



NEW SOUTH WALES STATE CORONER

Name of Deceased: John Kudrytch & Melissa Cook
File Number: 2422/08 & 2423/08
Hearing Dates: 11 – 15 April 2011
Location of Inquest: State Coroner's Court, Glebe
Date of Finding: Wednesday 20 April 2011
Coroner: Magistrate Scott Mitchell, Deputy State Coroner

Representations:

- Mr. T. Watts of Counsel appeared to assist the Coroner, instructed by Mr. J. Herrington of the Crown Solicitor's Office.
- Mr. Spartalis of Counsel for NSW Police
- Mr. Madden for Senior Constable Amanda Williams and Constable Amy Shaw and Mr. Willis for Constable Sarah Abela.

Inquests Touching on the Deaths of JOHN KUDRYTCH and MELISSA COOK

1. These are inquests into the deaths of John Kudrytch, born 22 September, 1969, and Melissa Cook, born 11 March, 1979. Kudrytch died, apparently of a self-induced injury caused by a single gunshot to the head, at his house at 127 Pine Rd., Casula on the evening of 16 December, 2008 having, at earlier that afternoon fired a round into Ms. Cook's chest as she was working as console operator at the *BP* service station at Pine Rd., Casula. Ms. Cook was taken to Liverpool Hospital and died at about 7.40 pm that evening. Kudrytch and Ms. Cook had been married to each other for about ten years and had finally separated in about September, 2008. There were no children of the marriage.

The inquests

2. In these inquests, Mr. T. Watts of Counsel appeared to assist the Coroner, instructed by Mr. J. Herrington of the Crown Solicitor's Office. Others appearing at the inquest were Mr. Spartalis of Counsel for NSW Police, Mr. Madden for Senior Constable Amanda Williams and Constable Amy Shaw and Mr. Willis for Constable Sarah Abela.
3. The *formal documents* relating to Melissa Cook being the *P79A Report*, the *Identification Statement* of Stephen Cook regarding his daughter, Melissa Cook, an *Expert Certificate* of Detective Senior Constable Rowney, the *Certificates of Analysis* by Rajeev Malhotra of the *Division of Analytical Laboratories* and the *Autopsy Report* of Dr. Matthew M. Orde of the *Department of Forensic Medicine*, Glebe are **EXHIBIT 1 & EXHIBIT 2** are the *formal documents* relating to Mr. Kudrytch including the *P79A report*, the *Expert Certificate* of Detective Sergeant Tony Bush, *Certificates of Analysis* of the *Division of Analytical Laboratories* and Dr. Orde's *Autopsy Report*.
4. Those appearing to give evidence at the inquests included:-
 - The *officer in charge* of the investigation, Detective Sergeant Bradley Abdy;
 - Dr. Lev Havryliv, Mr. Kudrytch's *G.P.*;
 - Bruno Gelonesi, his solicitor;
 - Terry Campbell, Ms. Cook's cousin;

- Sgt. Peter Lonergan of Macquarie Fields police;
- Constable Sarah Abela of Macquarie Fields police;
- Sergeant Linda Bradbury of Macquarie Fields police;
- Detective Senior Sergeant Deanne Stanley of Liverpool police; and
- Detective Chief Inspector Andrew Richmond, the *Crime Manager* at Liverpool in December, 2008.

The murder of Melissa Cook

5. On 16 December, 2008, Ms. Cook was working behind the service counter at the *BP Service Station* at Pine Road, Casula. She had been separated from her husband for almost 3 months and had been living at her parents' house at 11 Cyclamen Place, Macquarie Fields. At about 4.15 that afternoon, Kudrytch drove up to the service station and parked his silver *Ford Falcon #BEI-O9P*, near the car wash. He got out of the car carrying a shortened shotgun, walked through the shop area up to the counter where Melissa Cook was working and, without any conversation, aimed the gun at her chest from a distance of about one meter and fired. She fell and he turned, walked back through the shop and outside to his car, got in and drove away. Security cameras at *BP Service Station* at Casula capture Kudrytch approaching the service counter and discharging the firearm.
6. There were a number of witnesses in the shop area or in the service station forecourt. These included **Shane Cercos**, a local surveyor. He was filling his car when he saw Kudrytch arrive, carrying the shotgun in both hands and apparently attempting to conceal it. He watched Kudrytch disappear into the shop and then saw him emerge, walk to his car and drive off. **Peter Caleo**, an air conditioning and refrigeration mechanic employed by *Metric Group* which has a contract with *BP* was working on the air conditioning unit in the shop and he placed his ladder and a protective barricade in the main walkway of the shop area. He saw Kudrytch walk down the aisle, "*flick the barricade up over his head*" and then "*he heard a loud bang and people started to scream.*" Mr. Caleo watched as Kudrytch retraced his steps, out of the shop and into his car, still carrying his gun. He heard him say "*You're next*" but doesn't know to whom that was directed, and he heard the screech of tyres as

Kudrytch drove away. Then he walked up to the counter to see Melissa Cook on the ground bleeding and attempting to breath.

7. The manager of *BP Casula*, **Lily Sutedja**, knew both Melissa Cook and John Kudrytch. The latter had been a regular customer for about five years and Cook had sometimes confided in Ms. Sutedja about incidents of domestic violence and about her ongoing disputes with Kudrytch which included financial disputes surrounding their separation and proposed divorce. Ms. Sutedja who was busy stocking shelves watched as Kudrytch entered the shop, carrying his gun, and saw him approach the counter where Ms. Cook was working. She heard a loud bang and saw Kudrytch walking towards the exit. It was to her, she believes, that Kudrytch issued his threat about *being next*. Ms. Sutedja then ran to Ms. Cook who was lying, face up, on the floor with a wound in her stomach which was starting to bleed. Ms. Sutedja contacted both police and ambulance and watched as Ms. Cook was placed in the ambulance for the trip to *Liverpool Hospital*.
8. **Iftikar Hussein** was about to enter the shop to pay for his petrol when he heard a loud bang. He entered the shop to see Kudrytch, still carrying his gun, on his way to the door. He could hear Ms. Sutedja screaming and he heard Kudrytch say “*you’re next.*” Mr. Hussein watched as Kudrytch drove out of the service station and on to Pine Road.
9. A tanker driver, **Des Dawson** was delivering fuel, checking meters and undertaking associated paper work. He was parked near the southern end of the service area when he heard a loud noise which he likened to a mortar going off. Then he saw Kudrytch, shoeless and gun in hand, exit the shop. Mr. Dawson described the gun as having the barrel cut off and with a dark wooden handle. He thought he may have witnessed a robbery as he saw Kudrytch drive off in his silver *Ford Falcon*. Dawson took note of the registration number and, when another witness yelled it out, he wrote it down on a piece of paper and subsequently gave it to police.
10. Police responded to Ms. Sutedja’s call and **Constable Chrystal Clinch** arrived very shortly after the incident, closely followed by two other police officers. Constable Clinch saw Ms. Sutedja and another *BP* employee who arrived to start a shift almost

