



LOCAL COURT of NEW SOUTH WALES

Coronial Jurisdiction

Inquest:	Inquest into the death of Jai MORCOM
Hearing dates:	31 January – 11 February 2011
Date of findings:	11 February 2011
Place of findings:	Lismore
Coroner:	Deputy State Coroner H.C.B. Dillon
Findings:	<p>I find that Jai Morcom died on 29 August 2009 at the Gold Coast Hospital, Southport, Queensland as a result of a Grade 5 basal subarachnoid haemorrhage suffered during an altercation at the Mullumbimby High School on 28 August 2009.</p> <p>A report of these findings may be made only on condition that no material is published that identifies the any past or present student of Mullumbimby High School referred to in this decision or the evidence given during the proceedings except for Jai MORCOM.</p> <p>Note: These reasons for decision have been revised and amended. Student witnesses have been given pseudonyms.</p>
Recommendations:	<p><i>To the Ministers for Education and Industrial Relations and the Workcover Authority:</i></p> <p>I recommend that the Occupational Health and Safety guidelines relating to the contents of school First Aid kits be amended to require the inclusion of mouth-to-mouth resuscitation masks.</p>

File number:

2657/09

Representation:

Mr M. Wigney SC (Counsel Assisting) instructed by Ms J. Murty (Crown Solicitor's Office)

Ms K. Nomchong instructed by Ms M. Baker representing Dept of Education and Training

Mr S. Drummond (father of Jai Morcom) self-represented

Ms J. Sidnall (solicitor) representing PC.

Ms T. Randall (solicitor) representing KJ.

Mr B. Haverfield instructed by Mr S. Robinson representing Commissioner of Police and all individual police officers whose conduct is touched on by inquest.

[Also present, but not represented was Ms Kim Morcom, Jai Morcom's mother.]

REASONS FOR DECISION

Introduction

1. Jai Morcom was a 15 year-old student at the Mullumbimby High School when he died at the Gold Coast Hospital due to the effects of a subarachnoid haemorrhage he had suffered during the course of an altercation in the schoolyard on the morning of 28 August 2009.
2. His mother, Kim Morcom, and his father, Steve Drummond, spoke eloquently and with great feeling about Jai. Kim Morcom made a statement, read by Counsel Assisting, Mr Wigney, in which she movingly described a “happy, healthy boy” whose singing and laughing she and his sisters Jade and Kyra and brother Mayo, miss around her home.
3. Steve Drummond described Jai as a “special” child from the time he was born, a source of joy for the whole family, an active, sporty kid, curious about things, singing and playing guitar, a boy with a great sense of comedy and fun.
4. A number of Jai’s friends have described him in very affectionate terms. He was a boy with high spirits and a sense of fun. He was not malicious or violent but, as the evidence in this inquest shows, he was loyal to his mates and willing to stick up for them if he saw them in difficulties. He was not an academic student but nor was he a problem child at the school. Of course, very few 15 year-old boys are completely angelic. They all have their moments. But Jai had a clean disciplinary record at the school and he was generally courteous and well-spoken to the teaching staff. He was popular in the playground and the classroom.
5. One of his best friends, AM, described him as “a cheeky, fun kid, a real nice kid, a true kid, a little jester”. Another friend, CB, said that he was “one of the nicest people” she knew and that, while he would stand up for his friends, he would never provoke a fight.
6. Jai’s sudden and totally unexpected death has left his parents devastated and, naturally, has raised many profound questions in their minds. Kim Morcom remains troubled by the question of why Jai became involved in the fight and feels that if there had been no fight or if he had not become involved, he would still be alive today. It is difficult for those who have not had the experience to understand quite how shocking and disorientating such an event can be for those who undergo it. For most parents, their children are the centre of

their lives. To lose a child is the worst and most disturbing experience a parent can undergo. Such a loss is a challenge to almost everything they have assumed or expected life will bring in the future. Most of us believe we will see our children grow up and hope that they will live long and happy lives. Those hopes and expectations have been dashed for Jai's parents and it is difficult for anyone in such a situation to make any sense of what has happened or to find any meaning in it all. I say these things to acknowledge what must be for Jai's parents an almost insupportable burden of pain and an incomprehensible loss.

7. Jai's death has also caused great distress for others. His friends, his teachers, students of the school and the wider community have very obviously been greatly upset by this tragedy and have struggled to make sense of it. Such a death has a ripple effect throughout a community. It causes anxiety, fear and agitation that in turn can lead to speculation and rumour and hearsay.
8. As I mentioned in my opening remarks on 31 January, one of the purposes an inquest may serve is to bring a dispassionate perspective to the case, testing the evidence and seeking to put to rest unfounded speculation and misconceived rumour. That is what my team and I have tried to do in this case. Our sole objective has been to seek the truth. I will now outline the key issues or questions with which this inquest has grappled.

The primary issues

9. Under the *Coroners Act 2009*, I am required to identify the person who has died, and the time, date and place of death. There is no controversy about these things. I am also required to investigate and, if possible, identify the manner and cause of Jai Morcom's death. By "cause of death" I mean the immediate and direct physical or medical cause of Jai's death. There is no controversy that the cause was a massive subarachnoid haemorrhage.
10. The most difficult and controversial question for this inquest concerns the manner of his death. How did Jai Morcom's brain haemorrhage come about? In considering that broad question, it is necessary to ask whether his brain haemorrhage was natural and spontaneous or caused by trauma. Before an answer to that question can be attempted, we must examine the circumstances of the schoolyard fight and try to determine what Jai did and what happened to him during the fight.

11. I will therefore examine how the incident came about, who was involved in it and what of relevance to Jai's brain haemorrhage happened during it. I will then consider the expert medical evidence in the light of the evidence concerning the incident.
12. Second-order issues that have been raised before and during the inquest are:
 - Was the police investigation of Jai's death adequate?
 - Was there a culture of violence at Mullumbimby High School?
 - Was there any indication that a fight or brawl was about to erupt on 28 August 2009?
 - Did the school take reasonable action to prevent harm to students at the school in the lead up to the fight?
 - Did the school take reasonable action to assist Jai Morcom after he collapsed?
13. I will deal with the primary issues first. Before doing so, I will briefly paint in the background.

