quantity he ingested is unable to be determined on the available evidence but it is clear that Mr Wahab had ingested cannabis in the recent past;
- f. Mr Wahab likely walked from his vehicle to a location passed the large tree strainer at Merri Creek, and entered the water at a point upstream from where his body was located in Merri Creek;
- g. Mr Wahab likely entered Merri Creek at a time between about 6.35pm and 8.57pm on 15 September 2015 (the latter being the time his iPhone stopped operating) and was deceased some time before 1.23am on 16 September 2015 (the conclusion of the Air Wing FLIR search);
- h. I am unable to determine the precise manner or circumstances in which Mr Wahab entered Merri Creek based on the available evidence, save to say that Mr Wahab was likely walking and smoking, in secret, as was his want, shortly before he entered the water.
- i. The available evidence does not support a finding that Mr Wahab met with foul play. Rather there is evidence which belies such a hypothesis – the fact that his valuables were intact and the lack of any sign of injury to his body or clothing.
- j. While the possibility that Mr Wahab met with foul play, cannot be entirely excluded, including the hypothesis that he was taken from the area by unknown people, harmed and returned to Merri Creek at some later time, there is no positive evidence to support such a finding.
- k. The available evidence does not support a finding that Mr Wahab intended to take his own life. On the contrary, the available evidence supports a finding that he had

everything to live for – a good marriage, the birth of his first child, gainful employment, no particular financial stresses and a good social network.

- l. Having considered all the evidence in this matter including Mr Wahab's medical history and the circumstances and manner in which he was found, I find the medical cause of his death remains unascertained despite a full post-mortem examination or autopsy and ancillary investigations.
- m. That said, that Mr Wahab died as a result of drowning remains the strongest possibility.
- n. The available evidence supports a finding that Mr Wahab died by misadventure or that his death was as a result of an accident.

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

Ms Tanzeel Memon c/o Melbourne Lawyers and Mediators

The Chief Commissioner of Police

Detective Senior Constable Jamie Cunningham c/o O.I.C. Moreland C.I.U.

Signature:



PARESA ANTONIADIS SPANOS

Coroner

Date: 31 July 2018