TRANSCRIPT OF PROCEEDINGS

CORONER'S COURT

PREVITERA, Coroner

No 123 of 2002

IN THE MATTER OF AN INQUEST INTO THE
CAUSE AND CIRCUMSTANCES SURROUNDING
THE DEATH OF GEORGE SHOOBRIDGE

CAIRNS

..DATE 28/10/2004

CONTINUED FROM 31/08/2004

..DAY 9

FINDINGS

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act* 1999, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

CORONER: Good afternoon. 1

MR McCAY: Good afternoon, your Worship.

MS MALECKY: Afternoon, your Worship.

CORONER: Yes, good afternoon. Now, I recognise Ms Malecky's voice. You're there, Ms Malecky?

MS MALECKY: I am, thank you, your Worship. 10

CORONER: And who else appears by phone?

MR McCAY: Your Worship, it's Harry McCay, solicitor.

CORONER: Yes, thank you, Mr McCay.

MS GILL: Good afternoon, your Worship. It's Lisa Gill also [indistinct].

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CORONER: Thank you, Ms Gill. And I'll note the record that Mr Tate appears in person here in the Magistrates Court here in Cairns. Now, this afternoon has been set aside for the delivery of my findings in relation to the cause and circumstances of the death of George Richard Shoobridge and I will now deliver my findings.

An inquest having been held into the death of George Richard 30 Shoobridge over a four-day period between the 26th and the 31st of August 2004, it is now incumbent upon me pursuant to the provisions of the Coroners Act 1958 to deliver my findings in open Court, and accordingly I do so.

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The purpose of any inquest under the Act is limited to establishing as far as practicable: (1) the fact that a person has died; (2) the identity of that person; (3) when, where and how the death occurred; and (4) whether any person should be charged with any of the offences referred to in section 24 of 50 the Act.

Throughout the inquest I have been mindful, amongst other things, of the observations of his Honour Justice Toohey in

the decision of Annetts v McCann 65 Australian Law Journal Reports concerning the following words of Lord Lane: 1

> "It should not be forgotten that an inquest is a fact finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are not suitable for another. In an inquest it should never be forgotten that there are no parties; there is no indictment; there is no prosecution; there is no defence; there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation unlike a trial. Although a coronial inquiry is not a judicial proceeding in the traditional sense, the rules of natural justice and procedural fairness are applicable, the content of such rules to be applied depending upon the particular facts of the case in question." 10 20

In making my findings, I am not permitted under the provisions of the Act to express any opinion on any matter outside the scope of this inquest except in the form of a rider or recommendation, and I should also make it clear that any findings I do make are not to be framed in any way which may determine or influence any question or issue of liability in any other place or which might suggest that any person should be found guilty or otherwise in any proceeding. 30 40

I say at this stage that I am satisfied on the whole of the evidence before me that there is no evidence upon which any person should be committed for trial on any of the charges referred to in section 24 subparagraph (1)(d) of the Act. 50

I would like to express my personal sympathy and condolences as well as those of the Court to George's mother, Jane Malecky, as well as the other members of George's family for their sad loss. I would like to commend and thank Jane Malecky for her contribution to the proceedings. I have no doubt that it was a difficult and confronting experience.

I would also like to thank Sergeant Gavin Petersen who has provided his apologies to the Court for his absence today on the basis that he would otherwise have liked to have been here. Sergeant Gavin Petersen was the investigating officer who took over conduct of the files some months only before this inquest.

His investigation was as thorough an investigation as I have ever seen. No stone was left unturned, no possible evidence left unexplored and all significant and relevant witnesses including experts gave evidence.

Together with my assistant, Mr Tate, evidence and other most crucial information was gathered and placed before the inquest to enable me to be absolutely confident that findings could be definitive and recommendations hopefully far reaching.

Four directions hearings were held in this matter. A total of 67 exhibits were received into evidence and 17 witnesses were examined over the four days of the inquest.

In relation to the sometimes complex medical evidence concerning prescribed medications relevant in this matter, I was particularly assisted by the evidence of Drs Jagusch and Audley.