Background to the incident of 28 August 2009 and Jai's haemorrhage

14. For a period before 28 August 2009, an ongoing dispute or rivalry had arisen between a group of Year 9 students and a group of Year 11 students. According to most witnesses who gave evidence on the topic, the behaviour of the Year 9s had been, at most, an irritant or an annoyance rather than the cause of physical violence or aggression between the groups, but it is clear that there was a degree of tension between the two groups. It is important, however, not to overstate this. At least some of the Year 11s regarded the behaviour of the Year 9s as a game or a joke.
15. The Year 9 group of boys appear to have been the instigators of whatever bad feeling had arisen because they had been throwing fruit and water bombs into the Senior Quadrangle and moving tables from the Senior Quad area into their own. Irritating or annoying as this conduct may have been, there had been no fighting or violence before 28 August. Indeed, there had been little opportunity for confrontation because the table was invariably moved in the absence of the Year 11 students. If the fight had not started, or if Jai Morcom had not

died, it is doubtful that anyone would have regarded the supposed “table war” as anything more than the usual sort of nonsense that 15 and 17 year-old boys sometimes get up to.

16. On 28 August, a group of Year 9 students moved a table from the Year 11 area. A group of Year 11 students forcibly recovered the table. Each group was spoken to by senior staff of the school and the dispute appeared to have been satisfactorily resolved.
17. Unfortunately, however, although the table dispute itself was apparently resolved, there was an exchange of insults in the course of which one of the Year 9 students spat on one of the Year 11 group. This caused some indignation on the part of PC, one of the Year 11 students, in particular, but also other Year 11 students. PC confronted the Year 9 boy, AM. AM threw a punch at PC. PC threw one back and the fight started. Year 9 and Year 11 supporters of each boy then rushed into the fight. Jai Morcom, whose involvement in the table dispute to that time appears to have been peripheral at most, then became drawn into the fight, most probably because he wanted to stick up for a mate and possibly because of the sheer excitement of the event. At this stage, this may have appeared to him to be part of the joke or the game. Jai, however, did nothing to provoke the fight itself and was not one of the principal fighters.
18. The fight commenced in the area between the G Block stairwell and B Block. It then moved roughly westwards towards A Block and, on most accounts, around the corner into a space between A and G Blocks bounded to the north by the toilet block wall.
19. At some point during the fight, Jai Morcom was seen to stagger or stumble towards the wall of the toilet block that was roughly north of this space where he collapsed.
20. Multiple but largely inconsistent accounts of what had happened to Jai Morcom immediately before collapsing have been given by eyewitnesses. I will consider that evidence further shortly. On all accounts, the fight lasted between 30 seconds and 90 seconds before it was broken up by teaching staff who intervened immediately and sought to identify the protagonists. Teaching staff also attended to Jai straight away and gave him first aid. An ambulance crew was called as soon as teachers discovered that Jai had collapsed and was unconscious. Police were also asked by senior teaching staff to attend because of the obvious seriousness of the outcome of the fight for Jai.
21. Jai was transported to Tweed Heads Hospital and then to the Gold Coast Hospital but his condition was not survivable. The medical evidence is that there was nothing that could

have been done for Jai by those who gave him first aid. He was maintained on life support until the following day.

22. The police investigation began shortly after midday on 28 August. About 34 students were interviewed in the first week after the fight. Several of the interviews took place over the weekend and on the Monday following the fight (which had taken place on a Friday). The police visited the school a number of times to interview students and appeal for witnesses to come forward. All told about 100 witnesses or potential witnesses were spoken to by police. Ultimately a brief of evidence consisting of four lever-arch folders, over 1000 pages in length, was produced for the purposes of this inquest.

What happened to Jai Morcom during the fight?

23. During the inquest, 30 students were examined. A large number more were spoken to by police investigating Jai's death.
24. When the witnesses were called to give evidence, however, what seemed on paper to be very firm observations turned out in some cases to be hearsay accounts that students had heard on the rumour mill from other students or a mixture of the student's fragmentary observations and things that he or she had heard later during the excited discussions that took place after Jai collapsed. Some witnesses, however, gave what seemed to be clear and unambiguous accounts that, on closer examination, could not be relied on because they were so at odds with what other witnesses claimed to have seen.
25. It is true that there is significant consistency among a number of witnesses about certain features of the fight such as the facts that it started with a dispute over a table, followed by AM spitting on FA; PC confronting AM; AM throwing a punch at PC; and then Year 9 boys followed by Year 11 boys joining in. The fight between AM and PC was initially the focus of attention but other skirmishes also broke out peripherally.
26. There is, however, very little consistency in relation to what happened to Jai. Jai Morcom's involvement in the fight appears to have been relatively marginal and this probably explains why the accounts of what happened to him during are so fragmentary. He was not the focus of most people's attention until after his collapse.

27. Various accounts have been given by students to the effect that Jai fought with other boys during the incident; that he did not fight with other boys during the incident but was trying to stop the fight; that he punched or jumped onto Year 11 students; that he was himself punched or pushed or grabbed by the backpack and pulled backwards; that he was thrown or slammed against the toilet wall, possibly by KJ; that he was thrown or held against the G block stairwell wall; that he tripped during the fight and struck PC's shoulder; that he stumbled out of the fight and collapsed against the toilet block wall; that he was punched by PC while he was on the ground; that he punched PC who was on the ground; that he was wrestling with and exchanging blows with PC; that PC punched him in the back of the head while he was lying on the ground; and various combinations of these things.
28. I do not propose to go through every eyewitness account and analyse it because that would be an exercise in futility. I will focus here only on certain critical accounts that suggested that Jai had been deliberately and badly injured during the fight.
29. One Year 9 student, ZB, made a handwritten statement shortly after the fight suggesting that he had seen Jai punching PC followed by KJ pushing Jai in an attempt to break up the fight. Jai then was said to have lost balance and fallen back into the crowd, then into the wall and hit his head. Later, when interviewed by police, he told them that Jai had jumped into the fight, lost his balance, disappeared into the crowd and possibly been trampled. When examined during the inquest, it emerged that the student had seen very little of this but had heard most of the story from others. In fact, his view had been significantly obscured. The unreliability of that story as an explanation of Jai's injury is self-evident.
30. LY, a Year 8 student, told the police that KJ had grabbed Jai Morcom by the throat and "slammed him against the wall". He said that PC had run over and started punching Jai while he was on the ground. He said that there had been a "huge sound" when Jai's head had hit the wall. According to LY, PC had punched Jai several times in the face while he was sitting on the ground by the wall and that a teacher had then pulled PC off Jai. He estimated that PC had hit Jai about four times and was punching him for six or seven seconds. He claimed to have had a clear view of this incident.
31. On its face, this is a clear account given by a witness who was not one of Jai's, or indeed KJ's or PC's, year. He seemed to be reasonably independent. Yet this account is not corroborated by any other witness and is inconsistent in a number of respects with both the physical evidence and other witness accounts. One would expect to have seen some sign of injury to the back of Jai's head if he had hit the wall as hard as the witness claims and to

