

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 15th, 17th, 18th, 19th and 30th days of April 2002, the 1st, 2nd and 3rd days of May 2002, the 17th and 18th days of June 2002 and the 9th day of October 2002, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Grant Andrew Wanganeen.

I, the said Coroner, find that, Grant Andrew Wanganeen aged 36 years, late of 12 Lynne Street, Brahma Lodge, South Australia died at Brahma Lodge, South Australia on the 26th day of February 2001 as a result of a large calibre gunshot wound to the chest.

1. Introduction

1.1. In these findings I will refer to ‘the deceased’, where it is possible to avoid using his name. I do so because in Aboriginal culture it is traditional not to mention the name of the deceased during the period of mourning, which can last for a considerable time.

1.2. The deceased was born on 22 December 1964. He died at 8:15pm on Monday, 26 February 2001 as a result of having been shot by a Police Officer, Probationary Constable Carolyn Wilsdon, following a confrontation in the backyard of the house premises at 1 Jennier Crescent, Para Hills, South Australia.

1.3. Cause of death

A post-mortem examination of the body of the deceased was performed by Dr J D Gilbert, Forensic Pathologist, on 27 February 2001 commencing at 1:30am. Dr Gilbert found that the cause of death was a large calibre gunshot wound to the chest (Exhibit C4a, p1).

- 1.4. Having regard to the circumstances, the Deputy Commissioner of South Australia Police (SAPOL), Mr N J McKenzie, directed that this incident should be the subject of a 'Commissioner's Enquiry' within the meaning of police General Orders. The enquiry was carried out by a team of investigators led by Detective Chief Inspector J N Attwood.
- 1.5. It is arguable whether the deceased's death constitutes a 'death in custody' within the meaning of Section 12(1)(da) of the Coroner's Act, 1975. A protocol for investigation into deaths in custody has been developed between my office and the Commissioner of Police, and this treats such cases as deaths in custody. Since I decided that an inquest into the death was desirable in the public interest, the strict definition is somewhat academic in the circumstances of this case. There is no doubt that the investigation was of the standard required in such cases in any event.

2. Family background

- 2.1. The deceased was born on 22 December 1964 at Wallaroo, South Australia, the ninth of eleven children. His mother died in 1965, and his father died in 1985.
- 2.2. According to pre-sentence reports prepared by the Department of Correctional Services at the time, the deceased's father had an alcohol problem and was unable to raise the children adequately. The deceased was removed from his father's care at the age of 7 years, and was placed in a hostel operated by the Department for Community Welfare at Blackwood. He remained in the care of that Department until he was 16 years of age.
- 2.3. By the time he was 9 years of age, the deceased was placed in Colbrook Cottage, having developed a pattern of offending and truancy from school. He absconded on numerous occasions and returned to Point Pearce from where his family came.
- 2.4. The deceased had a number of periods in the Brookway Park Centre for assessment, and the South Australian Youth Remand and Assessment Centre on three occasions in 1979 and in the South Australian Youth Training Centre (SAYTC) in 1980, 1981 and 1982 for persistent offending. He absconded from SAYTC on two occasions.
- 2.5. The deceased left high school at the age of 16 while in second year. He was described as having above-average intelligence and was a good student when he tried.

However, he was described as having a very poor self image, which is a possible explanation for his behaviour in later years.

2.6. The deceased had a number of casual farming and labouring jobs which would intersperse with periods of detention in both juvenile and adult penal institutions.

2.7. In 1982 the deceased was involved in two assaults while at SAYTC. He was ordered to be detained for nine months, to be served in an adult prison, as he could not be properly controlled in SAYTC. The report notes:

'On numerous occasions he was described as responding poorly to secure care. Punitive and supervisory measures were seen to have little effect.'

2.8. In July 1983, the deceased commenced a defacto relationship with Ms Kerry Sansbury, whom he had known since childhood. They had two children, Edward born 13 February 1985 and Rashana born 29 April 1986. It would appear that while they were living together and Ms Sansbury was supporting him, the deceased had longer periods between offending.

2.9. The deceased had a history of alcohol abuse although he was not formally assessed for alcohol dependency. The Probation Officer commented:

'(the deceased) is a 22 year old man who has a long history of offending behaviour.

He presented as a polite man who cooperated at interviews. Due to his father's inability to manage the family after his mother's death, (the deceased's) upbringing which began in an Aboriginal community was continued in a welfare hostel.

Most of his adolescence has been set in institutions and in Yatala Labour Prison. This has had little positive effect upon (the deceased) and has produced in him feelings of hostility towards authority.

In recent years there has been some changes in his life that give rise to some cautious optimism. His relationship appears stable and his most recent period of parole saw a more positive response to supervision.

...'

(Presentence report dated 17 June 1987)

2.10. By the time of another presentence report dated 11 April 1991, the deceased had developed a serious heroin addiction. Although his relationship with Ms Sansbury had continued, she had asked him to leave on several occasions because of his drug taking, offending, and imprisonment. When he was released from prison in August

1990, he had become heavily addicted to heroin and was stealing regularly to secure money for his habit. It may be that he had developed the heroin addiction while in prison.

- 2.11. That pre-sentence report also raised disturbing suggestions about the deceased's mental health. He made a number of statements to the probation officer indicating religious preoccupations, suggesting that he had been 'guided by angels' since he was 8, and that:

'God speaks to him about the work he has to do as a great leader for the Aboriginal people. He believes that he can foresee events and that he knows he will be out of prison by May and he will serve two more prison sentences before going to Israel to further the cause of his people.'

