

SOUTH



AUSTRALIA

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 22nd day of February, and 2nd day of March, 2000, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Anthony Roy Graetz.

I, the said Coroner, do find that Anthony Roy Graetz, aged 28 years, late of Loxton-Berri Road, Loxton, died at Loxton on the 3rd day of April, 1997 as a result of traumatic brain damage complicating contact .22 calibre gunshot wound to the midline of the forehead. The circumstances of death were as follows:-

1. **Reason for inquest**

- 1.1 At the time of his death, at approximately 12.45pm on Thursday 3 April 1997, Anthony Roy Graetz was within a small detached cottage on his parents' property near Loxton, South Australia. There had been a "siege" situation at the property since about 10.00p.m. the night before. By the time of his death, there were a number of police officers at the property, the police Special Tasks and Rescue ("STAR") Division were present, along with police negotiators and uniformed personnel. Mr. Graetz had committed a number of offences the previous evening and throughout the night, including threatening the lives of those present on many occasions, damaging property and the like. In my opinion, Mr. Graetz was not free to leave the premises had he decided to do so, and was effectively 'detained in custody' pursuant to an Act or law of the State within the meaning of Sec12(1)(da) of the Coroners Act. An inquest into his death was therefore mandatory pursuant to Sec14(1a) of the said Act.

2. **Background**

2.1 Anthony Graetz had displayed some fairly minor signs of emotional distress in the months prior to his death. Several witnesses deposed to the fact that he was very upset following the suicide of his friend approximately eight years previously.

2.2 Anthony's mother said:-

“When Anthony has had black depression spots he has talked about taking his life as he had nothing to live for. He has seemed to be isolating himself from his long-term friends for quite some time”. (Exhibit C.4a, p3)

2.3 Anthony's friend, Heath Gotts, said that the two of them had been close when they were younger and Mr. Gotts was single, and they did a lot of water-skiing together. However, in January 1997 they had argued over a relatively trivial incident, and Anthony later behaved in an aggressive manner towards him, refusing to allow him to use the family's boat ramp. Mr. Gotts heard a number of shots soon afterwards (Exhibit C.11a, p4).

2.4 Another friend, Brad Ward, said that Anthony “seemed to change and become more agitated easily” and generally acted out of character in a way “that I can't really put my finger on” (Exhibit C.12a, p1).

2.5 Professor PE Mullen, Clinical Director of the Victorian Institute of Forensic Mental Health, provided me with a report giving an overview of this incident and an assessment of the way it was handled. In his report (Exhibit C29a), Professor Mullen said:-

“In retrospect it is possible to glean from the accounts a suggestion of Mr. Graetz becoming increasingly agitated, pre-occupied, irritable and probably depressed over the days and weeks prior to his death. These changes in his behaviour and personality take on a sinister significance with the benefit of hindsight, but did not, and would not have been expected to, create particular anxiety at the time”. (p.2)

2.6 There is no evidence that Anthony Graetz ever sought professional help for his emotional state so there were no professional resources to call upon at the time the “siege” took place.

3. **Events of 2nd and 3rd April, 1997**

- 3.1 At about 5.00p.m. on Wednesday 2 April 1997, Mrs. Graetz went to see Anthony at his house. When she got there she noticed that the screen door had been pulled off. When she let herself into the house, he jumped up and “he was really agitated”. He said:-

“Get out of here I am going to kill myself”. (Exhibit C.4, p1).

He then lifted his mother up and put her outside and shut the door.

- 3.2 At around 9.00p.m., three friends of Anthony’s, Michael Arhontis, Daniel Kroemer and Stefan Panagopolous came out to the property to see him. As they drove towards his house they saw a large fire burning near the sheds. Mr. Kroemer approached the house and went inside. He could see damage to the outside walls, and a number of windows were broken. Anthony Graetz was in his bedroom. He told Mr. Kroemer to “fuck off”. He later said:-

“Daniel I don’t want to but I’ll take you with me if you don’t leave”.

As Mr. Kroemer was leaving, Anthony said:-

“Tell the pigs to fuck off or they’ll be the first I shoot”. (Exhibit C.8, p2).

- 3.3 By this time, Mrs. Graetz had also noticed the fire and went to investigate. She saw that it was the MG sports car that Anthony had been restoring and was his pride and joy. It appears that Anthony had put branches to it and set it alight. She went down to the house again and found that Anthony was still “very agitated”. She said:-

“He was saying a lot of stuff about family and work. He was obviously depressed. I have heard him talk like this before. He was running around the house, outside, breaking windows with a rifle butt. He kept telling me to go away and leave him alone. He was pretty out of control”. (Exhibit C.4a, p2).

- 3.4 Mrs. Graetz telephoned Senior Sergeant Elvio Demichelis at the Loxton Police Station. He noted receiving the call at 8.57p.m. Senior Sergeant Demichelis then dispatched two patrols to the scene and later attended the property at 11.20p.m.

