



The Coroners Act 2009

<p style="text-align: center;">IN THE LOCAL COURT OF NEW SOUTH WALES CORONIAL JURISDICTION</p>

Name of Deceased: **Tevita (David) Taufahema**

File Number: **2539/09**

Hearing Dates: **13 – 17 February 2012**

Location of Inquest: **Parramatta & Glebe**

Date of Finding: **24 February 2012**

Coroner: **Magistrate Scott Mitchell, Acting State Coroner**

Appearances:

- Mr Peter Aitken of Solicitor / Advocate, instructed by Ms R Fraser of the Crown Solicitor's office, appeared to assist the Coroner
- Mr R Button of Senior Counsel, instructed by Mr J Harris, Solicitor of Legal Aid NSW, appeared for the family
- Mr S Wilkinson of Counsel, appeared for Senior Constable Simon Ross
- Mr R Hood of Senior Counsel, appeared for the NSW Police Department

INQUEST INTO THE DEATH OF TEVITA (DAVID) TAUFACHEMA

FINDINGS

1. This is an inquest into the death of Tevita Taufahema, sometimes known as David Taufahema who was born on 20 July, 1991 and died, still only eighteen years of age, in the early hours of 1 September, 2009 at the front door of the *Canley Heights Hotel*, Canley Vale Rd., Canley Heights, NSW. Having been involved with an even younger juvenile accomplice known as *M*, in a *hold up* and robbery of the hotel and its patrons, Mr. Taufahema was shot in the head as he was attempting to leave the hotel while holding a hostage at gunpoint. *M* was subsequently dealt with in the *Children's Court of NSW* and placed on a number of control orders and, by virtue of section 15A of the *Children (Criminal Proceedings) Act 1987*, publication of his name is forbidden.
2. The evidence is that *David* as his parents prefer him to be known was killed in the course of a police operation which had been mounted in response to a 000 phone call from a patron of the hotel who had managed to secret herself in a disabled lavatory during the robbery. As such, the inquest is *mandatory*.

The Inquest:

3. The inquest took place on 13 to 17 February, 2012. I was very ably assisted by Mr. Peter Aitken, solicitor/advocate of the Crown Solicitor's Office and his instructing solicitor, Ms. R. Fraser. Mr. R. Button of Senior Counsel, instructed by Mr. J. Harris, solicitor of *LegalAid NSW* appeared for the family, Mr. S. Wilkinson of Counsel appeared for Senior Constable Simon Ross and Mr. R. Hood of Senior Counsel appeared for *NSW Police*. Detective Inspector Christopher Raymond Olen of the Homicide Squad was the Officer in Charge of the Police investigation and prepared an extremely thorough Coronial Brief.
4. Those appearing at the inquest as witnesses included:-
 - Detective Inspector Olen;
 - Vinh Cao;
 - Thanh Thai Thi Pham;

- Sione Tu'ipulotu;
- Bich Van Tina Nguyen;
- Ninos Shlaimon;
- L/Senior Constable Jane Russell;
- Constable Adam Rigny;
- Constable Nathan Deery;
- Det. Sgt. Ashley Stokes;
- Paramedic Wendy Woodward;
- The juvenile co-offender known as "M" whose name is recorded in Exhibit 9;
- Paramedic Aaron Casey;
- Senior Constable Robert Parkin;
- Lucas Cornelia van der Walt;
- Senior Constable Simon Ross; and
- Sergeant Warren Brown.