- 2.12. Ms Sansbury also told the probation officer that, since he had become addicted to heroin, she thought that he had often been out of touch with reality.
- 2.13. When the deceased appeared before the Honourable Justice Millhouse in the Supreme Court in 1994 charged with robbery in company and assault occasioning actual bodily harm, his Honour records in his sentencing remarks that the deceased had a long and bad criminal record, with offences for violence, dishonesty, and for drugs. His Counsel, in making submissions on his behalf, told his Honour that the offences were committed in order to obtain money to buy drugs. There was no reference to the mental health of the deceased in those proceedings.

3. Events leading to confrontation with police

- 3.1. In her statement (Exhibit C74), Ms Sansbury said that she had seen the deceased on a number of occasions since he was released from gaol in 1999, but there had not been any trouble between them. Their two children frequently spoke to him on the telephone, and their daughter Rashana visited her father frequently.
- 3.2. However, around the beginning of 2001, the attitude of the deceased towards his family seemed to become more aggressive. Ms Sansbury referred to an incident earlier that year where he was aggressive towards Rashana over the telephone concerning a number of items he had given to her as Christmas presents. He had telephoned her demanding some of these items back.

- 3.3. Ms Sansbury referred to a number of occasions where the deceased had behaved in an aggressive and bizarre manner towards family members. For example, their daughter Rashana reported to her that, earlier on 26 February 2001, the deceased had telephoned her twice demanding that she return money that he had given her to pay her mobile telephone account. She told Ms Sansbury that he had said:

'You better fucking come back or I will come over and fucking kill you.'

- 3.4. Rashana went out to avoid confronting her father. Soon afterwards, the deceased attended at Ms Sansbury's address at Almont Avenue, Pooraka. He asked after Rashana and when told that she was not there, he replied:

'Don't fucking tell lies.'

The statement goes on to relate the following:

'I said that he could look for himself in the house. The deceased then stormed into the house in an angry manner and he came out very soon afterwards carrying some items, being the Sony Play Station and hand controls, a black CD holder and a mobile telephone.

The deceased looked extremely angry to me. His eyes were bulging and I thought that he was on drugs.

The deceased said to my mother: "Keep your granddaughter off the street. When I get her I'm going to sell her for money because she's nothing but a slut". This was a reference to Rashana.

The deceased then looked at Tauri (Ms Sansbury's niece) and said to her: "Don't look at me like that, I'll catch you on the streets too".

The deceased also said to my mother: "Tell your Sonny Colin when I go to gaol I'll chop him up too".

The deceased also abused me.

The deceased then walked down the driveway to a taxi. Before he reached the taxi he came back up the driveway and then turned around and went back towards the taxi and got into the taxi.

Before he turned around and went into the taxi he also said: "I'm coming back for my money".'

(Exhibit C74, p5-7)

- 3.5. It was at that point that Ms Sansbury asked Tauri to telephone the police. The call was logged at 6:51pm at the Police Communications Centre (Comcen) and answered by Constable Pearson. In her statement (Exhibit C17a), Constable Pearson records

that Tauri initially told her that the deceased had been 'threatening people', that he was 'coming back now', that 'he's on drugs and that', that 'he's wanted by the police and everything'.

- 3.6. Ms Sansbury then came on the phone and asked to talk to Sonney Morey, the Senior Community Constable at Elizabeth, and a very well-known and respected member of the Aboriginal community. When told that she could not be transferred on that line, she said:

'I want a patrol here straight away because he's just left here and he's coming back now.'
(Exhibit C17a, p2)

- 3.7. At 6:53pm a 'tasking' was sent over the radio and dispatched on the Computer Aided Dispatch system (CAD), advising of a priority 'B' disturbance at 10 Almont Avenue, Pooraka. The information included that the person involved was the deceased, who was aged in his 30s, that he was causing a '101' (disturbance), that he was allegedly on drugs and very '102' (intoxicated). Further, that the 'complainant (is) concerned as there is a baby in the house' (Exhibit C39b). It is unclear where the information that the deceased was very intoxicated came from.
- 3.8. At 6:55pm further information was dispatched concerning the deceased, taken from the Police Incident Management (PIM) system, namely that his date of birth was 22 December 1964, that Police Intelligence indicated that he was 'known for consorting, drug user/dependent, may try to escape, may be armed, may assault police, disease-confirmed-communicable, parolee, nil active warrants' (Exhibit C39b).
- 3.9. The patrol initially tasked to the premises was 2EH22 consisting of Constables Daly and Alexander (nee Kirkman), and patrol 2EH20 (Constable Welch and Probationary Constable Wilsdon) volunteered to attend as backup. For brevity, I will refer to these officers using their surnames throughout the balance of these findings.
- 3.10. Senior Community Constable Sonny Morey heard the radio transmissions, and advised Comcen that:

'If Kerry Sansbury is the complainant, she has bail conditions for him not to be there.'
(Exhibit C24, p2)