immediately after Kudrytch's departure, **Prabhaker Jadala**, tending to Ms. Cook on the floor of Sudetja's office, lying on her back with her right arm above her head and a hole in the front of her shirt which was soaked in blood. Another police officer found a weak pulse and Constable Clinch lifted Ms. Cook's shirt to see a wound measuring about 10-15cms just below the right rib cage. She placed a dressing on the wound and applied pressure on the wound until ambulance officers arrived and she assisted them place Ms. Cook on a stretcher.

11. According to paramedic **Rick Santamaria**, he and another ambo arrived at the BP service station and he saw Ms. Cook on the ground. "Her eyes were open and she was able to respond to a basic command however (she) had a decreased level of consciousness." Mr. Santamaria could find no major pulse. Ms. Cook was very pale and Mr. Santamaria saw "a penetrating wound approximately 10 cms. in diameter in the epigastric region of her chest." En route to the Hospital, Mr. Santamaria maintained an airway and inserted an IV line to administer fluids. The ambulance left BP Casula at 4.27pm and arrived at Liverpool Hospital at 4.32pm.
12. At Liverpool Hospital, Ms. Cook underwent emergency surgery and multiple blood transfusions but her condition continued to deteriorate and she was pronounced dead at 1940 hours on 16 December, 2009. The autopsy was undertaken by Dr. Matthew Orde here at Glebe at 0945 hours in 17 December, 2009 and his finding is that Ms. Cook died of a shotgun wound to the abdomen.

Kudrytch's mental health

13. **Dr. Lev Havryliv** of Birrong was Kudrytch's *GP* over many years, treating him for a variety of conditions but, most recently, for depression prompted, he believes, by financial difficulties, weight and migraines. This depression is likely to have been grounded in reality given that the evidence establishes that Kudrytch did have financial difficulties, was obese and did suffer from migraines. Perhaps his depression might have been better dealt with by budgeting advice, diet and the migraine medication, *Capadex*, which Dr. Havryliv prescribed for him rather than *Zoloft* which Dr. Havryliv had been prescribing, apparently with little if any success, since 2008 but he told the inquest that the depression had passed from the merely reactive to the clinical level.

14. *Zoloft* is a specific serotonin re-uptake inhibitor and must be handled with particular care but neither **Professor Graham Starmer**, whose expert report is **Exhibit 5**, nor **Dr. Olaf Neilssen**, whose expert report is **Exhibit 6**, sees any reason to think that Kudrytch's behaviour on 16 December, 2008 was significantly influenced by *Zoloft* or, for that matter, by his medications *Capadex*, *Temaze* and *Temazepam* or by his intermittent *amphetamine* use. At most, Dr. Neilssen thinks that *amphetamine* may have "exacerbated his underlying condition."

Kudrytch's suicide

15. It is not certain but is likely that, having shot Ms. Cook, Kudrytch drove straight home to his house at 127 Pine Road, Casula. There he spoke by telephone to two friends, firstly Graham Laing and then Darren Hancock. **Graham Laing** was a work colleague as well as friend of five or six years standing and he was somebody with whom Kudrytch had previously discussed the financial difficulties which had recently led him to consider bankruptcy, his marital difficulties, if that is the word for them, and the *Apprehended Violence Order* which had recently been made against him. When he phoned Laing at about 4.15pm on 16 December, 2008 Kudrytch was crying and sounded distressed as well he may have and he announced that he had shot Ms. Cook and believed that she was dead. He explained to Laing that he had been trying to speak to Cook but she had not been prepared to talk to him. He said that he had accused her of seeing another man and that she had laughed at him. According to Mr. Laing, Kudrytch had announced that he didn't want to go to gaol and, so, intended to kill himself. And when he, Laing, attempted to dissuade him, he terminated the call.
16. Mr. Kudrytch's employer at *Hancock Excavation*, **Darren Hancock** then phoned him, attempting to talk him out of killing himself. Mr. Hancock had long been aware of Kudrytch's financial difficulties and was aware of his marital difficulties and, over a period of two months, he had noticed Kudrytch sink deeper and deeper into depression. In their phone conversation that afternoon, Kudrytch confirmed that he had shot Ms. Cook and was about to shoot himself. When Hancock tried to reason with him, he terminated the call and refused to answer Mr Hancock's further calls.

Hancock telephoned police and he and his wife set out to drive to the house at Pine Road, Casula but were stopped *en route* by a police road block.