5. The formal documents comprising the *P79A* Report, an *ID* Statement, the *Autopsy Report* prepared by Dr. Matthew Orde of the *Department of Forensic Medicine* at Glebe and the *Neuropathology Report* by Dr. T. Gaha are **EXHIBIT 1**. Dr. Orde reports that the *cause of death* was a gunshot wound to the head. The Coronial Brief is **EXHIBIT 2**. Certain crime scene photographs were exhibited. Photos # 131 to 133 are **EXHIBIT 3**, #134 to 136 **EXHIBIT 4**, ## 137 and 138 are **EXHIBIT 5** and ## 145 and 146 are **EXHIBIT 6**. A collection of 27 stills taken from CCTV footage recorded at the *Canley Heights Hotel* is **EXHIBIT 7**. A list of documents tendered in the inquest and made the subject of a *non-publication* order is **EXHIBIT 8** while **EXHIBIT 9** is a sheet of paper recording the name of the juvenile witness described in the proceedings as "M." **EXHIBIT 10** is a recording of a broadcast on Police radio network *VKG* and **EXHIBIT 11** is a recording of the *000* telephone call made by Ms. Pham, reporting the robbery of the *Canley Heights Hotel* and seeking Police assistance. **EXHIBITS 12, 13, 14 and 15** are excerpts of CCTV material recorded within and outside the *Canley Heights Hotel* on 1 September, 2009.

David Taufahema:

6. Mr. Button read to the inquest a prepared statement written by David Taufahema's father regarding his son. David was greatly loved within his family and was a loving and affectionate son and brother. He completed Year 10 at school and then undertook *TAFE* studies. He loved football and played every week, sometimes representing Parramatta. His father had thought that David could go a long way in sport.
7. According to his father, David Taufahema was a peacemaker among his seven brothers and three sisters, settling disputes and misunderstandings between them not by violent means but verbally and with reason. He was extremely proud, as well he might have been, of his Tongan heritage and he was a keen and faithful member of his church.
8. Through Mr. Button, Mr. Taufahema told the inquest that his son "*had his life ahead of him*" and the tragedy is that such was the case and that it was cut short as a result of his own criminal actions. As his father conceded, those actions, particularly the taking and threatening of a hostage, were appalling but they do not represent the sum total of David Taufahema's life. Far from it. They represent the dark side of a young man who had much to recommend him and who will always be remembered as such by those who loved him. I feel certain that those who were involved in the Coronial process would wish to join me in extending our sympathy to Mr. and Mrs. Taufahema and their family.

The Canley Heights Hotel:

9. The *Canley Heights Hotel*, since renamed the *Canley Hotel*, is a small tavern on Canley Vale Road near its intersection with the Cumberland Highway which, at that point, is known as Cambridge Street, Canley Heights. It does not resemble what might be thought of as a traditional pub. It is not a *stand alone* building, it does not have large windows onto the street or a beer garden and it has no rear entrance. Indeed, it has only one entrance being double glass, swinging doors inside a recessed entrance alcove. On the ceiling of the awning over the front entrance are three *CCTV* cameras, two of them, *dome* style, look up and down the street and the other, shaped like a rectangular box, looks straight down the alcove to the glass doors but, due to *flare* from a nearby illuminated sign, provides a very poor picture of the interior of the alcove, the front doors and the interior of the hotel.

10. Inside, the swinging doors, one enters a corridor running to lavatories at the rear of the premises. To the right of the corridor is a bar and, beyond it, disabled lavatories. To the left of the corridor are two gaming rooms, the one nearest the street for smokers, separated by a glass wall and sliding glass doors. Further along the left side of the corridor is a *TAB* room and a bistro. There were a number of *CCTV* cameras inside the premises providing images of the bar area and the corridor leading to the front doors.
11. It appears that the *CCTV* cameras and equipment may not have been well maintained and, in particular, the times shown by the digital clocks supered over images corresponded neither with each other nor with actual time.
12. On Monday 31 August, 2009 the manager of the hotel was Ninos Shlaimon who continues in the employ of the owner of the hotel. He was styled *bar manager* but told the inquest that, in effect, he was in solely in charge of the hotel that night. By midnight, a security operative, Sione Tu'ipolotu, who had been hired for the night was still on duty and there were about 18 patrons in the hotel.

