

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 4<sup>th</sup> day of December 2001, the 29<sup>th</sup> day of January and the 5<sup>th</sup> day of February 2002, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Peter Fazzari.*

*I, the said Coroner, find that, Peter Fazzari aged 56 years, late of Cadell Prison Farm, Cadell, South Australia, died at Cadell, South Australia on the 29<sup>th</sup> day of December 1991 as a result of a stab wound to the brain.*

### **1. Reason for inquest**

- 1.1. Mr Fazzari was convicted of murder in the Supreme Court of South Australia on 7 January 1980 and sentenced to life imprisonment. He was due to be released on parole on 30 December 1991, but was killed the day before, on 29 December 1991.
- 1.2. Accordingly, at the time of his death Mr Fazzari was ‘detained in custody pursuant to an Act or law of the state’ within the meaning of Section 12(1)(da) of the Coroner's Act, 1975, and an inquest was therefore mandatory pursuant to Section 14(1a) of the said Act.

### **2. Circumstances of death**

- 2.1. Mr Fazzari was accommodated in the ‘Overlander’ cell block at the Cadell Prison Farm. The cell block is a two storey building and Mr Fazzari was accommodated in cell 104, situated on the top floor. The top floor accommodated a total of 32 prisoners at the time.

- 2.2. Correctional Officer John Gelston states that a formal count of prisoners was conducted at about 4:30pm on Saturday 28 December 1991 and again at 8:00pm that evening. He said that all prisoners were present during both counts. Another such count was carried out at 9:30pm and again all prisoners were present (Exhibit C38, p1-2).
- 2.3. At 11:00pm the barrier leading to the top floor of the cell block was secured by Officer Gelston. Although they are secured in the cell block, prisoners are not secured in their individual cells and are free to move about the block.
- 2.4. Mr Gelston did another informal count of prisoners after the barriers were secured and, again, all prisoners were present. He says that he checked Mr Fazzari's cell and saw him lying on his back on his bed with the light on. He was unable to recall whether Mr Fazzari was awake or asleep (Exhibit C38, p2).
- 2.5. Correctional Officer Michael Finn commenced his shift at 12:05am on 29 December 1991 and, at about 1:00am, conducted another informal count. He said:
- ‘I opened Peter Fazzari's door at room 104, as it was shut, and I can't recall what position he was in but he was definitely in the room. I don't think the light was on, but I remember a glow in the room from the television. I think he was lying on his side on the bed with his back to the wall facing the television, his head at the door end of the bed. I'm not sure how he was dressed. I did not speak to him. I only glanced in the room, just to check that he was actually there. I continued the count and established that everyone was present.’
- (Exhibit C9, p2-3)
- 2.6. Mr Finn went back to the top floor a couple of times during the night for specific purposes, but did not return and do a further count until 8:00am on 29 December 1991. At that time, prisoners are expected to be standing outside their doors. As cell 104 was still shut, Correctional Officers Raines and Finn opened the door and found Mr Fazzari lying face down on the bed with his head at the door end of the cell. Mr Finn saw blood on the pillow and so he raised the alarm. (Exhibit C9, p3-4).
- 2.7. Although it was clear that Mr Fazzari was dead, life was not formally declared extinct until the Chief Forensic Pathologist, Dr C H Manock, attended at 2:25pm (Exhibit C48, p1).

2.8. Cause of death

Dr Manock performed an autopsy of the body of the deceased on 29 December 1991 at 11:30pm at the Divett Place Mortuary. Dr Manock noted the presence of an incised wound running diagonally upwards and to the left on the back of the neck. Dr Manock also noted a cut in the blood-stained surface of the pillow on which Mr Fazzari was lying, and a cut on the back of the shirt collar and several cut hairs on the back of the right shoulder.

2.9. Upon further examination, Dr Manock found several incised stab wounds. He noted:

‘The edges were very clean cut indicating an extremely sharp implement.’  
(Exhibit C48, p4)

One of these wounds commenced at the back of the head and which penetrated the bone of the skull and then through the brain from left posterior parietal to right frontal region where the tip of the knife exited from the right frontal bone and penetrated the medial edge of the right eyebrow. Dr Manock commented:

‘There can be no doubt that the stabbing implement was very sharp as it cut numerous hairs which were found on the clothing and pillow. Despite the fact that it was sharp it would (have) required considerable force to drive a knife through the skull with enough power for it to emerge from the other side of the head. The bone at both entry and exit sites was of average thickness and normal density. The blade would need to be quite stiff to be able to achieve this injury.’  
(Exhibit C48, p9)

Dr Manock’s diagnosis was that the cause of death was ‘stab wound to the brain’.