17. **Detective Sergeant Bradley Abdy** found himself in charge of the initial investigation of the attack on Melissa Cook. He dispatched two officers to drive an unmarked car past the house at 127 Pine Road, Casula to see if Kudrytch was there. He had a discussion with Graham Laing and Darren Hancock and he directed officers to try to raise Kudrytch by phone. That was unsuccessful and Mr. Abdy established a command post at the corner of Pine and Beech Roads, Casula, created a perimeter around Mr. Kudrytch's house and called for the *NSW Police Negotiators and Tactical Operations Unit*. Throughout, **Detective Senior Sergeant Keating** continually tried to contact Kudrytch by phone but without success.
18. Members of the *Tactical Operations Unit (TOU)* arrived at about 5.40pm and a police negotiator, **Detective Senior Constable Wayne Kelly** arrived at 6.11pm. Attempts were made by phone, facsimile and loud hailer to make contact with Kudrytch and his phone could be heard ringing inside his house. Finally, at 8.12pm, permission was given by Assistant Commissioner Mennilli for *TOU* officers to breach the garage door at 127 Pine Road.
19. One of the officers who entered the house via the garage was **Leading Senior Constable John Zimmerman**. He and his colleagues found the silver *Ford Falcon BEI-09P* parked with the keys still in the ignition and a shortened shotgun resting on a blue and white towel on the front passenger's seat. Both the barrel and the stock of this shotgun had been shortened. The gun was identified as a "*Russian*" brand shotgun, serial number H30011. It was unregistered. Tests later revealed that this was the shotgun with which Ms. Cook was killed.
20. Entering the main body of the house, police found it in darkness and they used a torch to see Kudrytch, dressed in a fluoro-yellow singlet and a pair of shorts, obviously dead, seated in a chair with a doona over him and a pillow behind his head, holding a shortened, single barrelled rifle, *CBC* model 151, serial number 454995 in his hands. A photograph taken by Mr. Abdy and included in the Coronial Brief shows Kudrytch's right thumb on the trigger. His face was covered in blood and

his head was slumped forward. He had a close proximity gunshot entry wound to the centre of his forehead with no exit wound. Police found a single 32-20 fired casing still resting in the rifle.

21. Dr. Orde performed Kudrytch's autopsy at 0925 hours on 18 December, 2009 and pronounced the cause of death as "*gunshot wound to the head.*"

22. In the house, police found a large quantity of varied ammunition and bits and pieces of firearms and there was also medication including *sertraline*, *tramahexal* and *temazepam*. Police found two documents which might be regarded as *suicide notes* and a large variety of papers indicating that Kudrytch and/or Ms. Cook were heavily indebted to a variety of people and that he was/they were being pressed for payment. There are also notes written by Kudrytch which appear to have been composed in response to what he had read about Ms. Cook and her activities on a community web site. Kudrytch's sister, Helen Nedelko told police that her brother had told her that he had seen Ms. Cook's *facebook* profile. The general theme of Mr. Kudrytch's writings is self-pity and self-righteousness with expressions of enduring loyalty and care while seeking to punish Ms. Cook for her supposed thoughtless infidelity together with maudlin and ultimately self-forgiving references to his own shortcomings. Evidently these writings were composed at different times and some preceded an intention to kill Ms. Cook.

23. However distasteful Mr. Kudrytch's writings may appear, they do seem to reflect his mood towards the end of his life. His friend **Mark White** reports that Kudrytch had pointed a gun at his own head when Ms. Cook was threatening to leave him and that, sometime later in the final year of his life, after he and Ms. Cook had separated, Kudrytch had complained that he had seen Ms. Cook out with another man. Another friend, **Peter Rylands** reports that Kudrytch, whom he said was using *amphetamine* regularly, had telephoned him on 15 December, 2008 sounding "*depressed and suicidal.*"

John Kudrytch's background

24. John Kudrytch is the younger child of Maria and the late Elias Kudrytch who came to this country from Ukraine in 1955. He completed his school education in Year 7 and commenced employment, first as a general hand and later as a driver with *Hancock Excavation*, Darren Hancock's firm. He had a lengthy police record but most of the offences there recorded were traffic matters. There are five *PCA* convictions, numerous convictions for *unlicensed drive*, *drive while licensed cancelled* and *drive while disqualified*. There are some convictions for dishonesty including *state false name x 6* and *obtain benefit by deception x 4*. The only convictions for violent offences are *resist arrest x 2* but Detective Sergeant Abdy's evidence is that Kudrytch was "a person of interest in an extortion that occurred on 21/12/98 at Kellyville when he was allegedly armed with a pistol and was in company of two other men however the victim refused to attend court and later withdrew his complaint." According to Mr. Abdy, Kudrytch was a long time member of the *Comancheros Outlaw Motor Cycle Gang*. It was through this club that, in 1999, he met Melissa Cook, the daughter of another club member, Steven Cook.

Melissa Cook's background

25. Melissa Cook was the daughter of Stephen and Jean Cook. She was born at Carramar on 11 March, 1979, the eldest of four children. She went to school at Guise Public School and later at Ingleburn High School which she left in year 12. When she left school, she worked, originally at *McDonald's* at Macquarie Fields. Her father Stephen Cook was a member of the *Comancheros Outlaw Motor Cycle Club* where he was friendly with Kudrytch, another member, and he introduced his daughter to Kudrytch. Kudrytch and Ms. Cook commenced living together in 1999.

The marriage

26. Kudrytch and Melissa Cook intermarried in 2000 and, in 2003, they acquired the home at 127 Pine Road, Casula. It appears that this was not a happy marriage but one characterised by Kudrytch's violent and abusive language. Although the evidence of Kudrytch's sister Helen Nedelko indicates his physically abusive behaviour towards her, there really is very little evidence of his physical brutality towards his wife. According to Jean Cook, Melissa Cook's mother, who, given her frank admission that she *hated* Kudrytch, may or may not be a reliable witness in this

regard, her daughter frequently phoned her parents *“crying and saying she couldn’t handle it any more and that she wanted us to go and pick her up.”* Jean Cook’s recollection is that Kudrytch used to *“order (Melissa Cook) around and treat her like she was his slave and spoke to her like she was a piece of shit.”*

Separation

27. Kudrytch and Ms. Cook separated for the first time in September, 2007 when she went home to her parents but, in the event, they resumed cohabitation after only a few days. On that occasion, while staying with her parents, she complained of Kudrytch’s verbal aggression and abuse but made no allegation to her mother of any physical abuse.
28. Then a second separation occurred from sometime in February until 8 March, 2008 which, again, Ms. Cook spent with her parents. Her mother’s impression is that, when she returned to Pine Rd., Melissa Cook found Kudrytch had destroyed a good deal of her personal property. Evidently, from that point in time, Ms. Cook made little effort to placate her husband and, instead, started *“to stand up for herself”* and, not surprisingly, there was a third and, as it turned out, final separation on 5 September, 2008.