Dr Jagusch is a specialist pathologist who conducted the autopsy and Dr Audley is a medical practitioner at the Cairns Base Hospital who set up the methadone clinic here in Cairns in 1984 and remains the senior medical assessing officer at the clinic.

Both are highly qualified and much experienced in their particular areas, and Dr Audley gave his evidence aware of George's history of drug use, having willingly perused the various records of hospitals in which George had been admitted from time to time.

The history giving rise to these proceedings is as follows. George Shoobridge suffered from a drug addiction as a result of a history of poly drug use. Ms Malecky, his mother, gave evidence that his use of illicit drugs commenced in 1994 when he started smoking marijuana, but the drugs of abuse also

included other illicit drugs and prescription medications, particularly codeine compounds, analgesics, antidepressants and benzodiazepines. He was also taking medication for an asthma condition.

In 1994 George became addicted to Rohypnol, 1995 to Serepax, Valium, Mogadon and Euhypnos. In 1996 he became addicted to Pethidine and was thereafter for a short time under medical supervision in relation to substance abuse.

The prescription drug dependency, addiction, abuse, whatever you might call it, continued however, and George in fact overdosed on a number of occasions, including an overdose of methadone whilst on a methadone program in Hobart on the 14th of June 2001. I accept the evidence of Dr Audley that that overdose, according to the medical notes of the Royal Hobart Hospital, involved a dose of 190 milligrams of Methadone which George survived.

George, both before and after that incident, actively engaged in the practice of doctor shopping, prescription shopping, which is revealed by the individual prescribing history for George provided by the Health Insurance Commission for the period between the 1st of August 1999 and the 29th of November 2002 which is the document admitted and marked Exhibit 31 in these proceedings. Doctor shopping refers to the practice

employed by certain persons who abuse the Medicare scheme and the Pharmaceutical Benefits Scheme by visiting many doctors and obtaining many prescriptions. 1

I accept the evidence of Ms Malecky that George arrived in Cairns in May 2002 and, again by reference to Exhibit 31, I accept that between the period May 2002 and the 29th of November 2002 George managed to obtain 89 scripts for a variety of medications from 22 different doctors in Cairns. These drugs included codeine phosphate generally prescribed for severe pain, according to Dr Jagusch, and prescribed by Dr D'Hotman on the 29th of November 2002, Diazepam and Oxazepam, otherwise known as Valium, and according to Dr Jagusch a tranquilliser generally prescribed for stress and indeed prescribed by Dr Cserey for George on the 20th of November 2002 and the 28th of November 2002 and by Dr Luthi on the 21st of November 2002 and the 26th of November 2002 and also by Dr Ashby on the 22nd of November 2002; Morphine sulphate, or MS Contin, normally prescribed according to Dr Jagusch for severe intractable pain, for example inoperable cancers or malignancies, and prescribed by Dr Luthi on the 21st of November 2002. 10 20 30 40

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Exhibit 31 goes on to list more of the same and other drugs such as celepran and alprazolam prescribed by some of the same

and other doctors, both in Cairns subsequent to May 2002 and by other doctors prior to that date.

I accept the evidence of Dr Luthi as follows:

(1) That on the 11th of November 2002 Dr Luthi prescribed 20 tablets of MS Contin on the basis that one a day would tide George over until an appointment on the 18th of November 2002 with ATODS with only a couple of tablets to spare.

(2) George could not see Dr Audley on the 18th of November 2002 and so on the 21st of November 2002 Dr Luthi prescribed 10 100 milligram MS Contin tablets and 50 five milligram tablets of Diazepam.

(3) On the 22nd of November 2002 Dr Luthi sent a letter by facsimile to Dr Audley of the methadone clinic, confirming an appointment for George with Dr Audley on the 26th of November 2002 at 8 a.m. for treatment of his opiate addiction and advising that George had been buying opiates on the street, was swallowing benzo's in large quantities and that Dr Luthi had prescribed MS Contin 100 milligrams to tide George over until George saw Dr Audley on the 26th of November 2002.

