

SUBMISSION TO :

CORONIAL INQUEST
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UNCOVERING THE TRAGEDY
AT COUNTDOWN, LYNNMALL, AUCKLAND
AN EVIDENCE-BASED REPORT

PART 1 : RESPONSE TO THE COORDINATED REVIEW
FINDINGS & THE WAY AHEAD
PART 2 : FINAL REPORT ON THE TRAGEDY -
FIANZ INVESTIGATION

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THIS REPORT HAS TWO PARTS

**PART 1: RESPONSE TO THE COORDINATED REVIEW
FINDINGS & WAY AHEAD**

**PART 2: FINAL REPORT ON THE TRAGEDY-
FIANZ INVESTIGATION**

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FIRST WORDS

First and foremost it is important to acknowledge the survivors of the tragedy and their families and the need to ensure their on-going welfare and wellbeing.

Subsequent to the tragedy we had the opportunity to host the survivors at our Auckland Masjid. We deeply respect the time they spent with us .

We know their suffering is long-term and needs a focused response by the Government. The trauma they have endured and will continue to suffer in the future, requires the full commitment of a caring nation.

Each of the survivors and their families deserve our highest respect and their welfare and wellbeing needs to be our priority concern.

SYNOPSIS

On 3 September 2021 a tragedy befell our country, yet again. The violent and cowardly attack on innocent shoppers at Countdown was another dark day in our recent history. Resorting to such a cruel senseless act deserves full condemnation. Thankfully, it was the quick action of the Police, ambulance paramedics and also some of the Countdown staff and shoppers which no doubt saved lives and prevented further injuries. On that fateful day, FIANZ issued a condemnatory press statement and also acknowledged our sincere concern for the welfare and wellbeing of the victims and their families. Since then, we also had a chance to meet with most of the victims and our thoughts and prayers continue to be with them.


As the national Muslim umbrella organization, FIANZ has a responsibility to find out why such a tragedy occurred and what could be done to prevent such in the future. After several months of research and investigation we produced an evidence-based interim report. We shared the report with the three key agencies – the NZSIS, the NZ Police and Corrections NZ, and sought their feedback. All the agencies fully cooperated with us. The Final Report is a synthesis of all the publically available information and some of the feedback from the agencies.

We found a system which was stridently focused on process rather than outcome.

What we found, both surprised and saddened us.

We found a system which, in this case, was stridently focused on process rather than an outcome aimed at mitigating the underlying problems. A punitive process of incarceration without conviction is a travesty of justice. It is even more serious when the incarceration is about four years (in total), and includes almost a year spent in solitary confinement breaking the Nelson Mandela Rules on Treatment of Prisoners. Surprisingly, we also found that prior identical cases which took a restorative justice approach rather than a punitive approach, managed to ensure a rehabilitation outcome and were most successful in that respect. This raised issues of process inconsistencies.

We also found a person who had a deeply traumatic past and significant mental illness diagnosed in NZ by different mental health professionals. It worried us that the mental health focus seemed to have ‘fallen off the radar’ for the agencies concerned. There is no doubt the coronial inquiry shall have a focus on this issue.



However, what was most revealing is that in our judicial process a person could be incarcerated for over four years (in total) without being convicted and, the time spent in prison, was far in excess of the penalties for the crime. Moreover, there was no recognition by any of the agencies of the mental trauma consequences for such prolonged time in prison for a person who was not even convicted at that time. To add to this anathema, was the mental health consequences of forced solitary confinement or as Corrections NZ clarified “segregation”. As the Ombudsman, as a result of an unannounced inspection of the prison at about the same time when Samsudeen was present, noted that solitary confinement in his view is “a breach amounting to cruel treatment.” A non-convicted remand person who faced charges of listening to 2 religious hymns of 3 minutes duration in a language he did not understand, was treated the same and located in the same highly securitized solitary confinement / or segregation Unit as March 15 terrorist who had killed 51 persons. This was yet another exemplar of the trajectory of the punitive process that the agencies were taking. The extreme length of the prolonged confinement was an unfortunate metric of the justice standards being followed by the relevant agencies and this was also a first in NZ judicial history. The saddest part of the whole saga was that this tragedy was entirely preventable had timely intervention and the offer of help was accepted. The evidence is that all identical cases in the past had successful rehabilitation outcomes.

In the end however, there can be no denying that the deeply reprehensible brutality of a knife-wielding attack on innocent shoppers has to be condemned regardless of the personal circumstances of the perpetrator. Unfortunately, we have witnessed similar tragic knife attack a few weeks earlier in Countdown, Dunedin, and several other knife attacks this year in other parts of NZ. All of the perpetrators had different background, but shared one common feature. They resorted to extreme violence without consideration of the innocent victims. It is also apt to remember that we rely on our state agencies—NZ Police, NZSIS and Corrections NZ to prevent such acts of senseless violence and they deserve our utmost support and gratitude.



PART 1: RESPONSE TO THE COORDINATED REVIEW FINDINGS & WAY AHEAD

1.1 INTRODUCTION


FIANZ conducted its own independent investigation on the events of 3 September, 2021.

We provided periodic updated reports on our investigation to the Coordinated Review. We also had three meetings with the Coordinated Review team to discuss our findings and conclusions. We acknowledge that the Coordinated Review team were culturally sensitive and transparent in their engagement process. We have however, some concerns relating to the role of IGIS in the Review and have outlined these concerns in this Report.

FIANZ also shared our Interim Reports with each of the key agencies separately. Subsequently all the relevant agencies, namely Corrections NZ, NZSIS and NZ Police, gave us feedback and clarifications on our queries. We thank them for their kind consideration and cooperation. There however remains some significant anomalies and unresolved issues and we have raised them in this Report.

We are pleased that the Key Findings of the Coordinated Review are aligned to the information and conclusions that we had provided in our report. We also appreciated the acknowledgment of our work by the Coordinated Review. We have however elaborated some important qualifications and clarifications in this Report. These mainly include information which were outside the scope of the Terms of Reference of the Coordinated Review but are contextually most relevant and provide important lessons learned for the relevant agencies.

FIANZ has noted that both the Royal Commission of Inquiry and the Coordinated Review have highlighted some significant structural and systemic deficiencies in the machinery of government with respect to countering violent extremism and national security.



Overall the Coordinated Review has provided a valuable and balanced report with substantive information. The Terms of Reference was apt and the ‘deep dive’ into the historical and contextual considerations, were particularly noteworthy.

The Coordinated Review outlined a visual frame of a person with significant mental health issues which were further aggravated through excessive remand time in prison, who gradually descended into a trajectory which led to the cowardly and senseless attack on 3 September.

What is also very revealing is that there were at least 13 meetings in total of the Working Group and the Watch Group, in addition to all the other meetings after the activation of the National Security System by the DPMC. Yet there was no evidence that any of the meetings considered the underlying mental health issues and or the aggravation of grievance due to the record length of time spent in prison whilst on remand.

Of the 15 common themes of the meetings which the Coordinated Review noted, none related to either rehabilitation or reintegration to reduce the risk of further violence. As one of the findings noted that there were ample opportunities to mitigate the risks, however none of the agencies focused on either rehabilitation or reintegration. As such, the inevitable conclusion which we have consistently maintained, is that the violent attack may have been prevented had the authorities focused on rehabilitation and reintegration rather than on excessive lengthy incarceration and post-release surveillance.

In this context, we understand the Coordinated Review’s perspective that there was no apportioning of blame in the management of Mr Samsudeen, given that the primary consideration for the agencies was to manage the day-to-day security and safety matters.

The lasting benefit of the Review are the number of lessons learned which shall undoubtedly lead to further improvements to the operational practices of the relevant agencies. The Review has also made a valuable contribution to guide government policies on countering violent extremism and national security.

1.2 A CONCERNING MATTER OF OBJECTIVITY

The facts are that NZSIS obtained four intelligence warrants into Mr Samsudeen. Such warrants permit activities that are otherwise considered unlawful. These intelligence warrants are issued by the Minister Responsible for NZSIS, and sometimes jointly issued by a Commissioner of Intelligence Warrants (normally a former High Court Judge). Inspector General of Intelligence and Security (IGIS) then retrospectively review each warrant.

Concern:

We are concerned of the possible conflict of interest and the probable lack of objectivity with respect to some of the IGIS contribution to this Coordinated Review. As part of the Coordinated Review, IGIS conducted a review of the NZSIS activities with respect to Mr Samsudeen. They had earlier also reviewed the warrants which legalized such activities by NZSIS. A common-sense approach to objectivity would have been to distance anyone who has had any role in the warrants process from the Coordinated Review process.

Instead what has transpired is that a stakeholder in the warrant process, albeit a retrospective reviewer, has then changed roles to provide independent and objective views on the outcome of warrants which they had reviewed earlier. We are most surprised that this basic methodological incongruity has been overlooked. The optics of such an oversight, has the potential to devalue the role and the contribution of IGIS in this Review. We would have at the least expected some caveat or explanation on this matter. There was none.

Evidence of Warrants Which Were Reviewed by IGIS:

- **December 2016:** “NZSIS obtained their first intelligence warrant into Mr Samsudeen. They produced their first Security Intelligence Report on Mr Samsudeen which highlighted his intention to depart New Zealand and likely travel to a conflict zone.”(Page 30 ; Coordinated Review Report (CRR).
- **May 2017:** “NZSIS renewed their intelligence warrant into Mr Samsudeen. “(page 30)
- **April 2018:** “In preparation for his release, the NZSIS sought a third iteration of the intelligence warrant on Mr Samsudeen.” (page 31)
- **May 2021:** “ The NZSIS obtained their fourth intelligence warrant into Mr Samsudeen” (page 34)

Lingering Concern

There is also another important matter which has been overlooked. In the 2017 Annual Report of IGIS, the Inspector General noted there were significant deficiencies in the NZSIS warrant applications in 2016:

“ I found, however, that there were deficiencies in the warrant applications: they did not set out for the authorising Minister all material and available information relevant to the benefits and risks of the proposed activities or how those activities met the requirements of the New Zealand Security Intelligence Services Act 1969;30 and they did not demonstrate how those activities were primarily directed towards the statutory purposes of the Act, as distinct from other, ancillary purposes.” – Inspector General of Intelligence and Security, Annual Report 2017 ¹

In December 2016 a warrant was issued into Samsudeen. We would have expected some clarification by IGIS, if this was one of the warrants which were earlier deemed deficient.² This would have given us the assurance that the IGIS was thorough in the Review Process.

Important Caveat

Whilst raising the above concerns, we do not consider any of the above detracted from the quality of the Findings of the Coordinated Review. As a civil society organization in a democracy, we have a duty to raise concerns which we believe may detract from the high credibility and impeccable reputation of our independent oversight agency. We have raised them since we value the independence of IGIS and their role to safeguard our interest as citizens.

¹ <https://igis.govt.nz/assets/Annual-Reports/Annual-Report-2017.pdf>

² Whilst deficient, it does not mean that the warrant was illegal

³ Email from IGIS 7 July 2022.

1.3 ALIGNMENT OF FINDINGS


There is a significant alignment of Findings between the Coordinated Review and the FIANZ Report.

As part of our Findings, we challenged the dominant narrative on Mr Samsudden provided by the respective agencies. Our investigation revealed significant contextual information which were either totally missed or systematically ignored by some of the agencies. The consequence of ignoring such information by the agencies was the unfortunate trajectory which could have been avoided. The Coordinated Review also raised similar important contextual matters and which led to their Key Findings.

We shared our Findings on Mr Samsudeen's mental health status, missed opportunities for rehabilitation and reintegration, lack of coordination, the inordinate amount of time spent in prison whilst on remand and many such key information. We are pleased that the Coordinated Review concurred with much of our contextual Findings.

Some examples of the alignment of findings.

FROM COORDINATED REVIEW	FROM FIANZ REPORT
"Missed opportunities to provide support and rehabilitation"	"The tragedy was completely avoidable had the NZ Police and Corrections NZ followed the successful rehabilitation and reintegration practices of previous virtually identical cases"
" Number of missed opportunities ...to provide pro-social support with the purpose of addressing his isolation and mental health difficulties and leading him down a different path."	In the FIANZ report we specified seven (7) missed opportunities over a period of 4 years, relating to his mental health and which led to the unfortunate violent trajectory
"The length of time Mr Samsudeen was detained in custody on remand..was unacceptably long and undoubtedly greatly exacerbated his risk of causing harm."	The average time spent in prison by remand prisoners is 77 days, however Mr Samsudeen spent 1078 days in prison awaiting trial, including in solitary confinement. This was a record high in NZ penal history since the 1960s. No agency considered the severe mental toll of such long incarceration.



FROM COORDINATED REVIEW	FROM FIANZ REPORT
“..throughout this report have amply demonstrated, the facts that were presented..(to Watch Group) ... were often incomplete or presented through an unduly narrow lens. Perhaps inevitably, too, that came from a law enforcement and coercive perspective.”	“The official narrative by the agencies are full of opaque statements, abject anomalies and significant omissions and a myopic biased perspective.”

The most significant lesson learned from this case, was the sheer vacuous approach to reintegration and the lack of recognition that incarceration without rehabilitation can aggravate grievance of a person already suffering from mental health issues and lead to pent up release of violence. This has been externally validated by extensive peer-reviewed meta-research⁴ and also in this case, by the thorough, intensive and first-hand review by the Independent Police Conduct Authority, Office of the Inspectorate and the Inspector-General of Intelligence and Security.

⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5008459/> ;
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4629414/>
<https://www.nature.com/articles/s41398-022-02214-3>

1.4 SIGNIFICANT INFORMATION EXCLUDED OR INSUFFICIENTLY COVERED IN THE COORDINATED REVIEW.

We appreciate that the initial Terms of Reference (TOR) of the Coordinated Review had a defined scope and they extended this to also include a number of contextual issues. Our investigations have revealed more information which we believe are also contextually relevant. These include:

i) Regular media newsfeed considered Objectionable by Authorities

Mr. Samusdeen's initial on-line focus, which alerted the agencies, was on how Muslims were being persecuted in Kashmir. The graphic details he saw and shared on-line were from regular news agencies. The images were of baby stabbed through his or her abdomen and a baby decapitated. He did not 'create' the images but they were part of a news feed. He then commented on how Muslims were being persecuted on Facebook. The Five Eyes monitored the Facebook and then alerted the NZSIS.

An historical contextual analogy would be a Tainui rangatahi researching on how Māori were subject to colonial violence and were brutally killed in Rangiaowhia. This was a place of refuge for women and children and the elderly, who were callously shot and bayoneted by colonial troops. If the same rangatahi after learning of the brutality of the colonial troops, expressed hatred against the English he would be categorised as being an extremist and a person of national interest. If he then shared his views and the visual imagery of the bayonet stabbing of Māori, he would be possibly charged for possessing objectionable material. This is precisely the historical analogy with respect to the first court case that Mr Samsudeen faced.

[It defies all logic that a person who started researching persecution against his own people can then be deemed to be a 'person of national interest'. Mr Samsudeen as a Muslim was aggrieved by what was happening to Muslims in Kashmir and in this context he shared the media images and commented against the aggressors. As the subsequent Court case noted, he did not create the images but shared what was already in the regular news media.]

⁵ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180625-2018-NZHC-1522.pdf>

⁶ <https://www.nz.co.nz/stories/201818953/taimui-has-never-forgotten-the-atrocities-against-their-women-and-children>

ii) **Context of Violent Statements Never Explained by Authorities**

“ I will fill the enemies with stabbing and cut off their heads violently”

“Kiwi Terrorist lowlife scums killed innocent Muslim kids and women”

“One day I will go back to my country and I will find kiwi scums in my country (its very easy to find) and I will show them...what will happen when you mess with Aathil while I’m in their country. If you're tough in your country.. we are tougher in our country scums #payback/”

There is no doubt that Mr Samsudeen made such statements. But what has not been revealed is that he made those statements as reactions to the publication of Nicky Hager’s book ‘Hit and Run’ which revealed that NZ soldiers killed 6 unarmed civilians and 15 others in Afghanistan. There was an inquiry by the government on this shameful killing by Kiwi soldiers and the NZ Defence Force apologised.

On 21 March 2017, when Mr Samsudeen made those violent statements he was venting his anger against the Kiwi soldiers who killed innocent Muslim children and mothers. Judge Venning stated in his Oral Judgement that Mr Samsudeen made a number of comments in respect of a news article published on 21 March 2017. However, none of the relevant government agencies gave this contextual information when revealing the violent statements by Mr Samsudeen.

iii) **No Dark Web, No Deep Web, Only 44 Facebook Friends (Mostly his own family)**

With respect to his on-line sharing of his views, Mr Samsudeen Facebook (his online posting) had only 44 ‘friends’ who were exclusively his family and his close Sri Lankan friends and NONE were from NZ. This was a culturally confined limited groups of persons whom he knew and not the outside world. This fact was never revealed by the agencies.

[Despite such a limited audience of mainly his own family, he was charged with distribution of objectionable material and this was later changed to Restricted –R18 material. This was not like the case of the March 15 terrorist, who wrote a manifesto and sent to all and sundry. Mr Samsudeen’s focus was only his close family and friends only and no one from NZ]

iv) Inordinate Time Lag on Classification: From Objectionable to R-18

He was first charged for possessing 'objectionable' material (mainly news media information) but the Censor refused the Crown's assertion and concluded that the material was only 'restricted' (R-18). The Crown then wanted a review of the decision and the second time it was again deemed as simply R-18. Whether deliberate or unintended, this process of reclassification and review resulted in Samsudeen being confined in prison for over 1 year on remand. As the Coordinated Review stated, this "classification of potentially objectionable material and the transfer of the case to the High Court could and should have been largely avoided." Mr Samsudeen paid the price with his mental health, undue confinement in prison and grievance against authorities due to this misplaced classification.

[He spent more time in prison in remand than if he had been convicted. Very few people, if any, spend time in prison for possessing R-18 material. The maximum penalty for this is 12 weeks, yet Mr Samsudeen was put in prison for over one year]

v) Incarceration Abetted Radicalisation

The Judge with respect to his first conviction (restricted material) stated " ...there is no evidence of any harm caused, and the Crown accepts that this is impossible to calculate."

From a position of 'no harm caused' in 2018 to the horrific knife attack on 3 Sept, 2021 has to be carefully reviewed. We have analysed this in Part 2 of this Report. The facts are he spent almost all this time in prison. No wonder the Coordinated Review correctly stated, "We believe this magnified Mr Samsudeen's sense of grievance against the system, greatly increased his alienation, hostility and risk of increased radicalization....".

[There is no doubt that the record length of time in NZ penal history that Samsudeen was confined in prison, including in solitary/segregated confinement, contributed to his mental health issues and his radicalization. This is borne by many meta studies and is also a conclusion of the Coordinated Review.]

vi) Only Witness Vanished

The only source of information and 'witness' who claimed Mr Samsudeen was wanting to go to Syria to join ISIS was his flatmate. There was absolutely no other evidence which was presented in Court. The agencies did not find

- any evidence of his Syrian travel plans on his computer,
- nor any emails,
- nor communication with any ISIS entity,
- nor any communication with anyone in Syria,
- no letters
- no text message and
- absolutely no other information other than from the vanished 'witness'.

Yet this 'witness' was never presented in court since he had vanished overseas. To our knowledge there is nothing in writing from this witness as evidence. The least we would have expected a sworn affidavit which could be presented in Court. Even this was missing.

Our investigation revealed that the witness had approached Samsudeen in a Mosque on a Friday for help. The person had no money or place to stay. Mr Samsudeen then felt sympathy for the person and paid for his food and also offered to share his own apartment (rent free). The 'witness' was a Syrian Kurd who had fled Iraq since ISIS was targeting Kurds. Later on, given Samsudeen had talked about ISIS in Syria, it is not surprising that the Kurdish flatmate would be naturally against Samsudeen. Then he disappeared from NZ soon after making such an accusation. Why did he disappear and leave the country was never explained by the agencies concerned. Such 'hearsay' approach was the only evidence the agencies provided to substantiate their claim that Samsudeen was wanting to go to Syria. There was no opportunity to cross examine this 'witness', hence his claims have no validity in our view.

[This again shows the lack of understanding on the part of the agencies of geopolitics and the situation in Kurdistan. A Kurd would naturally be against anyone who talks of ISIS. For the agencies to rely on a 'witness' who vanished overseas and was never sworn in court, and no one ever had a chance to question his claim or credibility, goes against every grain of natural justice. The agencies are deafeningly silent on this matter and built their own narrative of Samsudeen's plan to travel to Syria, on the claim of this vanished witness.]

Vii) Whom to Believe ?

With reference to the first time Mr Samsudeen was sentenced for possession of restricted material, we have the following viewpoints.

WHOM TO BELIEVE ? (First Court Case)	
NZ Court (Judge Wylie) ⁷	NZSIS ⁸
“there is no evidence of any harm caused “	“aggressive rhetoric and violence”
“restricted material (R-18)”	“objectionable material”

There are some 30 other similar contextual information which we have gathered as part of our investigation. They are included in Part 2 of this Report. They provide a fuller and more balanced perspective than that offered by the relevant agencies to the media and also as part of national security briefing such as the Security Information Reports of the NZSIS, which we have received and analyzed.

⁷ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

⁸ From Security Intelligence Reports by NZSIS 2017 & 2018

1.5 MR SAMSUDEEN: 'PERSON OF NATIONAL SECURITY INTEREST': A BRIEF APPRAISAL

On 3rd September 2021, at her media briefing after the heinous attack by Samsudeen on innocent shoppers, the Prime Minister Jacinda Ardern mentioned that “he became a person of national security interest from 2016 “. ⁹

It was this designation as a ‘person of national security interest’ which inevitably determined all future responses by the NZ security authorities- NZSIS, the NZ Police and Corrections NZ.

It was this designation, which inevitably led to the trajectory of the terrible events of 3rd September. Given the salience of the above, it is necessary to analyse this starting point and the validity of this designation.

1. Context of the Period (2014-2016)

This was a time when Prime Minister John Key (later Sir John Key) was inundating the political landscape and public perception with a barrage of media stories of “ jihadi brides from NZ ” ¹⁰ “foreign fighters from NZ ” ¹¹. Both of these were later recognised to be patently false and misleading. History and facts tells us that there were no New Zealanders who went to Syria from NZ, but Kiwis who had been raised and living in Australia went to Syria. Despite this, there was no apology forthcoming. The result was a socio-religious landscape which left the Muslim community with a tainted reputation and facing barrage of Islamophobia. ¹² It is this type of scaremongering which fueled and conflated Islamophobia in this country. The Royal Commission’s conclusion was both insightful and damning.

“We conclude that the concentration of counter-terrorism resources on the threat of Islamist extremist terrorism before ...2018 was...inappropriate.”

(Source: Royal Commission ¹³)

It is within this contextual timeframe, that the agencies designated Samsudeen as a “person of national security interest”.

⁹ <https://www.youtube.com/wv=HNeGFNmclEc>

¹⁰ <https://www.nz.co.nz/news/political/299191/no-apology-from-govt-over-%27jihadi-brides%27-claims>

¹¹ <https://www.stuff.co.nz/national/politics/10690655/Maori-Muslim-backs-Islamic-State>

¹² <https://www.nz.co.nz/news/political/299191/no-apology-from-govt-over-%27jihadi-brides%27-claims>

¹³ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/findings/>

It was the Five Eyes who “alerted” NZ authorities of Samsudeen’s online activities. This is significant, in that the John Key, as Prime Minister considered it essential that NZ be part of the Five-Eye “club” at any cost.¹⁴ Given that the Samsudeen case was raised by the Five Eyes, it was obviously deemed a priority for NZ authorities. This was a powerful motivation and “push factor” for our security agencies to make Samsudeen a matter of national security interest.