- 3.11. Morey and Pearce were then tasked to a Cowandilla address and were unable to assist further.
- 3.12. The two patrols arrived at 10 Almont Avenue at 7:05pm and 7:06pm respectively. Wilsdon took a statement from Ms Sansbury in her notebook. The notes have been transcribed and are Exhibit C6a. Ms Sansbury described how the deceased arrived and walked into Rashana's bedroom and came out carrying various articles he had given her for Christmas. As I have already outlined, she told Wilsdon that he left uttering threats such as 'I'll catch you on the streets too', and that he would 'sell' Rashana as 'she's nothing but a slut'. None of these threats was immediate, although I am sure that the people found the deceased's presence and agitated state intimidating. Ms Sansbury told Wilsdon that she had a summary protection order, also known as a restraining order, preventing the deceased from contacting her or her children. Welch confirmed the existence of the restraining order with Comcen over the radio. At that point, Comcen repeated the warnings mentioned earlier.
- 3.13. Wilsdon spoke to Rashana Wanganeen, and she told her that the deceased had been known to carry a knife or a screwdriver. When asked if she had seen either weapon that day, Rashana said 'no' (T612). It is unclear how much of this information was received by Welch.
- 3.14. Welch said that he spoke to Rashana as well, and she told him about the deceased carrying a knife (but did not mention a screwdriver). He told her that he had dealings with the deceased before (he was actually mistaken about this) and had built up a good rapport with him. He said he asked Rashana if she had seen the knife that day, if the deceased had threatened anyone with a knife, or if he had produced a knife that day, and she said 'no' to each question (T481).
- 3.15. Welch said he concluded from those answers that the deceased was not carrying a knife that day (T524). This seems a rather incautious conclusion to have drawn on the basis of such vague evidence.
- 3.16. Daly and Alexander drove to 12 Lynne Street, Brahma Lodge, the deceased's address, but he was not there. Welch and Wilsdon proceeded to Para Hills as they had information that the deceased may be at the house of his sister Joanne at 1 Jennier Crescent, Para Hills.

- 3.17. At about 7:46pm patrols 2EH20 and 2EH22 rendezvoused at the Mobil Quix Service Station, 321 Bridge Road, Para Hills, where they developed an 'action plan'. Daly and Alexander had received a telephone call from Pearce, who was with Senior Community Constable Morey on their way to another tasking. Pearce advised:

'Just for info, the other night when you had a guy do a runner over back fences from that address and you thought it might have been Matty Bright.

Yeah roger.

It wasn't, it was (the deceased) mate so you might want someone to slip into the neighbour's yard if he can get access to it.

Yeah roger, cos we'll need a couple of patrols there cos that's what we suspect, he'll jump the fence and do a runner cos I think he's wanted for other stuff at 12 Lynne Street.

Roger mate. Just for info if we get back in time we'll give you a hand.

Roger that.'

(Exhibit C72)

- 3.18. Welch described the plan they developed at the service station as follows:

'Yes, basically Kirkman and Daly were going to take up positions out the front, as cordons, in case a male tried to flee, and then they could establish cordons on Bridge Road if he went over fences, and myself and Wilsdon were going to enter the premises and make enquiries to establish if the deceased was at the premises or not.' (T484)

- 3.19. The officers remained at the service station for eight to ten minutes and then made their way around to 1 Jennier Crescent. Daly and Alexander took up positions outside the front fence and Welch and Wilsdon entered the yard.
- 3.20. As they entered the premises, the officers saw a female person with a blue top at the front of the house, bent over. Welch thought she was being sick (T487). It transpires that this person was Joylene Wanganeen, another of the deceased's sisters.
- 3.21. Welch continued down the driveway and Wilsdon approached Ms Wanganeen. She said that she asked Ms Wanganeen if the deceased was there, but she did not respond.
- 3.22. At about this time, Daly said that he saw a male person coming around the north-western corner of the house, and the person was either putting something in or taking something out of a bag. He thought it might have been a backpack. He saw the person crouch down. He radioed Welch and advised him of what he had seen. This

communication was on a 'local' channel on the hand-held radio which was not monitored by Comcen (T251).

3.23. Constable Welch's evidence

Welch walked down the driveway, followed by Wilsdon after she had spoken to Joylene Wanganeen. As he approached the south-western corner of the house, he saw a male Aboriginal person running in a northerly direction away from him. This person then turned the north-western corner of the house and disappeared from view. Welch said that he thought that the male might be confronted by Daly and Alexander, so he followed.

3.24. The person then came back around the corner of the house. Welch's description of what happened then is as follows:

'A. When he was running down the veranda, running away from me, I told him that I wanted to speak to him about a breach of a restraining order and he just continued to run. Then when he reappeared he just said to me, 'What do you want to talk about?' And he was pretty calm and I was expecting him to be more what we call 102, intoxicated with alcohol, but given his demeanour he seemed pretty cool and calm when he spoke to me, and I continued to walk towards him and he continued to walk (towards) me and I was just keeping obs on his right hand where he was holding the tea towel.

Q. What do you recall happening next.

A. Well, I thought he was inside honestly doing the dishes because he had a tea towel in his hand. I thought he'd seen us pull up out the front, thought he'd elude us, take off, and then thought he was confronted by the police officers at the front and thought the game was up and was coming back to have a chat about the restraining order. And next minute I got approximately about a metre, a metre and a half from him, and he pulled back his right hand exposing a blade in the tea towel and then lunged at me, at my left chest pocket area.

Q. Did it strike you.

A. I felt it hit me but I was blocking at the same time using open hand techniques.

Q. Where did you feel it hit you.

A. The left chest area.

Q. Did you say or do anything when it hit you.

A. Yes, I was quite taken by seeing a knife, quite such a large size and I just yelled out, 'Fuck.'

Q. Did you have anything in that pocket.

A. I had my notebook. I always carry my notebook in my left pocket.

Q. Did you subsequently later that night have a look at your shirt and your notebook.

A. Yes, I did.

Q. What did you see.

A. My shirt pocket had been pierced and my notebook had been pierced.

Q. You know how it was pierced.

A. By the knife.

...