On the 26th of November 2002, however, George presented to Dr Luthi again complaining that he was having trouble sleeping and Dr Luthi, knowing that George was on the Methadone Program as at that date prescribed Serepax for George being 25 30 milligram tablets of Oxazepam.

Dr Luthi made the difficult decision that instead of leaving George to buy illicit substances on the street and/or go into withdrawal he would try to bring him into treatment through ATODS and manage the medication until Dr Audley at ATODS could take over that role.

Dr Luthi concedes that with hindsight the better way to have handled the request from George on the 26th would've been to tell George that Dr Audley should from that very date be the only prescriber of medication.

Dr Luthi did not know of the prescription by Dr Cserey of 25 30 milligram tablets of Oxazepam on the 20th of November 2002 or the prescription by Dr Ashby of 25 15 milligram tablets of Oxazepam on the 22nd of November 2002.

I accept the evidence of Dr D'Hotman as follows: George attended upon Dr D'Hotman after hours on Friday, the 29th of November 2002. George did not tell Dr D'Hotman that he was on the Methadone Program and had been commenced on methadone but only that he would be seeing Dr Audley on the 3rd of December but that Dr Audley would not be commencing a drug reducing regime until after several counselling sessions.

Dr D'Hotman was aware that other medications for George and being taken by George at that time were (1) Cipramil 28 20 milligram tablets, two tablets daily on three repeats that being an antidepressant as well as Serepax for panic attacks.

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In order to assist George to reduce from the benzodiazepine use given that he would not be seeing Dr Audley for five days Dr D'Hotman prescribed 10 .125 milligram Halcion tablets and 20 Panadeine Forte tablets and sent a letter by facsimile to Dr Audley outlining the current and prescribed medication stating that he had spent 40 minutes confronting George on the use of drugs of abuse and as well as indicating that he would be arranging X-rays for a stated rotator cuff tear requested that Dr Audley take up with George benzodiazepine problem.

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Dr Audley never got the opportunity to see George again. On Tuesday, the 3rd of December 2002 at approximately midday George was found dead in his flat here in Cairns.

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I accept the evidence of Dr Audley that he saw George for the first time on the 26th of November 2002, that a urine test at that date confirmed that opiates were present. Dr Audley was in possession of Dr Luthi's letter dated the 22nd of November 2002 and despite urinalysis not detecting benzodiazepines but on the basis that Dr Audley had been made aware of George's use of large amounts of benzodiazepines Dr Audley prescribed smaller than usual amounts of Methadone.

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Queensland Methadone guidelines recommend commencement of initial doses on average of 20 milligrams of Methadone but up to 40 milligrams of Methadone. Dr Audley commenced George on a dose of 20 milligrams of Methadone on the 26th of November 2002. Dr Audley specifically considered other treatment regimes. Dr Audley ruled out the use of Buprenorphine as there had been reported deaths in association with benzodiazepine use and Dr Audley was not convinced that George could abstain also from opiate use for the time required if prescribed Buprenorphine.

That whilst the Queensland Methadone Program Police Procedures and Treatment Manual, which was admitted and marked Exhibit 18, requires the Methadone prescriber "to monitor the clinical situation closely, maintaining close clinical supervision and actively working with the client to minimise other drug taking behaviours", the reality is that the Cairns Methadone Clinic is only a five day a week clinic.

Dr Audley saw George on Friday, the 29th of November 2002 and increased George's dosage to 30 mils of Methadone. Whilst George was then dosed on Saturday, the 30th of November at a dosage centre because the clinic is only open weekdays he was also given a take-away dose of 30 mils on the Saturday, the 30th of November for Sunday, the 1st of December.

The reason for the increase to 30 mils was that George, having reported that it was not enough, that is the 20 mils, and in light of previous use of 100 milligrams to 200 milligrams of

morphine a day Dr Audley wanted to avoid George feeling the rigours of withdrawal which would increase the risk of using other drugs.

Ms Malecky urged Dr Audley by phone on the 29th of November 2002 not to prescribe Methadone to George. Nonetheless, however, Dr Audley with his experience considered that unless George commenced on the Methadone Program he would die.