have seen bruising to his face where PC allegedly punched him very hard. There is no such physical evidence. That in itself undermines the plausibility of this account.

32. But it is also very inconsistent with other witness accounts. Not a single witness corroborates it. It was Donna Pearson, the Head Teacher at Mullumbimby High School at that time and now Deputy Principal at Byron Bay High School, who grabbed PC by the shoulder and led him to the school offices. She did not pull PC off Jai Morcom while he was punching Jai against the wall. Rather she pulled him out of the fight while he was engaged with AM close to the A block wall. During the fight, she did not see anyone against the wall. Despite the fact that Jai Morcom collapsed against or close to the wall of the toilet block in the presence of many witnesses, not a single student witness supports LY's version of events.
33. In particular, it is contradicted by Jai Morcom's good friend, AM, who said that Jai Morcom staggered out of the fight and collapsed against the wall, holding his hands out towards AM as he did so. Unlike some other witnesses, AM knew Jai Morcom well and is unlikely to have been mistaken about his identity.
34. Finally, this alleged assault is said to have taken place after Jai had collapsed against the toilet block. Even if, for argument's sake, LY's evidence were accepted, for reasons that I will discuss soon when I consider the medical evidence, it is almost certain that Jai's haemorrhage had occurred moments before he collapsed. Any assault while he lay beside the toilet wall came after that and therefore could not have caused the fatal haemorrhage. That said, however, I do not believe that there was any assault on Jai at that place and time. LY was almost certainly confusing the sequence of events and attempting to reconstruct and interpret fragmentary observations.
35. DR, an obviously intelligent student who appeared to be honest in giving his evidence in court, nevertheless gave an account that also appears to be unreliable on account of its inconsistency with the physical evidence and the evidence of other witnesses. He gave evidence that he had had an unobstructed view of PC punching Jai Morcom in the back of the head about four times with great violence while Jai Morcom was lying face down on the concrete. He said that afterwards, Jai Morcom had got up and staggered to the wall where he sat down and collapsed on his left hand side.
36. Once again, if PC had punched Jai Morcom in the back of the head with the violence described by the witness, some sort of injury there would almost certainly have been found

during the post mortem examination. It was not. It is self-evident that this account is very different from that of LY. The only similarity they really share is that PC is alleged to have punched Jai Morcom a number of times. This account was also uncorroborated by any of the many witnesses present at the scene. He agreed that there were numbers of boys of similar general appearance in the fight. It seems likely that DR saw someone on the ground, possibly PC himself, and later drew the conclusion that this incident within the fight must have had something to do with the tragedy. Because of the lack of physical evidence to support DR's observation and other reasons, this seems to be a case of mistaken identity.

37. It should be noted that PC strongly denied both accounts.
38. Camilla Warner, a new casual teacher at the school who, at the time of the fight did not know any of the students, gave a statement to police shortly after the event that she had seen a boy on the ground being punched. About a year later, she informed the police that the boy might have been Jai Morcom. During the inquest, she said that by the following Monday, her memory of the incident had been "completely scrambled" but that over the following weeks and months she had thought a great deal about the incident in which she had seen the boy on the ground lying there being punched and kicking upwards and concluded that the boy she saw collapsed against the wall might well have been the same boy. At the inquest, however, she conceded that she may be mistaken. It is no criticism of Ms Warner to say that identification of the student in those circumstances would have been very difficult for her.
39. AW gave an account of Jai Morcom fighting with PC and being knocked to the ground with PC standing over him punching him in the head. He also added that Jai Morcom had punched PC. His version of events, as given to the police, was that a group of people, including PC, were attacking Jai Morcom and forcing him gradually back towards the girls' toilet block.
40. Once again, this evidence seems to be exaggerated and unreliable because there was no evidence of significant damage or injury to Jai Morcom's head. Had Jai been punched with the severity and frequency suggested by AW at least some sign of this would almost certainly have been seen at the post mortem examination.
41. On 1 September, TG, then a Year 9 student, gave an account of the fight to police. He gave a description of the fight starting between PC and AM, of Jai Morcom running in, of Jai throwing about three punches at PC and of PC retaliating. He said that PC put his head

down “and went for it”. He said that PC punched Jai Morcom about five times in Jai’s head. He said that Jai was knocked back and went to the ground. He said that Jai got up and tried to get back into the fight but KJ “pushed him against the wall”. He described KJ pushing him with one open hand “with force”. He said that Jai had fallen back into the wall and hit his head. Jai had then fallen to the ground.