Ms Cook’s complaint to police

29. On 30 September, 2008 Melissa Cook made a belated complaint to Liverpool Police. She claimed that, in the course of an argument in February, 2008, she had left home on foot only to be intercepted by her husband who caught her up in his truck, pulled up and said *“I’m sorry. Get in. I’ll take you home.”* When she got into Kudrytch’s truck, he took her to 127 Pine Rd., Casula, took her into the garage, took out a sawn off shotgun and said *“If you are going to leave me, I’m going to end it. I’m going to kill myself. I’ve got nothing to live for if you leave me.”*
30. Ms. Cook told Liverpool Police that Kudrytch then pointed the gun not at his own head but at hers and that her decision to separate in February, 2008 had been the result of this incident. But she complained that, since resuming cohabitation on 8 March, 2008, her husband *“often calls (her) a slut, a cunt, a mole, a bushpig and lazy (which) causes her to be unhappy in her own home.”*

31. Ms. Cook went on to complain to police that the continuing verbal abuse had prompted her to move out on 5 September, 2008 and that, since that time, Kudrytch had constantly harassed her, turning up at her work at *BP Casula* sometimes three times per day. She went on to disclose that, on 30 September, 2008, Kudrytch had come to her workplace and, instead of ordering her to return home or crying as he usually did, announced that he was hungry and said *"I'm going to get some food. Do you have any money?"* When she told him that she had no money, Kudrytch simply walked around the shop and collected a large pizza, a container of *"Cookies and Cream"* ice cream and a 6-pack of *Coke Zero*, brought them up to the counter and said *"I'm going to put a tick on it."* When Ms. Cook told him, *"No you can't do that"* and scanned the item which came to \$22.00., Kudrytch picked up the items and marched out of the shop with them. He waited in his car in the parking area and when the manager, Lily Sutedja answered his phone call, he said to her *"Lily, let me speak to Melissa. If she doesn't want to speak with me, I'll burn her car."* Police were called and applied successfully for an urgent interim AVO which was granted by a Magistrate on 30 September, 2008.
32. According to COPS Event of 30 September, 2008, police held fears that "the poi may have access to fire arms and may become violent" and that Kudrytch "may use his OMG connections to access illegal firearms and to use these to threaten or harm the victim." But, strangely, the same document goes on to record that, because "the version of events given by the accused (Kudrytch) differed greatly from that of (Ms. Cook), attending police are less fearful for the safety of (the victim)." Given that Kudrytch had declined a police offer to participate in an electronically recorded interview, it is not clear how police came to that conclusion.

The arrest, the AVO and the search for firearms

33. At about 11.30pm on 30 September, 2008, after the interim AVO had been granted, police attended the Pine Road, Casula premises to arrest Kudrytch on charges of common assault, shoplifting and stalk/intimidate and to conduct an ultimately unsuccessful search for firearms. Police records indicate that they were engaged at the premises for about 45 minutes and it is not clear how they found nothing of interest, neither firearms, parts of firearms nor ammunition. It seems likely that

Kurdytch was a man who liked to be well armed. The evidence is that he usually slept with a firearm in his bed. When police entered the premises after his death, they found an abundance of ammunition, a wide variety of parts of firearms, the weapon which had killed him and the weapon with which he had killed his wife. Perhaps when police searched on 30 September, Kudrytch had had time to remove all the offending material from the house or perhaps police missed it. It was very late at night. The charge matters and the AVO proceedings were back before Liverpool Local Court on 7 October, 2008 when a final AVO was made and the charge matters were stood over to 4 November and, later, to 16 February, 2009.

Ms. Cook reports AVO breaches

34. It was a term of the AVO that Kudrytch not contact Ms. Cook and, on 20 November, 2008, she appeared at Macquarie Fields Police Station to report breaches of the order. Evidently, Kudrytch had telephoned her on at least two occasions – once on 28 October when he had phoned her at work and wished her a happy anniversary but made no overt threat against her and again on 29 October when he had sounded depressed and apologised to her. Ms. Cook hurriedly terminated each call. Then, on 20 November, 2008, **Bruno Gelonesi**, a solicitor who had acted for both of them, rang Ms. Cook to tell her that Kudrytch was at *Warragamba Dam*, armed and threatening to shoot himself unless she spoke to him. Ms. Cook was distressed at that news and decided to report the earlier breaches to police. Perhaps she felt that, although neither breach involved an *overt* threat, Kudrytch's telephone calls and his behaviour at Warragamba indicated that she was in danger and, if that is what she thought, she was probably correct. Perhaps she thought that reporting Kudrytch's behaviour and his breaches of the AVO would afford her a degree of protection from police. In the event, if she thought that, she was sadly mistaken.

Constable Abela

35. In fact, police failed to take effective action for Ms. Cook's protection. **Constable Sarah Abela** of *Macquarie Fields LAC* interviewed Ms. Cook in her mother's presence at the police station on the evening of 20 November 2008. She took Ms. Cook's statement and, before she completed her shift early on 21 November, she created a *COPS Entry* and sent it off to her superior, Sgt. Peter Lonergan.