I accept Dr Audley's evidence that better supervision of George on the Methadone Program on the weekend of the 30th of November and the 1st of December, if that had been possible, might well have prevented his death.

Dr Audley has also expressed a very strong opinion that Panadeine Forte, given its addictive quality, should be added to the list of drugs monitored by the Drugs of Dependence Unit in Brisbane to which doctors have access. Of importance is that Dr Audley did not know of all the drugs prescribed by all the other doctors whilst George had been in Cairns and the current system, if one can call it that, made it impossible for him to ever find out.

I accept that if Dr Audley had known that George had been prescribed the Panadeine Forte by Dr D'Hotman on the 29th of November 2004 he would have cancelled the weekend Methadone dosages for George on the 30th of November and the 1st of December.

I also accept the evidence of Dr Audley that it is likely that George injected his take-away Methadone dose in addition to other substances.

I find that the low dosage of Methadone prescribed by Dr Audley was not a contributing cause of the death in the sense that it alone was the reason George overdosed on multiple other drugs.

I accept the evidence contained in the certificate of analysis of George's blood specimen taken at autopsy which was admitted and marked Exhibit Number 3. There were a large number of drugs identified as being in George's bloodstream at the time of death. These drugs included Diazepam, breakdown products of Diazepam, morphine, codeine, Methadone, cetalapran, Metoclopramide and paracetamol.

I accept the evidence of Dr Jagusch, the one who took the post-mortem examination, the level of Methadone was within a therapeutic range for someone who was on a Methadone program.

I accept the evidence of Dr Jagusch that in fact none of the drugs detected were present at high levels as to be a toxic dose but that the unpredictable additive effect of the combination of multiple drugs caused cardiorespiratory failure from which death followed. I accept Dr Jagusch's evidence that given the levels of each drug involved the drug overdosage was not intentional.

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I am satisfied that Dr Jagusch conducted a thorough internal and external examination including macro and microscopic examination of George at autopsy and accept his specific evidence of neither injury, trauma or involvement of external parties was identified as leading to George's death.

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Finally, I accept Dr Jagusch's evidence that George is most likely to have died closer to 48 hours than 24 hours before he was located at approximately midday on Tuesday, the 3rd of December 2002.

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On the whole of the evidence before me I am not satisfied that George's practice of doctor shopping was influenced or encouraged by any of the individual practitioners. Indeed, apart from two medical practitioners all of the others appear to identify that George was seeking medication beyond therapeutic need and imposed various strategies, for example, referral to counselling, referral or offers of referral to Mental Health and ATODS which is the Alcohol, Tobacco and Other Drugs Services and the refusal of further medication.

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Because patient consent is currently required for the release of patient information from one provider/prescriber to another, each of the Cairns doctors who prescribed medication for George did so relying solely upon information as to George's medical and prescription history from George himself.

To add to that difficulty, the doctors could not access the equivalent of the now defunct and defunded doctor shopping hotline which had been operational between 1997 and 2002. The existence of that hotline had previously enabled medical practitioners to be provided with the prescription history for persons with a serious history of doctor/prescription shopping. Thus alerted to such a history, a medical practitioner is in the best position to formulate a treatment plan according to the evidence of the majority of the medical experts/health professionals who gave evidence before this inquest.

Dr Appel, consultant psychiatrist who briefly treated George in Brisbane, was of the view that the ability to access a patient's prescription history is a step which in fact justifies transgressing patients' requests for privacy and he has urged this inquest to make a strong recommendation therefore.

Dr John Anderson, general practitioner and one of the prescribing doctors to George in the period May to November 2002, strongly expressed the view that the closure of the doctor shopping hotline was a retrograde step because any

concern or increasing concern about the likelihood of a patient being a doctor shopper and seeking drugs beyond therapeutic needs is not able to be assuaged.

Dr D'Hotman, while supportive of the existence of the hotline, did express a concern that in order to be registered on it as a doctor shopper, a person might have to have been prescribed medications in excess of those involved in George's case.