42. During his oral evidence, he stated that the fight had not moved into the small space between A and G Blocks but had remained further to the south at all times. His account was that when Jai was pushed, he had stumbled backwards through the area between A and G Blocks, a distance of about 9 or 10 metres, before backing into the toilet block wall and collapsing. He also said that he had seen no one in that area or in the corridor running along the toilet block.
43. These two pieces of evidence were certainly incorrect. Every other account given by witnesses present at Mullumbimby High School that day indicates that much of the fighting and scuffling, as well as the gathering of the spectators, took place in that confined space bounded by A and G Blocks and the toilet block wall. In addition, the medical evidence suggests that it is unlikely that Jai could have walked 10 metres after his haemorrhage (if it had happened at that stage). And although KJ was a large boy, he would have had a great deal of difficulty propelling Jai over that distance of approximately 10 metres.
44. In fairness to him, TG’s evidence was being given about 18 months after the incident and in his earlier interview with police he had located the action much closer to the toilet wall and said that the distance Jai Morcom had been pushed by KJ was about one metre only.
45. If that is correct, Jai Morcom would have been only a step or two from the wall. That account, however, is inconsistent with a number of others, including that of AM, who, it will be remembered, stated that he saw Jai Morcom take a number of steps towards him, holding out his arms before reaching the wall. Even if the distance was short, as I will discuss in greater detail, there is no physical evidence that Jai’s haemorrhage was caused by being “slammed” into the wall by KJ. It is not even clear from an examination of the witness accounts as a whole that it was as a result of being pushed by KJ that Jai ended up against the wall.
46. TG’s overall account suggests that much of the main action was taking place between PC and Jai Morcom, yet most accounts suggest that Jai Morcom’s involvement in the fight was relatively peripheral and that PC’s main opponent was AM. PC’s evidence is that he

believed that he was fighting AM and was doing so as far as he could see. Some of the details are may be correct but others are certainly not. This makes it very difficult to rely on his overall account.

47. As can be seen, PC was one of the two boys identified by some witnesses as a person who may have inflicted a fatal injury on Jai Morcom. He and KJ were therefore open to potential criticism. For this reason, they were given the opportunity to be legally represented and to be present in court to hear the evidence while other student witnesses were required to remain outside until they had given their testimony.
48. For reasons I will come to shortly, in my opinion, there is no persuasive evidence that PC inflicted a fatal injury on Jai and it is almost certain that he did not.
49. PC gave evidence to the school, the police and to the court about his involvement in the fight. His various versions of events were consistent in all significant details and, in many respects, are supported by the evidence of at least some of the students witnesses. It is unnecessary to repeat what is already established about the table dispute and the start of the fight although I will comment on that later in my conclusions.
50. He did not know Jai Morcom before 28 August and he stated that he did not recognise Jai in the fight. He said that after the fight between himself and AM began, other Year 9s had joined the fight causing him to put his head down to protect himself. He said that he was throwing out punches in front of him at a boy he assumed was AM. He said that he was pushed or dragged to the ground and had some difficulty getting up. During the melee he said that he had noticed his friends KJ and XQ join in beside him. After he had gone to ground, he said that people were pushing, shoving, punching and kicking him. When he was able to get up, he said that he and AM started to fight again before another boy dragged him out of the fight. Then he was grabbed by Ms Pearson and sent to the office.
51. I formed the view that PC was an honest witness. He made a number of admissions against his own interest. For example, in cross-examination, he admitted to Mr Drummond that it would have been better to sort out the spitting issue another way rather than confronting the Year 9s. When examined by Counsel Assisting, Mr Wigney, he did not appear to minimise his involvement. Indeed, at one stage, although he had the opportunity to deny that he had ever gone anywhere near the toilet block wall (and therefore near Jai Morcom), he admitted that during the second stage of his contest with AM, he may have gone close to it. He did not falsely portray himself as an angelic pacifist. He admitted being outspoken and inclined

to speak his mind. He also admitted being angry with AM and being intent on confronting him.

52. It may be that PC landed a blow or even more than one on Jai Morcom early in the fight when Jai appears to have entered the fight in support of AM. Apart from the unreliable accounts of LY, DR and Camilla Warner, however, there is no evidence that PC punched Jai at all. Critically, there is no cogent evidence demonstrating that moments before Jai Morcom collapsed, that is, after the fight had moved around into the area between A and G Blocks, that PC had landed a blow on him that caused his head and neck to rotate or to flex awkwardly. Had Jai received a catastrophic brain haemorrhage while lying on the ground, he almost certainly would have been unable to stand up again.
53. KJ was the second student who was said by some witnesses to have done something to Jai that may have caused his collapse. A number of witnesses claimed that Jai was thrown or smashed into the wall of the toilet block. Some identified KJ as the person responsible for this. KJ spoke to the school staff and the police on the day of the incident, freely and honestly admitting to his involvement and to having manhandled Jai Morcom a number of times during the fight. He asserted, however, that at all times he had acted only to separate fighting students in an attempt to stop the fight. This claim was supported by most of the students directly involved in the fight, including Year 9 students and I accept it. He admitted having pulled Jai out of the fight about three times, to having held him up against the G Block stairwell wall for a few seconds and to having pushed Jai out of the fight into the crowd near the toilet block at one point.
54. KJ appeared to me to be an honest witness with quite a good recall of events. He gave an account shortly after the incident which was not significantly affected by hearing versions of events from others. He knew most, perhaps all, the fighters so identification was not a problem for him. In large measure his story is corroborated by others.
55. His version of events of the last encounter he had with Jai is that he pushed Jai in the direction of the toilet block to keep him out of the fight. This was from a distance of about five metres from that wall into the crowd. The medical evidence to be discussed further below makes it clear that, absent any sign of severe blunt force trauma, the only way a traumatic subarachnoid haemorrhage will be caused is by hyperflexion or rotation of the head. He did not see any whiplash type or rotation movement of Jai's head nor, critically, did anyone else at that time. KJ certainly pushed Jai but whether this was immediately before Jai's collapse is unclear. Some witnesses suggest it was, others suggest otherwise.