It was this contextual culture of Islamophobia, with the concentration of resources on the Islamist threat and unqualified deference to the Five Eyes, which dominated the security landscape in NZ at that time. Samsudeen was not alone as being part of the focus. Between August 2015 and January 2018, eight passports of Muslims were cancelled, NZ Police arrested 17 Muslim individuals of national security interest for a variety of offences and issued 40-50 warnings for extremism-related objectionable material.¹⁵ This behooves the question of what metrics were used by the security agencies given that of the 17 arrested only 3 (including Samsudeen) to our knowledge were ever convicted. None were for terrorism and some of the objectionable material were later reclassified as Restricted (R18). It was this “overconcentration” on Muslims which the Royal Commission raised and sadly, it took a Royal Commission which prompted both the NZ agencies to apologise.

2. Metrics To Determine “Person of National Security Interest”

To our knowledge there were no objective metrics at that time. At best there were some subjective indicators copied and adapted from other Five Eye countries and which were given ‘official’ status without any independent empirical or objective evidence-based on the NZ context.

Prior to discussing the indicators, it is important to consider the capability and capacity of the agencies, as noted by the Royal Commission. In terms of the capability and capacity of the NZSIS the Royal Commission findings are most significant, referring to the period before 2016,

“The New Zealand Security Intelligence Service’s capabilities and capacity had degraded so severely that it would be a pointless exercise for us to review its resource allocation decisions.”¹⁶

(Source: Royal Commission)¹⁷

¹⁴ <https://www.nzherald.co.nz/nz/prime-minister-john-key-isis-fight-price-of-the-club/BVF6YYQPFFVFGQFGLP5NZNWC4NA/>

¹⁵ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

¹⁶ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

¹⁷ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

There were only 4.5 FTE NZSIS staff in 2014 working on terrorism investigations. By 2016 despite an increase in number of staff, both the Royal Commission and the NZSIS's own Arotake Review in 2019 noted, the "majority of the investigators had less than one year's experience"¹⁸.

The same low-level capacity and capability was evident in the NZ Police. The Royal Commission concluded,

"As of 2016, New Zealand Police's national intelligence function had degraded and no longer produced strategic assessments on the domestic threatscape"
(Source: Royal Commission¹⁹)

It is within this "degraded" capability that Samsudeen was deemed to be a person of national interest. Samsudeen was made a person of national security interest based on his on-line activity in 2015-2016. The Coordinated Review also concluded similar,

"There were also problems with under-resourcing, the quality of risk and threat assessments, and intelligence information not being properly analysed and assessed. Efforts to rebuild the intelligence and security system began in mid-2016, which is about the time Mr Samsudeen was identified as a person of interest. The Royal Commission found there had been progress, but more improvements were still needed "
Source Coordinated Review, p18

3. On-Line Presence in 2016

The facts related to Samsudeen's on-line presence based on the evidence produced in court²⁰:

i) Searches on Legitimate Internet and News sites:

In March 2016 he had a Facebook account under a name Aathill Al-Ceyloni Al-Moori. It had videos and pictures of graphic war related violence. The judge stated, "The levels of violence contained in them will be uncomfortable for many, although I am aware that you assert that the publications were simply picked up by you from other legitimate sites on the internet, including news sites.". (Source: Court Documents²¹)

ii) Not Widely Shared

The Judge stated, "seems likely, however, that most of the viewers would have been people known by you, and that the posts would not have featured on many other peoples' Facebook feeds".²²

[There were only 44 Facebook 'friends' of whom most were family member and some of his close Sri Lankan friends and NONE from New Zealand.]

¹⁸ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/the-new-zealand-security-intelligence-service/>

¹⁹ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

²⁰ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180629-2018-NZHC-1597.pdf>

²¹ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

²² <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

iii) No Evidence of any Harm Caused

The Judge stated, "...there is no evidence of any harm caused, and the Crown accepts that this is impossible to calculate." ²³

iv) Not Objectionable

"The Crown dismissed nine of the charges pursuant to a recommendation from the Classifications Office". "The Classification Office classified...as being restricted to persons aged 18 years, rather than objectionable". ²⁴

As such, despite the Court finding

- that there was no evidence of harm,
- the on-line distribution was very limited (friends and family),
- the material was only R18, and
- all of the sources were everyday news media,

the NZSIS made the determination that Samsudeen was a "personal of national security interest". This was a time when the capability of the NZSIS staff was in question, given most had less than 1 year of experience (as noted in the Royal Commission findings) and there were no empirical and objective metrics.

4. Indicators: Questionable Efficacy

It was important to note that in 2016 when Mr Samsudeen was designated a 'person of national security interest', there were no indicators developed by the NZSIS. This was done much later in 2017 and mentioned as such in the Security Intelligence Report of 19 May 2017 (Report No. DM56-15-1176). Even these indicators did not match Samsudeen's profile as compared to the 15 March terrorist.

COMPARISON OF THE INDICATORS BETWEEN SAMSUDEEN AND MARCH 15 TERRORIST

Criteria	Samsudeen	15th March Terrorist
Acquiring capability (for example, weapons)	1 hunting knife (NZ Court quashed and found not guilty of possession)	<ul style="list-style-type: none">• 1 knife• 10 semi-automatic assault guns and rifles• 4 petrol bombs• Over 8,000 rounds of bullets

²³ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

²⁴ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

Criteria	Samsudeen	15th March Terrorist
Seeking religious guidance or justification for an attack	<ul style="list-style-type: none"> • No religious guidance 	<ul style="list-style-type: none"> • Right wing Manifesto • You Tube posts • Support for Martin Sellnar • On-line discussions with The Lads Society
Identifying and or conducting reconnaissance on specific targets	None observed	<ul style="list-style-type: none"> • Reconnaissance by drone • Visit to Christchurch • Facebook images of mosque
Increased operational or communication security measures	None noted	<ul style="list-style-type: none"> • Ensured avoidance from all agencies • Maintain a low profile • Delete emails • Secure On-line communications through deep & dark web (8 Chan)
Preparing statements regarding any intentions to conduct an act of security concern	None specific	<ul style="list-style-type: none"> • Posted on Facebook • Manifesto
Behaviours indicating he is settling his affairs	None noted	<ul style="list-style-type: none"> • Gradually selling all his possessions • Ending accommodation rental agreement • Contacting his sister towards the end

The above aberration and inconvenient fact seems to have been overlooked. As such, we question how he was deemed as 'a person of national security interest' in 2016/2017. We would have expected some clarification on this by IGIS on their part of the Report but none was forthcoming. The objective and verifiable fact is that Inexperienced and recently appointed NZSIS officials simply relied on the fact that Samsudden was referred by the "Five Eyes". We have found no evidence of NZ security agencies of questioning the validity of such Five Eyes referral.

From available evidence, there were no NZ-centric verification-based transparent threshold metrics used by the NZSIS in 2016. Even the metrics which were used in 2017 to designate Samsudeen "a person of national security interest.", was simply borrowed from overseas. There was no NZ context adaptation. We have provided comparative evidence above, and even these metrics were nonsensical for Samsudeen.

The above aberration and inconvenient fact seems to have been overlooked. As such, we question how he was deemed as 'a person of national security interest' in 2016. We would have expected some clarification on this by IGIS on their part of the Report but none was forthcoming.

5. Fallacy of Ideology-Neutral Approach

The NZSIS have developed a veneer of objectivity by claiming to be "ideology neutral" in their tracking of persons who are likely to be prone to violent extremism. Firstly, it should be noted that this veneer is recent and does not apply to the Samsudeen case. From the findings of the Evaluation of the Counter-terrorism effort by the Royal Commission²⁵, that far from being ideology neutral the "counter terrorism resources were primarily concentrated on the threat of Islamist extremist terrorism. "It is even more emphatic that individuals were being investigated by the NZSIS because of their faith-based ideological affiliation. As the Royal Commission confirms that "this can be demonstrated by the New Zealand Security Intelligence Service's priority investigation (watch) list." This focus was on tracking individuals because of their faith, and this was NOT ideological neutral. The Royal Commission clearly states that "as at 11 March 2019, it included 25 counter-terrorism investigations involving 32 subjects of investigation. All these subjects were under investigation due to their assessed affiliation with Islamist extremism, primarily inspired by Dā'ish." The notion that NZSIS investigation was ideology neutral at the time of Samsudeen case is invalid.

The term 'ideology-neutral' has been adopted by the NZSIS from the USA. The Office of Intelligence and Analysis (I&A) supports the Department of Homeland Security by gathering, receiving, analyzing and sharing intelligence.²⁶ In the USA context, they aim to be ideology-neutral given the US Constitution and the "concerns about freedom of speech and association that arise in addressing political violence"²⁷. Yet recent cases highlighted this 'ideology-neutral' is more of an aim to strive for, than one that is achieved in practice. As a recent think tank report noted that in reality the Homeland's programmes, including that of I&A are "clearly organized to focus on ideologies".²⁸ With its vast resources and technical tools, the ideology-neutral approach has significant limitations in practice, yet our NZSIS claims their ideology-neutral approach is effective. No efficacy metrics have been provided, no analysis has been outlined and no rationale has been given. All that has been offered is a borrowed terminology with no substantive information. Even the Annual Report makes no mention of an 'ideology neutral' approach.

There are substantial amount of peer reviewed research which has debunked the veneer of 'ideology-neutral' of intelligence community. A recent seminal study has highlighted that substantive cognitive bias exists in intelligence analysis. The study also notes that this is evident in "recent high-profile intelligence failures from 9/11 to the 2003 Iraq war."²⁹ It defies current research to say that 'ideology-neutral' analysis is possible, particularly when there is a voluminous body of research which highlights that there is a self-to-other bias symmetry.³⁰

Until the NZSIS provides evidence of its ideology-neutral approach to investigation, it is simply a veneer of objectivity to deflect from the criticism of the past and aimed at appeasing unquestioning public. It is difficult to accept this veneer beyond just the intention of NZSIS trying to be neutral in its approach. Moreover, given that this approach has only been adopted recently into the NZSIS lexicon, the ideology neutral approach was not evident in the Samsudeen case. All the SIR information related to Samsudeen only confirms this.

²⁵ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

²⁶ <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Patel-2021-05-18-REVISED.pdf>

²⁷ <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Patel-2021-05-18-REVISED.pdf> page 8

²⁸ <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Patel-2021-05-18-REVISED.pdf>

²⁹ <https://www.jstor.org/stable/10.3366/j.ctv182jrtn>

³⁰ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7546453/>



FINAL WORD ON THIS

We leave the final word on this matter to the Coordinated Review.

“Overall, very little was done to rehabilitate Mr Samsudeen, even though he was deemed to be a high-risk person of national security interest. Agencies collectively should have invested in proactively making the most of this time to try to reduce the risk he posed. But no one seems to have taken responsibility for developing a solid, long-term plan to achieve this as soon as possible.”



Source: Coordinated Review Page 87

It was a case of having deemed Mr Samsudeen a ‘person of national security interest’, the agencies did nothing to reduce the risk he posed. This highlights the inexperience and lack of coordination of the agencies.

1.6 MATTER OF PERSPECTIVE

The Samsudeen case has raised awareness how authorities respond to issues based on the ethnicity or faith of the subjects. Following are some examples. All are recent.

1. Two Cowardly Knife Attacks on Innocent Shoppers

In Countdown Supermarket	In Countdown Supermarket
 <p>Ambulances and police rushed to the scene of the stabbing³¹</p>	 <p>Emergency services rushed to Countdown after reports of a stabbing.³²</p>
Male – European	Male – Muslim Asian
Not known to Police	Under Police surveillance
Grabbed knife from shelf	Grabbed knife from shelf
Stabbed with knife down the aisle	Stabbed with knife down the aisle
Four people stabbed	Six people stabbed
Arrested by Police	Shot 12 times – killed by Police
Two incidents which are almost identical yet the police response was quite different	

³¹ <https://www.rnz.co.nz/news/national/466370/13-years-of-jail-for-dunedin-countdown-stabbing-attacker-luke-lambert>

³² <https://www.9news.com.au/world/five-stabbed-at-dunedin-supermarket-new-zealand/144bacb4-719b-437c-bd94-de9d9f36d8d7>

2. Censor's Classification Process of Objectionable Material

ANDERS BREVIK'S OSLO MANIFESTO	MUSLIM RELIGIOUS HYMN
Male – European	Male – Muslim Asian
Material	
On-line	On-line
Language of text English (on-line version)	Language of Hymn Arabic – English Subtitles (Accuracy of translation not checked)
Person reading text – Knows English	Person Listening to hymn (Mr Samsudeen) – Does not know Arabic
Classification Process	
Extensive Consultation with Community over 8 months	No Consultation with Community
Consultation with many diverse backgrounds in Auckland, Hamilton, Wellington and elsewhere	Decided in-house with no Muslim scholar or expert present
Decision	
Objectionable	Objectionable
Two decisions with one taking extensive 8-month consultation and feedback from community (European Right Wing Manifesto) but the Arabic Hymn (Muslim) classified 'Objectionable' almost immediately with no consultation. It appears to be a different approach and we don't know why.	

3. Classified Differently

Christian Hymn ³³	Secular Rap ³⁴	Muslim Hymn (Nasheed) ³⁵
Lyrics: In English	Lyrics: In English	Lyrics: In Arabic
Imagery of words: of war, martyr, blood red banner streams, mortal pain, sword and soldiers	Imagery of Cop Killer – AK47 gun, kill cops with 12 gauge shot gun, take revenge for killing blacks	Imagery: Muslims in their thobe (long gown) and head scarf, flag with Allah name in Arabic, soldiers

³³ https://hymnary.org/text/ive_enlisted_for_life_in_the_army_of_the_compare

³⁴ <https://www.youtube.com/watch?v=53MyYDhwBos>

³⁵ Objectionable hence can not give source

The lyrics speak of ... life in the army of the Lord, ... armor of God and the Spirit's trusty sword, ... Full salvation proclaim to a sinful, dying world ... the enemy be hurled,	The lyrics speak of killing police: I got my black shirt on I got my black gloves on I got my ski mask on I got my twelve gauge sawed off I got my headlights turned off I'm 'bout to bust some shots off I'm 'bout to dust some cops off	The lyrics speak of “ obtaining martyrdom on the battlefield and being killed in Allah’s cause against oppressor and enemies.”
✓ NOT OBJECTIONABLE	✓ NOT OBJECTIONABLE	✗ OBJECTIONABLE

Mr Samsudeen was charged with having in his possession two Muslim hymns of about 2 minutes long which the Censor deemed objectionable. For this Mr Samsudeen spent 3 years in remand, including in solitary confinement without even being convicted. The censor did not seek any expert on Arabic or Islam and relied on the translation of the clip and the imagery of an ISIL flag.. No evidence was given on how many times did he viewed the hymns. Please note that when watching any video on you tube for the first time, no one knows what the imagery or the words in advance. Mere possession of such is deemed objectionable

4. A Comparison of Persons Charged for Objectionable Material (in Aotearoa NZ)

Feature	Case 1 ³⁶	Case 2 ³⁷	Case 3 ³⁸	Case 4	Case 5
Race	European	European	European	Asian	Asian
Gender	Male	Male	Female	Male	Male
Ideology-/Religion	White Supremacist	Threaten to Kill Prime Minister	Far Right Conspiracy	Muslim	Muslim
Bail	Yes	Yes	Yes	No	No
Remand in Prison	No	No	No	Yes – 3 years	
Sentence	21 Months	Evading Police	Still on bail	He had already spent 3 years in prison and on top given 1 year supervision	45 months

With respect to possession of objectionable material it appears white supremacists have different legal experience compared to Asian Muslims. All the above 5 are from the time-period of the Samsudeen case.

³⁶ <https://www.districtcourts.govt.nz/all-judgments/2-124/>

³⁷ <https://www.nzherald.co.nz/nz/pm-death-threat-richard-sivell-evading-arrest-six-months-after-being-charged-with-threatening-to-kill-jacinda-ardern/MPEPNN2KUSYUOWANOQM74T3FIE/>

³⁸ <https://www.odt.co.nz/star-news/star-christchurch/angry-scenes-outside-christchurch-district-court-hosts-far-right-media>

5. A Comparison of Violent Statements

Feature	Anti-Mandate Protestor	Mr Samsudeen
Gender	Male	Male
Race	White European	Asian (Muslim)
Statement	"They are going to die. We are not going to allow them to share this world with us anymore. Same as Jacinda. She is going to die. Execute these motherf***ers. I look forward to hearing their necks snap,"	<p>" I will fill the enemies with stabbing and cut off their heads violently"</p> <p>"Kiwi Terrorist lowlife scums killed innocent Muslim kids and women"</p>
Response to	Mandate (COVID -19)	Niki Hager's book which revealed NZ soldiers killed 5 innocent children and women in Afghanistan
Designated	A Protestor	" A Person of National Security Interest"
Labeled	Considered a Criminal	Considered a Terrorist
Statements are similar but the ethnic /religious background are different and so is the response, designation and label given by the relevant authorities. We are not sure why.		

1.7 MISINFORMATION OR DISINFORMATION OR SOMETHING ELSE?

Definition: (NZ Government)³⁹

- Mis-information: Information that is false, but not created with the intention of causing harm.
- Dis-information: Information that is false and was created to harm a person, social group,

The Security Information Report (SIR) is one of the highest level of analysed information provided by the NZSIS to key national security decision-makers, particularly the Prime Minister. We would expect that this top level information, which is highly classified, would be accurate, insightful and timely.

Security Intelligence Report | SIR
Report Date: 6 April 2018
Report No: DMS6-15-535

5. (S) Mohamed Samsudeen is one of three New Zealanders in prison on terrorism-related charges that are eligible for release in 2018. NZSIS is working closely with New Zealand Police and Corrections to assess the threat these individuals pose upon their release.

The text clearly states that Mohamed Samsudeen is one of three New Zealanders in prison on terrorism-related charges. The meaning is unequivocal. The NZSIS is advising the decision-makers, including the Prime Minister that there are 3 persons in prison on terrorism-related charges and Mr Samsudeen is one of them.

However this statement is patently false.

- Mr Samsudeen was in prison on charges relating to distributing objectionable material and not terrorism-related charges.
- In the case of the other two prisoners, the Judge had categorically stated that they were not charged with “terrorism-related activity”. Moreover the Judge had also warned people to not confuse that the charges had anything related to terrorism. The Judge’s summation stated “every one else need to appreciate that you do not face a terrorism charge”.

³⁹ <https://covid19.govt.nz/prepare-and-stay-safe/misinformation-scams-and-online-harm/what-is-misinformation-and-online-harm/>

IN THE DISTRICT COURT
AT AUCKLAND

CRI-2016-004-001669
[2016] NZDC 11454

THE QUEEN

v

IMRAN PATEL

Hearing: 23 June 2016

Appearances: D Johnson and H Steele for the Crown
A Holland for the Defendant

Judgment: 23 June 2016

NOTES OF JUDGE R J COLLINS ON SENTENCING

[13] The media and everyone else need to appreciate that you do not face a terrorism charge. However the assessment of the offending is to rightly take into

We sought explanations for this from both the NZSIS and also the Ministry of Justice.

NZSIS Explanation:

“The term ‘terrorism-related’ in the Security Intelligence Report (SIR) was used in a broader sense, as the objectionable material that Samsudeen uploaded, and about which he faced criminal charges, was of a violent extremist nature. The language used in the assessment was not intended to suggest that Samsudeen was facing charges under the Terrorism Suppression Act. The language could have been more precise throughout the report but there was no intention to mislead.” (NZSIS Letter to FIANZ)

Our Response

We find this explanation satisfactory in that there was no intention to mislead and was used in a generic or broader sense. However the point is that the readers of the Report would not know this clarification. As far as they are concerned, this highly classified document provided by the NSIS, unequivocally states that there are three NZ’ers in prison due to terrorism-related charges. In what may be considered an apology, NZSIS further conceded that “the reference to Samsudeen being in prison on terrorism-related charges could be misunderstood.”⁴⁰

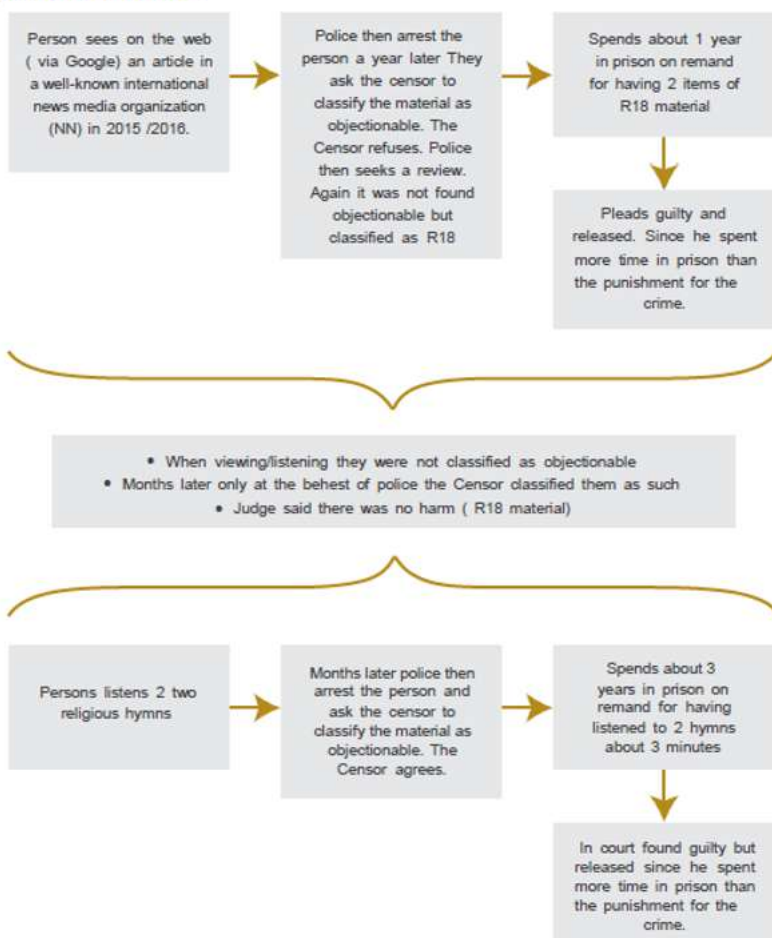
⁴⁰ NZSIS Letter to FIANZ, 13 May 2022

1.8 NATURAL JUSTICE & RETROSPECTIVE OFFENCE

A person may be viewing an on-line political or religious newsfeed or YouTube video and then sharing it with your known friends and family. At the time of viewing the item (news/music/article/photos) was not deemed objectionable or restricted under the Films, Videos and Publications Classification Act 1993 (FVPCA). Several months or even a year later, the Police may charge you for viewing or even having the url on your computer or mobile phone.

The said item was designated objectionable or restricted several months after you had already viewed it. As a result, you could be put into prison on remand for between 1 and 3 years whilst the item is classified and a court date is set. This is precisely what happened in the case of Mr Samsudeen, yet the authorities never considered the mental health consequences for such delay.

NATURAL JUSTICE ?



This also defies not just natural justice but also common sense. The item is not child pornography or but matters of geo-politics and the designation is made much later after the item has been viewed.

Retrospective Offence

There are however very powerful bodies who have criticised the retrospective offence of possession when it was first introduced. Their arguments remain as valid now, as when the Act was first introduced. The only difference is that they raised in the context of ‘publications’ and the current context is on-line material.

1. The Legislation Advisory Committee raised significant concern on the matter of criminal liability of a person who without knowledge of or reasonable cause to believe that a publication is objectionable. The Committee argued that the fairness of such offences. The “Committee suggested that it should be a defence that the publication had not, at the relevant time, been considered by a classification agency, and that there were no grounds for believing that the classification agency would find the publication objectionable.”⁴¹

2. The New Zealand Law Society “also condemned the absence of any mental element in the offence.⁵ 1 The Society was concerned that a possessor may be successfully prosecuted for possession of a publication even though they reasonably believed that the publication was not objectionable, they had checked the register to ensure the publication was not objectionable, and the publication had not been classified at the time of the offence.”⁴²

3. Even the Department of Justice, in their submission on the Act when it was first introduced in 1993, considered the offence as “unnecessarily harsh”.⁴⁴

4. The Attorney-General also at that time stated, that the Act imposed a retroactive penalty and was inconsistent with s26(1) of the Bill of Rights. He stated the offence:

“..has the effect of imposing criminal liability on a person, who, at the time which the charge relates, possessed the publication that was not then objectionable - by that, I mean objectionable in law - in respect of which it is no defence to prove that the defendant did not know or have reasonable cause to believe that it was objectionable.” He then advised that this was inconsistent with s26(1) of the Bill of Rights.⁴⁴

This matter was not in the Terms of the Reference of the Coordinated Review and as such was not raised. There needs to be an urgent review on this matter and as the Attorney General at that time predicted Mr Samsudeen and at least four others have been imposed retrospective criminal liability which is inconsistent with the NZ Bill of Rights.