This is, however, contradicted by the evidence of Ms Lyn O'Brien, the manager of the CBS Compliance Branch of the Health Insurance Commission who is also a chartered accountant. Her calculations reveal that the cost to the Government of George's prescription shopping over six months, was $754.61 compared to $28,670 over three months for the top doctor shopper and $5,850 for the 100th doctor shopper on the list compiled by the Health Insurance Commission.

Even so, I accept the evidence of Ms Lyn O'Brien that by reference to Exhibit 31, the individual prescribing history for George, George would have fallen within the target group of the doctor shopping scheme and the prescription shopping project which replaced it.

Dr de Souza of the Cairns Family Medical Centre and one of the prescribing doctors for George over the period May to November 2002 considered the doctor shopping hotline, "excellent", and she clearly advocated that it was an essential tool in obtaining a full patient history so as to enable patient

management which is otherwise impossible, if doctors are unable to identify excessive drug use. Such information, she opined, was crucial at no later than consultation stage. In her experience, there has been no occasion when she had contacted the hotline holding suspicions that a patient had been a doctor shopper, that did not result in confirmatory information of those suspicions.

I accept her evidence that if she had had such information available to her about George, she would have made an appointment with the Alcohol Tobacco and Other Drug Service for George at a time earlier than in fact she did. Tina Bond, a registered nurse with the Alcohol Tobacco and other Drug Services in the methadone program gave evidence that even if a person is using the service and buying drugs on the street as well as by prescription shopping, a much better history will be available from the hotline than from the patient.

She agreed with the evidence of Vicki Oxnam the social worker with the Alcohol Tobacco and Other Drug Services in the methadone program, that it is vital, given the needs of clients at that service, that there be timely provision of accurate information in order to enable staff to formulate an appropriate case plan.

An earlier referral to the methadone program may also have been the result of the availability of and access to accurate information concerning George's doctor shopping practice. It is in fact most surprising that the doctor shopper hotline was

defunded, given the evidence alone at this inquest, as to the savings achieved by the projects. For example, an evaluation conducted by the Health Insurance Commission according to Ms O'Brien, revealed savings of $15.6 million up to the 13th of June 2001, and that whilst $4.139 million was allocated to the doctor shopping project, the savings generated by that project were $19.9 million.

Unfortunately for George and people in his position, the evaluations of the Health Insurance Commission of the doctor shopping project have not looked at broader issues such as the impact of the doctor shopping initiative on individuals' lives and the lives of their families and friends.

Of at least as much concern is the evidence that despite the recommendations of Ms Heather Spooner, a Victorian Coroner on the 16th of June 2004 regarding the death of Jennifer Allen, the Health Insurance Commission has taken no action as recommended.

I make the following findings:

That George Richard Shoobridge, born on the 22nd of May 1977, died at Unit 27, Number 93 Birch Street, Manunda, Cairns on the 1st of December 2002 from cardiorespiratory failure, due to or as a consequence of drug overdosage.

I make the following recommendations and request that such recommendations be provided to Federal and State Health

Department Ministers and Directors-General, the Royal Australian College of General Practitioners, the Health Insurance Commission and the Pharmaceutical Benefit Scheme, in the hope that each and every recommendation will be taken seriously and acted upon with a view to preventing any further waste of life, as has happened to George in this case, and further distress to family and friends of people including George.

Those recommendations are as follows:

(1) That as recommended by Heather Spooner, Victorian Coroner on the 16th of June 2004, the Health Insurance Commission give priority to the provision of administrative arrangements for the newly-launched prescription shopping project and the establishment of a dedicated telephone information line.

(2) That the Health Insurance Commission provide funding to ensure that such a dedicated telephone information line is available Australia-wide to enable medical practitioners to conveniently and quickly access complete and up-to-date information as to the prescription history of any patient, so as to enable them to:

(a) Determine if a particular patient is obtaining medication beyond therapeutic need.

(b) Refuse or reduce the prescribing of drugs to such patients.

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(c) Refuse or reduce the prescribing of benzodiazepines as well as opiates to poly drug users.