The *hold up*:

13. Shortly after half past midnight, the deceased accompanied by "*M*" arrived at the hotel. Each was disguised, the Deceased by a red *hoodie* and a dark balaclava and *M* by a dark top and a black bandana over his lower part of his face including his mouth. The deceased was wearing a backpack and each was wearing gloves. The Deceased was carrying a silver pistol sometimes known as a 9mm *Luger* pistol. Lucas van der Walt, an expert witness regarding firearms was able to say that this is a high powered pistol capable of firing high powered ammunition. He told the inquest that the weapon had contained one unspent round in its breach and that another similar unfired round had been found, along with a large amount of cash, in Taufahema's clothing. As to *M.*, he confirmed that his weapon, which to all intents and purposes looked like a rifle, had turned out to be an air rifle albeit one in working order and capable of inflicting serious and perhaps even fatal injury.

The *Pioneer Chinese Restaurant*:

14. Mr. van der Walt was able to confirm that it was from Taufahema's pistol that two rounds had been fired on the previous night, the night of 30 August, 2009, one into the ceiling of

the *Pioneer Chinese Restaurant* at Yagoona in the course of a *hold up* and the other in the street outside the *Pioneer* premises at the driver of a passing silver coloured *BMW* motor car who evidently had failed to stop to assist in the offenders' *get away*. When interviewed on 1 September, 2009, *M.* admitted that he and David Taufahema had been involved in that *hold up* and that it had been Taufahema who had fired those shots.

Robbing the hotel:

15. On arrival, patrons along with the security man were herded by *M* into the smokers' gaming room where they were forced onto the ground and made hand over their wallets and valuables while *M* swore at them and abused them and brandished his rifle over them, threatening to "*pop*" them if they failed to comply with his demands. Meanwhile David Taufahema approached Mr. Shlaimon, told him "*this is a robbery*" and demanded to be shown the safe. After emptying the contents of the safe into his bag and putting some notes down the front of his pants, David Taufahema told Mr. Shlaimon "*shut up or I'll put a bullet in your head*" when the latter hesitated in handing over his *I phone*.

16. David Taufahema walked with Mr. Shlaimon, pointing his pistol menacingly as the latter was forced to empty the bar tills and the poker machines, emptying them of cash and handing it over to him.

The 000 call:

17. While this was going on, one very resourceful and brave patron, Thanh Thai Thi Pham, slipped away and hid in the disabled toilet where she made the *000* telephone call, a recording of which is Exhibit 11. In that call, she reported that an armed robbery was under way. She told the operator that she had glimpsed patrons being forced to lie down on the floor and that she could hear the sound of poker machines being opened and emptied of money. She sought Police assistance.

VKG:

18. It was that telephone call which alerted Police to what was going on and prompted them to direct resources there. The broadcast over the Police radio network *VKG*, a recording of which is Exhibit 10, shows a call at about 12.37am call directing Police resources to the *Canley Heights Hotel* where a robbery, possibly an armed robbery, was in progress. *Dog*

Squad 36, driven by Senior Constable Robert Parkin with Senior Constable Simon Ross as his passenger was the nearest unit and responded to the call at 12.38 am..

19. Meanwhile, at Fairfield police station, Detective Sergeant Ashley Stokes and Detective Constable Nathan Deery had been investigating a number of armed robberies in the south west Sydney area which seemed to present a number of common features including use of disguises, menacing and aggressive behaviour, robberies of patrons as well of the premises generally and, most significantly, the use of a rifle and a pistol. Reports. Mr. Stokes noticed what he thought might be similarities between his robberies and the robbery underway at the *Canley Heights Hotel* and he decided to go and have a look. Before doing so, he made a broadcast on *VKG* warning other police that, if his intuition proved correct, the offenders might well be armed. Senior Constables Parkin and Ross are unsure whether they heard or noticed that broadcast.