⁴¹ Legislation Advisory Committee Submission on the Films, Videos, and Publications, Classification Bill to the Internal Affairs and Local Government Select Committee, 24 February 1993, 1; s

⁴² New Zealand Law Society, Submission on the Films, Videos, and Publications, Classification Bill to the Internal Affairs and Local Government Select Committee, 24 February 1993, 1; s

⁴³ Department of Justice, Submission on the Films, Videos, and Publications, Classification Bill to the Internal Affairs and Local Government Select Committee, 24 May 1993, 1; s

⁴⁴ <https://ojs.victoria.ac.nz/vuwl/article/view/6106/5464>

1.9 THE WAY AHEAD

The Coordinated Review and the Royal Commission of Inquiry have a number of parallel findings. Given that the Government and all the relevant agencies have accepted the Findings we suggest the following:

1.9.1 Meeting of All Relevant Agencies to Discuss the Specific Lessons Learned from the Review

Coordinated: By the DPMC

Officials from: Ministry of Justice, NZSIS, NZ Police, Corrections, Ethnic Communities, DIA, MSD, Health and Immigration.

Objective: To ensure detailed specifications of all the lessons learned from the Review, both for collective and single-agency follow-up. The time-line for implementation and the resource implications should be discussed.

Consultation: The DPMC should provide a report on the above for follow-up consultation with community stakeholders and their views included in the final report.

Implementation: To be advised by DPMC

(Note: DPMC has already coordinated a meeting with MOJ, NZSIS, NZ Police, Corrections, MOEC, and also included FIANZ and IWCNZ. This was prior to Christmas in 2022 and DPMC has already circulated the Minutes of the meeting.)

1.9.2 Meeting Between FIANZ & NZ Corrections to Mitigate Future Risks

Coordinated: by NZ Corrections

Objective: To discuss issues relating to current prisoners who are considered radicalized and their rehabilitation and reintegration.

Consultation: At the approval and support of the CEO of NZ Corrections, three such meetings have already taken place between NZ Corrections officials and FIANZ and a process is underway to establish a framework system for current and future individual cases. At the same time, a Reference Group (which will also include IWCNZ) is also being finalized. This consultative body shall focus on the strategic direction and systems to mitigate future risks.

Consideration: FIANZ is pleased to report the on-going consultation with Corrections NZ. Of particular note is that there is very senior level involvement of officials from NZ Corrections in the consultation process. This has helped ensuring a pathway which is streamlined, strategic and purpose-specific. At the initiative of Jeremy Lightfoot, Chief Executive of Correction NZ, there is already a system in place to reintegrate cases into the community. FIANZ thanks Corrections NZ for developing such a system, which is a well managed with exemplary best-practices. FIANZ monitors this programme and the success-cases are noteworthy.

1.9.3 Meeting Between FIANZ & NZ Police

Coordinated by: MPES, NZ Police

Objective: To discuss specific issues arising out of the Coordinated Review

Consultation: There is already a longstanding MOU between the NZ Police and FIANZ and issues arising may be discussed as part of the reference group meeting in due course.

Consideration: FIANZ is pleased to report that there is ongoing and extensive consultation with NZ Police and there have been significant engagement on matters ranging for policy and police training to NZ police operations. Of particular import is the close and meaningful consultation on emerging issues impacting on our community.

1.9.4 Meeting Between FIANZ & NZSIS

Coordinated by: NZSIS

Objective: To discuss specific issues arising out the Coordinated Review and clarification thereof.

Consultation: There is already a multichannel and multi-level consultation system in place with NZSIS. What is most newsworthy is the senior level (Director General) undertaking of extensive and in-depth engagement with the community. This has proven to be most effective and has forged a robust system engendering trust and confidence.

1.9.5 Inventory of considerations arising out of the review

FIANZ has identified over 35 issues arising out of the Findings. Some of these are noted below. We believe such an inventory should be developed in consultation with the relevant agencies and community representatives.

AGENCIES (DPMC to Coordinate)	ISSUE	INDICATIVE FOCUS AREAS
Corrections, Police, MOEC, MOH, MBIE MSD OT LGNZ	Consultation of Cases with FIANZ through Phases from initial identification through to reintegration into community	<ul style="list-style-type: none">• Roles and parameters of agency responsibility• Ensuring Confidentiality• Referral Mode to Community Leads

AGENCIES (DPMC to Coordinate)	ISSUE	INDICATIVE FOCUS AREAS
All As Above	Role and Parameters of He Aranga Ake	<ul style="list-style-type: none"> • Community Awareness • Referral Mode • Ensuring Safe pathway • Avoiding Securitisation
Corrections, Police, MSD	Resourcing Coordination at National Level	<ul style="list-style-type: none"> • Trained Coordinators • Systems Development
Police, NZSIS, MSD, OT, MBIE, MOE and MOEC	Pathways to Early Identification	<ul style="list-style-type: none"> • Community Awareness • Community Support Systems
Corrections, Police, MOEC, MOH,	Pathways to Rehabilitation	<ul style="list-style-type: none"> • Spiritual Guidance • Whānau support • Referral to Specialists
Corrections, Police, MOEC, MOH, MSD, MBIE, OT, LGNZ	Pathways to Reintegration	<ul style="list-style-type: none"> • Transition Support Services • On-Going Monitoring Support • Community Guidance
As Above	High Risk Cases	<ul style="list-style-type: none"> • LongTerm Rehabilitation • Stakeholders • Community Awareness
All As Above	Managing Different Demographic Backgrounds	<ul style="list-style-type: none"> • Ethnicity, Gender, Age, Immigration status; Intergenerational status, language, education etc • Community Linkage and Liaisons
DIA, MOJ, Classification Office, NZSIS, Police MOEC	Classification Process	<ul style="list-style-type: none"> • Community Engagement • Expertise Consultation • Developing Community Awareness • FVPCA Review • Language Issues
MOJ, MSD,	Access to Legal Services	<ul style="list-style-type: none"> • Resources and regulations • Developing Trust
NZSIS, Police, GCSB, DIA, MOJ and MOEC	Intelligence Agencies	<ul style="list-style-type: none"> • Developing Trust • Issues of Surveillance of Mosques • Awareness of Rights

AGENCIES (DPMC to Coordinate)	ISSUE	INDICATIVE FOCUS AREAS
All Agencies	Working Group/Watch Group for Crisis Management	<ul style="list-style-type: none"> • Efficacy Monitoring • Risk Mitigation Considerations • Chain of Responsibility
Police, MOE, MOEC	Community Oriented Policing	<ul style="list-style-type: none"> • Training Programme • Community Awareness • Referral Process
Corrections, MSD, MBIE, MOEC	Faith-Based Chaplaincy	<ul style="list-style-type: none"> • Training programme • Recognition and Integrated into System • Resourcing
Police	Police use of Tasers	<ul style="list-style-type: none"> • STG Training • TASER Policy • Tactical Options
Police, NZSIS, DPMC	Responsibility Parameters NZSIS and Police Intelligence	<ul style="list-style-type: none"> • Written Responsibility Parameters • Workframe of Operational Coordination Group • Public Awareness • Role Demarcation

IT SHOULD BE NOTED THAT THE ABOVE WAS COMPILED IN 2022. SINCE THAT TIME MANY OF THE ABOVE CONSIDERATIONS HAVE BEEN DISCUSSED/IMPLEMENTED.

PART 2: FINAL REPORT ON THE TRAGEDY- FIANZ INVESTIGATION

2.1 BASIC FINDINGS

2.1 BASIC FINDINGS

1. The tragedy was avoidable if the concerned agencies followed the successful rehabilitation and reintegration practices of previous virtually identical cases.
2. It is regrettable that the concerned agencies promoted a public and media narrative which used selective information, ignored inconvenient evidence and disregarded vital mental health concerns raised by health professionals.
3. The consequences of extreme long-term incarceration, including a period in solitary (segregation) confinement, for a person with existing mental health issues was not considered in the planning for his post-release.
4. There was no effective community engagement process by the concerned agencies to try and seek a faith-culture appropriate response to the risks posed.
5. The interagency coordination focusing on a trajectory of intensive surveillance without any supportive reintegration programme was inappropriate.
6. There is insufficient public information on what constitute “objectionable material” and the issue of retrospective offence needs a formal review.
7. There is insufficient information on the which agency or agencies are responsible for deradicalisation programme.

2.2 THE OFFICIAL NARRATIVE

In Brief

The following is the narrative that the key agencies (NZ Police, NZSIS and NZ Corrections) agencies provided and which the media have reported.

“Ahamed Aathill Mohamed Samsudeen, a Sri Lankan Muslim came to NZ in 2011 on a student visa and gained asylum in 2013. In 2018 proceedings were underway to revoke his refugee status for providing false information.

From 2015-2016, Samsudeen started accessing ISIS websites and had self-radicalised with a propensity for violence. There were images of him with a gun and he also had large hunting knife. In 2018 he pleaded guilty to using a document for pecuniary gain, distributing restricted material and failing to assist the Police in their search power.

In 2020, the Crown wanted to charge him under the Terrorism Suppression Act but this was not possible under the existing legislation. Samsudeen was a terrorist in the making with regular and illegal access to ISIS material including a manual on how to avoid being detected as a lone-wolf. In 2021, Samsudeen was further convicted on two charges of possession of objectionable material and one of failing to assist the Police.

During his three years in prison, he was very violent and assaulted Corrections staff. He was considered a danger to society and existing legislation was inadequate to deport him. After his release from prison, it was necessary for the Police to ensure he did not further endanger society. The best option was 24-hour surveillance. It was reported that every agency tried their utmost to help him.

On 3 September he was killed at the Countdown supermarket, New Lynn whilst unleashing an ISIS inspired knife attack on innocent shoppers. The Police had no other choice given the extreme violence and danger to others.

This was an act of terrorism and the second such in recent times. The Government was able to pass the Terrorism Suppression Act, soon after this tragedy with the support of the opposition.”

2.3 PARTS OF THE OFFICIAL NARRATIVE - TOWARDS A MORE BALANCED OVERVIEW

Formative Education At Hindu College

Samsudeen was born a Tamil Muslim. His primary school education was at a Christian Methodist school and his formative education was at a very prominent **Hindu secondary school** (Colombo Hindu College)². It was a school anchored in promoting Hindu-Tamil cultural values.

“Fosteringspiritual and personal development of students based on Hindu – Tamil values..” – Official Objective of Hindu College³



His formative period in life was at a Hindu College which explains why Samsudeen always maintained during the court proceedings that he wanted to find out about his own faith. This important background was never presented in Court.

Why this is Important

This important background information, that Samsudeen’s formative education was at a Hindu College, was never revealed during court proceedings. During his court appearances and also interviews with psychologists, he maintained that one of the main purpose of web search was to “find out about Islam”. For a person who had no exposure to any Islamic learning and was taught at a Hindu College, this is not out of the ordinary.

It is also not uncommon for single persons when they are overseas, and away from their family and community safety net, to try to find out about their religious identity. Major studies, including in New Zealand have noted this:

Chai, Krageloh, Shepherd, and Billington (2012) have found that Asian students in New Zealand (irrespective of whether they were domestic or international students) were more likely to use religious coping strategies and used these strategies effectively to improve psychological and social quality of life as compared to European students.

As such his search for religion was not uncommon for overseas students, and this searching took place through the web.

² <https://www.scmp.com/news/asia/australasia/article/3147611/new-zealand-knife-attacker-brainwashed-radical-neighbours>

³ <https://www.hcc.lk/objectives/>

Torture and Kidnapping

At the age of 21, Samsudeen was kidnapped and tortured because of the political views of his father. Samsudeen had torture scars (“scarring to the chest from cigarette burns”) when in Sri Lanka.⁴ Soon after his arrival in NZ he was examined by a NZ Registered psychologist who also noted vivid memories by Samsudeen of torture by physical beating, psychological abuse, and exposure to his father being harmed. He was also shamed with violations of a more sexual nature and being stripped and photographed naked in front of his father.



This is what torture with cigarette burns looks like. This image is not of Samsudeen. Despite the NZ registered medical practitioner who assessed Samsudeen having requested further investigation into the torture, to our knowledge the Police did not follow-up. Why?

Why this is important?

The information on his torture and kidnapping was mentioned by some media, however this was tainted by accusations of him giving some false documents for his asylum application. The two are not related. No official has ever denied that he was tortured and there were cigarette burn marks evident on his body. The examining NZ health professional had urged authorities to follow up with physical examination, but to our knowledge this was never done. This was a major and significant oversight and has a direct bearing on his on-going Post Traumatic Stress Disorder. When a person suffers torture, the trauma is on-going and can also point to his mental state, as noted by his examining psychologists.

⁴ The NZ registered psychologist in the CPAR had recommended “that It is important that a thorough medical investigation of any physical evidence of torture is completed prior to the appeal hearing.” There is no doubt that the autopsy would have noted such scars.



Trauma of Innocent Muslims Killed in a Neighbourhood Mosque

Trauma Event in a Neighbourhood Mosque

Samsudeen was a child when his neighbourhood masjid (Kattankudy Mosque) was attacked by terrorists who killed 141 worshippers (including children).⁵ The killing was on a Friday, and was similar to what happened in Masjid Nur on 15 March. This terror tragedy left a deep traumatic scar on the residents of Kattankudy that lasts to this day.⁶ Even though he was a baby, he grew up with the stories and the vivid details of the gruesome terror rampage where his neighbourhood uncles were slaughtered in the neighbourhood mosque. No family was spared the legacy of the horror, including Samsudeen and his family. The graphic images of the aftermath of the slaughter are still available on the net and is a constant reminder for Tamil Muslims (young and old) of their suffering due to their faith.

Imagine the Trauma of event.

His neighbourhood uncles being massacred whilst praying at the neighbourhood mosque.

DO NOT OPEN : Warning ! Distressing Photos

⁵ <https://www.colombotelegraph.com/index.php/1990-kattankudy-mosque-killings-reliving-bloodshed-trauma-27-years-on/>

⁶ <https://www.colombotelegraph.com/index.php/1990-kattankudy-mosque-killings-reliving-bloodshed-trauma-27-years-on/>



Colombo Telegraph

1990 Kattankudy Mosque Killings: Reliving Bloods...

Visit



This critical information of a background growing up in the shadow of the massacre at his neighbourhood mosque was never revealed by the Police. There is a substantial body of research and meta-studies that indicate longterm and late onset trauma.

This should have been revealed in Court as part of his psychological profile.



A FAMILY'S PLEA FOR EARLY MENTAL HEALTH INTERVENTION WAS IGNORED

SENT TO NZ POLICE IN 2017 BY SAMSUDEEN's FAMILY BUT TOTALLY DISREGARDED (PART OF EMAIL)

Dear sir

This is to add to the statement of Aathill's investigation which took place on the 20th and 21st of May at the Auckland airport office.

After my arrival in Sri Lanka, I have discussed with my siblings regarding the concerns which I was informed by the officers during the session. After various of opinions and views, we have come to a certain perspective in which we believe this might have all began.

Looking back at the dreadful and **painful incidents of Aathill's past life in Sri Lanka** which must have definitely created a big impact on his lifestyle and changes now. He has developed an insecure feeling which has led to his mentally unstableness at the moment. During a phase in his life, he has suffered many traumatic experiences resulting in fear of dark places and loneliness. He might have overcome the fright of the dark nights by spending hours of surfing and losing himself in the social networks and websites, finally ending up himself unknowingly at controversial stuff.

Anybody suffering from a disturbed mindset deserves another chance to remake their future on track with the help good human beings around. Maybe you can consider releasing him soon as possible on a strong conditional bail after sorting out the misconceptions. We recommend that **he could be put under a psychiatric consultation or counseling** to bring better changes in himself.

NZ AGENCIES IGNORES VITAL BACKGROUND INFORMATION

The police were informed in 2017 about Samsudeen disturbed past, yet we have found no evidence of any follow-up on this matter.

Start of Internet Search

Samsudeen in his first five years in NZ , had no visible leaning towards Islam.

His internet searches coincided with major terrorist incidents. These were the trigger events and what is significant to note is that he gathered his information from public news websites – ABC, NBC, AlJazeera and others such sites and NOT from dark web or extremist sites.

When Samsudeen was viewing the news web-sites, they were not 'Objectionable'. They were made 'Restricted R-18' sites almost one year later.

2015

NOVEMBER 13, 2015

FRANCE: Series of attacks in and around Paris, most prominently at the Bataclan theatre, kill 129, injure more than 400, Islamic State of Iraq and the Levant claims responsibility

JANUARY 7, 2015

FRANCE: Attack on *Charlie Hebdo* magazine office kills 12 in Paris; AQAP claims responsibility on 14 January

2016

JUNE 12, 2016

USA: A gunman opens fire on a nightclub in Orlando, killing 49 and wounding 53. The attack is the deadliest in USA since 9/11

MARCH 22, 2016


BELGIUM : Three suicide bombers armed with nailbombs performed coordinated attacks in Brussels. Thirty two people were killed and 340 wounded.

Why this is Important

There are many triggers to trauma . The NZ Department of Internal Affairs (DIA), quality reviewed by Treasury, have cited a major study as part of their rationale for the changes to the Censorship Act . This study notes that every time a terror tragedy happens it creates a 'cycle of distress' for those who had been exposed to previous terror.⁷ Samsudeen grew up in civil-war torn Sri Lanka as well as the massacre of Muslims at his neighbourhood mosque. It is no coincidence that Samsudeen's initial web search on ISIS coincided with major international terror events in 2015 and 2016.

It should also be noted that his searches on the internet were not in the deep or dark web like that of the March 15 terrorist, but publically available web sites and news agencies like Al Jazeera, NBC and others.

⁷ <https://www.treasury.govt.nz/sites/default/files/2020-05/ria-dia-cve-may20.pdf>



Like millions of others he sought news on the events and also the organisation (ISIS) who claimed responsibility.

It was the frequency and the Google search words, which alerted authorities. Data mining is common place overseas by some of the Five Eyes partners.⁸ We understand that the alert on Samsudeen's internet searches came from Five Eyes.

It should also be noted that his searches on the internet at this time were publically available web sites and news items. There was no argument by the Crown prosecution on this fact. Moreover there is no evidence, even after a deep forensic search of his computer, that he had any communication with ISIS or any affiliated organisations.

Moreover there is no evidence, even after a deep forensic search of his computer, that Samsudeen was in contact with ISIS /ISIL or any affiliated organisations.

Much has been made of his on-line presence, yet the following was never revealed by the concerned agencies.

IMPORTANT TO NOTE

VERY LIMITED SOCIAL MEDIA (FACEBOOK):

Samsudeen had only 44 friends on Facebook. 18 of them were his close family and the rest were friends he knew.

None were in NZ.

⁸ <https://www.nytimes.com/2006/02/25/technology/taking-spying-to-higher-level-agencies-look-for-more-ways-to.html>

⁹ <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-020-09663-9>

¹⁰ <https://pubmed.ncbi.nlm.nih.gov/24599261/>

Violently Assaulted in Prison

The narrative provided is that Samsudeen assaulted Corrections staff. This is alleged. His guilt or otherwise was not proven in Court. What the narrative had missed out completely was that Samsudeen was violently assaulted by prisoners and at one time “he lost consciousness” and was taken to the emergency department of Waikato Hospital.

It was in late May 2022, that a senior investigative reporter from Radio New Zealand, that Samsudeen was assaulted twice in prison. He received this information only after a formal OIA to Corrections.



Why This is Important?

This assault on Samsudeen was never revealed and again attests to the one-sided narrative. Such deliberate omissions would have continued without the probing by Radio New Zealand journalist.

Our assessment is that a negative image of Samsudeen was in keeping with the overall thrust of a punitive process rather than rehabilitation.

The authorities conveniently did not mention that Samsudeen was violently assaulted in prison and was taken to Waikato Hospital

Example of Conjecture with No Evidence - Assumptions Paraded as 'facts'.

Much has been made of Samsudeen being arrested at the airport enroute to Syria. The Court document notes that Samsudeen had booked flights for his family members (brother and sister-in-law) to Kuala Lumpur on 19 May 2017. He also booked flights to Kuala Lumpur and onwards to Singapore. A number of crucial information points have been omitted in the official narrative.

Destined for Syria?

The police 'source' disappeared overseas and was not a reliable

- **No Evidence**

The relevant agencies failed to provide any physical or web search evidence that Samsudeen had in fact planned to go to Syria from Singapore. They had full access to his computer which was given voluntarily by his brother who was also travelling to Kuala Lumpur as a transit. The relevant agencies also had access to his deleted files and social media, yet there was not a single thread of evidence of Samsudeen planning or searching on the web for travel methods to Syria. This fact was completely ignored in the official narrative.

- **Vanished Witness?**

It has been mentioned that this intention to travel to Syria was given by a contact of Samsudeen. What they failed to say is that this 'contact' was a person who approached him one day at the local mosque and said he has no place to stay. Samsudeen then felt pity for this person, who was of Syrian origin, and offered to host him at his accommodation. It seems that no one at the masjid had seen this Syrian person before and he only approached Samsudeen. This 'Syrian person' has now vanished and is claimed to be overseas.

- **Travel with Brother**

It was a last minute decision by Samsudeen to travel Singapore via Kuala Lumpur because his brother and sister-in-law had just spent the last 20 days with Samsudeen in Auckland. They had come over to make sure Samsudeen had some family support. Given that they were leaving on 20th May 2017, Samsudeen also wanted to join his brother on the same flight. He intended to spend more time with his brother on the same flight. Since his brother would only be transit in Kuala Lumpur, Samsudeen suggested he could then go to Singapore to meet up with a number of school friends he had who were in Singapore. Moreover, his brother had also suggested that since Sri Lanka get automatic visa on arrival in Singapore, his mother could also come to visit him in Singapore. All this gave Samsudeen considerable happiness and he even shaved for the first time at the suggestion of his brother.

- **Singapore Has Sophisticated Systems to Stop ISIS-Bound Travellers**

The fact is that Singapore has one of the most sophisticated systems to track and stop travellers to Syria . If Samsudeen had planned to go via Singapore he would have seen on the web the following news items.

PUBLISHED 6 MAR 2016, 5:00 AM SGT

THE STRAITS TIMES

How ISIS supporters passing through
Singapore were nabbed

BenarNews

Kuala Lumpur Airport has more flights and cheaper airfares to Turkey and other places which are transit stops to Syria. Why would Samsudeen then risk one of the strictest airports like Singapore Airport which has sophisticated systems to prevent and arrest travellers to Syria? It is simply illogical.

All the narrative about travel to Syria simply lacks credibility.

The worst aspect of this matter is that this trip may well have helped Samsudeen recover from his mental health problems. Instead, the situation became more aggravated by the last minute denial at the airport to be with his family.

Simply put, this episode further traumatised him and was a major cause for his antagonism towards the authorities. Not one piece of evidence was produced in court to substantiate the claim of his intention to travel to Syria.

Longest Remand Period In Recent NZ Penal History

ON REMAND – BEYOND THE NORM

The average time spent in prison by persons awaiting trial or who are unsentenced is 77.2 days. However Samsudeen spent an unusually long time on remand- nearly 4 years in total.