(d) Refer patients to counselling, addiction agencies, mental health agencies and methadone programs in a timely fashion, and,

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(e) Generally bring about a reduction in the barriers to doctors seeing drug-dependent patients and thereby bring about a reduction in the numbers of deaths from drug overdoses due to combinations of drugs.

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(3) That an alert system for localised general medical practitioners as well as medical/health professionals from agencies such as the Alcohol Tobacco and Other Drug Services, and any opiate replacement or methadone program be put in place to advise them of a patient's admission to such a program or referral to any other program.

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This system would avoid the potential dangers of prescribing to persons with addiction, including interfering with treatment of the addiction, enhancing drug dependence and increasing the risk of overdose.

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It is also crucial that there be the means of verifying or otherwise, information provided by the person being treated, so as to formulate the most effective treatment plan.

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(4) That in addition to those drugs currently monitored by the Health Insurance Commission, that use of Panadeine Forte be added to the list, given the potential dependence upon it by persons using it above therapeutic needs.

(5) That a review of the Health Drugs and Poisons Regulation of 1996 Appendix 9 be reviewed with a view to including as a schedule A drug, the drug codeine phosphate with Panadol, given the addictive nature of the drug.

(6) The Queensland Department of Health provide funding for provision of a centralised computer system for the Drugs of Dependence Unit which should also monitor benzodiazepines and Panadeine Forte and not be limited to the monitoring of opiates only.

(7) That all medical practitioners be advised of and provided with the current voluntary consent form, enabling access to the prescription history of a patient.

(8) That a review be undertaken with respect to the privacy laws, rules and regulations governing the provision of information to prescribing and medical practitioners, so as to provide a result where such practitioners are provided easily with complete, accurate, and up-to-date information which will identify prescription and doctor shoppers.

For example:

(a) That consideration be given to legislating to provide that prior to any person receiving any drug of dependence that the person complete an authority enabling the Pharmaceutical Benefit Scheme to release information to the medical practitioner about that person's prescribing history, and,

(b) That any persons who do not provide the authority or otherwise do not consent to release of their prescribing history be disentitled to reimbursement by the Pharmaceutical Benefit Scheme of any concessional rates.

(9) That the Queensland Department of Health provide funding to enable the Alcohol Tobacco and Other Drug Service, the Methadone Program Clinic and other opiate replacement programs to operate a seven day a week service to enable timely, continuous assistance to be provided by the qualified and experienced staff to those at risk, as well as closer and greater supervision of the distribution and taking of medication and drug dosages.

(10) That in the meantime, funding be provided to enable takeaway doses of opiate replacements, methadone, to be collected from the specific program facility or pharmacies seven days a week, to reduce the risks of some patients taking more than the daily dose on any one occasion.

(11) That the Royal Australian College of General Practitioners undertake a survey of their members with a view to obtaining information from general practitioners in relation to the safeguards that ought to be in place in the process of a general practitioner prescribing a potential drug of addiction.

(12) That the Royal Australian College of General Practitioners ensure the circulation to their members of the protocol for prescribing of benzodiazapems in high doses on a regular basis as outlined in their own publication titled Benzodiazapems, which was admitted and marked number 65 in these proceedings.

(13) That the Royal Australian College of General Practitioners ensure the regular and continuing medical education in relation to the issue of doctor shopping, prescription shopping by the holding of training seminars, lectures, conferences, and provision of internet and other literature.

(14) And finally, that legislation be enacted to mandate that medical practitioners responsibly report suspected severe cases of drug dependency to the Health Insurance Commission and the Drug and Dependency Unit.

Again, I would like to thank my assistant, Mr Tate, for his assistance, and that of Sergeant Petersen, and as well Mr McCay and Ms Gill, and Ms Malecky. I therefore, on that basis, close the inquest.

MR TATE: As your Worship pleases.

MR McCAY: Thank you, your Worship.

CORONER: Thank you. Good afternoon.

MS GILL: Good afternoon.

MR McCAY: Good afternoon.

THE COURT ADJOURNED