The Arrival of Police:

20. *Dog Squad 36* had been only two or three minutes away from the hotel when they heard the call. Initially, they proceeded under lights and sirens until, approaching the *Canley Heights Hotel*, they lowered their profile so as not to alarm the offenders and alert them to their presence. I accept that this is what they did and I understand from the evidence of Sergeant Brown, an experienced *police tactics, operations and weapons training* officer, that this is what their training had taught them to do and what their superiors expected of them. There was no significant delay in their arrival even though Messrs. Parkin and Ross were unfamiliar with the Canley Heights area and had some difficulty finding the hotel. When they did arrive, at about 12.40am, Mr. Parkin had to pull up at short notice and he parked hurriedly and in a position outside the front doors where the tail of the fully marked police van could be seen from inside the hotel. Perhaps it was that which first announced their presence and alerted David Taufahema and *M.* to the presence of police but there is no evidence that the two offenders were any more alarmed than they would have been had police adopted a more formal and considered way of announcing their presence and announcing their presence one way or another is something they had to do.

21. Senior Constables Parkin and Ross alighted, neither wearing a bullet proof vest even though there was one available in the van, and made their way towards the front door of the hotel to observe what was going on, taking cover on either side of the entrance alcove

and leaving the dog in the van. According to Mr. Parkin, this was not the type of operation for which a police dog is suited and he believed that to have employed the dog would have been to render it a “*sacrificial victim.*” As to the bulletproof vest, Sergeant Brown endorsed the decision not to use it, pointing out that it is heavy and very cumbersome and a very imperfect protection at any event. There is no reason to think that the absence of bulletproof vests played any part, one way or another, in the unhappy events which now unfolded.

22. Regarding the decision of Senior Constables Parkin and Ross to take up their positions in the street at the left and right corners of the entrance alcove, Mr. Button of Senior Counsel questioned whether they might have been better to have positioned themselves at a further distance from the hotel doors. At the time when Mr. Parkin fired his gun, he was only about four or four and a half meters from *M.* and Senior Constable Ross was even closer to David Taufahema when he shot him – perhaps as close as 2 to 3 metres. Mr. Button suggested that, at a greater distance, there might have been better opportunities for cover, for negotiations and for additional consideration and reflection as to what might be the best action to take. I doubt this is so. There is no evidence that further down or across the street there was any useful and reliable cover, particularly cover which might allow police to observe what was going on inside the hotel and, at the same time, enhance their own safety. According to Mr. van der Walk, the police van itself should not, be seen as reliable cover. Only a very small part of it could be relied on to withstand gunfire. Furthermore, it seems to me that the further from the hotel doors Robert Parkin and Simon Ross took up position, the greater the scope for violence to escape from the confines of the hotel into the street. There is little reason to think David Taufahema would have released his hostage and, if allowed bring Mr. Shlaimon into the street, his distance from police would reduce their ability to move against him in order to protect his hostage. The events of the night before at the *Pioneer Chinese Restaurant* and the shot fired at a passing motorist illustrate the wisdom of the police practice of containing violence rather than allowing it to spread.

23. As to consideration and reflection, David Taufahema and *M.* were within the hotel when they first became aware of a police presence outside. There is no evidence from their decision to take a hostage, march up to the front door and continue towards police, ignoring the police officers’ directions to drop weapons, of any willingness to consider or

negotiate. Concerning reflection on the part of police, Mr. Ross' evidence is clear that he acted neither in panic nor as a reflex but deliberately when he saw an opportunity to eliminate the threat to Mr. Shlaimon's life.

24. Neither Sergeant Brown nor Inspector Olen, the Officer-in-Charge was able to identify any significant departure by Parkin or Ross from proper police practice and in my respectful opinion, sad as the outcome was, they acted properly and with great bravery in an extremely dangerous and fast-moving situation created by the criminal behaviour of David Taufahema and his young companion.

