Operation Marksburg and CT arrest in Young, 28 February 2017

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WHAT

On 28 February 2017, 42-year-old Australian national Haisem Zahab was arrested and charged with foreign incursion offences for allegedly assisting Islamic State (IS). He was reportedly seeking to develop defensive technology to detect coalition laser-guided munitions in Iraq and Syria and to develop offensive technology to support the use of long-range guided missiles. Zahab was also charged with failing to comply with orders to permit access to data. He remains in custody; a trial date is yet to be set by the court.
A joint press conference was held on the day of the arrests by Prime Minister Malcolm Turnbull, Minister for Justice Michael Keenan and Australian Federal Police Commissioner Andrew Colvin. At the conference, it was stated that the arrest was part of an 18-month ACT Joint Counter-Terrorism Team investigation, Operation Marksburg, that the arrest did not relate to any planned attack in Australia and that Zahab had used intermediaries overseas, including in the Middle East, to engage with IS.

Operation Marksburg commenced in late 2015, focusing initially on Zahab’s extended family. His uncle, Hicham Zahab—at that time also living in Australia—identified as an active IS supporter and was in contact with Zahab in relation to that support. Hicham and his family moved from Sydney to the Middle East in November 2015 and are now understood to be in Syria. In 2016, as part of Operation Marksburg, Australian authorities seized $530,025 in remaining proceeds from the $1.051 million sale of the family home. In November 2015, Hicham Zahab was named by Kuwaiti authorities in relation to an international arms trafficking network (attempting to supply Chinese surface-to-air missiles from a Ukrainian arms dealer to IS in Syria). In 2016, Kuwaiti authorities convicted Hicham in absentia for supporting and financing terrorism.

Haisem Zahab is an Australian-born citizen whose parents migrated to Australia from Lebanon. He and his family moved from Sydney to Young in 2013; Young has the largest Muslim community in regional NSW, at around 400 in a population of about 7,000. Authorities have stated that Islamist radicalisation in Young isn’t a concern.

SO WHAT?

**CT legislation.** Operation Marksburg is the first Australian CT investigation to result in a major assets seizure related to terrorism financing laws. It’s the third investigation to result in foreign incursion offence charges against a person who has not left Australia; operations Middleham and Bolton previously resulted in similar charges being laid in such circumstances. This demonstrates the variety of legislative tools available and the ability of CT agencies to identify and use the most appropriate mechanisms. Australia has progressed eight packages of CT legislation since the terrorist threat alert level was raised to ‘Probable’ in September 2014, including initiatives relating to the two types of charges laid against Zahab: the data retention laws and penalties for foreign incursion offences. In March 2015, laws requiring telecommunication companies to retain metadata for two years were enacted, and it’s likely that such information—obtained under warrant—was used in the investigation. In 2014, the maximum penalty for foreign incursion was increased to imprisonment for life; the charge in this case demonstrates the severity of punishment for this offence.

**Terrorist facilitation.** This is the first terrorism case in the current security environment in Australia involving remote facilitation to provide technical support to a terrorist organisation. To date, internet-based facilitation has primarily featured recruitment, propaganda, financing and some attack planning. This development is consistent with indicators overseas of broader facilitation by terrorist groups involving the proliferation of weapon technology, training, logistics and technical support.

**Weapons capability.** Zahab’s research focus provides insight into IS technical capability gaps. That he was reportedly tasked by IS to research technologies that detect and jam military laser guidance systems indicates that IS remain vulnerable to coalition precision targeting. His research into missile guidance systems indicates that IS may also be seeking enhanced capabilities to strike targets in depth, possibly to enhance weapons captured in Syria or Iraq or weapons purchased illegally, such as chemical and biological weapons.

**CT narrative.** The high-profile press conference accompanying the announcement of the arrest—including the Prime Minister’s involvement—indicates government understanding of the importance of emphasising the success of Australia’s CT efforts. This action enhances public awareness of CT capabilities and engenders public confidence in those capabilities. Authorities emphasised the severity of the foreign incursion charge, providing an important disincentive to those supporting or potentially supporting terrorist causes. Propagating a non-alarmist and rational dialogue with the public through the media, community outreach and informed political discussion is critical to establishing and reinforcing a dominant narrative by Australian authorities.

NOW WHAT?