May 2017 to June 2018 : The first time Samsudeen spent some thirteen months or 390 days in prison. This is beyond cruel and immoral punishment, particularly given:

- his officially diagnosed trauma, PTSD and mental illness ,
- the severe assault he suffered in prison for which he had to be taken to hospital
- the charges he faced were distributing restricted material (R18) NOT Objectionable
- the maximum allowable period that would have exceeded any sentence for the charges he faced.
- later during sentencing the Judge categorically stated “there is no evidence of any harm caused” by the material¹⁴

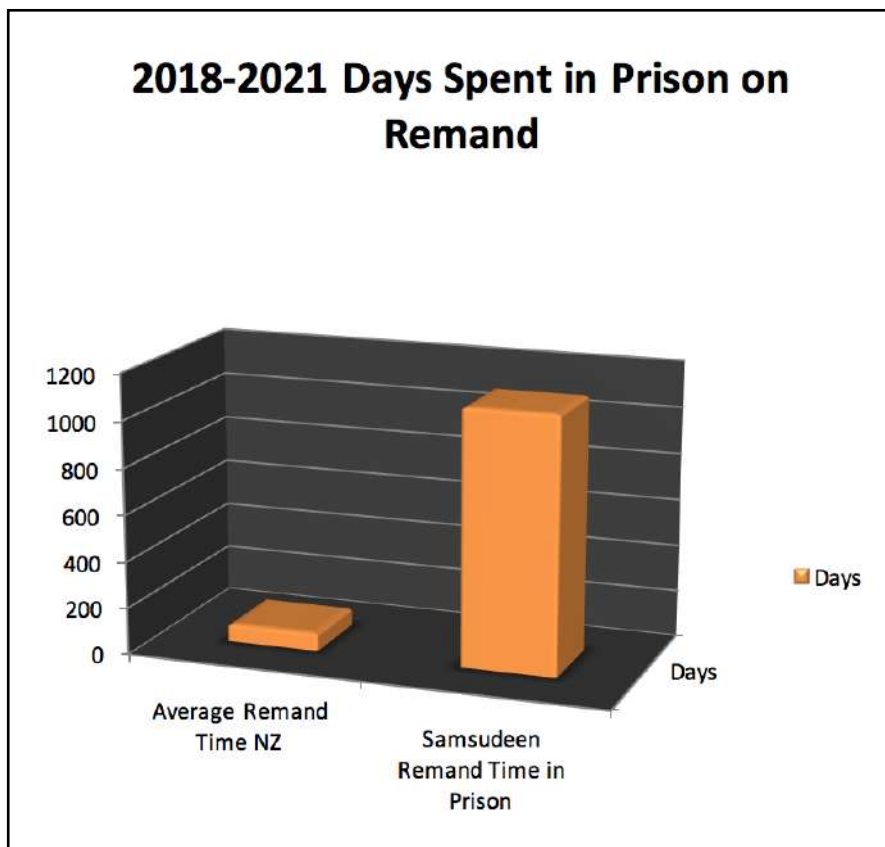
During sentencing the Judge categorically stated “there is no evidence of any harm caused” by the R18 restricted material.



Samsudeen spent almost 4 times the normal time the average person spends in prison under remand.

¹⁴ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

August 2018 to July 2021: The second time he spent nearly three years. In recent times he was only one of two persons who have spent so much time in prison on remand.



Samsudeen spent almost 14 times the normal time the average person spends in prison on Remand.

This even made the national headlines and a major miscarriage of basic human rights.¹⁵

newsroom.

JUSTICE

Three years waiting in prison without being sentenced for a crime

The new justice minister says there is a breakdown in the system, with figures showing some people are still spending years in prison without being sentenced.

¹⁵ <https://www.newsroom.co.nz/three-years-waiting-in-prison>

EFFECT OF SOLITARY CONFINEMENT/SEGREGATION – RESEARCH

The fact of a very long incarceration in prison without being convicted was ignored in the narrative. Samsudeen was a person who had suffered severe torture in the past with burn marks on his body as evidence, had PTSD diagnosed by NZ psychologists, had been assaulted in prison, had no family or community support, was effectively without any mental health support and then was put under solitary confinement/segregation. All this time he was still awaiting trial and was not even convicted. His notoriety was that at that time he had viewed 2 pieces R-18 materials and listened to 2 three minute religious hymns (which were not even in his language) and for this he had effectively spent 4 years in prison. The facts are that the penalties for such are less than the period he spent in maximum security prison, including in solitary confinement/segregation. For the charge of listening to 2 hymns he was placed in the same Prisoner of Extreme Unit (PERU) as the mass killer of 15 March terrorism.

Meta studies of prisoners who were released after period of solitary confinement/segregation have all highlighted the propensity for violence after release. The recidivism rate varies. USA data shows the rate for inmates who were released directly from solitary confinement varies between 61 % to a ‘staggering 92%’.¹ A seminal study by Cornell University noted “being placed in solitary confinement substantially increases the risk of committing more crimes after getting released from prison, and may decrease the probability of employment,”². Whilst the 15 March was sentenced to life in prison, Samsudeen was only on remand and the agencies did not consider the post-prison consequences. This is a major oversight by Corrections NZ for which no explanation has been given as yet.

To be placed next to a mass killer and treated as such in a solitary confinement/segregation unit, it appears that rehabilitation was not a consideration. Corrections NZ prides itself to be research and evidence led and have their own research journal³, yet they did not follow their own research.

¹ <https://www.pbs.org/wgbh/frontline/article/does-solitary-confinement-make-inmates-more-likely-to-reoffend/>

² <https://news.cornell.edu/stories/2020/06/short-stays-solitary-can-increase-recidivism-unemployment>

³ <https://www.corrections.govt.nz/resources/research/journal>

2.4 A COMPARISON OF FACTS: SAMSUDEEN AND MARCH 15 TERRORIST

There have been some who conflate the two tragedies. Based on documented facts, the following is a comparison.

Criteria	Samsudeen	15th March Terrorist
First arrest by Police	May 2017	March 2019 (after the terror attack)
On-Line Presence - Facebook	Yes	Yes
Detected - by 5-Eyes Partners	Yes	Yes i) Harry Barry Tarry (Royal Commission) ¹ ii) IP address 122.61.118.145 (Royal Commission) ²
Follow-up by NZ authorities	Yes	No NZSIS did not follow up (Royal Commission)
Internet search	ISIS (Daesh)	ISIS (Daesh), Right wing Extremist Sites
Training	None	<ul style="list-style-type: none"> • Independent evidence of joining Bruce Rifle Club • Proven evidence of training in both rapid round fire and single shot. • Independent evidence of member of Otago Shooting Sports Rifle and Pistol Club
Evidence of Pre-selection of site of attack	None	Selection at least one year before attack
Evidence of Pre-selection of date of attack	None	Selection at least one year before attack with Friday selected due to large numbers at congressional prayers

¹ <https://christchurchattack.royalcommission.nz/the-report/part-6-what-public-sector-agencies-knew-about-the-terrorist/did-public-sector-agencies-have-information-about-the-barry-harry-tarry-username/>

² <https://christchurchattack.royalcommission.nz/the-report/part-6-what-public-sector-agencies-knew-about-the-terrorist/the-ip-address/>

Preparation	None	One year of planning including - Scoping visit to masjids - Internet search of inside layout of masjid - Usage of drone for aerial oversight - Detailed notes found of planning
Evidence of any 'last-minute' communication with family	Contacted his family that he will ring them back after he returns from shopping.	Contacted his sister to explain what he was about to do
Evidence in accommodation of final day	Everything as per he was going to return back to his room with snacks from supermarket	Had sold all properties and had terminate the lease
Evidence of Manifesto Supporting Extremist Cause	None	Both written manifesto and live video broadcast
Evidence of direct communication with extremists overseas	None	Ample evidence of contact with far right extremists overseas, including sending financial donations to extremist organisations.
Casualties	<ul style="list-style-type: none"> • 6 stabbed • 2 injured 	<ul style="list-style-type: none"> • 51 martyred • 40 bullet wounded
Mental State Issues	<p>"The man who committed Friday's attacks experienced mental illness, and he experienced a lot of trauma"</p> <p>- Mental Health Foundation of NZ²⁶</p>	None
Outcome for Assailant	<ul style="list-style-type: none"> • Fatally shot with knife in possession 	<ul style="list-style-type: none"> • Arrested with guns and IED in possession

TOTALLY DIFFERENT PROFILES BUT ONE KEY ISSUE

NZ Authorities failed to follow-up on 15th March terrorist's on-line presence but did followup on Samsudeen's on-line Facebook comments .

As Royal Commission noted failure to follow up on right wing extremists.

2.5 A COMPARISON OF APPROACHES

TWO IDENTICAL COWARDLY ATTACKS ON INNOCENT SHOPPERS - ONE DEEMED TERRORISM & THE OTHER MENTAL STRESS?

INCIDENT A

Emergency services were called to the Countdown around 2.40pm today after reports several people had been stabbed.



Ambulances and police rushed to the scene of the stabbing

T, who did not want his last name used, said he saw an elderly man lying on the ground with a stab wound to his abdomen. Another victim, a middle-aged woman, was stabbed in the shoulder, he said. "(People were) running out, hysterically, just screaming, yelling, scared," T said. "The police came just before I was going to try and find the fella."

Another witness, was about to park to enter the Countdown when she said police officers ran up to her. "People were panicking, and it was a gridlock trying to get out," she said.

"Police and ambulances (were) everywhere. "I was told by another police officer while I was waiting to be diverted that someone had been stabbed.

"Police cars kept arriving and people were running away trying to get out of the area." I am very thankful I didn't arrive five minutes earlier as I would've been inside.

"It would have been so scary for anyone inside."

<https://www.9news.com.au/world/new-zealand-news-man-shot-dead-by-police-multiple-people-injured-at-west-aucklands-lynnmall/8dd27252-7005-46cc-8f7c-fa7726af5c27>

INCIDENT B

A man went on a stabbing rampage Countdown. In a statement, police said three of the people stabbed in the attack were described as being in a serious but stable condition in hospital..



Emergency services rushed to Countdown after reports of a stabbing.

Earlier, a witness told he heard screams ring out across the aisles while doing her shopping about 2.30pm. Looking up, thinking people were arguing, she saw someone stab a female employee – before she herself locked eyes with a man wielding a knife.

"I just kind of stood there for a second ... you're thinking, is this happening?"

"I thought that I might be next."

Some of the victims were repeatedly stabbed. A man received a knife wound to the neck, his wife was stabbed in the back, and another woman received cuts to her arms and hands. One of the victims had to be revived inside the supermarket.

Emergency services including armed police were scrambled and responded within minutes to the unfolding terror.

<https://www.stuff.co.nz/national/crime/125087918/stabbing-in-dunedin-man-facing-attempted-murder-charges-after-countdown-knife-attack>

PERSPECTIVES : SIMILAR INCIDENTS WITH SIMILAR CASUALTIES HOWEVER ONE

• RESULTED IN ASSAILANT BEING FATALLY SHOT IN THE CHEST AND THE OTHER BEING ARRESTED

2.6 The criminal charges faced by Samsudeen and their outcome

Charge	Outcome	NOTE:	CONCLUSIONS
Possession of Knife	Dismissed	None of the Sentencing Notes of the three Judges mentioned that these charges are related to terrorism or the acts were inspired by ISIS (ISIL).	THERE WAS NO EVIDENCE PRESENTED IN COURT WHICH PROVED THAT SAMSUDEEN WAS INSPIRED BY ISIS OR ISIL VIEWING ISIS/ISIL WEB POST DO NOT AUTOMATICALLY MEAN THE PERSON IS A TERRORIST
Possession of Ninja star	Dismissed		
Distribute R18 material	Pleaded Guilty		
Dishonestly using document	Pleaded Guilty		
Refusing to assist Police (twice)	Pleaded Guilty		
Possession of Knife	Not Guilty	'Inspired' by ISIS was a term used by the NZSIS and the police and not by any Court of law after the attack at New Lynn Mall .	
Possession of objectionable material	Not Guilty		
Possession of 2 Objectionable material (Nasheed- religious Hymns)	Guilty		

We are not sure how the above criminal profile of 4 types of convictions can be deemed to be of a 'person of national security interest' ?

Circumstances Related to Conviction in 2018 : News Media Sources Classified as R18

Background:

- At the time Samsudeen was watching the on-line information they were not 'restricted material'. The classification occurred AFTER his viewing.
- It is also interesting to note that despite the Police insisting the material was 'objectionable', the Censor concluded that the material was not objectionable, but that it should be restricted to persons who have attained the age of 18 years. On 26 June 2018, the Film and Literature Review Board released its decision determining that the material should be classified as "restricted" (R18) rather than "objectionable".
- Shamsudeen did not make the restricted material. It was widely available on-line and he only posted it on his Facebook.
- WHAT WAS SAMSUDEEN VIEWING?
This newsclip is important

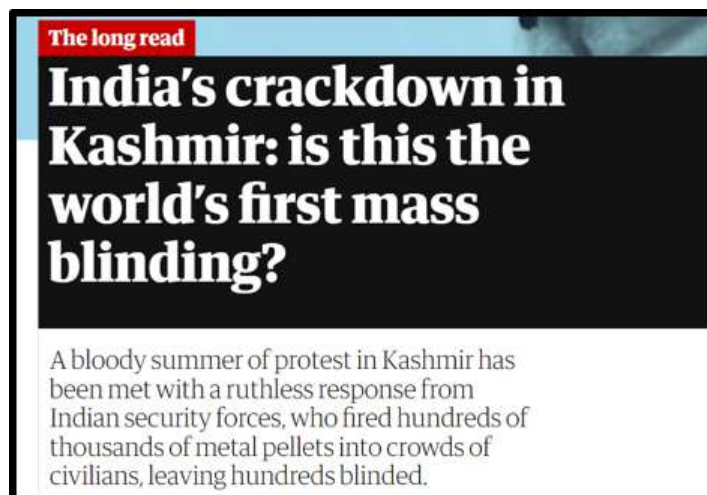
When Samsudeen was viewing the news websites, they were not 'Objectionable'. They were made 'Restricted R-18' sites almost one year later.

Indian forces in Kashmir accused of human rights abuses cover-up

Rights groups say 150 top officers among Indian security forces accused of killings, abductions, torture and sexual violence in disputed region



Samsudeen was viewing a clip based on major news organisations highlighting Indian army “ruthless response” to Kashmir protests . We have researched a number of such news organisations and have highlighted here one by the Guardian (UK). Here is the reference to the Indian army crackdown. <https://www.theguardian.com/world/2016/nov/08/india-crackdown-in-kashmir-is-this-worlds-first-mass-blinding>. Web algorithms will take the viewer to sites which may be considered by the NZ censor as "Restricted". There is no way of knowing this in advance.



Samsudeen was guilty of reposting what was commonly available on mainstream media . The censor classified them R18. They are still available on mainstream media

2.7 THE MOTIVE FOR INTERNET MEDIA SEARCH WAS GENUINE - BACKED UP BY EVIDENCE

Motive

As Judge Fitzgerald noted in his sentencing,

“The purpose of distribution, which in relation to your earlier offending, was a mitigating factor (in that Wylie J considered it plausible that you were trying to draw attention to atrocities against Muslims),”



concerned NZ agencies

- Samsudeen stated that he wanted to set up a media monitoring record for others to see.

He mentioned he was basing it on an overseas site. The site in question is Documenting Oppression Against Muslims (<https://www.facebook.com/doamuslims/>) which has over 200,000 followers.

It is virtually the same as Muslim Council of Britain's media monitoring site. **This latter site was later officially launched in the British Parliament.** This is the site which monitors Islamophobic news . <https://m-cb.org.uk/project/media-monitoring/>.



This year they produced a comprehensive report based on over 48,000 online articles and 5,500 broadcast clips from 2018 to 2020. As such, Samsudeen was castigated by the Police for what an official Muslim organisation website was already doing.

The authorities never revealed that Samsudeen's internet history shows one of his earliest internet search was documenting oppression against Muslims.

The above highlights that the concerned NZ agencies did not do the necessary homework and lacked objectivity.

2.8 OBJECTIONAL MATERIAL DOES NOT EQUATE TO TERRORISM

Background:

On 27 May 2021, the jury found Samsudeen guilty of possession of objectionable material. The concerned NZ agencies had associated him with potential terrorism and all their subsequent modus has been based on this assumption. In this context, it should be noted that in two previous convictions of Muslims (see Case 1 and Case 2 below) who had similar objectionable materials from Islamic State (IS), **the Judge specifically noted that the charges should not be associated with terrorism.**

In similar cases in the past the Judge specifically noted that the charges should not be associated with terrorism

Examples:

Case 1 - Person Convicted of having 67 Objectionable Material but not a terrorist : The presiding judge made a special point that despite the person having admitted to possessing, making and distributing IS material the person was “not facing terrorism charges and the likelihood of him performing a terrorism act had not been considered”.⁶¹ [In comparing this person’s offending to Samsudeen Judge Fitzgerald noted this person had 137 video clips and 62 of them objectionable” and his “offending was much more serious “ than Samsudeen.⁶² Despite this seriousness, as has been noted, the presiding Judge made an emphatic statement that his conviction had nothing to do with terrorism, since he was not charged with terrorism.

Case 2 - Person Convicted of having IS Material but not a terrorist:

The presiding Judge specifically stated before sentencing that the person “had not been charged with terrorism related activity “⁶³ despite having IS propaganda video in his possession.

⁶¹ <https://www.rnz.co.nz/news/national/307117/men-sentenced-for-islamic-state-material>

⁶² <https://www.courtsofnz.govt.nz/assets/R-v-S/20210706-2021-NZHC-1669.pdf>

⁶³ <https://www.rnz.co.nz/news/national/307117/men-sentenced-for-islamic-state-material>

2.9 AGENCIES USE INFORMATION OUT OF CONTEXT

The Crown in their evidence cited that Samsudeen made a number of comments in respect of a news article published on 21 March 2017. His posted comments included :

“Kiwi Terrorist low life scums killed innocent muslims kids and women. ...”

Samsudeen Publication of Nicky Hager’s Book

Samsudeen was reacting to the news article on the publication of Nicky Hager and Jon Stephenson book ‘Hit and Run’ on that date (21 March 2017- see below)⁷² which highlighted that NZ troops in Afghanistan participated in killing innocent Muslim civilians and also injuring others.



⁷² <https://www.rnz.co.nz/news/political/327130/nz-defence-officials-reject-afghan-raid-claims>

SAMSUDEEN'S VIOLENT STATEMENTS - REACTION TO HAGER's BOOK

Judge Venning stated in his Oral Judgement that Mr Samsudeen made a number of comments in respect of a news article published on 21 March 2017. On that date the media was full of reactions to Nicky Hager's book.

One day I will go back to my country and I will find kiwi scums in my country (its very easy to find) and I will show them...what will happen when you mess with Aathil while I'm in their country. If you're tough in your country.. we are tougher in our country scums #payback

I WILL FILL THE ENEMIES WITH STABBING AND CUT OFF THEIR HEADS VIOLENTLY #EverytimeIBlink-MyEye.

SAMSUDEEN'S REACTION TO NICKY HAGER's



Investigative journalism on NZ SAS killing innocent Muslim civilians in Afghanistan .

All these three were Samsudeen's reaction after reading Niky Hager's book "Hit and Run" which stated Kiwi soldiers killed 6 unarmed civilians and wounded 15 others.

This was a very intense reaction but had nothing to do with ISIS or ISIL.

After an inquiry by the NZ government the NZ Defence Force apologised.

Kiwi Terrorist low life scums killed innocent Muslims kids and women

Samsudeen was in good company , since a Government Inquiry later did find innocent Muslim civilians were killed.⁷³ In fact there were prominent peace activists , academics and media who also raised the alarm concerning the Muslim civilian deaths in villages in Afghanistan.⁷⁴



The head of the NZ Defence Force also apologised .⁷⁶



⁷³ <https://www.rnz.co.nz/news/national/422515/call-for-nz-defence-force-to-apologise-to-villages-where-civilians-were-killed>

⁷⁴ <https://www.rnz.co.nz/news/national/422515/call-for-nz-defence-force-to-apologise-to-villages-where-civilians-were-killed>

⁷⁶ <https://www.rnz.co.nz/news/national/422439/operation-burnham-report-nzdf-deeply-sorry-for-misleading-ministers-and-public>

2.10 DECEPTIVE PHOTO IMAGE

To shape public opinion of Muslim terrorism, the following image was shown in the media.



Ahamed Aaithil Mohamed Samsudeen pictured taking aim with a firearm in a photo from one of his social media accounts which was later deleted. Photo / Supplied.

A person with a gun with the headline caption “Auckland mall terrorist attack” is a powerful message. The reality is that the image was from many years ago. Samsudeen used to hike with friends at the Waitakere Ranges and also went camping at Motutapu Island. This would have been from that time. The airgun held by Samsudeen is BAM Model B-30 (a copy of Diana) and does not require firearms license. It fires pellets .

Below are other images of Samsudeen at outdoor weekend activities with friends. Media was manipulated to show the image with the play-gun rather than the team-building retreat or playing soccer on the beach. An example of media manipulation of images and securitisation of a person.







Team Building



Playing Beach Soccer

Comparing Samsudeen's Air Gun with the March 15 Terrorist's Arsenal

	Samsudeen	March 15 Terrorist
Legal Status	No license required under NZ law.	Illegal military-style semi-automatic rifles
Relative size of bullets	Uses small pellets 	Uses military style body piercing bullets 
Armament	Hunting knife 	Just some of the many weapons used by the terrorist 

2.11 LACK OF OBJECTIVE ANALYSIS - TWO EXAMPLES

The agencies did not seem to have objectively analysed the information they collated . Following are two examples Following are two examples. Samsudeen on-line searches included :

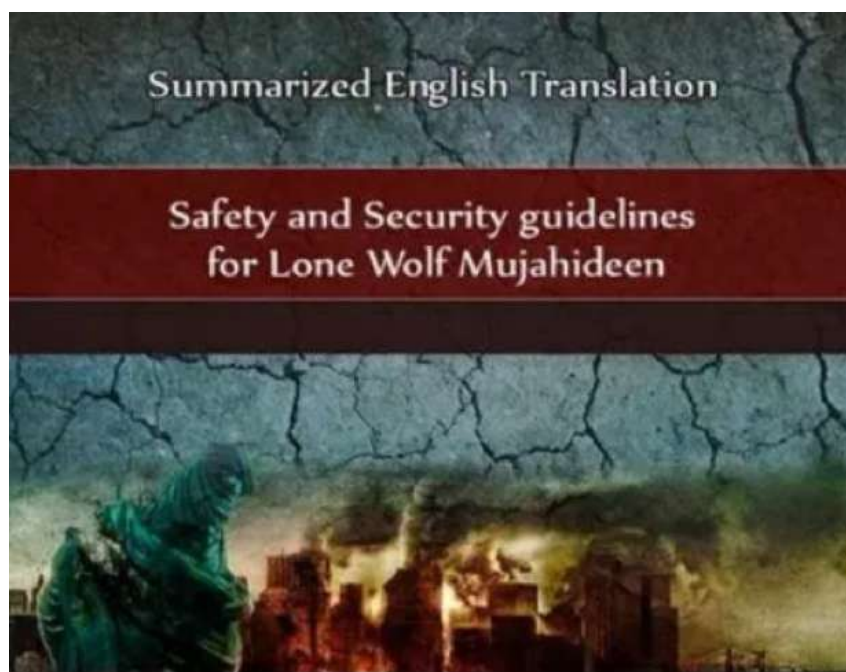
- Safety and security guidelines for lone wolf mujahedeen
- Islamic State Dress – looking at camouflage pants

These are analysed below.

Example 1:

ISIS Booklet : Safety and Security Guidelines for Lone Wolf Mujahideen

It is alleged that Samsudeen searched and included a post on an ISIS manual on “Safety and Security for Lone Wolf Mujahideen”.⁸⁴ This is a 58 page manual in English by ISIS, which is still widely available in the internet. It is so common that there are over 300 known reviews of this booklet by western authorities, including, Institute of Counter



Terrorism , of IDC in Herzliya in Israel : <https://www.ict.org.il/UserFiles/ict-lone-wolf-osint-jihad-wiskind.pdf>.