36. There are four matters which might be mentioned regarding the *COPS Event*. Firstly, the creation of the *COPS Entry* required Ms. Abela to answer a number of *pro forma* questions posed by the computer programme. Some of those seem quite obtuse. # 16 reads “Victim asked if any firearm owned” to which Ms. Abela replied “Y” for “yes.” But that “Y” is not intended to indicate that a firearm was owned but merely that the victim was asked if a firearm was owned. It is not clear that there is any space provided for or any question or prompt directed to the substance of a victim’s reply. Similarly, # 17 reads “POI asked if any firearms owned” to which Ms. Abela replied “N,” not to indicate that Mr. Kudrytch did not own any firearms or did not admit to owning any but merely that the question was not asked. # 18 then asks “Were any firearms owned” and Ms. Abela’s “N” indicating “No” is based not on anything Ms. Cook may have said nor to anything Kudrytch might have said had he been asked but to her own independent conclusions following investigations which included her questions to Ms. Cook and her own inspection of electronic licensing records.
37. Secondly, Ms. Abela told the inquest that, in answering the questions posed by the computer as to whether either the victim or the alleged perpetrator owned firearms, she, appropriately in her view, drew a distinction between *owning* firearms and *having access to* firearms. If Ms. Abela’s interpretation of those questions is correct, then there seems to be no question or prompt directed, not to mere ownership of firearms, but to the much more important matter of possession or availability of firearms.
38. Thirdly, Ms. Abela omitted from the *COPS Event* any reference to Mr. Gelonesi’s report that Kurdytch had threatened to shoot himself, explaining that omission by saying she had not regarded that matter as relevant to the alleged breaches of *AVO*. Perhaps that is so but I would have thought it might have impacted on the degree of urgency and risk involved. At any event, Sergeant Lonergan, Ms. Abela’s supervisor, told the inquest that the omission might have made little difference to his assessment.
39. And fourthly, the document prepared by Ms. Abela at 0112 hrs. on 21 November spoke, in the *present* tense, about Kudrytch’s access to firearms. The passage

reads “When asked about firearms, Victim believes the POI has access to a sawn off shotgun at his house. She told this to Liverpool police on the last occasion and E67415102 states police have already conducted a search for that firearm.” If that passage accurately represented Ms. Abela’s understanding of the situation at the time, one might have expected her to have taken steps to highlight the need for urgency but she told the inquest that it did not. She placed reliance on the previous search of the premises and she said that she had intended to speak in the *past* rather than the tense. She went on to say that it had appeared to her that Ms. Cook’s anxiety as to firearms, as she had disclosed it at Macquarie Fields police station, had related to an earlier time and that, currently, Ms. Cook’s concerns were focussed on Kudrytch pestering her with unwanted telephone calls. Ms. Abela recognized that these were irritating and constituted breaches of the AVO but, in comparison with a great many of the instances she has encountered in the course of her very extensive DV work, were not particularly pressing. Ms. Abela’s impression was that Ms. Cook had good supports in place and did not seem frightened or distressed and she said that she would have contacted her supervisor had she thought or had Ms. Cook indicated that there was an immediate risk.

40. Constable Abela was able to say that, by the end of her shift when she went on leave, she had completed all she had intended with regard to Ms. Cook’s report, had sent her work off into the system and, as far as she was concerned, the job was done and *off her screen*.

The assessment of risk

41. In accordance with police procedures, the matter was then placed in the *work queue* until *verified* by Sgt. Peter Lonergan at 5.11am on 21 November. He gave it a *Low Risk* classification which I think may well have underestimated the significance of Kudrytch’s longtime membership of a notoriously violent, criminal organisation and the high likelihood that, despite the failed police search of the home, he had possession of or ready access to firearms. But Mr. Lonergan explained that, in approaching his task, he was not *at large* and able to exercise his own common sense and judgment but rather was required to ascribe a classification in accordance with a number of predetermined criteria. In other words, he had no choice but to give the matter the priority to which the limited criteria pointed. That said, Mr.

Loneragan's *Low Risk* classification, later confirmed by another Macquarie Fields officer, Sergeant Allen, might well have coloured the police view of the matter at Macquarie Fields and, later, at Liverpool had police taken any view at all.

Delay at Macquarie Fields

42. The matter was then placed in a *secondary work* queue known as the *work priority queue* awaiting a direction for further investigation, suspension or transfer to another *LAC*, in this instance *Liverpool LAC*. **Sgt. Linda Bradbury**, the Macquarie Fields *Domestic Violence Liaison Officer* examined the matter on 21 November, 2008, noted that it was to be transferred to Liverpool because the breaches of the *AVO* had occurred within the boundaries of the neighbouring *LAC*, namely *Liverpool LAC*, but first sent it back to Constable Abela "*for the purpose of adding the statement she had taken from Ms. Cook to the NSW Police Multimedia System.*"
43. Entry on to the *Police Multimedia System* would allow Ms. Cook's statement to be accessed and scanned from any police computer in the state and, therefore, from any police computer in the *Liverpool LAC* but it was an essentially clerical task which could have been achieved more or less at the press of a button. It was not Ms. Bradbury's function to press that button but she told the inquest that she had understood that attaching Ms. Cook's statement to the *COPS Entry* would ultimately save time because, if it were not attached, *Liverpool LAC* would be likely simply to send the *COPS Entry* back to Macquarie Fields. So Ms. Bradbury sent the matter back to Constable Abela so that she could attach the statement.
44. But Constable Abela was absent on rest days or annual leave until 2 December, 2008 and so the matter sat in a queue, unattended by her and unnoticed by anybody else, from 21 November until she returned to work on 2 December, 2008.
45. On the day Ms. Abela returned to work, she scanned Ms. Cook's statement onto the *Police Multimedia System* and sent the matter back to Sgt. Bradbury for quality review and approval so that it could be transferred to Liverpool. At that stage, the matter was again *off her screen*. But, between 2 and 8 December, Sgt. Bradbury was indisposed and worked only on 5 December and only for a total of 5 hours so

that it was not until 8 December that she was able to give it attention and the matter was finally transferred to *Liverpool LAC*.