25. It is about six minutes into her 000 call that Ms. Pham can be heard to tell the operator that she could hear voices outside the lavatory saying "*shit, coppers, coppers.*" While Ms. Pham remained in the lavatory and other patrons were on the floor of the smoker's gaming room being terrorised by *M*, David Taufahema continued robbing the poker machines. Then, perhaps because he heard something outside or perhaps because of something *M* told him, Mr. Taufahema can be seen on CCTV to step from the gaming room into the corridor, glance towards the front door and return hurriedly to the gaming room, saying "*police, police. The police are here*" and asking Mr. Shlaimon "*Did you press the buzzer?*"

Taking the Hostage:

26. David Taufahema then put Mr. Shlaimon in a *headlock* with his left arm around Mr. Shlaimon's neck, pointed his pistol up against his head or neck and said "*go*" and, as can be seen in the CCTV material Exhibit 14, marched him out into the corridor and towards the front doors. Mr. Parkin was able to broadcast that the offenders were armed. It is clear that by his actions David Taufahema presented to police a threat to seriously injure and, if necessary, kill the hostage should he be prevented from leaving the premises.

27. From their vantage point at the opposite sides of the opening of the alcove to the street, Senior Constables Parkin and Ross, with guns drawn, watched as David Taufahema, holding the pistol to the head of the hostage, followed by *M*, with what they reasonably believed to be a drawn rifle, approached the front door of the *Canley Heights Hotel*. They could see David Taufahema and, no doubt, he could see them. Taufahema and his

hostage continued on through the front doors, walking to within two or three metres of Mr. Ross, followed by *M* with his rifle raised.

The Confrontation:

28. Both officers, still the only police on the scene, shouted over and over again *"Police. Put the gun down"* and *"Police. Let him go"* (referring to the hostage) or similar words. Mr. Shlaimon was calling *"don't shoot, don't shoot"* although whether to his captor or police I am unable to say. According to *M*, *"they were all screaming."* Taufahema continued to point his pistol at the hostage's head. Senior Constable Parkin told the inquest that Taufahema appeared totally to ignore police directions *"He seemed extremely calm,"* Mr. Parkin told the inquest, *"the police presence seemed not to affect his attitude."* And Mr. Ross told the inquest that *"I couldn't believe they were continuing to approach rather than give up."* Mr. Ross cannot remember David Taufahema saying anything but the hostage, Ninos Shlaimon recalls his captor shouting out *"I'll shoot him"* and, certainly, his actions in advancing so far and continuing to hold a gun to Mr. Shlaiman's face suggest that he was capable of doing so. In forming the view that the hostage and police themselves remained at risk at David Taufahema's hands, Senior Constable Ross finds himself in good company because the co-offender, *M.*, told the inquest that he too had believed that the pistol was loaded and that David Taufahema would use it should anybody try to stop him.

29. Mr. Parkin was able to send a radio message describing the unfolding drama but, when he saw *M* apparently aiming his rifle at him, as *M.* concedes was the case, so that he feared he was about to be shot and possibly killed, he called to Mr. Ross *"he's pointing the rifle at me"* and discharged a single shot missing the youth but sending him falling backwards against the wall inside the door. Within a very short time, perhaps a second, as can be heard from the recording of the 000 telephone call, there was a second shot when, as ballistic evidence confirms, Senior Constable Ross fired at David Taufahema.

30. Mr. van der Walt's evidence confirms that Constables Parkin and Ross each fired one round only, Mr. Parkin's missing its mark and damaging a blackboard attached to the wall of the hotel and Mr. Ross' hitting Mr. Taufahema.

The Death of David Taufahema:

31. David Taufahema was hit in the head and fell backwards towards the hotel doors where he lay on the alcove floor. As his weight came off the hostage, Ninos Shlaimon sprang forward, ran out into the street, slipped and fell, recovered himself and took off down the street until he was stopped by other police officers, newly arrived on the scene, who could not have known whether he was an innocent witness or a fellow offender.