This Centre which is ranked No. 1 out of 66 universities and colleges in Israel⁸⁵ asks a very pertinent question: Does this type of “ open source jihad actually provide aspiring jihadists with the knowledge and capabilities to carry out viable and damaging terror attacks? The evidence indicates that the answer is : probably not”.⁸⁶

The Journal of Strategic Security, USA in a detailed review considers this a propaganda device for psychological warfare , which is according to the previous Head of France’s of counter terrorism a “ smoke screen”.⁸⁷

⁸⁴ <https://www.courtsofnz.govt.nz/assets/R-v-S/20201112-2020-NZHC-3006.pdf>

⁸⁵ <https://www.marshall.usc.edu/current-students/international-programs/international-exchange-program/outgoing-students/interdisciplinary-center-herzliya>

⁸⁶ <https://www.ict.org.il/UserFiles/ict-lone-wolf-osint-jihad-wiskind.pdf>

⁸⁷ <https://www.jstor.org/stable/pdf/26477719.pdf>

The booklet recommends a list of actions to take, none of which Samsudeen followed, yet the concerned agencies still consider this ‘inspired’ him to action.

Booklet Advise for Lone Wolf on how to avoid detection	Samsudeen Attribute	Did Samsudeen follow ISIS Manual Advice ?
Avoid Religious Clothing	He wore religious clothing	<input checked="" type="checkbox"/> No
Shave your beard	He had a beard all the time (except on 19th May 2017, he shaved once at the request of his brother who was visiting him)	<input checked="" type="checkbox"/> No
Wear a crucifix	He did not have a crucifix	<input checked="" type="checkbox"/> No
Do not keep Islamic booklets	He had many	<input checked="" type="checkbox"/> No
Meet at a nightclub	He never visited any nightclub	<input checked="" type="checkbox"/> No

SIMPLY ILLOGICAL:

The agencies stated that he was inspired by ISIS and this manual was used as evidence. Yet he did not adhere to a single suggestion of the manual.

As such, to assert that he was a lone wolf inspired by ISIS is simply contrary to the evidence. Samsudeen simply did not follow any of the advice. Agencies failed to analyse the information and had the blind view that somehow Samsudeen was inspired by it. It was quite the contrary, he did not follow a single piece of advice contained therein. Moreover, given that this manual has been widely available from the same website since 2016⁸⁸, it indicates that Western intelligence authorities do not consider this to be any serious threat.

⁸⁸ <https://cryptome.org/2016/01/lone-wolf-safe-sec.pdf>

Example 2: Camouflage Pants

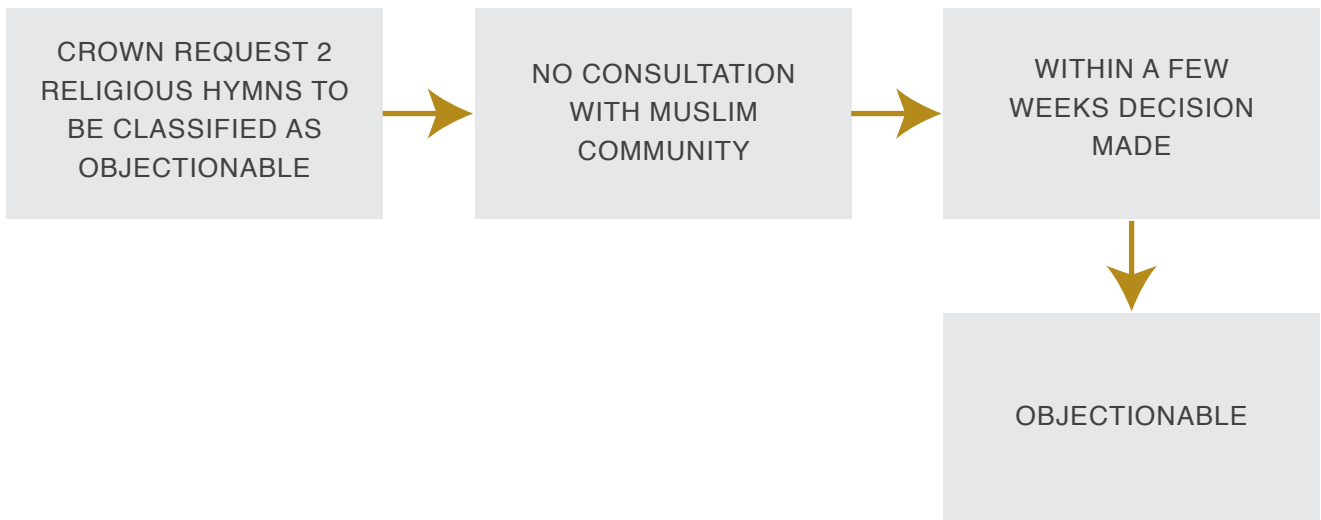
As part of their narrative, the agencies raised concern that he had purchased a pair of camouflage pants similar to that shown below. This is simply absurd and belies the fact that such trousers are openly available for sale in NZ retail stores and are quite popular with young and old alike. We are certain that other Muslim youth may have also bought such apparel from Hallensteins and does that make them potential terrorist?

Owning camouflaged trouser bought from a prominent NZ retail clothing store is considered a possible indication of being a terrorist.



2.13 Different Responses

MUSLIM HYMNS (No consultation)



RIGHT WING EXTREMIST (Taking time to consult)



2.13 MENTAL HEALTH PROFILE - IGNORED BY THE AGENCIES



3.01 Significant and On-Going Mental Illness

Professional Diagnoses by NZ Experts (Registered Health Professionals)

To our knowledge at least 3 NZ-registered health professionals had examined him over a period of time.

- 1- [NZ Registered Psychologist] :
“diagnosed a Major Depression and Post Traumatic Stress Disorder (PTSD)
- 2- [NZ Registered Psychiatrist] :
“He has suffered from symptoms of depression and anxiety related to past trauma. “
- 3- [NZ Registered Health Practitioner] :
“Treatment of anti-depressant medication and referred to a Psychologist”]

Key Descriptors of Samsudeen:

Some of the key descriptors of Samsudeen by the above professionals :

- “Suicidal ideation”
- “Feelings of being abandoned”
- “Withdrawal tendency”
- “Feelings of sadness, self harm and violent thoughts”
- “PTSD”
- “A range of traumatic events”

Trauma Symptom Inventory (TSI)

The following are independently conducted test results:

- The Depression Scale (D) : High Score
- The Intrusive Experiences Scale (IE) : “B” group symptoms associated with DSM=IV diagnosis of PTSD
- The Defensive Avoidance Scale (DA) : “C” group of PTSD symptoms
- The Dissociation Scale (DIS): Has cognitive disengagement
- Anger/Irritability (AI): High Score. Thoughts and feelings “not entirely within his control”
- Impaired Self Reference (ISR): High level reflects exposure to trauma.

Samsudeen suffered from major depression and post traumatic disorder (PTSD) yet this was never taken into account by the Police.

Why this is Important

Despite all the above, the official narrative ignored

Samsudeen’s mental illness. Their narrative emphasises that “ he refused psychological help” when offered by Corrections. We have significant doubts about the veracity of Corrections statement and this is addressed later in this Submission. There is absolutely no reference by Police to his mental illness in their official statements.



Mental Health Descriptors of Samsudeent by NZ Health Professionals

The following are quotes from NZ mental health professionals.

- “Suicidal ideation”
- “ Feelings of being abandoned”
- “ Withdrawal tendency”
- “Feelings of sadness, self harm and violent thoughts”.
- “PTSD”
- “A range of traumatic events”
- Confirmed Trauma Symptom after tests on 6 separate scales
- 4 years in prison, including long-term solitary confinement
- One of longest terms on prison remand in recent penal history
- No whanau support
- Victimised as an ‘asylum seeker’

YET THERE IS NO ACKNOWLEDGEMENT OF MENTAL HEALTH ISSUES BY ANY OF THE AGENCIES

Recommendations and Court Mandates Ignored by the Agencies

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is concerned about the inadequate provision of mental health services to asylum seekers and refugees.

The Royal Australian and New Zealand College of Psychiatrists (RANZCP)



Psychological Assessment Report

Referral to Refugees as Survivors (RAS) would also allow for Mr. Samsudeen to access psychological treatment for his symptoms of depression and post-traumatic stress.

NZ Registered Psychologist

You are to participate in such rehabilitation programme as shall be offered to you by Just Community and as shall be approved by a probation officer.

**Judge Wylie
HIGH COURT OF NEW ZEALAND**

To attend and engage in a rehabilitative assessment, including a psychological assessment, and to attend any subsequent recommended treatment or programme as directed by the Probation Officer or your treatment provider, including your own private treatment provider.

**Judge Fitzgerald
HIGH COURT OF NEW ZEALAND**

“The man who committed Friday’s attacks experienced mental illness, and he experienced a lot of trauma.”

Mental Health Foundation(NZ)



You are to attend a psychological assessment with a departmental psychologist as directed by a probation officer, and complete any treatment and/or counselling as recommended by the assessment to the satisfaction of a probation officer.

**Judge Wylie
HIGH COURT OF NEW ZEALAND**

“ We offered to help rehabilitate and reintegrate, but this was not taken up by Corrections NZ ”

NZ Muslim Association

NONE OF THE ABOVE WERE FOLLOWED UP . ALL THE WARNINGS, ALL THE MEDICAL RECOMMENDATIONS & ALL THE JUDGES’ SENTENCING NOTES WERE DISREGARDED BY THE NZ AGENCIES



THE OFFICIAL NARRATIVE IGNORED INCONVENIENT FACTS.

None of the agencies (NZ Police, NZ Corrections or NZSIS) considered the mental health of Mr Samsudeen. Important and necessary mental health follow-up recommended by the Courts , mental health professionals and the family were ignored.

2.14 FOCUS ON NZ POLICE :

NZ has one of the best professional police forces in the world.

FIANZ has an MOU with the NZ Police and we regard their role with the highest esteem. Every day the NZ Police safeguard the lives and property of our community and unfortunately sometimes even at the cost of their own lives. Each and every police officer and the police administration have earned the highest respect of the community.

CONTEXT (2021) NEW INTELLIGENCE MODEL

Heralding the new National Intelligence Operating Model a year ago, the Police Commissioner, Andrew Coster was full of praise. He had valid justification. He not only acknowledged the new Model's "Commitment to Māori and the Treaty" but also highlighted that the fresh approach aims to "bring humanity to every interaction in the outputs it produces."⁴⁹ His optimism has been well grounded. The new intelligence thrust has been a robust attempt to integrate much of the positive values of NZ Police into an operating model which has taken account of international best practices. Core to the latter have been adapting Goldstein's Problem-Oriented Policing (POP)⁵⁰, Eck and Spelman's SARA model,⁵¹ Ratcliffe's PANDA⁵² and 4i⁵³ models, and modifying the Australian Institute of Criminology's 3i intelligence-led policing⁵⁴ and recasting all the above in an integrated NZ-centric approach.

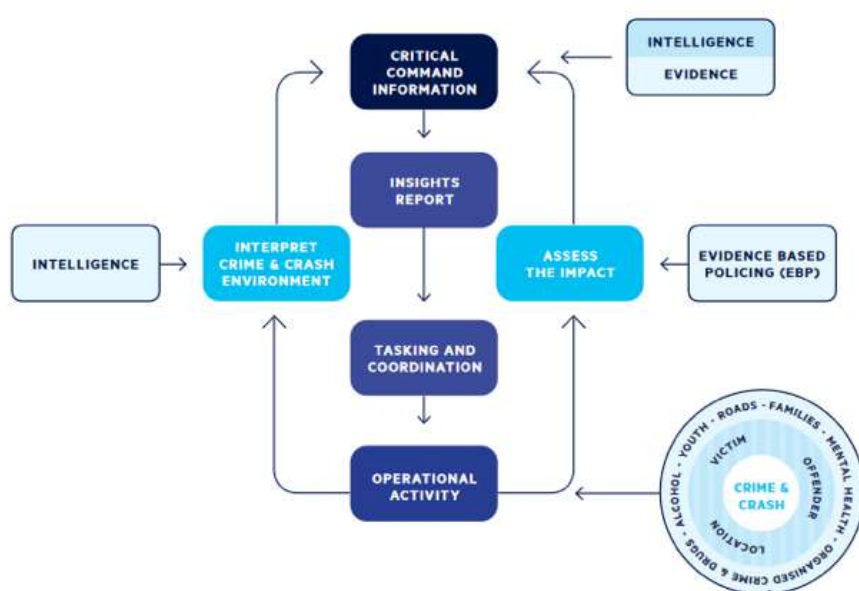
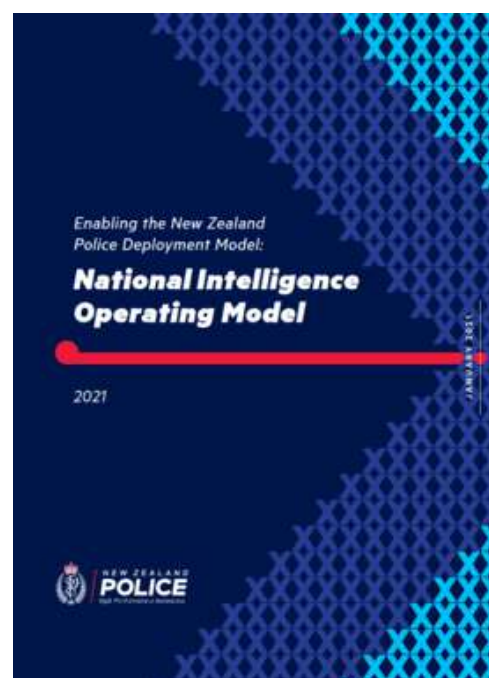


Figure 2: New Zealand Police Deployment Model

This recasted National Operating Model (Fig 1) emphasises the core baseline of "Prevention First",⁵⁵ by "taking every opportunity to prevent harm"⁵⁶. This is a fundamental and praiseworthy approach and a recognition of why four in five respondents (79%) are satisfied or very satisfied with the overall quality of service of the NZ Police.⁵⁷ Moreover, in recent times, the success of this Model may be evidenced by the tackling of organised crime with 35 arrests and \$3.7 million in assets seized.⁵⁸ In another success story, Police seized \$500 million cash and assets from gangs and criminals over a four year period.⁵⁹

⁴⁹ https://www.police.govt.nz/sites/default/files/publications/national_intelligence_operating_model_2021.pdf

⁵⁰ https://popcenter.asu.edu/sites/default/files/library/reading/pdfs/Goldstein_Book-2.pdf

⁵¹ <https://www.evidence-basedpolicing.org/refresher-sara-model-and-problem-oriented-policing/>

⁵² <https://www.reducingcrime.com/chapter-2>

⁵³ https://www.police.govt.nz/sites/default/files/publications/national_intelligence_operating_model_2021.pdf

⁵⁴ <https://www.aic.gov.au/publications/tandi/tandi248>

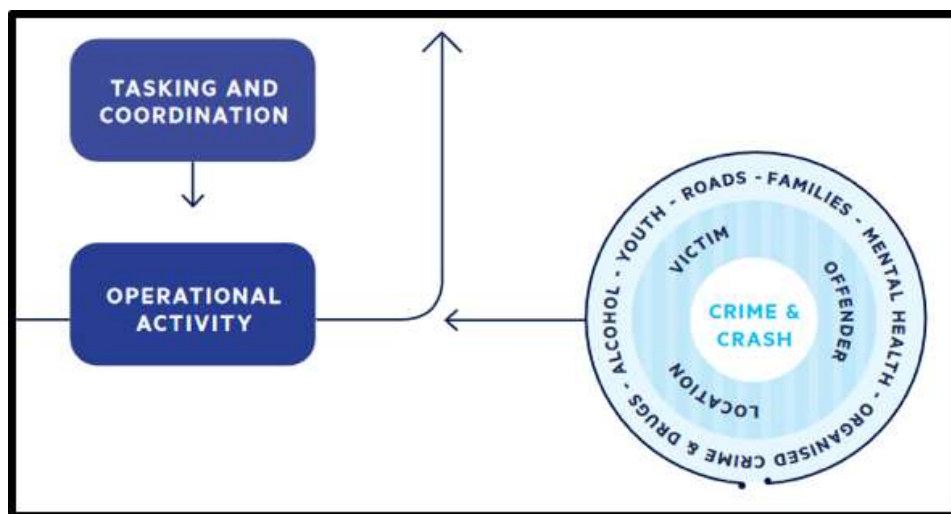
⁵⁵ https://www.police.govt.nz/sites/default/files/publications/national_intelligence_operating_model_2021.pdf

⁵⁶ https://www.police.govt.nz/sites/default/files/publications/national_intelligence_operating_model_2021.pdf

⁵⁷ <https://www.police.govt.nz/sites/default/files/publications/citizen-satisfaction-survey-report-2020.pdf>

⁵⁸ <https://www.police.govt.nz/news/release/new-zealand-police-operations-deal-huge-blow-organised-crime-35-arrests-37-million>

⁵⁹ <https://www.police.govt.nz/news/release/police-seize-500-million-cash-and-assets-gangs-and-criminals>



We have full confidence in this new model and would recommend an overt nexus with Community Oriented Policing



NZ Police Crime & Crash Focus of the Deployment Model. (Fig.2)

Our review covers the period prior to the new Intelligence Model and as such, we are certain that the lessons learned from the past shall be incorporated into the new model.

DIFFERING APPROACHES

The Crown case was that Samsudeen was promoting ISIS and was inspired by them, Yet another person had openly stated he supported ISIS and was going to bring down Western Civilisation, yet this person was not even charged.



EXAMPLE OF DIFFERENT APPROACHES TO PROSECUTION

	Samsudeen	K-W
Origin	Muslim from Sri Lanka	Local Muslim
Facebook Site	ISIS related material	ISIS related material
ISIS Imagery	<p>ISIS Flag as background to a hymn he listed to</p> 	<p>Openly Declares "I support ISIS" on his Facebook with ISIS Flag</p> 
	▼	▼
Prosecution	PROSECUTED	NOT PROSECUTED ³⁶
	▼	▼
Current Status	Killed by Police	Living a quiet life

³⁶ <https://www.stuff.co.nz/national/politics/10690655/Maori-Muslim-backs-Islamic-State>

PRIOR POLICE SUCCESS IN DERADICALISATION

THE OPTIONS AVAILABLE TO NZ POLICE WHEN SAMSUDEEN WAS SUSPECTED OF BEING RADICALISED

	Option A Surveillance	Option B Reintegration
	OPTION A	OPTION B
Persons	Samsudeen Case	Patel, Nawarajan, Christchurch cases
Agencies	NZ Police, Corrections, NZSIS	NZ Police , Corrections
Outcome	Harmful- People injured and perpetrator killed	Safe- No one harmed and perpetrator reintegrated to society
Method	24-hour Surveillance	Counseling by Key Community Mentors and Religious Advisors
NZ Police Oversight	National Intelligence	Maori & Pacific Ethnic Services
Cost	Very high (over \$1.08m) 30 persons over 53 days ?	Very Low (\$10k- 20k maximum)
Net Result	Failure 	Success 

THE DIFFERENCE WAS USING MPES-POLICE

Prior Police success in rehabilitation and reintegration

It is our contention that relevant information was not provided on the Samsudeen case, particularly the prior Police response with respect to similar offenders:

- **Patel Case :** After liaison with MPES (NZ Police) and the Muslim community, the person was successfully reintegrated into the community.
- **Nawarajan Case:** Almost paralleled that of Samsudeen and he too was successfully reintegrated given Police had the foresight to ensure effective community liaison.
- **Christchurch Case:** Here too with effective liaison with the Muslim community the person was successfully rehabilitated.

POLICE RESPONSE TO MENTAL HEALTH ISSUES

There is a disturbing trend of mental health and firearms usage. NZ Police have developed robust operational policies in this respect. We note that from recruit training stage at Police College to specialist units who have expert knowledge, such as the Police Negotiating Team, there is a significant focus on mental health. There is an increasingly worrisome trend of police response to mental health issues. In a major study published in the International Journal of Law and Psychiatry in 2021,³ the following trend was noted between 1995 and 2019, based on investigations carried out by the Independent Police Conduct Authority (IPCA).

- 47 cases involved the use of firearms by NZ police in mental-health related events
- Of the above 19 cases (40.4%) resulted in shootings.
- Of the above 11 cases (57.9%) resulted in fatalities.
- A large number of the above involved firearms or knife.

The NZ Police Co-Response Team initiative which was trialled between 2020 to 2021 was most effective . The evaluation noted amongst other findings :

- Information sharing improved
- Was viewed as culturally safe
- Was considered to decrease the risk of violence.

In all the above context, we find it most interesting that the Police did not take into account the mental health issues of Samsudeen , nor is there any evidence of inter- agency consultation. What is concerning is that the NZ Police were very proficient in responding to mental health issues during this period 2017-2019. A Police report noted in 2017 that every 24 hours the police would respond to 90 call involving mental health crisis of about 274 hours of staff time every day.⁴ The report also indicated that the mental health calls are increasing by about 9% per annum. In such a context, we would have assumed Samsudeen's mental health issue would have been considered in the immediate response preparation and long-term planning. We found no such evidence. The trajectory of incarceration and surveillance was an expensive approach , when alternative approaches in similar circumstances, which were successful in the past were not considered.

³ <https://www.sciencedirect.com/science/article/abs/pii/S0160252720301072?via%3Dihub>

⁴ <https://www.police.govt.nz/news/ten-one-magazine/mental-health-%E2%80%93-driver-de>

TASERS WERE INTRODUCED FOR PRECISELY THESE SITUATIONS

Background:

- The NZ Police (Operations Group and Evaluation Team at Police National Headquarters) conducted an Operational Evaluation of the New Zealand Taser Trial as part of the introduction of tasers.⁷⁷ The Police Report found that Tasers were effective in de-escalating and resolving the majority (86%) of incidents; and the presentation of a Taser alone was sufficient to resolve 71% of incidents without the use of additional tactics.
- One of the main benefits identified by officers is that Taser availability reduced the need to solely rely on firearms, thereby reducing the risk of fatalities. Officers felt that Tasers ‘filled a gap’ between options such as OC spray or batons and firearms. In fact a knife was the most prevalent weapon which the police had to contend with.⁷⁸

Table 5: Number and type of weapons present at incidents (n=104)

Weapon Type	Specific Weapon	Frequency
Cutting/Stabbing (n=73)	Knife	44
	Machete	6
	Axe	5
	Screwdriver	5
	Bottle	2
	File/chisel	2
	Razors/blades	2
	Sword	2
	Handsaw	1
	Scissors	1
	Unknown type	3

ANALYSIS

NZ Police Considers TASER Appropriate Over Gun

The Police Special Group concluded the benefits of Taser as, “Tasers are going to prevent people getting shot by police. That’s the first and obvious one. It’s going to prevent police having to physically deal with people, risking their own safety and that of others.”

Police Front Line Officer Consider TASER Appropriate in Knife Situation

“It reduces the risk of danger to staff, particularly with knife situations, and in South Auckland the culture of knives has really increased.”

⁷⁷ <https://www.police.govt.nz/resources/2008/operational-evaluation-of-nz-taser-trial/operational-evaluation-of-nz-taser-trial-2008.pdf>

⁷⁸ <https://www.police.govt.nz/resources/2008/operational-evaluation-of-nz-taser-trial/operational-evaluation-of-nz-taser-trial-2008.pdf>

SPECIAL TACTICS GROUP (STG) ARE TRAINED IN TASER

The STG, who were responsible for the 24 hour surveillance of Samsudeen were all trained in Taser operations. The training should include:

- use of force – Tactical Options Framework and SOPs
- medical – Taser-specific implications and excited delirium
- technology overview – Electrical and neuro-muscular incapacitation
- safe handling, nomenclature, function and design
- issue, checks, and weapon states – records, carriage, and draw
- deployment – presentation, laser painting, arcing, discharge and drive stun
- post-deployment procedures – restraint, aftercare, medical attention, and post-incident procedures reporting – Tactical Options Report database.

Given their training the issue arises as to why did they use a gun to kill when they could have used a Taser to incapacitate.

Crowded Situation in Supermarket and the Risks of Guns

Given the fluidity of the situation and the crowded space in the supermarket, the question should be asked as to why were guns introduced with the associated risks rather than Taser. The question is even more important, given that the person was on constant surveillance and Police were aware of his regular visits to the supermarket.