**Counterterrorism legislation.** Operation Marksburg demonstrates why it’s necessary for government to review and adjust CT laws in response to emerging terrorist tactics, techniques and procedures, as the investigation and charges relate to areas of recent legislative change. The key to maintaining public support for CT legislative changes is the demonstrated use of the laws as well as an ongoing and easily accessible public information campaign.
Publications such as *Australia’s counter-terrorism laws—questions and answers*, which was published in 2012 by the Attorney-General’s Department (AGD) and is available online at [www.nationalsecurity.gov.au](http://www.nationalsecurity.gov.au), should be regularly updated. Details about CT laws provided during national security announcements, such as the 28 February press conference, should be further supported through information available to the public on department websites and other public information sharing systems. Accurate and easily accessible statistics and information relating to CT will reinforce public confidence.

**Terrorist facilitation.** Remote facilitation, exemplified in the Zahab case, is a growing trend globally. IS has effectively used the online environment to build and reach supporter audiences. It’s also using this medium to assist its technical capability development, and it will likely also be used by other terrorist and criminal groups. Dealing with this presents capacity and access challenges for security services and law enforcement. Australia’s emphasis on technical intelligence collection and effective intelligence sharing across the Australian intelligence community and law enforcement, defence and foreign security services needs to remain a key principle of Australia’s CT approach.

**Weapons capability.** IS operations in Iraq and Syria demonstrate the group’s willingness to access and use existing and emerging technologies for offensive operations. Operation Marksburg demonstrates that IS will accept technical assistance wherever it’s available; the lesson for policymakers in Australia is that IS and like terrorist organisations will optimise any and all opportunities to develop existing or new technologies in support of military or terrorist action to maximum affect, including by working closely with organised criminal arms traffickers. Military end-user controls and other export control mechanisms need to be reviewed periodically to ensure that Australian exported goods are not aiding terrorist networks, and Australia should emphasise with partners—particularly those vulnerable to exploitation—the importance of robust defence export and transport controls.

**CT narrative.** Key messaging by CT authorities has emphasised the message that Australia’s CT laws are resourced, aligned to the threat and—to date—effective. Reiterating key data such as the number of CT arrests, operations, disruptions, legislation and investment is vital to support this message, but that effort is significantly enhanced through the use of applied examples, such as the Zahab case. Policymakers, government departments and agencies should continue to reinforce these messages with public awareness strategies and campaigns that include supporting data and case studies to explain how CT laws, powers and resources are being used. Actively engaging the media to assist and foster informed media coverage could also mitigate against unhelpful speculation and sensationalism in relation to terrorism and CT.

**CONCLUSION**

Operation Marksburg illustrates the increasingly diverse forms of terrorist support and facilitation, enabled in particular by the online environment. The links to international organised crime through arms trafficking align with developments seen overseas. The operation also demonstrates that IS continues to attract supporters in Australia. Zahab’s attempts to assist the terrorist group with the development of technology for use in Syria and Iraq is an indication that facilitation and support to IS are becoming more diverse.

Zahab’s arrest and the broader actions under Operation Marksburg demonstrate the need for various legislative tools to both assist investigations and progress criminal charges, and to ensure that they are kept up to date with developing trends in terrorism, including the crossover with organised crime. But there remains a need to better promulgate information on the links between CT powers and resourcing and effectively dealing with the threat, as well as to explain the global nature of the threat and how this affects Australia and Australians.

**RECOMMENDATIONS**

1. **CT legislation public information campaign.** CT agencies, including the Centre for CT Coordination, the AGD, the AFP and ASIO should continue to provide and update published information about the latest changes to Australia’s CT laws, including up-to-date statistics related to national security and CT issues. For example, as a matter of priority:

   - update the AGD publication on Australia’s CT laws
   - provide yearly breakdowns of CT actions, with supporting detail, and including updates on matters before the courts
   - publish brief case studies of completed CT legal procedures.
2. **Weapons proliferation.** Review military end-user and other export control mechanisms to ensure appropriate regular threat-led reviews of arrangements and resourcing, and to ensure that these mechanisms are supported by international arrangements, including multilateral engagement and diplomatic messaging on key vulnerabilities.

3. **Interagency cooperation.** Intelligence collection and sharing across the Australian intelligence community, law enforcement, defence and foreign services, and international partners, need to remain a key principle of Australia’s approach to CT, and reinforced as a key CT enabler to be resourced.

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