A. What happened next was then he retracted and then he thrust it again towards the middle of my chest area. As he did this I once again blocked, and at the same time I was able to get hold of his wrists and I was applying a wrist lock and I was, at that time, going to break his arm and disable that arm but he quickly grabbed the knife with his other hand, using his left hand grabbed it out of his right, and then he lunged once again to my right side and as he did that I blocked and thought, 'I got to get away from this,' the deceased, and pushed him back.

...

Q. Had you done or said anything, directed to the deceased, to justify, in your opinion, him attacking you with a knife at that stage.

A. No.

Q. How would you describe the deceased's ability in the use of the knife.

A. Very professional.

Q. What did you believe the deceased was attempting to do.

A. I had no doubt in my mind, he was attempting to seriously injure me.

Q. You've told his Honour that he transferred the knife from his right to his left hand.

A. Yes.

Q. And made another lunge at you, which you blocked.

A. Yes.

Q. And you then said that you needed to get some distance between you. What did you do.

A. At that stage, I'd picked up this guy was pretty professional with his knife techniques and that's why I thought, 'I've got to get some distance between this person and myself and resort to my next level', which I felt, at that time, I'd use my ASP baton on him. And as I blocked him, which we call a block and a parry, which is a push on the chest, getting some distance, I got about, I suppose, it would be about 1 m, 2 m from him. To the right of me I could hear my female partner yelling out, 'Put the knife down. Put the knife down', as this altercation was going on. Then I heard a bang from that direction. I didn't know where the shot had come from, or who'd fired the shot.' (T492-4)

3.25. The shot was fired by Wilsdon, as I will presently describe.

3.26. Welch told me, and I accept without hesitation, that he was in fear of his life during the incident (T497).

- 3.27. Welch initially thought that the shot had missed the deceased, because he continued to stand there holding the knife. Welch then drew his firearm at which time he saw the deceased look across at Wilsdon and then back at Welch and then throw the knife at Welch, missing him to the left. It landed about a metre behind him. The deceased then collapsed on the ground in a 'semi-coma position' (T500).
- 3.28. Probationary Constable Wilsdon's evidence
As I said, Wilsdon followed Welch down the driveway and around the south-western corner of the house. She followed him around the corner and along the back of the house and saw him disappear around the north-western corner. She then saw him come running sideways and backwards from that corner, fumbling for something on his belt, and looking back over his left shoulder. She then saw the deceased running around the corner after Welch. She said she saw a cloth or tea towel in his hand and later realised that he was carrying a knife under the cloth. She said that the two men were only one or two metres apart. She drew her firearm and screamed 'drop the knife, drop the knife, put it down' (T627).
- 3.29. Wilsdon said that the deceased did not react to her screaming and continued to pursue Welch. She said that she did not discharge the firearm at that stage because Welch was too close to the deceased. She said that she saw the deceased lurch at Welch and thought that the knife had struck him. She heard him Welch yell 'oh fuck' (T628). She said that the deceased lunged at Welch several more times. Welch eventually took hold of his right arm, whereupon the deceased put the knife into his left hand and lunged at Welch again. She thought that he had stabbed Welch at this stage, although it would appear that the knife went under Welch's arm.
- 3.30. Wilsdon said (I have omitted unnecessary words which appear in the transcript, indicated by '...'):

'Constable Welch was moving backwards and upwards as if he was being struck and he was screaming "oh fuck, oh fuck" ... Constable Welch pushed the deceased away from him ... I was continuing to yell out "drop the knife, drop the knife" ... the deceased looked towards me and then looked back at Constable Welch ... I was terrified ... I thought John had been stabbed, that John was dying and that his kids wouldn't have a father anymore ... the deceased, as I said before, looked at me and then looked at Constable Welch and then lunged towards Constable Welch again ... he stepped forwards, knife out in front of him again ... I thought he was going to stab John again, Constable Welch ... I fired ... I believed that he was going to kill Constable Welch ... I looked at Constable Welch to see if he was bleeding or not, I couldn't see any blood and

I couldn't work out why I couldn't see any blood. I then looked back at the deceased ... I saw the deceased look at me, then look at Constable Welch and then look down at his chest ... I saw blood on the deceased's chest ... the deceased raised the knife up above his shoulder ... he looked towards me, I thought he was going to throw the knife at me. He then looked at Constable Welch and then threw the knife at Constable Welch ... the deceased walked towards me and then got onto the ground ... he took about two steps ... he went onto his knees and then lay onto his stomach.' (T632-3)

4. **Events after the shooting**

- 4.1. Welch approached the deceased as he was lying on the ground. He said that he did not know whether the deceased had been struck by the bullet or not. He said that he intended to handcuff him. He said:

'Then I approached him, and took hold of his arms, and at that stage his left arm was lying on the ground like in the coma position on the ground, his right arm was up on his side. I grabbed hold of his right arm and his left and as I pulled his right arm down to meet his left, his chest rolled up and then I see all the blood around his chest area ...'

(Exhibit C69a, p22)

- 4.2. Welch said that once he became aware of the deceased's injury, he decided not to handcuff him. He said that the deceased was not handcuffed by him, or by anyone else at the scene. This is an area of dispute between the police witnesses and the relatives of the deceased which I will discuss later.
- 4.3. Welch said that he yelled out to get some bandages, and that 'the sister', and I assume he means Joanne Wanganeen, collected some towels from inside (T500). He said he applied them to the area, and showed her how to keep the pressure on. Ms Wanganeen kept the pressure on the bandages, continually saying to the deceased 'you can fight this, you'll be alright' (T501).
- 4.4. Welch said that both Joanne and Joylene Wanganeen were screaming at Wilsdon, so Alexander took Wilsdon to the front of the premises away from the scene (T501).
- 4.5. **The evidence of Constables Daly and Alexander**
Daly ran around to the rear of the house after he saw the deceased running at Welch. He said the deceased appeared to be thrusting or punching at him. He said that he was still running around the house when he heard the gunshot. He had heard voices which were loud and frightened prior to the shots (T256). When he arrived in the backyard, the deceased was still standing, and he saw him throw the knife at the police officers,

underarm, with his right hand (T260). Daly did not seem sure about which hand was used, and I prefer the evidence of Welch, Wilsdon and Alexander on this point.