56. One witness account that may explain a rotation injury to Jai Morcom was given by HT who said that he was “pretty sure” that he saw Jai run into the fight and trip or stumble into PC’s shoulder shortly before he collapsed. He said that Jai had appeared to trip over a kid’s leg, smash into PC’s shoulder and “fall back a bit”. This may indicate or describe a hyperextension or rotation of Jai’s neck. Nevertheless, this can only be speculation, an illustration of how difficult it is in these circumstances to find the answer. It also demonstrates why it is not clear whether KJ’s pushing of Jai toward the toilet wall occurred at or about the time of Jai’s collapse. It is possible that the push towards the toilet wall had something to do with Jai’s haemorrhage and collapse but there is no convincing evidence that it did.
57. In summary, the most common thread of evidence concerning Jai Morcom was that he was involved in the fight supporting AM as one of the Year 9 “crew” who were engaging PC and other Year 11 friends of his but that his involvement was marginal. AM and GL both said that they saw him wrestling with PC at one stage before he collapsed. Punches may or may not have been thrown by both boys. Other witnesses also saw him engaged in the fight at various points. KJ, who on most accounts was attempting to break up the fight, gave evidence that he had pulled Jai Morcom out of the fight.
58. A second common thread is that at some stage Jai staggered back into the wall. Some witnesses stated that he did so very hard while others saw him as simply backing into the wall and collapsing. There is little agreement between the witnesses on how hard Jai hit the wall.
59. A third common thread among a number of witnesses, most importantly KJ himself, is that that KJ pushed Jai Morcom during the fight a number of times but he kept coming back. He also admitted to having held Jai Morcom against a wall at one stage. There is no reliable evidence that KJ punched Jai Morcom or any other student or intended any harm to any student.
60. A fourth common thread of the evidence, including the evidence of Year 9 boys involved in the fight, is that KJ was attempting to break up the fight, using his size and strength to separate fighting students.
61. Not a single witness, however, gives an account of seeing Jai Morcom’s head or neck suddenly and violently rotated or subjected to some form of whiplash or hyperextension

motion. The significance of this will be discussed shortly when I come to the medical evidence concerning the cause of Jai's subarachnoid haemorrhage.

62. Human beings are not video-recording machines. Our perceptions are selective. In a complex, fast-moving or sudden incident, especially where several things are happening at once or in a short space of time, most witnesses will be able to perceive and recall only fragments of the action. Often witnesses will confuse the sequence of events or other significant aspects of the incident. It is clear that most, perhaps all, of the students who gave evidence saw only some parts of the incident and missed others. Some appear to have seen certain events during the fight but to have got them out of order or to have misidentified people who did things.
63. Virtually all the student witnesses who gave evidence admitted that the scene had been chaotic and confusing because so many people were either involved in the fight directly or were moving around trying to see the action and because there was so much excitement and commotion going on. Several of the students were quite young. Age may have affected their perceptions also.
64. Because they came from different years, many students who gave statements or were interviewed by the police and later gave evidence in the inquest were able to recognise one or more of the fighters but not all. Year 7 students, for example, frequently knew very few of the Year 9 or Year 11 boys. The ability to recognise only some of the individuals involved in the fight may have subtly influenced perceptions of witnesses: we tend to focus on people we know or recognise in such situations.
65. It is clear that the school made reasonable and strenuous efforts to identify the students most likely to be able to give an account of the incident and sought to ensure that the selected students gave independent statements that were not influenced or polluted by the observations or opinions of others. Despite that, it is also patently clear that such was the natural agitation and excitement following the incident, and especially when the student body learned of Jai's misfortune, that it became inevitable that students would talk to one another and chat on social networking websites. They were also exposed to extensive media publicity and, indeed, the novelty of a police investigation being conducted in their own school. The influence these things may have had on each individual's recollection and interpretation of events no doubt varied from person to person, but at least some of the witnesses are likely to have been influenced by them.

66. On the other hand, there is no real evidence that students got their heads together to protect someone. If they had, one would have expected a far greater degree of consistency between their accounts.
67. In saying these things, I am not suggesting that any of the students has lied or deliberately fabricated their versions of events. It seems to me that most, if not all, the student witnesses were doing their best under difficult circumstances, 18 months after the event, to give honest accounts. The incident erupted very quickly, was fast-moving, involved a large number of active participants and an even larger number of noisy, excited spectators. This was to use the words of one of them, “a schemozzle”. In those circumstances, it is not surprising that mistakes were made by people or that only fragments of the action were seen or perceived.
68. Nevertheless, this has been a case study in the difficulties of giving and obtaining accurate eyewitness evidence. To be blunt, it is my disappointing duty to record that there is not a single witness account which provides clear, reliable and persuasive evidence of what happened to Jai during the fight. One of the many versions given may be correct but there is no rational way of selecting one version in preference to others given the unusual degree of inconsistency between them on the critical issue of what happened to Jai.
69. I will now address the medical evidence.

What was the direct cause of Jai’s death?

70. Several reports from medical experts have been received in evidence. All the doctors agree that Jai died as a result of a Grade 5 basal subarachnoid haemorrhage. The real issue is...

What caused the haemorrhage?

71. It is impossible to resolve this question categorically. There are, in my view, three possible answers:
72. First, Jai may have suffered a spontaneous haemorrhage due to an aneurysm or a defective blood vessel rupturing one of the arteries to the base of his brain and it is a coincidence that he died while engaged in a schoolyard fight.

73. Second, he may have suffered a spontaneous haemorrhage triggered by increased blood pressure rupturing a defective blood vessel.
74. Third, he may have suffered a traumatic injury causing an artery to bleed. Blunt force or hyperextension or a combination of the two can result in a tear in a blood vessel, leading to a sudden and massive haemorrhage at the base of the brain with blood spreading across the sides and top of the brain within the skull.
75. Drawing a definite conclusion, however, is complicated by the fact that Jai collapsed during a fight but, immediately after the incident, during his period of observation in hospital, and when the autopsy was conducted, no obvious signs of external trauma, such as heavy bruising or a fractured skull, that would have been consistent with the application of violent blows, were found.
76. The medical experts were, naturally, cautious in offering an opinion in the absence of physical signs of obvious trauma. Often diagnosis is a process of elimination or a sifting of circumstantial evidence rather than the discovery of positive physical evidence of a pathology. That is the case here.
77. The number of children and adolescents who die as a result of spontaneous subarachnoid haemorrhages in Australia per annum is a tiny proportion of that population: no more than about 100 per annum. Dr Teresa Withers, the neurosurgeon in charge of treating Jai at the Gold Coast Hospital, thought it was considerably less, perhaps as low as eight cases per annum. Of that group or population of children, only a small proportion die of a *basal* subarachnoid haemorrhage. In the majority of these cases, the point of rupture of the relevant blood vessel is able to be located. Thus, while it is possible that Jai Morcom died as a result of a previously asymptomatic aneurysm or defect in a blood vessel rupturing, the odds against this occurring are very high. The risks of a congenital defect in a blood vessel rupturing increase with age, with cigarette smoking, with high blood pressure. Middle-aged and older adults are most at risk. But, fortunately, it is also very rare for children and adolescents to suffer a traumatic subarachnoid haemorrhage in the playground. Statistics and medical studies, therefore, are not especially helpful in determining what brought on Jai Morcom's haemorrhage because there are so few cases of either kind and, in any event, averages or overall probabilities are not determinative in an individual case.
78. A meeting or "conclave" of experts was held on 30 November 2010 to discuss and, if possible, reach common ground on the question of what had caused Jai's death and to

provide a joint report to the court as to their findings and opinion. Drs Diane Little, Tony Tannenberg, Michael Rodriguez and Grant Walker were able to attend. Drs Little and Tannenberg also gave oral evidence at the inquest. The separate reports of Drs Walker and Rodriguez were also in evidence although they were not available to appear at the inquest.