- 3.5 A number of attempts to telephone Anthony were unsuccessful as the telephone had been left off the hook.

- 3.6 At about 11.35pm Senior Sergeant Demichelis and Mrs. Graetz approached the cottage to try and make contact with him. As they entered the house they noticed extensive damage-almost all the windows and doors had been smashed and the broken butt of a rifle was found on the ground outside. There was damage to furniture and holes were made in walls, and there was other damage in the living room area. Senior Sergeant Demichelis noticed an empty rifle bag lying on a pool table, and a partially empty packet of .22 calibre bullets on the living room floor (Exhibit C30a, p2).
- 3.7 When Mrs. Graetz tried to convince her son to come out of the bedroom, which was locked, Anthony was heard to say:-
- “Fuck off. Watch out, bullets go straight through walls”. (Exhibit C.30a, p2)
- 3.8 Mrs. Graetz and the police officers (by then two other officers had joined them) then vacated the house and took up positions around the outside of the building, keeping it under observation. The STAR Division officers and police negotiators were called to attend.
- 3.9 On two further occasions while they were outside, Senior Sergeant Demichelis heard Anthony Graetz yell out, telling them to “fuck off and leave me alone”, and “shut up out there or I’ll come out shooting” (Exhibit C.30b, p3).
- 3.10 Police negotiators Hearn and Dickinson arrived at the property at about 4.30a.m. At about 5.00a.m. they took up a position behind an old motor vehicle about 40 to 50 metres from the house. Sergeant Hearn was initially successful in starting up a conversation, which he said lasted for five to ten minutes. He said that Mr. Graetz:-

“made numerous threats about killing himself and anybody that came near him. He was generally abusive towards me and police in general. His voice sounded excited but at the same time aggressive. He was coherent and responded clearly to some of the things which I said to him”.

Following this conversation, Mr. Graetz failed to respond to any further attempts to contact him, until shortly after 8.00a.m., when Constable Dickinson received a response and tried to engage him in conversation. She said:-

“(he) stated that he just wanted to die and that he wanted police to shoot him. I told him that we would not shoot him. He stated that he wished he was in Victoria, as the police there would shoot him”. (Exhibit C.16a, p4).

The conversation proceeded along these lines for a few minutes but then he broke off communication and failed to respond to any further questions.

- 3.11 Detective Sergeant Hearn and Constable Dickinson spent the next three hours calling out to Mr. Graetz but without receiving a response. They remained until about 12.30p.m. but had no further success. The police also asked his brother Darren, who by this time had arrived from Adelaide, to try and talk to his brother, but he was also unsuccessful.
- 3.12 At about 2.25p.m., STAR Division officers Sergeant Gerlach and Senior Constable Gordon approached the cottage for the purpose of reconnaissance. Gordon looked through the window of the bedroom and saw Anthony Graetz laying on the floor. He appeared to be dead. Gordon said:-

“I saw on the floor a male person with a gunshot wound to his head. A rifle barrel was protruding from between his legs pointing upwards towards his head. There was blood covering the wall behind him and a large pool of blood on the carpet near his head. He appeared to be dead”. (Exhibit C.22a, p1)

Sergeant Gerlach gave similar evidence (see Exhibit C.20a, p3). It is surprising that nobody heard a gunshot.

4. **The investigation**

- 4.1 In accordance with a protocol developed between myself and S.A. Police for the investigation of deaths in police custody, the Major Crime Investigation Section was called upon to investigate. Detective Sergeant Coxhead and Detective Senior Constable Clarke attended at about 9.20p.m. on 3 April 1997. Also in attendance were crime scene examiners, Senior Constable DeLaine of the Ballistics Section, and Dr. Ross James, forensic pathologist.
- 4.2 Detective Sergeant Coxhead noted a number of matters which were consistent with an intent to suicide. He also noted the position of the body, with the legs of the deceased crossed and a rifle barrel pointing towards his head. A damaged rifle butt was seen nearby. There was a single gunshot wound in the centre of the forehead. On the wall of the hallway was written in red texta “FTW AND YOU TOO” (FTW - fuck the world), and “NO TO LIFE”. In an empty icecream container at the front of the house was a note, also written in red texta, reading

“A BIT TO THE LEFT CUNT I WANT A CLEAN SHOT”. (Exhibit C.18a, p2)

- 4.3 Senior Constable DeLaine also noted the position of the body with the muzzle and barrel of the firearm protruding from the groin area towards the head. He noted that the timber stock had been broken and unscrewed from the firearm, and the trigger guard had been removed. He said:-

“The trigger was braced behind the legs making it possible from a seated position to pull the barrel from the upper side of the legs discharging the loaded firearm by pulling the trigger against the back of the legs. There appeared to be a single projectile injury to the forehead of the deceased”. (Exhibit C.26a, p2)

- 4.4 Dr. R.A. James, forensic pathologist, also attended the scene and noted the position of the body. At a post mortem examination performed on 4 April 1997, Dr. James confirmed the presence of a contact gunshot entry wound in the midline of the forehead. The wound track penetrated the frontal bone and caused extensive destruction within the brain cavity. An almost intact but deformed .22 calibre projectile was recovered from within the wound track.