Have Our STG Trained in “ Spontaneous Knife Defence “ (SKD)⁷⁹

It is noted by the NZ Police as part of their strategic evaluation of then Best Practice and Training to use in responding to potentially violent situations,⁸⁰ have identified a specific 8 hour programme on “ Spontaneous Knife Defences”. This is considered best advice in the international environment. This is used by Victoria and NSW Police, who have specific training on this. It is important to determine if the STG involved in the Lynn Mall attack, were trained in SKD.

⁷⁹ <https://www.police.govt.nz/sites/default/files/publications/use-of-force.pdf>
⁸⁰ <https://www.police.govt.nz/sites/default/files/publications/use-of-force.pdf>

Operational Safety Principle of Minimum Force⁸¹

Number 8 states, where force cannot be avoided, only the minimum amount reasonably necessary is to be used. NZ Police's own research and experience have validated that Tasers are less severe than guns.

OPERATIONAL SAFETY PRINCIPLES

The following philosophy applies to the planning, implementation and evaluation of police operations;

"The success of an operation will be primarily judged by the extent to which the use of force is avoided or minimised."

To give effect to this philosophy in responding to incidents or planning operations, which may involve a person who is armed or is reasonably suspected to be armed, the following principles are to apply:

1. **SAFETY FIRST**
The safety of police, the public and offenders or suspects is paramount.
2. **RISK ASSESSMENT**
Risk assessment is to be applied to all incidents and operations
3. **TAKE CHARGE**
Effective command and control must be exercised
4. **PLANNED RESPONSE**
Every opportunity should be taken to convert an unplanned response into a planned operation
5. **CORDON AND CONTAINMENT**
Unless it is impractical to do so, a "cordon and containment" approach is to be adopted
6. **AVOID CONFRONTATION**
A violent confrontation is to be avoided
7. **AVOID FORCE**
The use of force is to be avoided
8. **MINIMUM FORCE**
Where force cannot be avoided, only the minimum amount reasonably necessary is to be used
9. **FORCED ENTRY SEARCHES**
Forced entry searches are to be used only as a last resort
10. **RESOURCES**
It is acceptable that the "safety first" principle may require the deployment of more resources, more complex planning and more time to complete.

⁸¹ <https://www.police.govt.nz/sites/default/files/publications/use-of-force-appendices.pdf>

2.15 FOCUS ON THE NZSIS

THE CONTEXT

THEN :

In June 2014, the NZSIS had only 4.5FTE working on terrorism investigations. By 2016 there was an increase in the numbers of the Counter-Terrorism Unit (CTU). However as both the Royal Commission and the NZSIS's own Arotake Review in 2019 noted, the "majority of the investigators had less than one year's experience".^{60.1} The Royal Commission also noted "that recruitment and turnover challenges were continuing to impact on the numbers of collection staff".^{60.2}

"Majority of the investigators had less than one year's experience".

NZSIS

The focus was exclusively on the "presenting threat of Islamist extremist terrorism." "These resources were almost fully engaged in the investigation of New Zealand supporters of Dā'ish seeking to participate in hostilities abroad to mount, or encourage or support terrorist attacks or undertake activities in support of terrorism in New Zealand."^{60.3}

The Royal Commission concluded that there was an inappropriate concentration of resources focused on the threat of Islamist extremism terrorism.

The Royal Commission also noted that in 2018 NZ Muslims had raised concerns about "Islamophobia and discrimination experienced by Muslim individuals and communities."^{60.4}

AND NOW

Our assessment has been that after the Royal Commission Report, there has been significant and positive changes in the communication and culture of the NZSIS.

As such, our findings in this report are based on the historic context and in no way reflect the current NZSIS. This should be taken into account in our assessment of the NZSIS investigation and reporting of the Samsudeen case.

This report is based on the historic context and in no way reflects the current NZSIS.

^{60.1} <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/the-new-zealand-security-intelligence-service/>

^{60.2} <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/the-new-zealand-security-intelligence-service/>

^{60.3} Ibid

^{60.4} <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/assessment-of-the-terrorism-threatscape/>

CONTRADICTION

Two separate Security Intelligence Reports^{60.9} give totally different viewpoints.



4. (S NZEO) s6(a) [REDACTED]
[REDACTED] NZSIS has no intelligence to indicate he is currently planning an ideologically motivated act of violence. NZSIS continues to monitor for any indications he may mobilise towards violence.
5. (S NZEO) This assessment is based on intelligence as at 9 July 2018.

In July 2018 – was not planning violence

In July 2018 - was almost certainly mobilising towards violence

(He was arrested on 9 August, so 'prior to his arrest' would be July)

7. (S) As previously reported Mohamed Samsudeen was almost certainly mobilising towards violence prior to his arrest in 2018.

^{60.9} SIR 10 July 2018 and SIR 5 August 2021

Conclusion Based on Above Evidence

The above contradictory assessment devalue the credibility of Security Intelligence Reports (SIR)

Feedback from NZSIS: In response to the above , NZSIS stated there was “ updated information” between when he was ‘ not planning violence’ in July and when he was arrested on 9 August.

Our response: FIANZ decided to do a ‘deep dive’ on this matter. Form all the available information including the official Security Intelligence Reports . we could not find any evidence in any source that ‘ he was certainly mobilizing towards violence’. None of the following indicate his ‘mobilisation toward violence’

We have been advised that there was 'updated information' between when he was 'not planning violence' in July and when he was arrested on 9 August. From available records based on the NZSIS own official Security Intelligence Reports, there is no evidence he was planning attack:

- i) July - Samsudeen was granted interim suppression of name by the Judge
- ii) July - searched the internet for camouflaged trouser (see page)
- iii) He searched his own name on Google
- iv) He searched for news stories of his offending (what newspaper had to say about his court case)
- v) " ISIS allegiance" - Which is open information still available on the net and has sources from many media
- vi) Samsudeen bought a knife to replace one police had confiscated. Police charged him and the jury found him 'not guilty' of possession.

INCONSISTENT & INCOMPLETE INFORMATION

INCONSISTENT

Two separate Security Intelligence Reports^{60.10} give different information. One of the SIR states he was going to Syria via Singapore and the other states he was going via Malaysia. Which is correct?

Samsudeen was traveling to Syria via Singapore (In June 2017)

assesses it is highly likely Mohamed Samsudeen intended to on-travel from Singapore to Syria

Samsudeen was travelling to Syria via Malaysia (in July 2018). Absolutely no mention of Singapore in this SIR.

NZSIS assessed Mohamed Samsudeen intended to travel to Syria, via Malaysia, to engage in militant jihad alongside the Islamic State of Iraq and the Levant

Such inconsistency indicates 'fitting the facts' to support a narrative, rather than a consistent baseline of factual information.

INCOMPLETE

None of the SIR mentioned that Samsudeen had:

- i) Booked the flights at the same time as his brother, sister-in-law and their child. They were all travelling together
- ii) His brother and his wife and their child had come to NZ to be with Samsudeen and were returning home.

This was a family trip, with even the seats booked to provide seating next to each other. It is totally illogical that Samsudeen would put at risk his brother / sister in law/ their child, by travelling to Syria on the same flight with them. He could have easily traveled a few days later by himself and avoid his family being implicated.

NZSIS have stated that the redactions may have led to the confusion. In other words, NZSIS has confidential information which they can not share. For us this is insufficient explanation in that there is a difference between confidentiality and inconsistency.

Inconsistency in Security Information

Review(SIR) raises issues of confusion and credibility. Inconsistency in Security Information Review(SIR) raises issues of confusion and credibility.

THE SYRIAN SPECULATION

DEMISE OF ISIS IN SYRIA IN 2017-18

NZSIS claims that Samsudeen was travelling to Syria in May 2017. It is quite obvious that the experts at NZSIS were not aware of the reality of the period.

- ISIS was in full retreat in Syria from 2017 and the scope of jihadi joining had all but completely evaporated by 2017-2018.
- The facts are :
 - According to the Pentagon, the ISIS Caliphate had ended by 2017^{60.11}
 - 97% of ISIS-held territory in Iraq and Syria had been lost by end of 2017 (US Pentagon) ^{60.12}
 - Raqqa in Syria, the capital of ISIS had been fallen and was in ruins^{60.13}
 - ISIS Foreign fighters were leaving Syria for North Africa (especially Libya)



CONFUSION

NZSIS, by claiming Samsudeen was on his way to Syria in 2017, completely forget to analyse the reality—ISIS in Syria was almost non-existent.

There was no ISIS of substance in Syria for Samsudeen to go to. NZSIS 'experts' had committed themselves to a false narrative and were blind to the factual realities.

- Samsudeen was adept in on-line information searches for current news on the Islamic State. It is simply absurd to claim that he was going to ISIS in Syria, when he knew very well ISIS was in full retreat.

NZSIS RESPONSE

The NZSIS maintains that their assessments on Samsudeen's desire to travel to Syria were intelligence-based and balanced with the evident challenges he would face getting there. We do not accept this.

It is quite interesting to note that NZSIS maintains it was intelligence based and not evidence-based. In other words it was their assessment rather than any direct or indirect evidence. We find it very concerning that NZSIS makes assertions, which are not backed by evidence in court. Making accusations or assertions should have some minimum evidential basis. In this case there was none.

60.11 <https://www.nbcnews.com/storyline/isis-terror/isis-will-remain-threat-2018-experts-warn-n828146>
60.12 <https://www.nbcnews.com/storyline/isis-terror/isis-will-remain-threat-2018-experts-warn-n828146>
60.13 <https://time.com/raqqa-ruins-isis-retreat/>

The NZSIS claim that Samsudeen was on enroute to Syria, was speculative with not a single shred of evidence presented to substantiate the claim.

The fact is that the 'flatmate' who claimed Samsudeen was wanting to go to Syria was not even in NZ to be cross examined as a witness. There was no other evidence other than this witnesses 'statement'. There was no evidence presented of the results of the forensic search of Samsudeen's digital history (phone/laptop). Nor was there evidence of his definitive planning to go to Syria. Most foreign fighters prior to going to ISIL in Syria or Iraq establish communication with some type of ISIL entity. No evidence of this was found.

Turkey has been the main entry point for foreign fighters trying to join ISIS. Samsudeen had a Sri Lankan passport and would have needed a visa to enter Turkey. Samsudeen had no such visa. The inexperience of the NZSIS investigation experts is palpable.



The experts noted that "his Sri Lankan passport provides very little ability to travel to countries which provide access to Syria without obtaining a visa prior to approval." Yet they simply ignored their own assessment and stated in the same Intelligence Report (19 May 2017) that there was "difficulty of reaching ISIL-held territory" and instead it was stated that Samsudeen believed "he is obligated to make an attempt". In other words, the NZSIS knew he could not go. The facts are that no airline would take any passenger without a valid visa to a destination country. Moreover, Turkey has a requirement that for e-visa status, the passenger must also travel on a Turkish airline further limiting his scope to travel.



2. s6 [REDACTED] On 19 May 2017, the individual was interdicted at Auckland International Airport as he attempted to depart New Zealand. It is assessed that he was attempting to travel to Syria or Iraq, via Turkey, for the purposes of militant jihad.

SIMPLY ABSURD
NZSIS experts "assessed" he was attempting to go to Syria via Turkey, knowing very well that he could not go there with his Sri Lankan passport without a visa. Instead the NZSIS assessment was based on a guess of what it was Samsudeen "believed". This is guess-work intelligence and not evidence based assessment and investigation.



TRAVEL TO SYRIA – AVAILABLE FACTS

The Syrian destination accusation was a fiction concocted by the NZSIS & NZ Police to fit a profile. The Syrian trip was an essential part of the framing of Samsudeen as a terrorist.

SAMSUDEEN TRAVEL THE EVIDENCE (FACTS)

- i) Was to Singapore
- ii) Via Kuala Lumpur, so he could share the same flight as his brother/sister –in-law
- iii) Was missing his family, with the possibility of his mother coming to Singapore as visa on arrival was available
- iv) Last minute decision on the day prior to travel
- v) Had booked a return flight (6 June)
- vi) No booking or even google search of flights/travel from Singapore to Syria
- vii) Travel to Syria via Turkey would not have been possible due to the visa prerequisites.

THE SAMOA TRIAL RUN?



THREAT ASSESSMENT

(b)(1)

Issued: 19 May 2017

In November 2016, the Sol travelled to Samoa in what NZSIS and CTAG assessed to be a trial run to identify whether New Zealand authorities would attempt to deny or disrupt his travel. NZSIS and CTAG assess the Sol's

The following issues arise out of this assessment by the NZSIS

- i) Given that by Nov 2016, Samsudeen was considered by the NZSIS as a person of interest with violent extremist ideology, why is it that neither the NZSIS nor the Police, inform their counterparts in Samoa of his impending arrival? The authorities there simply did not know.
- ii) Given that he knew very well that for travel to Turkey he needed visa and this was almost impossible to obtain, what possible rationale is there for a 'trial run' to Samoa? This has no logical reasoning.
- iii) What is logical however, is that Samsudeen took a very cheap 4-day holiday package which was being offered at the time.

SIMPLY ABSURD !

Who on earth would believe that a person intending to go to Syria would do a 'trial run' by flying to Samoa.

Yet that is the claim made by our the SIS 'experts'.

(PS. Even if this is true, why didn't they alert the Samoan authorities as they are required to do ?)

The explanation may be that the NZSIS has been using terrorism indicators from the USA, which highlight that terrorists often do 'trial run'. In this case NZSIS was trying to 'fit' Samsudeen into the indicator model, even though it is totally incongruous.

We have since been advised that the NZSIS did tell the Samoan authorities, but after 3 September 2021, some five years after Samsudeen went to Samoa for a holiday. It was advised that his travel to Samoa was not deemed to pose any threat to Samoa. We find this plausible explanation, since in fact Samsudeen was not a threat to anyone at that time in 2016.

It begs the question what person would travel in 2016 to a holiday destination in the Pacific, in preparation for travel to Syria some two years later. It defies any logic.

NZSIS INDICATORS



Security Intelligence Report | SIR

Report Date: 30 July 2021

Report No: DMS6-15-1176

10. (S) Mohamed Samsudeen continues to display concerning indicators of violent extremist ideology. s6(a)

In the 19 May 2017 SIR, the NZSIS had outlined the key indicators for “conducting an act of violence”.

NZSIS would expect to see further indicators suggesting Mohamed Samsudeen is mobilising toward conducting an act of violence in New Zealand, which could include:

- a) Acquiring capability (for example, weapons);
- b) Seeking religious guidance or justification for an attack;
- c) Identifying and/or conducting reconnaissance on specific targets;
- d) Increased operational or communications security measures;
- e) Preparing statements regarding any intentions to conduct an act of security concern; and,
- f) Behaviours indicating he is settling his affairs.








Samsudeen DID NOT meet NZSIS’s own indicators of preparation for terrorism

Comparison of the Indicators







PREPARATION INDICATORS	SAMSUDEEN	MARCH 15 TERRORIST
Acquiring capability (for example, weapons)	1 hunting knife ✓	<ul style="list-style-type: none"> • 1 knife ✓ • 10 semi-automatic assault guns and rifles • 4 petrol bombs • Over 8,000 rounds of bullets
Seeking religious guidance or justification for an attack	<ul style="list-style-type: none"> • No religious guidance ✓ • Response to Hager's book 'Hit& Run' on the SAS in Afghanistan 	<ul style="list-style-type: none"> • Manifesto ✓ • You Tube posts ✓ • Support for Martin Sellnar • On-line discussions with The Lads Society
Identifying and or conducting reconnaissance on specific targets	None observed ✗	<ul style="list-style-type: none"> • Reconnaissance by drone ✓ • Visit to Christchurch • Facebook images of mosque
Increased operational or communication security measures	None noted ✗	<ul style="list-style-type: none"> • Ensured avoidance from all agencies ✓ • Maintain a low profile • Delete emails • Secure On-line communications through deep & dark web (8 Chan)
Preparing statements regarding any intentions to conduct an act of security concern	None specific ✗	<ul style="list-style-type: none"> • Posted on Facebook ✓ • Manifesto
Behaviours indicating he is settling his affairs	None noted ✗	<ul style="list-style-type: none"> • Gradually selling all his possessions ✓ • Ending accommodation rental agreement • Contacting his sister towards the end

Behaviour Preceding Targeted Violence

A major study by the Swedish Defence Research Agency identified the following list of warning behaviours:²⁸

Warning Behaviour	Samsudeen	15 March Terrorist
1. Pathway warning behaviour - research, planning, preparation or implementation of an attack.	No 	Yes 
2. Fixation warning behaviour - behaviour that indicates an increasingly pathological preoccupation with a person or a cause,	No 	Yes 
3. Identification warning behaviour - behaviour indicating strong identification with previous attackers, close association with weapons or other military paraphernalia, identification of oneself as an agent to advance a particular cause.	No (Adiadi) 	Yes 
4. Novel aggression warning behaviour - violent behaviour unrelated to the eventual targeted violence, showing the capacity of violence.	No 	Yes 
5. Energy burst warning behaviour - an increase, usually in the days or weeks before an attack, of the frequency or variety of activities related to the target.	No 	Yes 

²⁸ https://www.foi.se/download/18.7fd35d7f166c56ebe0bffa/1542623724738/Countering-lone-actor_FOI-S--5372--SE.pdf

6. Leakage warning behaviour - communication of intent to a third party.	No 	Yes 
7. Last resort warning behaviour - an expression of increasing desperation or distress, with the conclusion that there is no alternative action other than violence.	Yes  (Samsudeen was aware he was under surveillance)	Yes 
8. Directly communicated threat warning behaviour.	No 	Yes 

MATTER OF ALGORITHMS

ALGORITHMS DETERMINE SEARCH RESULTS

Logically when one opens an internet site for the first time, one is not aware beforehand of the content of the site. Moreover no evidence has been given of how much time Samsudeen spent on the sites. What is most important in this context is that Samsudeen's Google search path and his Youtube searches would have been determined by pre-set algorithms. Samsudeen may not have deliberately entered some of the sites. Recent and emerging research has highlighted that algorithms may be a significant determinant in search results.¹⁷ Radicalisation happens due to the focus of the algorithms which direct the digital consumer.



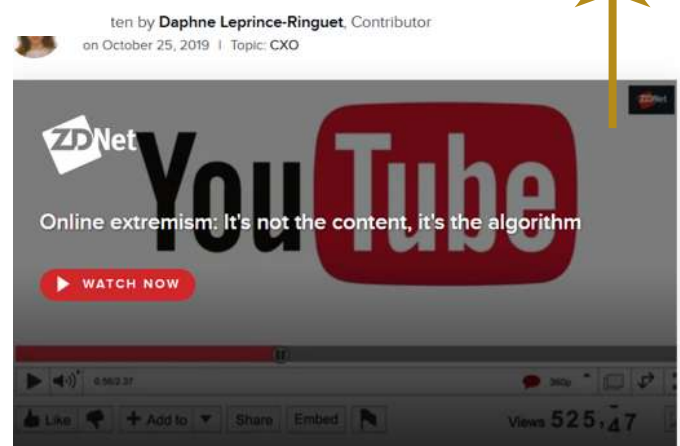
Research has proven that search results are determined by Algorithms.

Islamic sites are predetermined by Google and You Tube towards radical and extremism.



Search engines' role in radicalisation must be challenged, finds study

Nearly 500,000 online searches a month return Islamist material, says report that advocates multilateral approach to removing extremist sites



¹⁷ <https://theconversation.com/youtubes-algorithms-might-radicalise-people-but-the-real-problem-is-weve-no-idea-how-they-work-129955>

Peer-reviewed empirical research by experts, published in the Journal of Internet Regulation have concluded that “algorithms may promote extremist content at the expense of more moderate voices”.¹⁸ Another major study by the Centre on Religion and Geopolitics has found that in 2016 there were more than 484,000 Google keyword searches a month from around the world and the return results were dominated by Islamist extremist material due to the algorithms of the search engines.¹⁹ **The study found that the algorithms directed 44% of the searches to explicitly violent sites.**²⁰ In this context, during the Court proceedings Shamsudeen stated that he did not intend to go into some of these sites which had violent images. However, the Judge stated, “I do not accept that you might have simply stumbled across these and other ISIS related materials in your research of Islam or the historic Islamic State”.²¹ Research by experts have concluded that digital consumers are directed by algorithms to these sites and as such Shamsudeen may well have been correct. The Judge was never provided any of the conclusive research concerning algorithms.

Major studies have concluded that search engines draw people to extremist jihadi material on the web.

The fact is that **Google was aware of such algorithm-directed search results and had in place in 2016 a pilot programme to redirect extremist searches on their web site to anti-radicalisation websites.** Google was aware of ‘extremist’ web-posting and did not have any caveats or warnings to inform digital consumers like Samsudeen who were entering the sites. Such warnings are now part of the web entry protocol when entering pornographic sites (age limitation). No such warnings or preclusion have been made for extremist sites. Hence Samsudeen may well have been directed to the nasheed which was found to be objectionable by the Censor.

¹⁸ <https://policyreview.info/articles/analysis/recommender-systems-and-amplification-extremist-content>

¹⁹ <https://www.theguardian.com/technology/2016/jul/28/search-engines-role-in-radicalisation-must-be-challenged-finds-study>

²⁰ <https://www.theguardian.com/technology/2016/jul/28/search-engines-role-in-radicalisation-must-be-challenged-finds-study>

²¹ <https://www.courtsofnz.govt.nz/assets/R-v-S/20210706-2021-NZHC-1669.pdf>

The NZ intelligence community (NZSIS & Police Intelligence), were aware of such algorithm redirections but never considered Samsudeen a vulnerable victim of such algorithm diversion. . As the Royal Commission noted:

In 2016, a New Zealand Police intelligence report, New Zealand's Islamist Extremist Landscape, stated that more New Zealanders are vulnerable to extremist messaging due to the pervasive nature of Dā'ish's propaganda, which had proven more effective at attracting disaffected young males than other extremist groups. (Royal Commission)²²

It is our assessment that the intelligence community were in a mode to make any person who visited any of the extremist sites a 'person of interest'. Hence the Police took great pride to boast that they "arrested 17 persons on national security interest for variety of offences and issued 40-50 warnings for extremism-related objectionable material"²³ but neglected to say how many were actually prosecuted and the outcome of the cases.

Samsudeen, like any other ordinary digital consumer did not have the sophisticated means to distinguish sites considered illegal. There are no warnings prior to entering these sites. In other words, despite the Police and NZSIS being aware of the extremist sites, there was no public education or any warnings in any media of the dangers posed by such sites. In such a context, Samsudeen and others like him were not even aware of the dangers of the websites.

Police have warnings regarding child pornography and child exploitation, but none for radical extremist sites. Yet both such sites (child exploitation and extremists) are considered 'objectionable'.

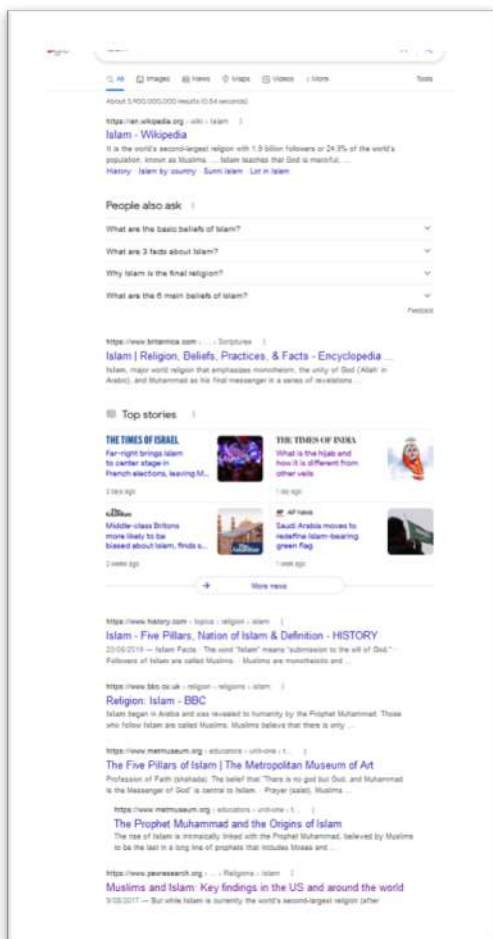
²² <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

²³ <https://christchurchattack.royalcommission.nz/the-report/part-8-assessing-the-counter-terrorism-effort/evaluation-of-the-counter-terrorism-effort/>

EXPERIMENT : SEARCH 'ISLAM' – THE 7th RANK ITEM LEADS TO ISIS

If one types in 'Islam' in Google search it is almost inevitable that there is information on ISIS. In 2015/2016, with the rapid rise of ISIS, the search engine would give a high rating to information on ISIS given its newsworthy nature at the time.