79. Associate Professor Penny McKelvie, an independent expert commissioned by the court, was unable to attend the November meeting but prepared a report and gave evidence with the other experts at court. Dr Withers made a short report but elaborated on this by joining the other experts in giving joint evidence at the inquest.
80. The diagnostic difficulty this case presents may be inferred from the fact that none of the experts was able to identify with certainty the cause of Jai's haemorrhage. Of the four doctors who appeared at the inquest and were examined, two (Prof. McKelvie and Dr Withers) were of the opinion that the injury was most likely caused by trauma, with hyperextension or rotation of the head and neck being the principal cause of the arterial bleed, whereas the two highly experienced forensic pathologists (Drs Tannenberg and Little) were unable to offer a confident opinion.
81. Each of the experts examined agreed that relatively minor forces may be required to inflict a hyperextension or hyperflexion injury to the head and neck resulting in tearing of a blood vessel and a consequent basal subarachnoid haemorrhage. Dr Withers was emphatic in that opinion. She stressed that it could be caused in a melee if a person was jostled, shaken or thrown around. She also stated that a combination of relatively minor blunt force injury and hyperextension may result in such an injury. In her view, despite the fact that the site of the rupture was not identified by the post mortem examination, and despite no clear mechanism of injury being identified, the fact that Jai Morcom had been involved in an altercation at the time he suffered the subarachnoid haemorrhage, made it more likely that the injury was caused by trauma than occurred spontaneously.
82. The report of Dr Byron Collins, who did not give oral evidence and who did not attend the meeting of experts conducted prior to the inquest, was guarded but he also inclined to the view that the injury was more likely to have come about as a result of trauma than to have occurred spontaneously due to natural causes. He conceded, however, that the physical findings of the specialist forensic pathologists (including two neuropathologists) to the effect that the cause of the haemorrhage was undetermined were reasonable.

83. Dr Rodriguez, a specialist forensic neuropathologist of great experience, was also guarded in his opinion. He was unable to identify the origin of the subarachnoid haemorrhage. He noted that there was no evidence of pre-existing vascular abnormality but also no evidence of vascular injury.

84. Dr Grant Walker, a neurologist, supplied a report in which he stated:

There does not appear to be any evidence of significant trauma to the head... that might have explained a traumatic subarachnoid haemorrhage. Traumatic subarachnoid haemorrhage is usually following major head trauma, and is associated with brain injury or even more significant haemorrhage within the brain or on the surface of the brain.

85. In his opinion, “there is no convincing evidence that subarachnoid haemorrhages are caused by stress, physical exertion, raised blood pressure or increased adrenalin.” Dr Withers, however, was firmly of the view that a spike in blood pressure due to a flight-fight response can trigger a subarachnoid haemorrhage if a person has a defective blood vessel. It is not clear that Dr Walker and she are at odds.

86. Dr Walker was unable to appear at the inquest and be questioned on this topic but I infer that his opinion is that it would not be expected that a person with *normal* blood vessels would suffer a subarachnoid haemorrhage due to an increase in blood pressure during a fight. If I interpret him correctly, that would leave open the possibility raised by Dr Withers and the conclave that a person with an aneurysm may (although that would be a very rare event).

87. The medical experts have all accentuated the fact that a traumatic subarachnoid haemorrhage is a very rare event, less common than a spontaneous subarachnoid haemorrhage which is in itself a rare event.

88. There is a respectable argument that Jai’s haemorrhage and therefore death were brought about by trauma. From the reports and evidence of Prof McKelvie and Drs Withers and Collins the following points appear to be the most significant:

89. First, he was involved in a melee. This is a powerful piece of circumstantial evidence.

90. Second, the site of the haemorrhage was unable to be identified. This is apparently a common feature of traumatic subarachnoid haemorrhage. Dr Withers argued strongly that she would expect an aneurysm to be found if it had been present. Absent that evidence, she asserted that it was more likely that a traumatically torn vessel was the cause of the haemorrhage.

91. Third, Jai collapsed and lost consciousness very quickly. This is also characteristic of a traumatic subarachnoid haemorrhage. Prof McKelvie argued that “if the ruptured blood vessel is not identified, which is the case in about 44 per cent of reported cases, the relationship in time of the injury/impact to the collapse and death is critical in diagnosis.” People tend to drop suddenly to the ground if they suffer a traumatic subarachnoid haemorrhage. Jai collapsed suddenly after stumbling a few steps.
92. Fourth, a small bruise was found under Jai’s chin the day after the autopsy was conducted. While this is possibly consistent with a blunt force injury inflicted during the fight, it could also have been caused during the period during the attempted resuscitation. A bruise on the left side of his forehead may have been caused in the fight and therefore be a sign of a rotational force being applied to Jai’s head. On the other hand, a number of witnesses report seeing him topple onto his left side striking his head on the ground as he “crumpled”. The bruises, therefore, are at best ambiguous and equivocal evidence.
93. There is also a strong counter-argument against the theory that this was a traumatic injury. Drs Little and Tannenberg, with a combined experience of more than 60 years in forensic pathology, gave evidence during the inquest that they have not encountered a single case of a traumatic subarachnoid haemorrhage that is not also accompanied by some evidence of traumatic injury. Drs Walker and Rodriguez, with their many years of specialist experience in neurology and neuropathology (disease or injury of the brain and nervous system) could not determine the cause of the haemorrhage.
94. (Dr Withers, on the other hand, it must be said, was adamant in her evidence that such a traumatic injury can occur without evidence of trauma due to the whiplash or rotation forces on the neck.)
95. Drs Little and Tannenberg also gave evidence that it is quite common for a person to suffer a spontaneous subarachnoid haemorrhage without the aneurysm being able to be found. This is probably due to the aneurysm being obliterated when it ruptured. Dr Little estimated that this occurred in 10-20 per cent of cases. Sometimes, despite the utmost care being taken by forensic pathologists, the site of the tear or rupture of a blood vessel can be destroyed in the process of the autopsy itself. They also gave evidence that spontaneous rupture of an aneurysm is a more common cause of subarachnoid haemorrhage than trauma.