32. So soon after Mr. Parkins shot did Mr. Ross fire his gun that it was suggested by Mr. Button of Senior Counsel that the second shot was a reflex to the first but Mr. Ross vehemently denies that. The sound of two gunshots in very close succession were heard by Ms. Pham and, this, can be heard in the recording of the 000 phone call. Evidently, those shots were one fired by Senior Constable Robert Parkin from near the left hand corner of the alcove which missed *M* and a subsequent shot fired by Senior Constable Simon Ross from behind the right hand corner which killed David Taufahema, probably instantly. On all the evidence before the inquest, those were the only two shots fired within or near the *Canley Heights Hotel* that night. The recording, Exhibit 11, amply demonstrates the short period of time between the first shot and the second.

33. Mr. Ross says that, irrespective of Mr. Parkin's actions, he fired and shot at Taufahema when he did because, for a moment, Mr. Shlaimon's head moved forward, perhaps as a reflex to Mr. Parkin's shot, leaving Taufahema's head momentarily exposed rather than shielded by the hostage and, believing that the hostage's life was in immediate danger, he took the opportunity to fire. He told his superiors when he made his *ERISP* on 1 September, 2009 that he acted as he did "*to make sure he was no further threat.*"

Dealing with the Deceased:

34. By that stage, Senior Constables Parkin and Ross had been joined by Detective Sergeant Stokes and Detective Constable Deery. Mr. Stokes was the senior officer present. It was under his authority that the firearms carried by Taufahema and *M*. were removed and placed on a table where they could be secured.

35. Together with Parkin, Ross and Deery, Sergeant Stokes entered the hotel for the purpose of *clearing* it. At that stage, police knew little of the state of the patrons who had been held inside at gunpoint and, in particular, no knowledge of whether other offenders, armed

or unarmed, were still present in the premises. Mr. Parkin's evidence is that, at the time, he had *"no idea"* who might be there. Police witnesses at the inquest agreed that it was proper practice was that police officers secure the scene, ensure the safety of the patrons, apprehend any other offenders who might still be present and ensure their own safety before placing themselves in a vulnerable position – near the front doors, in order to render assistance to David Taufahema and M.. But, at any event, the weight of evidence suggests that it is more likely than not that Mr. Taufahema was already dead. When Senior Constable Parkin made a statement to Police relatively shortly after the incident, he told them that David Taufahema *"was still moving, I believe"* and his evidence before the inquest is that there were no *"gross movements"* even if he was breathing. But Mr. Stokes told the inquest that *"looking back at it, I believe I really knew that the Deceased was already dead"* and, according to Mr. Deery, *"I could tell this person was dead."* Mr. Ross' evidence is that, despite hearing somebody calling for an ambulance, he, too, believed David Taufahema to be dead and he said to Mr. Parkin *"I can't see his chest moving."*

36. An ambulance arrived at 12.52am and another a minute or so later. It was Senior Constable Parkin who decided that an ambulance was needed urgently. I am not sure whether it was he or Probationary Constable Adam Rigny, or, perhaps, both, who actually made the radio call. Unlike, Mr. Ross, Parkin was wearing a radio with the microphone/speaker pinned to his shoulder and, throughout the incident, he broadcast a number of messages. When he could see the offenders approaching down the corridor, he messaged *"They have firearms"* and a little later, seeking to contain the incident and assuming, erroneously, that there was a rear entrance to the hotel, he messaged *"We need police out the back."* Then, he reported *"shots have been fired"* and, six seconds later, he signalled *"I need an ambulance urgently."* On the other hand, Constable Adam Rigny's evidence is that, almost immediately after David Taufahema was shot, Mr. Parkin told him to *"get an ambulance quick"* which he says he did. Perhaps they each made similar calls.