46. I have little criticism of Ms. Abela and none of Ms. Bradbury. Ms. Abela seems to have acted promptly on both occasions when the matter was in her hands but she admitted to the inquest that the passage in the document she created at 0112 hrs. on 21 November regarding Kudrytch's possession of firearms was poorly expressed although, in the event, not significant. Perhaps another minor criticism relates to Ms. Abela's failure to attach Ms. Cook's statement to the *COPS Entry* but my understanding is that such is not always required. Certainly, Mr. Lonergan was able to perform his functions to his satisfaction without the benefit of Ms. Cook's statement. Sergeant Allen, who had the benefit of Ms. Cook's statement, ascribed the matter the same level of risk when he came to make the second risk assessment.
47. For her part, Ms. Bradbury perceived a good reason to delay the transfer of the matter from Macquarie Fields *LAC* to Liverpool until Ms. Cook's statement was attached to the *COPS Entry* and she did not know that her direction to Ms. Abela would lie, unread, for eleven days, until Ms. Abela returned to work. It does seem to me, though, that the system is defective in that regard and I think there ought to be a system devised by police whereby an automatic, "out of office" response is generated if a direction is sent electronically to an officer who is absent or else steps should be taken to *ensure* that such officer is covered.
48. **Sergeant Herbert Stanley Hobbs** the *Team Leader* of the *COPS Data Management, Policing Systems, Business and Technology Services* filed a statement which is **EXHIBIT 9**. He explained that the NSW Police Force uses the *COPS* for the recording of operational policing data and *Lotus Notes* as an e-mail system. The latter has an "out of office" function whereas the former does not. Mr. Hobbs conceded that it *might* be possible for *COPS* to be modified so as to introduce an automatic "out of office" response function but he was far from certain as to the practicality let alone the cost of such a scheme, noting that "*several days of research and enquiry*" would be required even to establish achievability let alone practicality. Again, some other procedure such as the use of e-mail might be practical although

the duplication of work which would be involved might be undesirable. All this inquest can do is point to the problem which occurred in this matter and has the potential to occur again and respectfully recommend that options which might exist be considered.

49. Given the volume of work, I think it would be unrealistic to expect Ms. Bradbury to have kept this particular matter in mind and to have checked when her direction to Ms. Abela elicited no immediate response and I note that the way the system worked was that, once the direction was given, the matter was *off her screen*.

Delay at Liverpool

50. In accordance with relevant practices, once the matter arrived in Liverpool, it was placed in the *work priority* queue where it sat, unaccessed and unallocated, until 17 December, 2008. The practice is that, before they are investigated and actioned, domestic violence offences are subject to a *risk assessment* so that priority can be determined and the matter allocated. Sometimes that happens even if the matter is one which has been transferred from another *LAC*. But no such assessment or allocation was carried out at Liverpool because the matter was not accessed before Ms. Cook's death. According to Mr. Abdy, **Detective Senior Constable Amanda Williams** and **Constable Amy Shaw**, the two *Domestic Violence Liaison Officers* at Liverpool, told their superiors when they were questioned that the matter was not actioned between 8 and 16 December, 2008 "*due to current work load and lack of police resources*" and due to there being "*only one computer in the Domestic Violence office.*" They deny having said that and they deny the substance of that claim.
51. In the period between 8 and 17 December, 2008, the position of *Crime Coordinator* at Liverpool was occupied by **Senior Sergeant Deanne Stanley**. According to Mr. Abdy, it was she to whom Williams and Shaw were responsible and it was one of her functions to accept matters coming in from foreign *LACs* and allocate them to appropriate officers for investigation. Mr. Abdy's evidence, however, is that these functions were routinely delegated to subordinate officers, in the case of domestic violence matters arriving at Liverpool, to the *Domestic Violence Liaison Officers*

Williams and Shaw who were expected to take in-coming matters off *work priority* and to deal with them without being specifically told to do so by Ms. Stanley. According to Mr. Abdy, the *Crime Coordinator* or, were she to be absent, her superior officer, the *Crime Manager*, while retaining authority personally to deal with such matters, was entitled to expect the *DVLO* without being prompted to perform this delegated function.

52. Ms. Stanley did not provide a written statement to the inquest but she appeared and gave evidence. As I might have anticipated from Mr. Abdy's statement, Ms. Stanley told the court that she had no responsibility for the delay which greeted this matter at Liverpool from 8 to 16 December and she laid the blame squarely at the feet of Senior Constable Williams and Constable Shaw. According to Ms. Stanley, it was their responsibility as *Domestic Violence Liaison Officers* to access the *work priority* screen, to review all *DV* cases appearing there, including *DV* cases originating in foreign *LACs*, to assess risk and decide if investigation was required. Were they to decide that it was, their responsibility was to allocate the matters to particular police officers for investigation.
53. Ms. Stanley's evidence is that this arrangement was something she inherited from her predecessor as Liverpool *Crime Coordinator*, **Leading Senior Constable Michele Cragg**, who was in court but did not seek to give evidence, and she says that she continued the arrangement almost immediately on taking up her position. Under that arrangement, Ms. Stanley says, she retained authority to access and act on *DV* matters appearing on the *work priority* but, as a rule, did so only in extreme instances leaving the overwhelming bulk of them to the two *DVLOs*. Were this the case, the inquest might have been presented with documentary evidence of hundreds, perhaps even thousands, of *DV* related cases accessed, managed and allocated to *general duties police* by Ms. Williams and Ms. Shaw. Instead, I was presented with one such case only and that a quite special case where Ms. Williams intervened, not to manage or allocate but, rather, at the request of the investigating officer, to provide particular support and guidance for a very young *special needs* victim of abuse.

54. Because this version of events is denied by Williams and Shaw and because the arrangement as proposed by Ms. Stanley seems so far outside the parameters of duties and responsibilities usually undertaken by *DVLOs*, the evidence requires further consideration.
55. It should be said that Ms. Stanley concedes that her *delegation*, one might almost say *abdication*, of authority so far as domestic violence matters were concerned was not formalised in writing but she told the inquest that all the senior officers were aware of it.
56. The job descriptions of *Crime Coordinator* and *Domestic Violence Liaison Officer* are before the inquest, **EXHIBIT 4**, and they say nothing about the *DVLO* taking on those additional responsibilities which, as described in those documents, fall squarely within the province of the *Crime Coordinator*. The first characteristic of the job, as enumerated in the *DVLO* job description is “*to monitor, review and provide tactical advice on the operational response to domestic and family violence incidents in the LAC*” and this indicates, it seems to me that, pretty much as Ms Williams said in evidence, her functions, apart from the *court based* work were to look at the work which general duties police had done and assess and, by way of advice, consultation and education, try to improve its quality. Nor does the job description of the *Crime Coordinator* make any mention of such a wholesale delegation of functions as Ms. Stanley has described.
57. The two job descriptions, **EXHIBIT 4**, also describe the qualities which the officers are expected to have and need for the proper performance of their respective duties and responsibilities. Those relating to the *Crime Coordinator* include “*broad understanding of criminal investigation practice and procedure, possession of strategic knowledge and a broad understanding of intelligence systems and processes*” – qualities one might well look for in a person directing investigations, allocating work to general duties police and dealing with other *LACs*. Whereas, the qualities listed as appropriate to the *DVLOs* are much more service and support oriented such as “*willingness to complete DV and Family Violence courses, well developed interpersonal skills, problem solving skills and proficiency in the area of customer service.*” It seems likely that, whoever designed the jobs hardly expected

the DVLO's to be acting as *de facto Crime Coordinators* as Ms. Stanley's evidence suggests they were expected to do.