96. The forensic pathologists both made the point that traumatic subarachnoid haemorrhage often occurs in situations where the victim is impaired by alcohol or has received an injury that makes him or her groggy so that he or she is unable to brace against the fatal blow. Jai was not impaired before the fight: he was alert and active. If he became impaired during the fight, so as to make him vulnerable to a blow, no one saw this.
97. Dr Withers's perspective was that traumatic subarachnoid haemorrhage without evidence of external injury is more common than perceived by the forensic pathologists. Dr Tannenberg explained that the difference of opinion on this issue may be due to the fact that forensic pathologists, by definition, conduct post mortem investigations while neurosurgeons treat living patients. Each specialty sees different populations of patients.
98. Four particular problems that make Jai's case ambiguous and mysterious. First, the physical investigations by the forensic pathologists who conducted the autopsy, which included CT scans and examination by eye and by microscope, were thorough but the site of the haemorrhage was not able to be identified. This meant that the medical specialists were unable to determine whether Jai had suffered a ruptured aneurysm or a traumatic tear of a blood vessel. Despite Dr Withers's firm view that the absence of evidence of an aneurysm is suggestive of a traumatic tear, Drs Little and Tannenberg gave a clear explanation why that evidence may be absent. This evidence cuts both ways.
99. Second, no signs of significant trauma indicating that he had been struck by a violent blunt force were found. While Prof. McKelvie and Dr Withers mounted a strong argument that the absence of evidence of trauma does not of itself exclude a traumatic subarachnoid haemorrhage, Drs Little and Tannenberg demonstrated that this evidence also cuts both ways.
100. Third, as previously mentioned, there is no evidence suggesting that Jai was impaired by alcohol or had been made groggy by a previous blow or series of blows before he was struck by a force that caused rotation and hyperextension of his head and neck.
101. Fourth, as I have discussed above, the eyewitness accounts of the incident at the Mullumbimby High School were unhelpful and unreliable in identifying what had happened to Jai immediately before his collapse.

Conclusions in relation to the manner of Jai's death

102. Commonsense suggests that there must have been a causal relationship between Jai's involvement in the fight and his haemorrhage. It would be an astonishing coincidence if Jai's brain haemorrhage took place during an altercation and had nothing to do with it. Arriving at a diagnosis (or making coronial findings), however, is not a simple matter of conducting a straw poll of the experts.
103. If it is accepted that the fight was causally linked to Jai's haemorrhage, it remains, nevertheless, a matter of speculation whether he suffered a ruptured aneurysm due to a sudden increase in blood pressure from his excitement and involvement in the fight or a traumatic injury most likely caused by sudden hyperextension and rotation of his head and neck. Absent the missing piece of the jigsaw puzzle – evidence of an aneurysm or a torn artery, or evidence of traumatic rotation of his neck – I am simply unable to make a finding as to whether Jai's subarachnoid haemorrhage was caused naturally or traumatically.
104. What can be stated with some confidence is that Jai's death was not due to a blunt force injury of such magnitude that it directly caused the subarachnoid haemorrhage. No such injuries were found at the post mortem examination. In short, there is nothing to suggest that Jai was bashed to death either by punching or by having his head smashed against a hard surface. He was certainly not murdered.
105. All the medical evidence suggests that a traumatic subarachnoid haemorrhage occurs almost instantaneously. If the subarachnoid haemorrhage was traumatic, it probably happened because as, Dr Withers put it, "the stars aligned" at a moment when no one saw exactly what happened to him.
106. If Jai suffered a rotation or hyperextension injury, it must have occurred seconds before his collapse but the precise mechanism of that injury is impossible to identify. It may have happened during the melee: it is easy to imagine many ways in which the neck of a slightly-built boy could be twisted in a surging throng of people. At least some of the eyewitness evidence indicates that Jai staggered or stumbled back out of the crowd into the wall. This may indicate that he had already suffered the haemorrhage by the time he hit the wall and slid down. Some support may be found for this theory in the fact that AM has

stated that he observed Jai staggering glassy-eyed and groggy from the fight with his head to one side and down.

107. On the other hand, he may have suffered a whiplash- type injury as he hit the wall. This hypothesis seems less likely because observations of Jai as he hit the wall were generally clearer than when he was in the melee and no witness, however, has described anything of that nature.
108. And the possibility that Jai's death came about due to the spontaneous rupture of an aneurysm also remains open.
109. I now turn briefly to the secondary issues.

Was the police investigation adequate?

110. In my view, the police investigation was commendably thorough. It is difficult to imagine what more could have been done by the investigators. A well-publicised appeal for witnesses and information was conducted over several months not only by the police but by Mr Drummond himself. This inquest has received extensive publicity in the local and state-wide media. No further direct evidence has been produced. The brief of evidence compiled by Det Sgt Frost was as good as any I have seen in my lengthy experience as a practising criminal lawyer and as a magistrate.
111. It is beyond the resources or, indeed, the powers of police to keep all potential witnesses to crimes or critical incidents separated and incommunicado from the start to the finish of an investigation. The records of interview reveal that reasonable care was taken to obtain from students their own individual accounts and to distinguish between their direct observations and hearsay. The police cannot be held responsible or criticised for the fact that many student witnesses spoke to or communicated with other witnesses in the immediate aftermath of the incident at Mullumbimby High School.

Was there a culture of violence at Mullumbimby High School?