Our search on Islam in Jan 2022, revealed that Pew Research in the USA was the seventh ranking information. Pew Research in its opening paragraph refers to ISIS. As such, even if one is not interested in ISIS, algorithms take searches on Islam to Islamic State or ISIS or ISIL.



<https://www.pewresearch.org> > ... > Religions > Islam
Muslims and Islam: Key findings in the US and around the world
3/08/2017 — But while Islam is currently the world's second-largest religion (after Christianity), it is the fastest-growing major religion.



Muslims are the fastest-growing religious group in the world. The growth and regional migration of Muslims, combined with the ongoing impact of the Islamic State (also known as ISIS or ISIL) and other extremist groups that commit acts of violence in the name of

From typing 'Islam' in Google search, the 7th ranked information was by Pew Research and they referred to ISIS or ISIL in the first 2 lines of their introduction to Islam and Muslims.

COMPARISON OF APPROACHES TO RADICALISATION

NZ APPROACH: NZSIS	USA APPROACH: FBI
Samsudeen “became of security interest” because “he was posting extreme Islamist material on social media” and this “indicates he is supportive of terrorist attacks and extremist violence.” ^{60.14}	“The mere advocacy of political or social positions, political activism, use of strong rhetoric, or generalized philosophic embrace of violent tactics may not constitute extremism.” ^{60.15}
↓	↓
If you post extremist material online you are deemed to be a potential violent extremist	If you post or support violent tactics this does not mean you are potentially a violent extremist
The NZ intelligence community has a very simplistic and linear approach to what constitutes violent extremism.	Whilst countries with more experience and exposure to terrorism have a much more sophisticated approach with a higher threshold.

Be Aware of Over-Simplification

It is true that the Internet plays an important role in the radicalisation process of violent extremists. It also acts as a place where individuals find their ideas supported and echoed by other like-minded individuals.

Our evidence however does not necessarily support the common suggestion that the Internet accelerates radicalisation. Equally, while self-radicalisation might be possible through the medium of the Internet, physical contact plays a significant role.

Our study shows that while the Internet facilitates the radicalisation of individuals, it is only one part of the whole process. It is therefore indispensable to focus on the potential interplay between the off- and online world. The role of the Internet must always be placed within the broader context of the individual's personal history and social relationships and can't be singled out as the only source of radicalisation.

<https://www.rand.org/pubs/commentary/2014/03/the-internets-role-in-radicalisation.html>

^{60.14} CTAG Threat Assessment – 19 May 2017
^{60.15} https://www.dni.gov/files/NCTC/documents/news_documents/Mobilization_Indicators_Booklet_2021.pdf

Radicalisation Process Is Complex

International research has highlighted that the process of radicalisation is complex, contextually varied and outcome variable. It is not the simple linear approach that the NZSIS seems to follow. The baseline study by Rand Corporation, a premier international organisation for high level peer-reviewed research,²⁴ has identified 5 major themes from a meta study on on-line radicalization.

This study dispels many myths about On-Line Radicalisation, myths which the NZSIS still continue to adhere to based on the evidence of the Security Intelligence Reports on Sam-sudeen .

Research-Led Determination of On-Line Radicalisation

1) The internet creates more opportunities to become radicalised ✓

Firstly, our research supports the suggestion that the internet may enhance opportunities to become radicalised, as a result of being available to many people, and enabling connection with like-minded individuals from across the world 24/7. For all 15 individuals that were searched, the internet had been a key source of information, communication and of propaganda for their extremist beliefs.


2) The internet acts as an 'echo chamber' ✓

Secondly, our research supports the suggestion that the internet may act as an 'echo chamber' for extremist beliefs; in other words, the internet may provide a greater opportunity than offline interactions to confirm existing beliefs.

3) The internet accelerates the process of radicalisation ✗

This evidence does not necessarily support the suggestion that the internet accelerates radicalisation. Instead, the internet appears to facilitate this process, which, in turn, may or may not accelerate it.

²⁴ <https://www.rand.org/about/vision.html>



The above research is also supported by many others in the UK, USA, Canada, Australia and Singapore. For instance, a panel of international experts at a major symposium on on-line radicalisation at the S. Rajaratnam School of International Studies and National Security Coordination Secretariat have noted,

“ A major lacuna in online extremism research was the overemphasis on extremist activities and threats online, with little research on an individual’s interaction with extremist ideas – both online and offline – as well as how such interactions contributed to the radicalization process. Given the complexity of online extremism, a multidisciplinary examination that takes into account the dynamics and interconnections between the online and offline realms was, therefore, necessary.”²⁵

After reviewing all the information on Samsudeen, it is problematic to fit him in the model of on-line radicalisation as a terrorist.

For instance, there does not appear to be any evidence of him linking or communicating with known terrorist organisations abroad, or sharing views with similar minded persons either on-line or off-line. All the evidence presented at Court (<https://www.courtsofnz.govt.nz/assets/cases/2021/R-v-S-summary.pdf>) do not support on-line radicalisation towards terrorism .

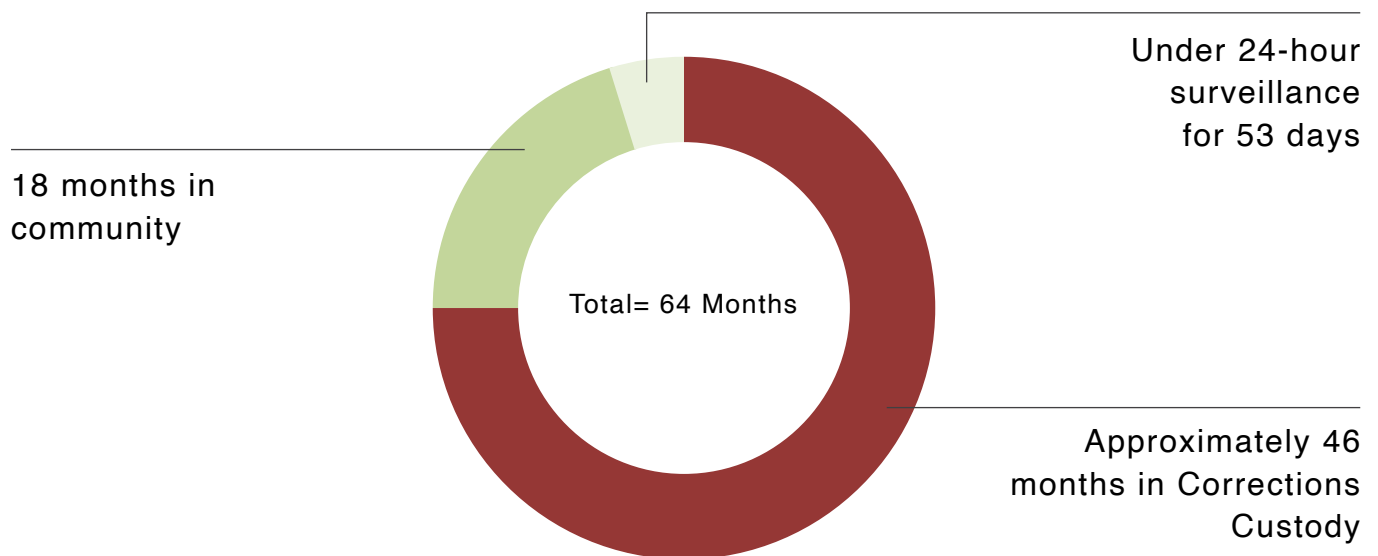
A greater focus has to be given to other considerations, including his mental health and the Police and Corrections treating (and labeling) him as a terrorist.

²⁵ https://www.rsis.edu.sg/wp-content/uploads/2016/04/RSIS_RADReport-Digitalproof.pdf

2.16 FOCUS ON CORRECTIONS NZ

PERIOD IN CORRECTIONS CUSTODY

There was total of approximately 64 months from the time of the initial warning by Police to Samsudeen in April 2016 to the time when he was killed in early September 2021. Of this period approximately 46 months was spent in the custody of Corrections, and only 18 months in the community at large – the last two months of which (53 days) was spent under 24-hour surveillance.



FROM APRIL 2016, APPROXIMATELY 76% OF SAMSUDEEN'S LIFE BEFORE HIS DEATH WAS SPENT IN A CELL SIMILAR TO THIS - WITHOUT CONVICTION.

HE WAS A REMAND PRISONER BUT HAD BEEN SUBJECT TO SOLITARY CONFINEMENT SUCH AS THAT OF THE CONVICTED TERRORIST OF THE 15 MARCH MASSACRE

CUSTODIAL PERSPECTIVES

	SAMSUDEEN	CORRECTIONS	Other Notes
On Remand – nearly 4 years in total	“Crown has wasted years of his life.” ⁹³	“He was a very, very difficult person to manage, and was increasingly openly hostile and abusive toward probation staff.”	The Justice Minister at that time (Andrew Little) said there is a breakdown in the system. ⁹⁴ “It means that we probably are remanding in custody more than necessary.” – Andrew Little ⁹⁵
Approach to incarceration	“I thank God, there have been prophets, other prophets who have been to prison.” ⁹⁶	When we identify that someone has potentially violent extremist views, we assess their level of risk and develop an individualised plan focused on disengaging them from the potential use of violence. ⁹⁷	“Samsudeen had been held in custody far longer than any prison sentence for the charges he faced.” ⁹⁸
Threats	“It is just like a test.. you guys put me in prison cause I’m a Muslim and you don’t like my religion, that makes you an enemy. Allah says you will be punished” ⁹⁹	“extreme risk that his violent extremist ideology presented”. ¹⁰⁰ “Yelled at prison guards that he was being detained for terrorism and that he would remember them and hunt them down” ¹⁰¹	

⁹³ <https://www.nzherald.co.nz/nz/auckland-mall-terrorist-attack-lone-wolf-isis-supporter-identified-as-sri-lankan-refugee-ahamed-aathil-mohamed-samsudeen-prime-minister-jacinda-ardern-responds/ZKP4IST56NJWH3SPNM5GNF7X14/>

⁹⁴ <https://www.newsroom.co.nz/three-years-waiting-in-prison>

⁹⁵ <https://www.newsroom.co.nz/three-years-waiting-in-prison>

⁹⁶ <https://www.nzherald.co.nz/nz/auckland-mall-terrorist-attack-lone-wolf-isis-supporter-identified-as-sri-lankan-refugee-ahamed-aathil-mohamed-samsudeen-prime-minister-jacinda-ardern-responds/ZKP4IST56NJWH3SPNM5GNF7X14/>

⁹⁷ https://www.corrections.govt.nz/news/2021/corrections_statement_regarding_the_management_of_terror_attack_offender

⁹⁸ <https://www.rnz.co.nz/news/national/450840/lynnmall-attacker-spent-years-under-watchful-eyes>

⁹⁹ <https://www.nzherald.co.nz/nz/auckland-mall-terrorist-attack-lone-wolf-isis-supporter-identified-as-sri-lankan-refugee-ahamed-aathil-mohamed-samsudeen-prime-minister-jacinda-ardern-responds/ZKP4IST56NJWH3SPNM5GNF7X14/>

¹⁰⁰ https://www.corrections.govt.nz/news/2021/corrections_statement_regarding_the_management_of_terror_attack_offender

¹⁰¹ <https://www.rnz.co.nz/news/new-lynn-terror-attack/451141/lynnmall-terrorist-told-prison-guards-he-would-hunt-them-down-documents-reveal>

A Serious Matter of Integrity

We have noted that Corrections stated “He (Samsudeen) met with the Imam twice, however he didn’t engage in a meaningful way.”¹⁰²

Yet, when we contacted Imam Shakir he stated “The statement by Corrections is false. I met with him twice and on both occasions he did not want me to leave. The meeting in December 2020 was for about 1 hour or so and the meeting in April for a bit shorter. In the last session Samsudeen raised the issue of infrequency of visits, indicating he wanted more such meetings.”¹⁰³

Analysis

We are not sure on what basis Corrections said that Samsudeen “didn’t engage in a meaningful way.” We are not sure what metrics were used to determine “meaningful”. At issue is also what competence or training does the said Corrections official have on religio-understanding to determine what is meaningful for Muslims.

It is our contention that Corrections made a statement without substantive evidence and had tried to ensure that the narrative of ‘uncooperative Samsudeen’ is maintained even if the veracity of the statement may be circumspect. This needs urgent clarification since, from a Muslim perspective, the Imam considered the engagement to be both meaningful and beneficial. If Corrections were in error then serious ramifications may need to follow.

This raises a serious issue around the credibility of Corrections in this matter and requires an explanation.

The integrity of Corrections may be questioned when statements are made about Samsudeen’s meeting with the Imam which directly contradict what the Imam said. This raises serious issue of credibility of Corrections.

¹⁰² https://www.corrections.govt.nz/news/2021/corrections_statement_regarding_the_management_of_terror_attack_offender

¹⁰³ Phone Interview with Imam Shaikh Muhammed Shaakir on 27 February 2022

Evidence of Expertise?

It was claimed by Corrections that Samsudeen presented “ violent extremist ideology”

“Prior to the offender's release from prison we worked closely with Police and partner agencies to carry out extensive planning to keep the community, and our staff, safe from the extreme risk that his violent extremist ideology presented.”¹⁰⁵

Analysis

Samsudeen was never convicted of terrorism. In this context, it is important for Corrections to clarify what these ‘ideologies’ were as presented. We need facts rather than suppositions. Is it the role of Corrections to judge the ideologies of a remand prisoner? We need to know what expertise Corrections has with respect to assessing “extremist ideologies”. Was this “extremist” ideology discussed by the CVE forum?

In our briefing session with NZ Corrections, they provided considerable information and mentioned the violence of Samsudeen when he was in prison. We clarified that this was alleged, since the court case did not proceed given his death. We also related that from Corrections NZ's own data there were some 219 reported incidents of violence that year in PERU units.

Claims made of Samsudeen’s violent extremist ideology presented whilst in prison. With no access to internet, no possibility of messages on Facebook and no contact with the outside world, how did Samsudeen ‘ present violent extreme ideology’.

¹⁰⁵ https://www.corrections.govt.nz/news/2021/corrections_statement_regarding_the_management_of_terror_attack_offender

YET MORE CONTRADICTION

Whom to believe	
Corrections	NZ Police
During the offender's seven weeks in the community after being released from prison, there continued to be extensive and ongoing thorough multi-disciplinary and multi-agency involvement in his monitoring and oversight	There was 53 days of surveillance by up to 30 officers including Special Tactical Group
<p>We are uncertain if 'surveillance' by Police can be equated to "multi-disciplinary and multi-agency oversight"?</p> <p>We are also uncertain if 'surveillance' by Police can be equated to "monitoring and oversight".</p> <p>This is a serious contradiction which we would look to Corrections to explain with supporting evidence.</p>	

We have been subsequently advised, and we have no doubt about this, that Samsudeen would have been offered help with rehabilitation. What is interesting to note in this context is the conclusive research of high rate of recidivism after release from solitary confinement/segregation. This should have been a consideration in the planning post-prison.



CORRECTIONS IGNORE COURT SENTENCE NOTES

Corrections disregarded the High Court's Sentencing Notes to offer rehabilitation programme by Just Community. This is a serious matter of not following the direction of the High Court.

"You are to participate in such rehabilitation programme as shall be offered to you by Just Community and as shall be approved by a probation officer."

Judge Wylie, 19 September 2018 ,
High Court

Just Community is a well-known organisation which provides support services. Samsudeen was in Corrections custody at this time. We have contacted Just Community and they have confirmed that their services was not requested.

A court directive on rehabilitation was not followed up by Corrections NZ.

REHABILITATION PROGRAMME IN PRISON & RE-INTEGRATION INTO COMMUNITY

We note that Corrections use a “Six Pillar Model of Reintegration” and according to the Ministry of Justice (2016) these six pillars identify areas of intervention that are acknowledged to facilitate successful reintegration and lower the risk of re-offending¹¹⁷. Our review of the Samsudeen case has noted the following:

Service	Evidence
1) Accommodation	Yes 
2) Oranga/Wellbeing	No evidence 
3) Family, Whānau, Community support	No evidence 
4) Education & Training	No evidence 
5) Employment	No evidence 
6) Skills for life	No evidence 

¹¹⁶ https://www.corrections.govt.nz/resources/research/journal/volume_7_issue_1_july_2019/new_zealands_six_pillar_model_of_reintegration_and_international_reintegrative_models_a_review_of_the_literature

MISSED OPPORTUNITIES

An explanation is needed as to why Corrections avoided the offer of assistance from the largest Muslim organisation in NZ who had not only previous experience in such matters but also the capacity to offer structured reintegration, in favour of “accommodation only” support from a relatively very small mosque. The timeline of this offer is well documented:

19 October 2020 : Letter from Corrections “ ...discuss an individual in custody who is need of some assistance.”

23 November 2020: Letter from NZMA “We are happy to support Corrections in supporting with the rehabilitation process“

23 November 2020 : Letter from Corrections “We are keen to work closely with you ... and will be in touch to organise the next steps”

23 November, 2020 : Letter from Corrections “ ...to come on-site for an initial meeting “ [Meet with Samsudeen]

23 November, 2020: Letter from NZMA Suggesting Imam to visit:
[NZMA Imam visited Samsudeen]

Complete silence for 6 months and just before Samsudeen’s court appearance, a letter from Corrections

13 May 2021 : From Corrections “ It is a shame he was not willing to engage with religious and cultural support as we had hoped. At this stage we are not sure on his intent to engage with the Muslim Community”.

There are 3 intersecting issues which require clarification:

a) We do not believe that Samsudeen was not willing to engage with the Muslim Community. What evidence can Corrections provide in this respect? We have a Muslim lawyer and an Imam who have said that Samsudeen was willing to engage.

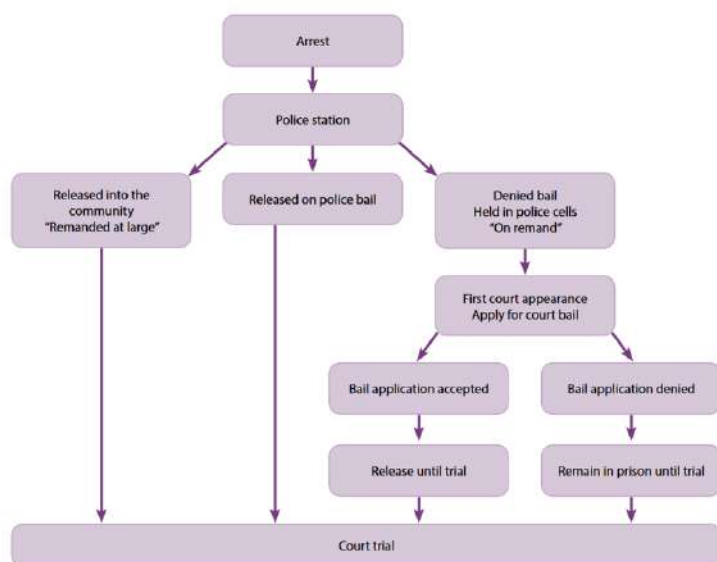
b) Why did Corrections not contact NZMA earlier than one week before the Court hearing? Why did Corrections not contact the Imam and explain this situation?

c) Even if we assume Corrections is correct, then why did Samsudeen agree to go to Masjid Bilal. Is it because that was the only mosque which was given to Samsudeen as an option?

Corrections ignored the offer by NZMA who had proven experience in reintegration. Corrections claimed , without any supporting evidence, that Samsudeen did not want any help from the Muslim community. Yet this is completely false, given Samsudeen went and stayed at Masjid E Bilal soon after. Corrections have provided no evidence that

WHY WAS HE MOVED TO MAXIMUM SECURITY AND UNIT 10 (PERU)

The following is the flow chart which explains the process from arrest to court trial.¹¹⁷ Currently almost 40% of prisoners in NZ jails are on remand in NZ and the numbers are increasing.¹¹⁸



Corrections Regulations state Sentenced prisoners should be separate from Remand prisoners : WHY WAS THIS NOT FOLLOWED?

As a remand prisoner it is our contention that Samsudeen should never have been sent to Unit 10 which has been reserved for Persons of Extreme Risk.

Corrections state that “ People on remand are kept separate from sentenced prisoners, in units or wings ONLY for remand prisoners”¹¹⁹. We understand this was not followed in the case of Samsudeen. He was in the same Unit as the March 15 terrorist who was a convicted terrorist and mass murderer.

It is important to note the difference here:

	Samsudeen	March 15 Terrorist
Conviction status	Not convicted yet	Convicted (Plead Guilty)
Dates	From 1 July 2020	26 March 2020
Designation	Remand prisoner	Terrorist
Key Comment by prisoner	“ frustrated with guards, he was abusive to guards” ¹²⁰	“inhumane and degrading treatment he experienced while awaiting his trial” ¹²¹
Charges	Two charges of possession (listening) to religious hymns. Failing to assist police.	Murder of 51 people and attempted murder of 40 persons and a terrorism charge.

¹¹⁷ <https://www.courtsofnz.govt.nz/assets/R-v-S/20210706-2021-NZHC-1669.pdf>

¹¹⁸ <https://communitylaw.org.nz/wp-content/uploads/2020/09/Lag-Law-text-2021-1.pdf>

¹¹⁹ https://www.corrections.govt.nz/working_with_offenders/courts_and_pre-sentencing/remand

¹²⁰ Quote from Interview with Imam

¹²¹ <https://www.rnz.co.nz/news/national/455189/christchurch-mosque-terrorist-claims-he-pleaded-guilty-because-of-inhumane-treatment-in-prison>

Two explanations have been given by Corrections as to why he was sent to “ Prisoners of Extreme Risk Unit” (PERU) . He was initially at a general prison in Mt Eden Correctional facility and was shifted in June 2020. The two reasons given were:

Explanation 1: “He argued with staff about which yard he was going to and his behaviour escalated,” Leota (National Commissioner) said. “He was directed to return to his cell and he struck two officers.” She said he later assaulted another staff member.¹²² [There were two yards, one with sun and the other without sun. Samsudeen wanted to be in the one with sun. He hails from Sri Lanka a tropical sunny place.

Explanation 2: Leota said , Corrections had “ identified Samsudeen as having potentially violent extremist views”.¹²³

Analysis

The rationale by Corrections on both cases are irrational . There were 534 assaults on prison staff in the financial year to January 2021. It is simply illogical to state that he was sent to PERU only because of his alleged assault . (Please note he was awaiting trial and had pleaded not guilty). Why did Corrections send Samsudeen to PERU and not the other 533 prisoners who assaulted staff ?

BEING SENT TO SOLI-
TARY CONFINEMENT
UNIT FOR 1 YEAR FOR
SEEKING A YARD WITH
SUN AND BEING ALLEG-
EDLY VIOLENT WHEN
REFUSED IS SIMPLY
ABSURD AND EXTREME
POUNISHMENT

The second explanation also is irrational, in that Samsudeen had not been convicted of having any extremist views and Corrections unethically judged him to be an extremist. This racism and Islamophobic . There needs to be a full explanation given on what evidence was he considered a person with extremist views. Examine the following facts: The Judge when sentencing him on his previous charges of objectionable material stated :

- “ You were assessed ... with a low-risk of harm”¹²⁴ (Judge Wylie, 19 Sept 2018)
- “ There is no evidence of any harm caused (by the offending)” (Judge Wylie, 19 Sept 2018)

Please note that in 2020 when he was transferred to PERU, Samsudeen had never been convicted of any violence.