58. **EXHIBIT 8** is a *Handover Document* composed and signed by Ms. Cragg and handed to Ms. Stanley when the latter succeeded the former as Crime Coordinator at Liverpool. That document, which is concerned with describing the *Crime Coordinator's* duties and responsibilities, specifies that "*work priority is to be completed daily.*" It seems to me that the document says nothing about the alleged delegation of Ms. Stanley's DV related duties to the *Domestic Violence Liaison Officers* unless, as she invited me to do, I read into the requirement that "*Domestic Violence events are to be completed by the DVLOs ..*" the requirement that, in addition to their duties as set out in their job description, DVLOs are to undertake the full range of the *Crime Coordinator's* functions where they relate to DV related matters. I think that would be reading too much into such a simple phrase.
59. Ms. Stanley's evidence is quite contrary to the evidence of Williams and Shaw. They told the inquest that, as *Domestic Violence Liaison Officers*, it was no part of their function to deal with matters arising in a *foreign LAC* and that their duties related *solely* to matters originating in the *Liverpool LAC*. They pointed out that they were constables not sergeants, without any supervisory status and said that was it part of their function neither to investigate even *local DV* matters nor to allocate such matters to other police for investigation.
60. Ms. Williams told the inquest that, primarily, the role of the *Domestic Violence Liaison Officers* was "*court based,*" assisting persons in need of protection, arranging witnesses and liaising with prosecutors and, in addition, guiding and advising *general duties* police, *dip sampling* local DV matters and identifying trends and deficiencies to ensure that police work had been thoroughly and properly undertaken and completed. She said that DVLOs had an educative function both within and without the police force. In particular, she and Ms. Shaw told the inquest that, far from having the responsibility of accepting in-coming jobs and allocating them, she and Ms. Shaw were not expected routinely to access the *work priority* screen. Both Williams and Shaw are adamant that accepting matters from foreign LACs and allocating and supervising investigations was the duty of the *Crime Coordinator* and

not theirs and they deny that those functions had, as a matter of course, been delegated to them by Ms. Stanley or anybody else.

61. The functions described in the *DVLO* job description, part of **EXHIBIT 4**, correspond very closely with what Ms. Williams and Ms. Shaw say were their responsibilities.
62. Ms. Williams told the inquest that, in her opinion, there may have been a degree of confusion within Liverpool police station regarding the functions of the *DVLOs*, due she thought to the peculiarity that, at the neighbouring *LAC*, namely Macquarie Fields, there was a *DV Supervisor* who had at her disposal not only *DVLOs* but also *DV arrest crews*. She described the position of the *DV Supervisor* at Macquarie Fields as analogous to the position of Liverpool's *Crime Coordinator* as far as *DV matters* were concerned but no such arrangement, she said, was in place at Liverpool.
63. On 6 November, 2009, almost a year after the death of Ms. Cook, **Detective Chief Inspector Andrew Richmond**, then the *Crime Manager* at Liverpool, sent an e-mail to Williams, Shaw and Senior Sergeant Simeon Miller, Ms. Stanley's successor as *Crime Coordinator* at Liverpool. Ms. Stanley left that position very shortly after Ms. Cook's death. Mr. Richmond's e-mail is **EXHIBIT 7** and in it he recalled a "*review of procedures*" following Ms. Cook's death. In his evidence to the inquest, he said that that review had occurred on or about 6 January, 2009 and had involved the *introduction* of procedures including the procedure that "*the Domestic Violence Liaison Officers will review the work priority each shift and all DV matters are risk assessed and the appropriate action taken in a timely manner.*" Mr. Richmond's e-mail reinforces that this particular procedure was introduced *after* Ms. Cook's death rather than having been, as Ms. Stanley would maintain, in operation in December, 2008 and, in his evidence, that is what Mr. Richmond initially told me. Later though, in the course of cross-examination, Mr. Richmond started using the term "*in writing*" as if to suggest that the procedure was not introduced in January, 2009 but, rather, had already been in existence at the time of Ms. Cook's death although not reduced to writing until January, 2009.

64. One of the recipients of Mr. Richmond's e-mail of 6 November, 2009 was **Senior Sergeant Simeon Miller**, by that time the *Crime Coordinator* at Liverpool. In his evidence, Mr. Richmond acknowledged that Mr. Miller had been unwilling to accept the regime represented by that e-mail which, I think, would have been inexplicable had that regime been nothing more than the written confirmation of a long existing, albeit unwritten, practice.
65. Although it could not be accepted into evidence, Mr. Richmond was questioned about a document touching on the matter which he signed in January, 2009. In answer to Mr. Watts of Counsel, he admitted that, in that document, he had referred to *procedures* identical to those recited in **EXHIBIT 7** as having been *introduced* as a result of Ms. Cook's death. It appears that, again, there was no mention in that January, 2009 document of these procedures having been previously in existence at Liverpool.
66. In his statement of 27 July, 2010, **Chief Inspector Sotirios Courcoulos**, who, in December 2008 was the *acting Local Area Commander* at Liverpool accepted, after an *internal investigation* prompted by the murder of Melissa Cook and the suicide of John Kudrytch, that "*there had been a systems failure from within the Crime Management Unit to action and acquit domestic violence matters on the COPS work priority in a timely and professional manner.*" He went on to describe certain "*management action*" which included the following:-
- *"the DVLO will ensure the Liverpool LAC is reviewed each shift and the appropriate action taken in respect of all domestic violence related matters;*
 - *in the situation the DVLOs are not in a position to action the work priority in a timely and professional manner due to unplanned leave, court or other work related commitment this will be brought to the attention of the Crime Manager, Crime Coordinator or other manager who will then take the appropriate action in respect to the outstanding matters of work priority;*