- 4.5 Dr. James diagnosed the cause of death as:-

“Traumatic brain damage complicating contact .22 calibre gunshot wound to the midline of the forehead” (Exhibit C.2a, p2)

- 4.6 Taking all this evidence into account, the agitated behaviour, the damage to property, the threats to suicide and kill others, the written notes inside the house, the position of the body and the weapon, and all the surrounding circumstances, I have no doubt that Mr. Graetz died as a result of a self-inflicted gunshot wound to the forehead.

5. **Police handling of the incident**

- 5.1 As I have already said, Professor P.E. Mullen provided me with an assessment of the handling of this incident. Professor Mullen has extensive experience in siege and hostage situations and was able to bring a professional perspective, from a psychiatric point of view, to these events.

Dr. Mullen made the following points in his report (Exhibit C.29a):-

- in this case the police were faced with an armed man barricaded in a house, threatening suicide, but with no relevant prior history of either mental disturbance or suicidal behaviour which might have informed their actions;
- there was no known mental health professional or counsellor with whom Mr. Graetz had had prior contact and who might have provided relevant information or even assistance;
- it is usually possible to establish some kind of dialogue with the distressed and disturbed individual threatening suicide. Once such a dialogue is established, the chances of a resolution without serious self-damage and regressive conduct improves. In this case it was not possible to establish any meaningful dialogue with Mr. Graetz;
- the police attempted in the most obvious and practical ways to communicate with Mr. Graetz and also quite properly attempted to use the mother and brother to commence such a dialogue. In the event they had no success;
- the highest risk of violence to either self or others in a siege situation is in the early stages, when the disordered individual is in a state of extreme agitation and fear. The passage of time is therefore usually regarded as a good sign as long as there are no further incidents or events to exacerbate the distress and fear of the subject. On this occasion the police quite properly allowed time to pass, in the reasonable hope that Mr. Graetz would become less agitated, less fearful and therefore at less risk of self-damage and/or aggressive behaviour. In the event this appears to have been one of the exceptions to the rule and Mr. Graetz, despite the passage of time, resorted to the lethal use of the weapon he had with him;
- even with the benefit of hindsight, it is difficult to see how either the seriousness of his mental state could have been appreciated at the time, nor how the tragic outcome of that state of mind could have been avoided". (Exhibit C.29a, p3-4)

5.2 The family of the deceased, through Mr. Darren Graetz, intimated that they were concerned about the fact that they had no contact with the negotiators present at the scene until Mr. Darren Graetz arrived at about 1.00p.m. Mr. Graetz said that he could not fathom why he was asked to try and make contact with his brother when there were others such as his mother and Anthony's friends who might have been more effective in this regard. Senior Sergeant Hearn, who was the senior negotiator in the team, told me that he did obtain some information from Mrs. Graetz that morning, but they decided not to ask her to try and approach her son again, having regard to his violent reaction to her approach the night before. He said that he was concerned that this might exacerbate the situation (T.45). I accept Senior Sergeant Hearn's evidence on this topic. Clearly a person with training and experience in such dangerous and emotion-charged incidents must be allowed to form a proper judgment on these matters, and I have no reason to think that Mr. Hearn erred when he made the decision

he did. I can understand that it may be difficult for the relatives later to accept that their presence may not have been helpful. It is easy in retrospect to suggest that the danger was not as high as the police treated it on the night. In my view, it is a matter for police at the scene at the time to carry out a risk assessment. Where there are lives at stake, that assessment should not be assessed critically after the event, even if subsequent evidence suggests that the police may have been too cautious.

5.3 I accept Professor Mullen's opinion, and on the basis of that, I find that there is no ground upon which the police handling of this incident can be criticised. They were faced with an unpredictable and highly dangerous situation and did the best they could to contain it. They did their best to establish a dialogue with the deceased, which proved unsuccessful. They did not do anything to exacerbate the situation and acted with forbearance and restraint. Indeed, when approaching the house, Senior Sergeant Demichelis and Mrs. Graetz, and later Sergeant Gerlach and Senior Constable Gordon, displayed considerable courage in approaching the house and exposing themselves to danger.

6. **Conclusion**

I find that Anthony Roy Graetz, aged 28 years, late of Loxton-Berri Road, Loxton, died at Loxton on 3 April 1997 as a result of traumatic brain damage complicating contact .22 calibre gunshot wound to the midline of the forehead.

7. **Recommendation**

There are no recommendations pursuant to Section 25(2) of the Coroners Act.

Key Words: death in custody; police siege; suicide; firearms.

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 2nd day of March, 2000.