¹²² <https://apnews.com/article/new-zealand-immigration-auckland-islamic-state-group-0c4a1e0c54978af94ddc029c4aece7e8>
¹²³ identified Samsudeen as having potentially violent extremist views
¹²⁴ <https://www.courtsofnz.govt.nz/assets/R-v-S/20180919-2018-NZHC-2465.pdf>

Issues Related to Remand in Paremoremo Prison

SOLITARY CONFINEMENT / SEGREGATION: We have been advised during our meeting with Corrections that Samsudeen was incarcerated in UNIT 10 of Paremoremo Prison.

Unit 10 is known as Te Aranga Hou and is a Maximum Security Assessment Unit with Capacity of 30 prisoners. To our knowledge Samsudeen was in this Unit for between 3-6 months or longer. The Ombudsman carried out an unannounced inspection of Paremoremo Prison. The Ombudsman's report stated there were large number of prisoners in Unit 10 who were there for three months and longer :

"I consider such long stays inappropriate. They also contravene Rule 43 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the 'Nelson Mandela Rules'), which prohibits the use of prolonged solitary confinement, which is defined as periods in excess of 15 consecutive days." ¹²⁵

The Ombudsman also noted that nearly 70% of all incidents (violence) occurred in Units 10-14.

IN OUR VIEW
CORRECTIONS NZ
CONTRAVENTED THE UN
TREATMENT OF
PRISONERS (NELSON
MANDELA RULES) BY
FORCING SAMSUDEEN
TO SPEND ALMOST 1
YEAR IN SOLITARY
CONFINEMENT ?
THIS NEEDS
INVESTIGATION

More than 15 consecutive days in solitary
confinement contravenes the UN Minimum
Rules for the Treatment of Prisoners –
"Nelson Mandela Rules" - NZ Ombudsman

Only contact with the outside world was 5
minutes per week by phone.– This is
contrary to Mandela Rule 58.

Number of incidents per Unit

Unit	Number of incidents	Number of incidents as a percentage
Unit 1	29	6.87%
Unit 2	17	4.03%
Unit 3	10	2.37%
Unit 4	26	6.16%
Unit 5	3	0.71%
Unit 6	5	1.18%
Unit 8	5	1.18%
Unit 10	77	18.2%
Unit 11	95	22.51%
Unit 12	47	11.14%
Unit 13	74	17.54%
Other locations	34	8.06%
Total	422	100%

Unit 10 prisoners are mostly kept in solitary confinement with one prisoner in the Ombudsman survey stating “I’m stuck in my cell 23 hours – that’s a lot of hours... perhaps if you gave us something to do people won’t harass you”. They had a minimum entitlement of 5 minutes telephone per week. The Ombudsman stated , “Such practices limited prisoners’ right to maintain meaningful contact with the outside world and are contrary to Rule 58 of The Mandela Rules.”.

PRIMARY HEALTHCARE

Samsudeen experienced primary health care with Correction staff listening to all his conversations with the doctor. Where is the privacy ?

A report by the NZ Ombudsman on Unit 10 noted:

Corrections staff listening to doctor -patient conversation is reprehensible.

It makes a mockery of 'confidential and safe ' primary healthcare.

“My Inspectors observed that custodial staff often remained with the patient for their examination.¹²⁶ Custodial staff were in line of sight and often within hearing distance of the patient. In some cases, custodial staff were either seated or standing directly next to the patient. In one case, custodial staff were in full view of an intramuscular injection into a patient’s buttocks. My Inspectors also saw patients in Unit 10 remaining in handcuffs during their consultation.”

... the full confidentiality of medical examinations is required under the Nelson Mandela Rules.¹²⁷ I consider that the extent of custodial staff presence during consultations was disproportionate and compromised the confidentiality of examinations.

¹²⁶ The number of custodial staff present during consultations varied depending on the security classification of the patient.

¹²⁷ Rule 31 provides that: “The physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.”

Mental Health

In Unit 10 , prisoners were handcuffed to the table when having consultations with mental health counsellors. The Ombudsman noted the following

Why would any one subject themselves to mental health counselling whilst being handcuffed to the table?

This practice needs to be investigated and may explain why prisoners avoid such offers of psychological support.

“ They (mental health providers) also raised concerns with Inspectors about the impact of the custodial environment on prisoners’ mental health. For example, handcuffing of mental health patients during consultations, which were conducted in non-contact rooms, was identified as a concern. Inspectors also found MedTech records detailing professional concerns about restrictive practices.”

Prisoners in Unit 10 were handcuffed to table when discussing with mental health counselors This concern was raised by the Ombudsman.





SAMSUDEEN CONFINEMENT IN UNIT 10?

The Ombudsman said that

Remand accused prisoners are generally required to be separated from remand convicted and sentenced prisoners. This separation is mandated in Corrections Regulations (Regulation 186), and is also a requirement under Rule 11 of the Nelson Mandela Rules. This is a protective measure to ensure that those who have not been found guilty of an offence are protected from those who have. Remand prisoners are not formally classified, and by default are managed as high security prisoners, which limits opportunities to participate in activities.

We have subsequently been advised that Samsudeen was kept separate. This is a moot point since everyone in solitary confinement/segregation is kept separate.



CRUEL PUNISHMENT IN UNIT 10 OBSERVED BY OMBUDSMAN

Although footage showed that the prisoner immediately obeyed the order, he was nonetheless pepper sprayed whilst on his knees, with his hands fully visible behind his back.

I do not consider this a legitimate or necessary use of force and as such view **it as a breach amounting to cruel treatment under Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Convention against Torture')**.

Furthermore, the incident report (as well as a prisoner misconduct report) did not reflect what my Inspectors saw in the footage they reviewed. Staff had failed to accurately report the incident at the time of inspection, and the incident had not been reviewed by management, meaning that the incident could not be addressed in a timely manner.

Conclusion:

A detailed review of Samsudeen's time in Unit 10 should be conducted, including all video recordings including of officers who had contact with him.

A COMPARISON OF REHABILITATION & REINTEGRATION APPROACHES - OUTCOMES

	Case Study 1	Case Study 2	Case Study 3
Age	26	29	Teenage
Evidence of radicalisation – Prosecution / Conviction	Making Objectionable Publications, distribution and one charge of possession of objectionable material – total of 62 Objectionable files	Distributing Restricted Material - 2 materials Possession of 2 Objectionable Material	On-Line radicalisation – planned to ram a car into a group of people
Detected prior to causing harm	Yes	Yes	Yes
Suffering Mental Trauma	No	Suffering PTSD – Medical Professional	Suffering PTSD – Medical Professional
Blaming wider Society	Yes	Yes	Yes
In Court	Pleaded Guilty	Pleaded Guilty	Pleaded Guilty
Potential for future violence	Yes (Pre-sentence Report)	Yes (according to Police)	Yes (Pre-sentence Report)
Prison	Yes - three years 9 months. Some time in Solitary Confinement	Yes (no rehabilitation and no socialisation programmes) in Unit 10, under solitary confinement conditions	No (Noted that prison would mean limited access to the rehabilitation and socialising programmes he needed.)
Supervision Sentence		Post- prison : Conditions included staying at a “ west Auckland mosque, not to be violent, not to have devices capable of accessing the internet, a culturally appropriate probation officer to monitor.	Released to community , under intensive supervision , under GPS monitoring and living in supervised accommodation. Live at a particular address and be monitored by the judge with regular reports

Additional Notes	Intensive rehabilitation in Muslim Community – large Organisation with support services and religious advisors. Support from MPES	Left to stay in a separate accommodation adjacent to the mosque prayer area. The person who agreed to this was from a relatively small, rented mosque without a known rehabilitation infrastructure. We understand his profession was that of a radio journalist (to be confirmed) No evidence of any structured rehabilitation programme implemented. Subjected to 24-hour secret surveillance by authorities.	Under the supervision of an appropriately experienced person from the Muslim community
Status	Now lives a normal and peaceful life	Killed by Police	Now lives a normal and peaceful life

PRIME MINISTER MISINFORMED

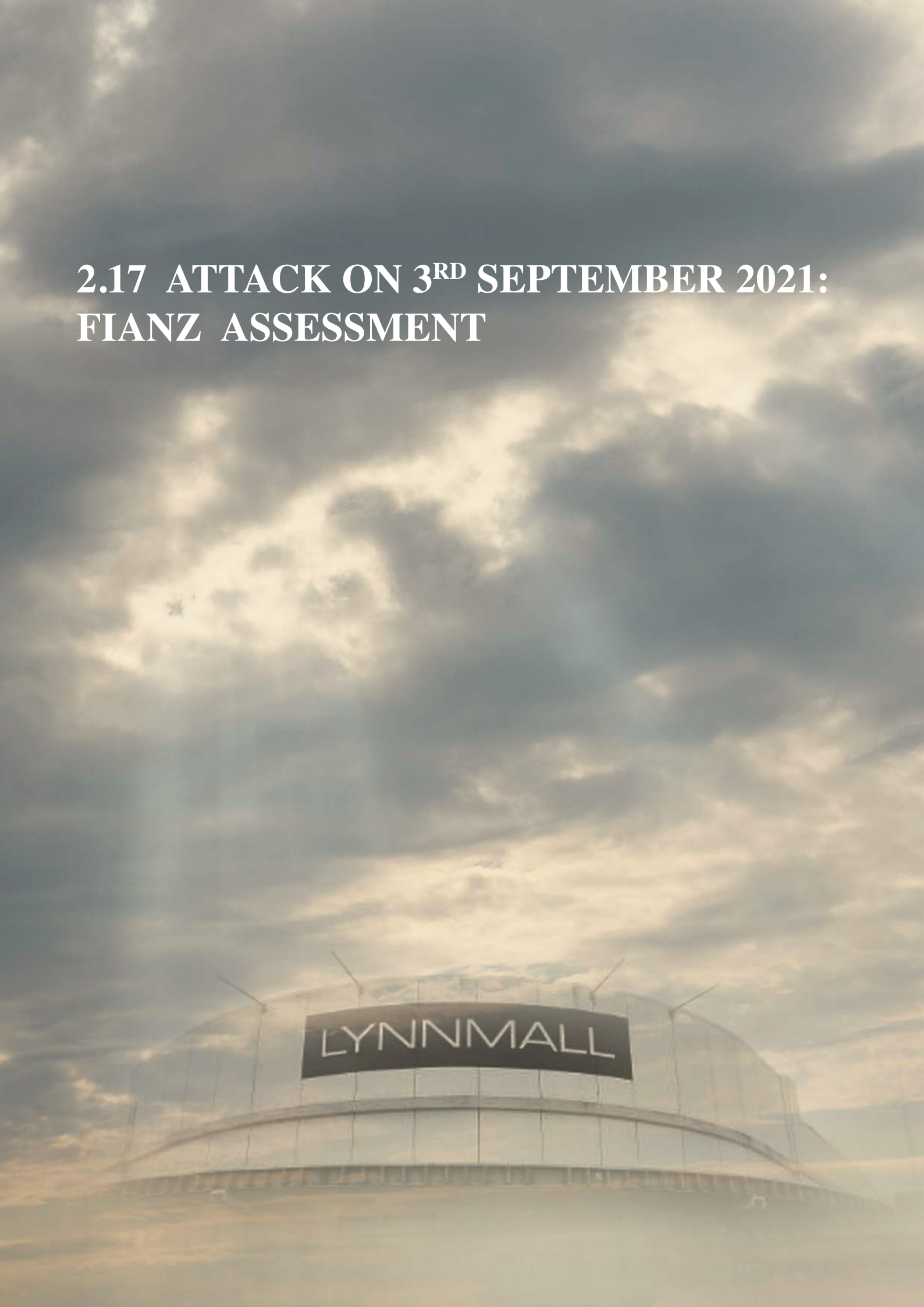


Prime Minister Jacinda Ardern when announcing the terrible tragedy on 3 September at LynnMall, stated “Agencies used every tool available to protect innocent people from this individual.” We believe the Prime Minister was not properly advised by officials in this matter. Corrections NZ could and should have ensured the following.

TOOLS AVAILABLE BUT NOT IMPLEMENTED

OPPORTUNITY AVAILABLE	EXPLANATION	OUTCOME
Rehabilitation Services	Judge had recommended the use of Just Community for rehabilitation services	Not followed up by Corrections NZ
Reintegration Services	Was offered by NZMA based on successful practices in the past	Not followed up by Corrections NZ. They claimed Samsudeen did not want it, yet we note Samsudeen was offered accommodation in a Mosque by Corrections NZ
Retain at Mt Eden rather than transfer to PERU	Keeping a remand prisoner in isolation for up to 23 hours a day and with a convicted terrorist aggravated his mental health and PTSD	Samsudeen was sent to PERU only because he wanted to be in a yard with sun rather than the one Corrections chose which was without sun. This led to Samsudeen's reactive violence. Corrections NZ should not have sent him to PERU for such a minor issue.
Provide Mental Health services	In the early stages, successive NZ health practitioners had suggested a mental health route for Samsudeen	This was ignored by Corrections and NZ police in favour of a heavy handed securitised approach

2.17 ATTACK ON 3RD SEPTEMBER 2021: FIANZ ASSESSMENT



WHAT HAPPENED ON 3 SEPTEMBER 2021

This was a typical Friday for Samsudeen. He prayed his Friday Jumma at Masjid-e Bilal . He left everything in his accommodation as is and went to the supermarket , as he did quite regularly. Nothing Auckland was in lockdown and Samsudeen would use his trip to the Countdown at LynnMall to buy his normal weekly necessities. Earlier his family was in contact.

Important Note A: Samsudeen Aware of Being Survielled. In recent times he was quite stressed. A few people who were known to him were aware of this. Samsudeen, as always, did not want to bring unnecessary worry to his family. Of particular import is that he had intimated two incidents in detail to his family and which showed that he was aware that he was under surveillance:

Incident 1: On a recent evening when he was walking outside he was prevented from entering a walkway by person . Samsudeen said that the intent was of provoking him . He did not react . A few moments later he saw a policeman and asked if the walkway was closed as the person had insisted. The policeman said that it was not. This intrigued Samsudeen and he related to his family that he was possibly being ‘watched’ and this incident was trying get him angry but he did not react.

Incident 2: On another occasion, Samsudeen ‘joked’ that a woman had been following him and he even took a “selfie” with the woman being in the background a distance away. His ‘joke’ included if his family approved if he married this person since she has been following him. This again was a firm statement by Samsudeen that he was under surveillance.

Photo 1: The walking route from the train stop to LynnMall . It is evident if someone was following (even in a car) the persons) would be plainly recognisable. It was also COVID-19 lockdown and hardly any cars on the road. It was about a clear day with high visibility.





Photo 2: Standing on the pavement to enter the Mall , it would be easy to spot any person(s) following or in a car.

Photo3 : Walking across the zebra crossing in front of the Mall would also mean looking around. Any person(s) following would be recognizable. As noted earlier, Samsudeen was already very aware that he was being followed and he would have been quite sensitive to this.

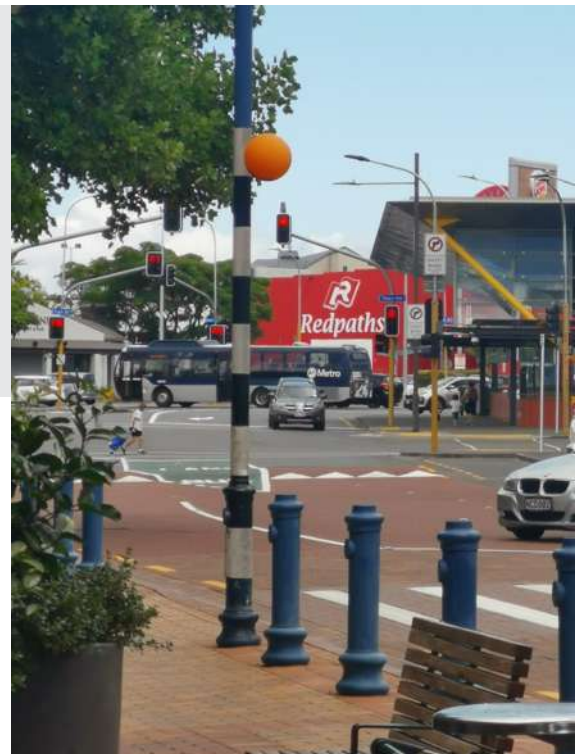


Photo 4: The entire long passage from the entrance to the mall to Countdown is open except for some islands of signs . As such, any person in the hall would be visible and on that day the mall was not very busy .





Photo 5 : The trolley area was also quite open, for people to be able to see inside and outside . In fact when retrieving the trolley there is a moment when the outside hall and anyone there would be very visible.

Important Note B: Samsudeen Had No Plans for Knife Attack. Samsudeen is quite familiar with this Countdown. He has been there many times before. If he had intended on a knife attack on that day, he would have gone to the left upon entry to the display rack where the knives were held. He did not do that . He proceeded straight.

Photo 6: The knives were displayed on the rack (right-side of the photo) . The entrance is past the checkout out counters. Samsudeen did not turn left to go to the knfe-section, but rather

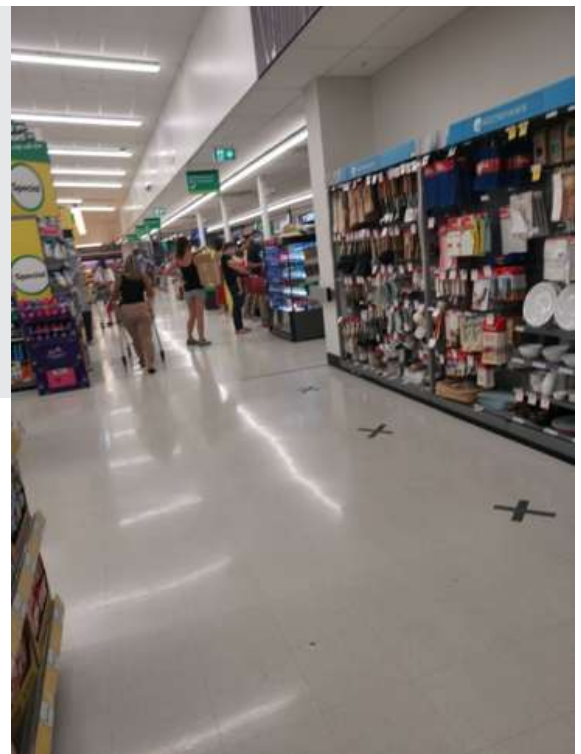




Photo 7: Upon entry, Samsudeen went past the vegetable and fruit section . Standing near the bakery with muffins and cookies, section it was possible to see if anyone out outside. The clear visibility would make it possible for him to see if anyone was following him.

Important Note C: Knife Attack Triggered By Paranoia of Being Followed. After going to the back of the supermarket past the vegetables/ fruit section, Samsudeen then proceeded towards the aisles. We believe that when he suspected someone was following him this triggered his past trauma and PTSD and sent him on a trajectory of violence. This type of trigger is a well-known psychological issue with people suffering from certain mental health problems and also post-traumatic stress disorder (PTSD)

In any situation where Mr. Samsudeen's PTSD symptomatology is triggered he is likely to exert significant energy towards managing his internal experiences, which will compromise the quality of his focus and engagement in the tasks or questions at hand.

-NZ Registered Psychologist in 2012

Samsudeen had been earlier diagnosed with PTSD and mental health issues based on his traumatic experience. This was later compounded by his traumatic experience in prison. Traumatized individuals frequently develop posttraumatic stress disorder (PTSD), a disorder in which the memory of the traumatic event comes to dominate the victims' consciousness.¹²⁸ It should be noted that in the past Samsudeen was also followed in Sri Lanka and the impact was quite traumatic for him according to a report by the NZ Immigration and Protection Tribunal (IPT) :

Samsudeen alleged he was followed home from school by several men, and was concerned by reports of people asking questions about him. Anonymous phone calls accused the family of being LTTE sympathisers.... The following year, he said he was on a motorcycle going to work when a vehicle crashed into him. "Several men got out of the vehicle and began kicking and punching him," the tribunal heard. "They hit his head with a plank of wood. The assault was eventually interrupted by bystanders, who took [him] for medical treatment." He told the tribunal that in 2011 armed men kidnapped him and his father, and bound and blindfolded him for two days. "During that period [Samsudeen] was periodically tied to a chair. His hair was pulled; he was slapped across the face and beaten about the body. He could hear his father crying out in pain from an adjacent room." On the second day the appellant was dragged into a hallway. He was stripped and photographed in front of his father. He was cut, burnt with cigarettes and beaten unconscious." The psychologist described him as a "highly distressed and damaged young man", who met the criteria for a diagnosis of post-traumatic stress disorder and who was persistently re-experiencing traumatic events..... A doctor's examination noted scars on his jaw, possible scarring on his back and ankle and skin damage that could be the result of circular burns.¹²⁹

NZ Immigration and Protection Tribunal (IPT)

In addition to the above, he had just spent four years in prison on remand and part of that time in solitary confinement cell. He was angry for spending so much time and he was convinced that the police considered him a terrorist. There were possibly other trigger factors like the anger of being arrested when he was just about to board a flight to go overseas with his brother and sister-in-law.

Last time he was followed, he ended up being tortured. Paranoia of being a victim again may have been a major cause.

Photos 8,9,10 ,11,12: The ailes of concern

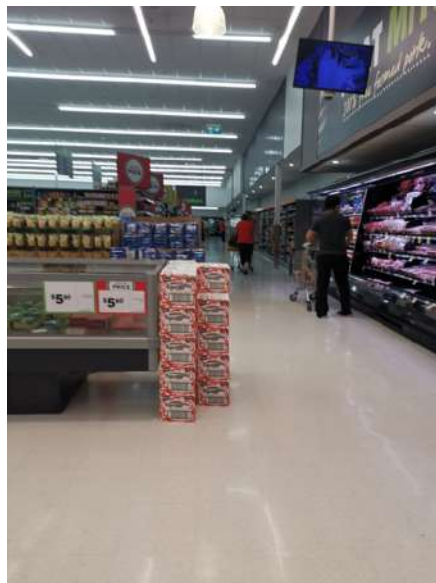


Photo 13: The rack which held the knife



2.18 LAST WORDS

Once the unwarranted label of terrorism had been placed upon Samsudeen, by the NZSIS, NZ Police and then as an extremist by Corrections NZ, the die had been cast on his future.

That label would go on to impact every aspect of his life from that point forward.

From the failure to recognise and treat his obvious mental health issues

From the baseless denouncement of his search for his own faith

From the simplistic and illogical notion that searching an Islamist site is tantamount to being a terrorist

From the length of time he was to spend in prison - the second longest period of remand in NZ history.

From being put in a solitary confinement cell whilst on remand, next to the convicted terrorist of March 15.

From the manner in which he was treated and mistreated during those long four years of remand in prison for watching two religious hymns and two R18 publically available webposts

From the spectre of constant surveillance which was to overshadow his last days rather than proven reintegration services which was offered to Corrections.

When there were many alternative and viable routes which the agencies had for his future

From the decision to use lethal force rather than taser which was to finally take his life.

And all of this without Samsudeen being charged for, or convicted of terrorism.

Yet a terrorist who killed 51 innocent lives with IED and guns on hand was apprehended without lethal force

Yet a criminal who violently stabbed innocent shoppers at a Countdown in Dunedin just a week prior was apprehended Yet a person who was never convicted for terrorism, who only possessed objectionable material, spent 4 years in prison whilst on remand (the longest in NZ history) , had significant mental health issues diagnosed and was never given the opportunity to rehabilitate or reintegrate. The dividend for such failure of the system was the cowardly and reprehensible attack on innocent shoppers.



A VIOLENT AND INEXCUSABLE ATTACK
ON INNOCENT SHOPPERS TRIGGERED
BY HIS UNTREATED MENTAL HEALTH
ISSUES AND THE FAILURE OF KEY
AGENCIES TO FOCUS ON
REHABILITATION.



**The Federation of
Islamic Associations
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