112. The evidence before me in the form of a report from the Department of Education and Training, in the evidence of teachers from Mullumbimby High School, including the ex-

Deputy Principal, Mr Ray Linabury, and from a number of witnesses who were students at Mullumbimby High School in 2009, indicates violence is less of a problem at the school than in most State high schools in NSW (and, although I do not have statistics for them, I suspect probably private schools as well). Before 28 August 2009, the number and frequency of suspensions for violence at the school were low compared with the rest of the state.

113. This was, on the account of Donna Pearson, a “dream school”. Mr Ray Linabury, one of the Deputy Principals in 2009, said that he had never seen another school where kids hugged one another so much. Rather than a culture of violence, it appears that Mullumbimby High had a culture of care.

Was there any indication that a fight or brawl was about to erupt on 28 August 2009?

114. In my view, there was little or nothing to indicate that a brawl was about to take place on 28 August 2009. During recess, when the table dispute came to the notice of teaching staff, two senior teachers intervened and, as far as both groups of students were concerned, settled the dispute.
115. Although there is some evidence of tension and annoyance on the part of each group, it is a misnomer to refer to a “table war”. In fact, by intervening and promising to look into the purchase of further tables for the Year 9 students, Mr Linabury had, to all intents and purposes, resolved the table problem to their satisfaction, at least temporarily. If there was a “war”, an armistice had been declared with no serious violence ever having been inflicted by either group on the other.
116. What really triggered the fight on 28 August 2009 was the fact that a Year 9 student had spat on a Year 11 student. This provoked an indignant response from PC and his supporters. Before they acted, however, the Head Teacher, Donna Pearson had asked the student who had been spat on whether he wished to take the matter further and he had told her he did not. This suggested to her that no further trouble was likely to occur in the short term. At that stage, it seems that no one had identified the spitter to Ms Pearson. PC’s account was that he had been told the name by KJ only after Ms Pearson left the group. It

made sense, in any event, for Ms Pearson to take up the matter afterwards when things had calmed down rather than to exacerbate tensions between the groups.

Did the school take reasonable action to prevent harm to students at the school in the lead up to the fight and during it?

117. As I have noted, senior teachers intervened in the table dispute and defused the issue as far as they could see. But for the fact that Jai's death was related to the fight which was in turn related to the table dispute, the dispute would now be regarded as a fairly trivial issue in the wider scheme of things that are important in a school or education system. It is true that apparently minor issues can lead to fights and aggression. Road rage is a typical example of such a phenomenon. But the table dispute had never led to serious violence before and, in fact, did not do so on 28 August: it was the spitting incident that was the trigger of the fight.
118. As soon as they became aware of the fight starting, several teachers intervened to break it up. Their intervention was swift and effective generally. The fight on all accounts lasted no more than a minute before it was broken up. It was most unfortunate that Jai suffered his fatal haemorrhage in that minute before they could intervene.
119. The school has a firm policy of dealing with bullying and violence as is demonstrated by the facts that immediately following the fight, the school itself conducted its own investigation, called in the police and suspended a number of students because of their involvement in the incident.
120. I digress to add that no one has suggested that Jai, or any of the involved Year 9 students for that matter, were the victims of bullying. Indeed, AM gave evidence that he and his group were not the type of boys who would be bullied.

Did the school take reasonable action to assist Jai Morcom after he collapsed?

121. The response of school staff to the discovery that Jai had collapsed was swift and appropriate. Two first aid officers trained in CPR and mouth-to-mouth resuscitation immediately attended the scene and commenced work on Jai very shortly after his collapse. They cleared his airway, placed him in the recovery position, then commenced mouth-to-

mouth resuscitation and CPR while waiting for paramedics to arrive. They had assistance and professional direction from Ms Jennifer Watson, an off-duty Registered Nurse who was a parent at the school. Unfortunately, nothing that the staff did or could have done for Jai made or would have made any difference to the outcome.

122. I especially commend Jennifer Watson, Alexandra McAuley, Jennifer Costigan and others who went to Jai's aid.
123. There was no mouth-to-mouth resuscitation mask in the school first aid kit but this did not cause any hesitation on the part of the first aid officers or impair the resuscitation effort. I propose to make a formal recommendation, however, to the Ministers for Education and Industrial Relations and the Workcover Authority that the Occupational Health and Safety guidelines issued by the Workcover Authority relating the contents of school emergency kits be amended to require the inclusion of mouth-to-mouth resuscitation masks.

In conclusion...

124. Kim Morcom, Steve Drummond and Jai's siblings have suffered a tragic blow. To lose a child is every parents' nightmare and to lose one so suddenly and without any chance to prepare for it is devastating for them. I can understand why, in such a situation, they might be angry or wish to see someone brought to account for Jai's death and that it may be a great disappointment that the police investigation and this inquest has not resulted in that.
125. It is, of course, extremely regrettable that the fight broke out on 28 August. The chain of causation of Jai's death is long: the Year 9s were taking tables; the Year 11s were irritated by this; someone spat; someone else reacted; Jai got involved; others became involved; something happened to Jai. Perhaps sitting inside his head or neck like a time-bomb was an aneurysm. Take away one of the links in the chain and Jai may still be alive. It would be wrong, however, to point a finger of blame at any individual or group of students for Jai's death. Nor can the school be blamed.
126. Whether Jai's subarachnoid haemorrhage was spontaneous or traumatic, he was the victim of terrible luck. Such events are very rare indeed. Kim Morcom and Steve Drummond have been the victims of the worst of luck too and for that I am very sorry and offer my most sincere condolences and respects. They enjoyed the company of a special person for 15 years. I hope that the rich memories they and Jai's siblings and his friends have of him

will, one day, not only be a source of sadness but of quiet pleasure for them. I now turn to my formal findings and recommendation...

Findings

127. I find that Jai Morcom died on 29 August 2009 at the Gold Coast Hospital, Southport, Queensland as a result of a Grade 5 basal subarachnoid haemorrhage suffered during an altercation at the Mullumbimby High School on 28 August 2009.

Recommendation

128. I recommend to the Ministers for Education and Industrial Relations, and the Workcover Authority, the Occupational Health and Safety guidelines relating to the contents of school First Aid kits be amended to require the inclusion of mouth-to-mouth resuscitation masks.

Magistrate Hugh Dillon
Deputy State Coroner