- 4.6. Alexander watched these events through an open-patterned brick wall on the north-eastern side of the house. She gave evidence, confirming that of Welch and Wilsdon, that the deceased ran at Welch, that the two men struggled, that Welch cried out 'oh fuck', and that she was in fear for Welch's welfare. She was running across the front of the house to go around the southern side to the back yard when she heard a shot. She confirmed that she heard a female voice call out 'drop the knife' on several occasions before she heard the shot (T414).
- 4.7. When Alexander arrived in the back yard, the deceased was still standing. She said she told him to 'put it down and lay on the ground', whereupon he threw the knife at Welch with his left hand, took a step or two, collapsed to his knees and lay on his stomach (T415-6).
- 4.8. Alexander said that it was not until after she saw the deceased collapse that she became aware of Joanne Wanganeen coming from the direction of the back door (T417).
- 4.9. Daly said that Welch was shouting 'get an ambulance' after the deceased had collapsed on the ground on his side. Daly radioed for an ambulance and that request was logged at Comcen at 7:55pm (Exhibit C39b).
- 4.10. At Welch's request, Daly ran into the laundry of the house and collected some towels. When he returned to the scene, he put the knife and tea towel behind a piece of iron near the fence, out of the way of the spectators. Daly said that pressure was applied to the deceased's chest and back and that he was attempting to reassure him until the time the ambulance officers arrived (T272).
- 4.11. Ambulance response
After Daly's message was received at Comcen, a telephone call was made to the SA Ambulance Service by Constable Julian Snowden. He saw on his computer that the patrols had originally been tasked to 10 Almont Avenue, Pooraka, so an ambulance was dispatched there. A short time later, he realised his mistake, by which time another operator, Senior Constable Young, had spoken to the SA Ambulance Service at 7:58:22pm and advised them to attend and that the correct address was 1 Jennier

Crescent, Para Hills (Exhibit C41a, p2). A second ambulance (Modbury181) was immediately dispatched there. I will comment further on this issue later.

4.12. At 7:59pm Joanne Wanganeen telephoned '000' and was put through to SA Ambulance Service. She was obviously highly agitated so she allowed Senior Constable Watson, the Patrol Supervisor who had arrived in the meantime, to take over and to give some details of the deceased's chest wound. Welch then took over the conversation and repeated the description of the injury. He confirmed that they were applying pressure to the entry and exit wounds with towels, that the deceased was lying in the coma position, that although he was still breathing, he was gasping, not coherent, and not responding to verbal commands (Exhibit C14a, p3).

4.13. Ambulance Modbury181, operated by officers Denis Roberts and Andrew Walker, arrived at 8:04pm. As the officers entered the property, they were abused by people leaning over the fence. One female said:

'Why aren't you running. We've been waiting 10 minutes.'

This was obviously untrue. For sound operational reasons, Ambulance Officers do not run unless it is absolutely necessary in case they fall or drop vital equipment. The officers did not reply and made their way to the rear of the house (Exhibit C15a, p3).

4.14. As Roberts entered the backyard he saw a male police officer kneeling over the deceased, and about three Aboriginal people standing together to his right. He went straight to the patient, who was lying on his left side in the 'left lateral position' (Exhibit C15a). Roberts saw no handcuffs at any stage, and nor did Walker (Exhibit C16a, p3).

4.15. When the police officer removed the towel from the deceased's back, Roberts noted that the wound was no longer bleeding, suggesting that circulation had ceased. He felt for a pulse but found none and there were no respirations. The right eye was wide open, the pupil was fully dilated with no movement. The patient was rolled over and the chest wound examined, and again there was no bleeding. An oral airway was inserted and they began 'bagging' (ie. manually ventilating) the patient. The ECG machine was turned on and that showed asystole (no heart output).

- 4.16. The officers continued to 'bag' the patient until a Paramedic, Darren McInerney, arrived at 8:13pm. Roberts gave a handover to McInerney, including advice that the patient had been in asystole for eight minutes. McInerney then examined the deceased and checked all of the observations, noting an absence of carotid pulse, the reading of asystole on the ECG machine, the dilated and unreactive pupils, the absence of heart sounds. He concluded that further resuscitation was pointless, and certified life extinct at 8:16pm (Exhibit C3a, p4). He did not recall seeing handcuffs on or about the patient at any stage (Exhibit C3a, p5).