The Ambos:

37. CCTV played at the inquest shows the arrival of the first paramedic, Wendy Woodward. She received the call at 12.44 am. and was at the entrance to the *Canley Heights Hotel* at 12.50., about eight to eight and a half minutes after the fatal shot was fired. *OH and S*

issues to do with the security of the scene prevented her making a *hands on* assessment but she observed David Taufahema *“for a couple of minutes”* and saw that *“he was not breathing that there was no movement of the chest... and ... that he was unconscious or dead.”* His pupils appeared fixed. It was not until shortly after 12.54am, when the scene had been sufficiently secured, that Paramedic Aaron Casey was able to approach Mr. Taufahema more closely for the purpose of establishing that he was indeed dead. He checked the carotid and femoral pulses and it was while he was doing this that he *“pulled down the top of the track pants and found a large amount of money.”* Mr. Casey performed an ECG and found the patient monitored in asystole

Handcuffing the Deceased:

38. The hotel was cleared and Ms. Pham was liberated from the disabled lavatory some 5 minutes and 40 seconds after the shots had been fired. Detective Stokes arranged that the firearms of Senior Constables Parkin and Ross be secured and they were separated. By that time, newly-arrived Chief Inspector O'Connor had assumed command and he began putting in place and implement various protocols applicable whenever there has been a police shooting. In the course of so doing, he appears to have directed that both offenders, David Taufahema and *M*, be handcuffed.

39. It is not clear to me why this direction was given. It was Constable Mirza Mustafic, a young general duties officer, who frisk searched Taufahema, finding *“large amounts of money”* in the process, and handcuffed him in accordance with his directions. Mr. Mustafic recorded that David Taufahema *“was non-responsive and had small traces of blood emitting from his eyes”* and *“a small hole on the right side of his head which appeared to be inflicted by the bullet.”* Mr. Mustafic *“shook his body and attempted to raise him to no avail as the male remained unresponsive”* and he says that he formed the view that he was dead. As far as I can tell, the direction to handcuff David Taufahema was an urgent direction given in fast moving circumstances, designed to enhance safety, given by an in-coming commanding officer who had just arrived on the scene and was still unaware of all the details with which he had to cope. In particular, I do not think that handcuffing David Taufahema was intended as any slight or sign of disrespect to that young man or to his family. The evidence, which I accept, is that Police were not aware of the identity of the Deceased until later in the morning when *M*. made his statement and,

before that, even Mr. Stokes and Mr. Deery, who had been investigating not dissimilar events, had been unaware of the persons with whom they were dealing.

Police Conduct:

40. I have already commented on what, despite the sad outcome, I see as proper and brave conduct on the part of Mr. Parkin and Mr. Ross. I think that Mr. Stokes' conduct in taking control of a difficult and fast moving situation until the arrival of a superior officer reflects very well on him.

41. The police investigation of this *critical incident*, conducted and overseen by Inspector Christopher Olen of the *Homicide Squad* has been thorough, painstaking and professional and I thank him for and congratulate him on it.

42. I think that the only criticism which might be made of Police in this case related to the manner in which the family was advised of David Taufahema's death. Strictly speaking, I wonder if that is a matter falling within the area of my jurisdiction and it was touched on during the inquest only peripherally. But it was a sad aspect of this sad matter and one which occasioned great unhappiness among David Taufahema's family. I think it is pertinent to recall that there were a great many matters, most of them urgent, facing Mr. Olen when he took up his duties on 1 September, 2009 but his evidence is that he would have liked the contact to the family to have unfolded differently and, where they felt aggrieved by the way contact did unfold, he apologised to Mr. and Mrs. Taufahema and David's family.

43. Since the death of David Taufahema, although not necessarily as a consequence of it, there has been some significant change to Police protocols and practices regarding critical incidents. I heard about these *in camera* when Sergeant Warren Brown and Inspector Olen gave their evidence. Obviously, I do not propose disclosing this evidence. I note though that, in my opinion, there is no scope for recommendations arising from this matter.

Finding:

I find that Tevita (David) Taufahema who was born on 26 July, 1991 died of a gunshot wound to the head on 1 September, 2009 at the *Canley Heights Hotel*, Canley Vale Road, Canley Heights, NSW.

Magistrate Scott Mitchell,
Acting State Coroner,
Glebe, NSW.

24 February, 2012.