- *the Liverpool LAC senior management team will continue to monitor all outstanding work as contained in the Liverpool work station, including work in work priority at the morning crime review;*
- *The DVLO will ensure domestic violence related offences requiring further investigation are risk assessed and allocated to officers who are in a position to commence investigations immediately and action the matter in a timely and professional manner.”*

67. The point about Mr Courcoulos’ statement, from the point of view of this inquest, is that he says this *management action* has been “*initiated to improve the then systems*” which, like Mr. Richmond’s e-mail seems to confirm that changes were made *after* Ms. Cook’s death rather than before. I infer from his statement that, in his view, the *management action* to which he refers was not in place at Liverpool at the time of Ms. Cook’s death.

68. The Coronial Brief includes a copy of the *Standing Operating Procedures* regarding the investigation and management of domestic and family violence in effect in 2008. The document was endorsed by the then Minister for Police and by the Commissioner. I take it to be an authoritative document. In describing the role of *Domestic Violence Liaison Officers* within Local Area Commands, the document lists their responsibilities as including the following:-

- ensuring agreed *DV* related protocols are followed;
- providing quality assurance, identifying any deficiencies in police processes regarding domestic violence, bring these to the attention of team leaders and individual police and ensuring *DV* related tasks are properly undertaken and completed;
- liaising with support agencies;
- ensuring police are equipped with comprehensive lists of appropriate services;
- assisting victims through the court process;
- liaison with court staff and prosecutors;
- maintaining an information and liaison role to police within the command regarding *DV* related issues;

- monitoring outstanding offenders, repeat victims and repeat offenders; and
- keeping police abreast of the latest legislative changes and research outcomes regarding domestic and family violence.

69. These functions, which I think were current at the date of Ms. Cook's death, are pretty much what Ms. Williams told the inquest were the functions, duties and responsibilities of *Domestic Violence Liaison Officers*. They bear no resemblance to what Ms. Stanley told me were their functions at the time. They are similar to the functions described in the *DVLO's job description* part of **EXHIBIT 4**.

70. **EXHIBIT 10** is a document for *Liverpool LAC* entitled "*Standard Operating Procedures for the recording of Domestic Violence Incidents*". It bears the names of Senior Constable Williams and (then) Senior Constable Cragg. I understand it was *in effect* as at the date of Ms. Cook's death although I cannot find that it bears a date. It was produced to the inquest at the last minute – in fact, on the final day of the hearing when it had been thought that no further witnesses were to be called, by Mr. Spartalis of Counsel for Police. Its meaning is not entirely clear and no witness was produced to explain it. Relevantly, it deals with *Verification* which, the inquest had already been told, is a quasi-clerical process of ensuring that a *COPS Entry* is complete and has complied with the applicable procedures. As such, it seems not to have much to do with the controversy between Ms. Stanley and Misses Williams and Shaw as to where their respective duties and responsibilities began and ended in November/December 2008 so far as Ms. Cook and Mr. Kudrytch were concerned and, at any event, I think I should read it through the prism of the evidence to which I have already referred.

71. In all those circumstances to which I have referred, I prefer the evidence of Ms. Williams and Ms. Shaw as to the division of functions, duties and responsibilities regarding *DV* related matters at *Liverpool LAC* in December, 2008. To the extent that other witnesses differ, I assume the best – namely that they are mistaken but the consequences of that sort of mistake could be extremely serious.

72. Further, if I am wrong, two additional things need be said. Firstly, even on Ms. Stanley's evidence, the overall responsibility for *work priority* was ultimately hers. She would have seen, had she chosen to look, that Ms. Cook's *job* remained on the system from its arrival at Liverpool on 8 December, 2008 until 16 December, 2008 and it seems to me that, even on her version of the situation, she had a duty to attend to it. I am unable to say why she did not do so. And, secondly, it seems clear to me, putting the best possible interpretation on the evidence from the point of view of police, that, at *Liverpool LAC* in December, 2008, there was a high degree of misunderstanding and confusion among senior police officers as to where responsibility for responding to *DV* related matters lay.
73. Whether early attention to Ms. Cook's report of Kudrytch's breaches of the *AVO* would have saved their lives is something none of us will ever know but, certainly, the delay between 21 November and 16 December, 2008, during which nothing effective was done to protect Ms. Cook, left her without the protection to which she was entitled and of which she was in dire need.

Findings

I find that Melissa Cook who was born on 11 March, 1979 died at 1940 hrs. on 16 December, 2008 at Liverpool Hospital, Liverpool, NSW as a result of a gunshot wound to the abdomen sustained when her husband John Kudrytch shot her at her place of work at about 1616 hrs. that day.

I find that John Kudrytch who was born on 22 September, 1969 died sometime after 1616 hrs. and before 2037 hrs. on 16 December, 2008 at 127 Pine Road, Casula, NSW as a result of a wound to the head caused by a gunshot fired by him with the intention of taking his own life.

I recommend to the Commissioner of Police that consideration be given to introducing a system whereby an automatic “*out of office*” response is generated and sent whenever a direction or command is sent electronically to a police officer who is absent from his/her post and is, thus, unable to receive the same or else to the steps which might be taken to ensure that a response indicating that police officer’s unavailability is otherwise made or that such police officer is covered during his/her absence by another police officer capable of responding to the direction or command.

I make an order under s.75(5) of the Coroner’s Act 2009 permitting a report of these proceedings subject to a non-publication order made on 18/4/2011 regarding evidence as to police procedures contained at TABS 78 and 79 of the Coronial Brief, exhibit 3.

Magistrate Scott Mitchell,
Deputy State Coroner.
20 April, 2011.