5. Cause of death

- 5.1. Dr J D Gilbert, Forensic Pathologist, attended the scene at 10:54pm. He noted the presence of the gunshot wound over the left nipple, and what appeared to be an exit wound in the left lower back.
- 5.2. Associate Professor Anthony Thomas, who is also a Pathologist and was apparently called by the family of the deceased or someone on their behalf, attended at about 11:30pm and Dr Gilbert discussed his findings with him. Professor Thomas was also present throughout the post-mortem. Professor Thomas was also present throughout the post-mortem.
- 5.3. On examination of the deceased's clothing, another kitchen knife was found tucked into his right sock (Exhibit C4a, p3).
- 5.4. Following the post-mortem examination, Dr Gilbert concluded that the cause of death was 'large calibre gunshot wound to the chest' (Exhibit C4a, p1). He commented:

- '1. Death was due to a single large calibre gunshot wound to the chest. The gunshot wound caused a full thickness defect in the apex of the left ventricle of the heart that would have caused rapid haemorrhage into the left chest cavity. Due to the rapidity of blood loss from such a large defect in the left ventricle, there was no prospect that rapid medical intervention could have prevented the death. Other gunshot injuries to the left lung and spleen would also have contributed to blood loss but to a much lesser extent.

The entry wound over the anterior chest showed no evidence of a close range shot. It should be borne in mind however that there were two layers of clothing overlying the wound and that these were likely to have prevented firearm discharge residues (FDRs) from reaching the skin in the event of a close range shot. It is therefore recommended that the clothing be examined for FDRs in order to gain information about the range of the shot and that the weapon and ammunition employed be test-fired to determine patterns of FDR distribution at various ranges.

Correlation between the path of the projectile through the body and the height of the lead smear on the nearby wall suggested that the deceased was erect but bending or leaning forward and facing the shooter at the time that the shot was fired.

2. It has been alleged that the deceased was handcuffed after being shot. No abrasions or bruising of the wrists attributable to use of handcuffs was observed at autopsy but the absence of such findings does not exclude the possibility that handcuffs were applied. This would be particularly so if the handcuffs were applied loosely and/or if the deceased did not struggle while wearing them.
3. Analysis of a specimen of blood obtained at autopsy reportedly showed a blood alcohol concentration of nil. The blood contained therapeutic levels of methamphetamine ('speed'), diazepam and its metabolite, nordiazepam. A trace of temazepam was also identified.
4. No natural disease that could have caused or contributed to the death was identified at autopsy.'

(Exhibit C4a, p14-16)

6. Issues arising at the inquest

6.1. Disputed facts

The evidence of Welch and Wilsdon is completely consistent, and is supported in material respects by the evidence of Daly and Alexander. This body of evidence, however, is substantially different from that of the two sisters of the deceased, Joylene and Joanne Wanganeen.

- 6.2. Joanne Wanganeen said that when her brother came to her house, he was 'happy ... laughing, joking' (T27). She said that after the police arrived, she went outside to check, then went back inside to 'hang out some wet laundry' (T30). She said that at this stage her sister Joylene was in the lounge room with Joanne's daughter Kira (T31). This evidence is not consistent with Joylene's evidence, or with that of the police, as I will discuss later.

- 6.3. Ms Wanganeen said that she collected her laundry and went in to the backyard, and saw her brother and the police officer in the corner of the yard. She said the female officer came around the corner at the same time that she came out of the house (T31). She said she saw the officer draw her weapon. She started screaming at the officer not to shoot. Ms Wanganeen said that she was standing under the clothesline at this time (T34). She said that she could see her brother and Welch in her 'peripheral vision' (T34). She said it was only a matter of seconds before the female officer fired the shot. After the shot, she said that she looked straight at the deceased and that his

eyes went white and then he went down. She said she did not see him with a knife in his hand at all (T35). Implicitly, she did not see her brother throw the knife at Welch. She said he fell immediately, face down.

6.4. She said that after her brother fell face down:

'I saw him take his handcuffs and handcuff (the deceased).' (T37)

6.5. Ms Wanganeen said that after the shot was fired, she instinctively threw the washing she was carrying up in the air, and walked towards her brother and then began cursing Wilsdon (T41).

6.6. Ms Wanganeen denied that any of the police officers administered first aid to her brother. She denied that anyone called for a first aid kit, that anyone asked her if she could assist, or that any of the officers did anything to assist him (T41).

6.7. Ms Wanganeen acknowledged that at one stage, Welch came into the laundry and grabbed towels and put them underneath the deceased (T43).

6.8. Ms Wanganeen said that her brother had a disability in his left hand so that he could not do as much with his left as he could with his right hand (T46). She said that she did not see her brother bring a knife into the house that night, that the knife produced by the police did not come from her kitchen, and that he was not carrying it when he came to the house (T46). She said that she did not remember her brother ever carrying a knife (T46).

6.9. Ms Wanganeen said that her brother remained handcuffed until after the ambulance arrived (T56). This is in complete contradiction of the evidence of the ambulance officers that I have quoted above.

6.10. Ms Wanganeen denied that she heard anybody calling out 'put down the knife' or 'drop the knife' (T90). The statement of the occupant of 7 Jennier Crescent, Para Hills, Ms Mara Buss, indicates that she heard the sound of screaming, that it sounded like a female voice, it went on for about a minute, maybe two. She said that the screaming started to get louder and more serious and that she then heard the sound of what she thought was a gunshot after which the screaming began again (Exhibit C12a, p1-2). Other neighbours (Boyce [C11a], Lovick [C10a], Godfrey [C13a], Jefferson [C9a]) were unhelpful on this issue.