2.10. Detective Sergeant R J Baird and Detective Gibbons attended at Cadell Prison Farm on the morning of 29 December 1991 and inspected the body. A search was then conducted of all of the cells on the top floor of the cell block and in the shower block. The prisoners on the top floor were strip searched. The same process was then undertaken on the ground floor of the cell block. Further Police and Forensic Services staff attended at the scene and the death of Mr Fazzari was declared a major crime at 2:45pm that afternoon (Exhibit C56).

2.11. All prisoners on the top floor of the cell complex were interviewed but none of them supplied any information that was useful to the inquiry.

2.12. Detective Senior Constable C A Chamberlain has been the Officer in Charge of the investigation since that time. Detective Chamberlain has reported to me as follows:

3. By way of background, at about 0800 hours on Sunday 29 December 1974, Peter Fazzari, 56 years (D.O.B. 16 October 1935) was found dead in cell 104 of the 'Overlander' cell block situated at the Cadell Prison Farm.

On examination it was found that Fazzari had received 3 stab wounds to the back of the head, one of these stab wounds pierced the skull, severed the brain and punctured his right eye. It appears that Fazzari was sleeping on his stomach at the time of the attack. No weapon was recovered despite a search of the cells and surrounding area.

The 'Overlander' cellblock is a two-storey building that consists of cells, recreation area and kitchen. Fazzari was assigned to cell 104 which is situated on the top floor of the complex. At the time of the murder the top floor of the cellblock was occupied by a total of 32 prisoners. His cell door was unlocked that night and inmates have the freedom to visit each other's cells.

4. Inquiries revealed that Peter Fazzari was born in Calabria, Southern Italy, on 16.10.35, the second of seven siblings. His family migrated to Australia in 1950 and settled in South Australia.

In 1960 Peter Fazzari married his cousin Rosa. Peter and Rosa had seven children. It was alleged that it was a violent marriage, with Rosa and the children being subjected to assaults by Peter Fazzari.

5. In 1979 Rosa Fazzari and her children left the matrimonial home and occupied accommodation at Anjanto Road, Waterloo Corner, the property of Peter Fazzari's brother, Salvatore.

At about 1430 hours on 17.10.79 Peter Fazzari attended at this property and shot his brother in the chest with a shot-gun. Sometime later he presented himself at the Elizabeth Police Station and freely admitted the offence.

Peter Fazzari was sentenced to life imprisonment for murder on 07.01.80. He was due for release on 30.12.91.

6. Initially the investigation by the Major Crime Investigation Section revolved around the inmates of the top floor of the Overlander cell block.

On the morning that Fazzari's body was located, police caused each prisoner and cell to be searched. Several knives, scalpels, razor blades, a Stanley knife, a handkerchief, 4 t-shirts, a windcheater and two pairs of tracksuit pants were seized and submitted for forensic examination. Dried human blood was only found in the handkerchief, and the grouping results show that the blood did not come from the deceased.

Subsequent DNA tests involving items from Fazzari have failed to produce any result.

7. A search failed to locate the expected murder weapon. It is expected to be about 18cm in length, stiff, strong and very sharp. It is possibly 3cm wide at the widest point.

8. At various times during the investigation, information was received to the effect that:
- Fazzari was involved in selling drugs to other prisoners;
  - prisoners knew of Fazzari's impending murder;
  - a particular prisoner had committed the murder; and
  - two other prisoners were involved in the murder.

All of these matters were investigated to the fullest extent but were not able to be substantiated.

9. The relatives of the victim were interviewed but could not assist in the Inquiry. Apart from initial visits from his wife and children when he was first imprisoned, Fazzari had little to no contact with his family.
10. There is insufficient evidence available at this time to suggest who is responsible for the murder of Peter Fazzari, except for the fact that it was most probably an inmate or inmates.

The lack of forensic evidence and DNA testing has not assisted the Inquiry.

The murder of Peter Fazzari remains unsolved as of this date.

11. I know the facts deposed to herein partly of my own knowledge and partly from information which I have received during the investigation into the death of Peter Fazzari.'

(Exhibit C1, p2-4)

### **3. Conclusions**

- 3.1. I accept Detective Chamberlain's conclusions that, although it is clear that Mr Fazzari was killed by another person or persons, the investigation has not been able to establish the person or persons responsible.

### **4. Recommendations**

- 4.1. There are no recommendations pursuant to Section 25(2) of the Coroner's Act, 1975.

*Key Words: Murder (allegations); Police (investigation); Death in Custody*

*In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 5<sup>th</sup> day of February, 2002.*