- 6.11. Joylene Wanganeen said that she was standing outside smoking when the police arrived at the house (T145). She confirmed that the police officer asked to speak to her, but she did not reply (T147). The police officers went to the back of the house and she remained at the front smoking her cigarette. She was still there when she heard a gunshot so she made her way through the house to the back door. She went over to her brother who was lying in the backyard (T153). She said that his hands were handcuffed behind his back (T158). She could not recall when they were removed except that they were on at least until the ambulance arrived (T162).
- 6.12. Joylene Wanganeen also denied having seen the knife before (T165), or that she had ever seen the deceased carrying a knife (T166).
- 6.13. I have no doubt that the deceased was carrying two knives that night. I accept the evidence of Daly who saw him either putting something in or removing something from a bag in the back yard. I accept the evidence of Welch about being threatened with a knife, corroborated as it is by the evidence of Wilsdon. Daly put the knife and tea towel behind the iron as I have described (see photographs, Exhibit C25b). The knife was recovered, and it is substantially bent (see Exhibit C25b, photographs 13-15 and 47-49). It is quite a large weapon, measuring almost 30cm overall, and with a blade about 17cm long. The DNA profile of the deceased matched that of a stain on the tea towel and also matched a sample from the knife handle (Exhibit C59b).
- 6.14. It is also clear that the deceased was carrying another knife in his sock. This is amply demonstrated in photographs (Exhibit C25b, photographs 19-21), the evidence of Dr Gilbert and other police officers at the scene.
- 6.15. I accept that the deceased struck at Welch with considerable force, so much so that the knife penetrated his notebook (Exhibit C69d, and Exhibit C25b, photographs 50-59, and 60-62). These photographs also demonstrate clearly the mark where the knife penetrated Welch's shirt pocket prior to penetrating the notebook. It is also noteworthy that these marks were in the area of Welch's left chest, so that the knife would have penetrated his heart if it had entered his body.
- 6.16. An examination of the notebook clearly demonstrates that it was struck by the knife with considerable force, so much so that it penetrated the cardboard cover, the notebook cover and several documents in the sleeve, and to the extent that it substantially bent the blade.

- 6.17. I find that the evidence is overwhelming that the deceased attempted to stab Welch with a knife, and that Welch was extremely lucky that the notebook in his pocket prevented the knife from penetrating his body. I also find that both Welch and Wilsdon correctly apprehended that the deceased intended to kill Welch, and that the discharge of the firearm by Wilsdon in order to prevent that was necessary and justified in the circumstances.
- 6.18. I reject the evidence of Joanne Wanganeen that Wilsdon gave the deceased no warning before firing the shot. I accept the evidence of Wilsdon and Welch, Daly and Alexander, together with the slight support given by the evidence of the neighbours, that there was considerable warning given by Wilsdon, in the loudest possible voice, before she concluded she had no alternative but to fire the shot.
- 6.19. I reject the evidence of Joanne Wanganeen to the extent that it contradicts these conclusions.
- 6.20. I also reject her evidence, and that of Joylene Wanganeen, about the handcuffing of their brother after the shooting. It seems to me that they may have jumped to the conclusion that the handcuffing took place from the facts that Welch indicated his intention to do so, and that he pulled back the deceased's arms as if to do so before he noticed the blood on his chest and desisted. Both sisters were extremely distressed, understandably, following the incident and this distress may well have coloured their memory of these events. The evidence of the police officers and the ambulance officers satisfies me that the deceased was not handcuffed after he was shot.
- 6.21. Finally, I reject the evidence of Joanne and Joylene Wanganeen that the police officers did not attempt to administer first aid to the deceased. Since he was still breathing, all they could do was apply pressure to his wounds and try and stop the bleeding, which they did, and were still doing when the ambulance arrived. It is worth mentioning at this point that on Dr Gilbert's evidence, the deceased had received fatal injuries, and no amount of first aid could have changed the tragic outcome.
- 6.22. Justification for attending at the premises
Mr DiFazio, Counsel for Kerry Sansbury and her family, submitted that the police acted inappropriately by entering the premises at 1 Jennier Crescent, Para Hills in the circumstances. He argued that Welch was in possession of the information from the

PIMs report, and of the information from Rashana that the deceased was known to carry a knife.

- 6.23. Mr DiFazio argued that Rashana's information in particular should have 'rung the alarm bells' to Welch, and should have led him to conclude that the deceased may have had a knife on his person, and that he should have approached the task on that assumption. Mr DiFazio argued that even if Welch did not conclude that this was a 'high risk' incident justifying the calling in of the Special Task and Rescue (STAR) Division, he should have at least called in his superior, Watson, and refrained from entering the premises and placing himself in a position where there was no retreat. He argued that he might have waited for the attendance of Senior Community Constable Morey, who was able to attend the scene an hour or so later.
- 6.24. Mr DiFazio argued that Welch went to the house with the intention of arresting the deceased, and that he placed a cordon around the house in order to surround him. He said that in doing so, he made it more likely that the deceased would use the knife.
- 6.25. Mr Illingworth, Counsel for the Commissioner of Police and the police officers involved argued that these criticisms were unjustified. He argued that Welch acknowledged that he was alert to the possibility that the deceased might be carrying a knife, but concluded from his conversation with Rashana that he did not think he was carrying one that day (see the transcript at T524).
- 6.26. As I have already observed, it does seem to me that Welch's conclusion that the deceased was not carrying a knife that day, based purely on Rashana's statements to him, seems a little incautious. Rashana told him that the deceased was in the habit of carrying a knife, and the PIMS information was that he 'might be armed'.
- 6.27. Welch pointed out that there was nothing particularly remarkable about this case. He said:

'I would attend most probably two of these a day.' (T524)

In the same vein, and perhaps using overstatement to make a point, he told Chief Inspector Attwood in his interview in connection with the PIMs warning:

'... I think there was psychological, there was communicable disease, may carry weapon, may assault police, so, yeah, he did have a violent history, and a bit like every second person in Salisbury has that sort of PIMs history.'

(Exhibit C69a, p7)

- 6.28. I think that the defect in Mr DiFazio's argument, with respect, is that on Welch's evidence, which I accept, the police did not know that the deceased was at 1 Jennier Crescent when they entered. He had not been at his own home at Brahma Lodge when Daly and Alexander checked there. Noone had seen him at Jennier Crescent, Joylene Wanganeen refused to speak to Wilsdon, and the police had spoken to noone else prior to the deceased confronting Welch in the backyard. If Welch knew that the deceased was there, and that he intended to resist arrest, or set up a siege situation, or whatever, his actions could have been described as hasty if he had entered the yard notwithstanding those threats. But he did not know these things, and I do not consider that Welch acted unreasonably by entering the premises to ascertain if the deceased was there, just as Daly and Alexander had entered 12 Lynne Street, Brahma Lodge a little earlier for the same purpose.
- 6.29. The actions of the officers in this inquest are to be contrasted with the actions of the officers which I criticised in my findings following the inquest into the death of Luke Donaghey (Inquest 29/2000). In that case the officers knew the deceased might be armed, that he was mentally disturbed, and that he had virtually barricaded himself inside the house. They entered the house without further negotiation or support.
- 6.30. I also note the opinion of Superintendent Rieniets, who was formerly the Officer In Charge of the Special Task and Rescue (STAR) Group of SAPOL, that it would not have been appropriate to call for the assistance of the STAR Group until the officers had at least located the offender and ascertained that he posed a threat (T806).
- 6.31. These police officers were seeking to enforce a summary protection order, made against a person who had a history of domestic violence. Their information was that Ms Sansbury and her family were fearful of the deceased returning to their house. It was the duty of the police to protect these members of the community, and it was in

pursuance of that duty that they attended at 1 Jennier Crescent. In my opinion, they cannot be criticised for their actions once they arrived there.

6.32. Ambulance response time

I have already mentioned that the ambulance was dispatched to 1 Jennier Crescent at 7:58:53pm and arrived at 8:04pm. This seems a commendably brisk response time in the circumstances.

6.33. Although I note that there were comments made by the neighbours leaning over the fence about the apparent delay in the attendance of the ambulance (see the statement of Officer Roberts at C15b), these comments were made in ignorance of the circumstances.

6.34. The only area where there may have been delay was in the initial call by Snowden in Comcen to the SA Ambulance Service at 7:56pm incorrectly directing the ambulance to 10 Almont Avenue, Pooraka. This took approximately two minutes to correct, but it is difficult to know if this caused a delay since an ambulance which was closer to 1 Jennier Crescent was dispatched immediately the error became apparent.

6.35. Although such errors are to be avoided if possible, I offer no criticism of the people involved in this case since the delay was not substantial, and having regard to Dr Gilbert's opinion that any delay would not have affected the outcome in any event.

6.36. Alternative strategies

On 28 June 2002, Counsel Assisting at the Inquest, Ms Hodder and I attended at a demonstration of a 'TASER' Gun conducted by SAPOL. The 'gun' is a device whereby two darts are fired by compressed air at an offender. Attached to the darts are very light wires which conduct electricity at very high voltage but low current, thereby administering a severe and instantly disabling shock to the subject. The shock is not dangerous, but is extremely effective in disabling a person, and enables police officers to overpower him or her without risk of injury to themselves.

6.37. Clearly, had Wilsdon been carrying such equipment that night, she may have been able to use it to disable the deceased and thereby avoid the necessity to use lethal force.

- 6.38. Unfortunately, it may not be possible for every police officer to be equipped with these weapons, and decisions will need to be made about whether the equipment will be used in addition to, or instead of, conventional weapons. Of course, members of the police force will need to be assured that their occupational health and safety will not be prejudiced by the use of non-lethal equipment of this type.
- 6.39. If, as I suspect, only specific officers, such as STAR Group officers, will be equipped with this equipment, it may be that situations such as these will not be avoided in future, since, as I have already pointed out, Welch and Wilsdon had no warning that the deceased would act in the way he did. It will only be in situations where police have notice that a person will act in this way, and have time to call for assistance from officers equipped with the device, that such equipment may be deployed and will prove useful.
- 6.40. In any event, I think that the proposal to initiate an extensive period of consultation and testing of this equipment is commendable, since it represents a determination to explore all alternatives to lethal force in such situations. I am sure the Commissioner of Police is acutely aware of the fact that the use of lethal force results in tragedy for all concerned, not only the family and friends of the deceased, but also the police officers who are involved and who are also traumatised by such incidents.
- 6.41. I also mention that Superintendent Rieniets was asked about wearing of protective vests by police officers. He pointed out that whether a vest would prevent injury in this situation would depend on several factors, including the type of material used in the vest, and the sharpness of the weapon (T813). Of course, the vest only offers partial coverage of the body anyway (T834).
- 6.42. I understand that the wearing of such vests is becoming more common among SAPOL officers, but this is regarded as optional.

7. **Recommendations**

7.1. I note that I made a number of recommendations to the Commissioner of Police following the inquests into the death of Luke Donaghey (Inquest 29/2000) and Grant MacLeod (Inquest 47/2000).

7.2. I am satisfied that there is no need to make further recommendations for the same reasons as I mentioned in the MacLeod matter, namely:

'The inescapable conclusion in this case is that none of the non-lethal options were available to Constable Buckingham that day because Grant MacLeod's attack upon him with the knife was overwhelming and was not predictable.'

(Paragraph 8.7, p29)

Key Words: Police Shooting

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

Seal the 9th day of October, 2002.

Coroner