

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 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> days of December 2003 and the 29<sup>th</sup> day of January 2004, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the deaths of Eva and Jeno Arany.*

*I, the said Coroner, find that, Eva Arany aged 74 years, late of 33 Webb Street, Henley Beach, South Australia died at Henley Beach, South Australia on the 25<sup>th</sup> day of June 2000 as a result of a gunshot wound to the neck.*

*I, the said Coroner, find that, Jeno Arany aged 80 years, late of 33 Webb Street, Henley Beach, South Australia died at Henley Beach, South Australia on the 25<sup>th</sup> day of June 2000 as a result of traumatic brain damage complicating a gunshot wound to the head.*

### 1. **Introduction**

- 1.1. On Tuesday 27 June 2000 the bodies of Mr Jeno Arany and Mrs Eva Arany were found at the home address by their two daughters. The daughters had become concerned that an attempt to telephone their parents on the previous day was unsuccessful. When the husband of one of them attended at the house he noticed that the car was still there, the dog was barking, but the door was not answered. The daughters obtained a key to the premises and entered the house and found their parents' bodies.
- 1.2. An ambulance was called and paramedics Philip Dalton and Paul Pegoli attended at about 6:35pm. Mr Dalton inspected the bodies and said that it was quite apparent that

both people were dead (Exhibit C3a, p2). He noticed that there was a rifle lying under the body of the male deceased, near the side of his right leg.

- 1.3. The police were called and attended soon afterwards.
- 1.4. Professor R W Byard, Forensic Pathologist, attended the scene at 10:20pm that evening. He said that there were police officers from Major Crime Task Force and Physical Evidence Section already present. He inspected the bodies and found that Mrs Arany was lying on her back and that she had a projectile entrance wound in the anterior aspect of the neck. Mr Arany was lying nearby. There was a black pen in his right hand. He had suffered a very severe head injury, and there was a considerable amount of blood and other tissue present around the room.

- 1.5. Professor Byard commented:

'The appearances at the scene were compatible with the male shooting the female in the neck and then shooting himself in the head.'

(Exhibit C5a, p3)

- 1.6. Professor Byard performed a post-mortem examination of the body of Mrs Arany. He confirmed that the cause of her death was a gunshot wound to the neck. He commented:

1. Death was due to blood loss from a gunshot wound to the neck and chest with severing of the right common carotid artery and the aorta. This would have resulted in rapid death with rapid filling of both pleural cavities and the upper airways with blood. In addition, both lungs were also lacerated which would have caused collapse of the lungs, thus further compromising breathing. These injuries would also have resulted in immediate collapse. The injuries to the vertebral column with bleeding around the spinal cord would have resulted in impairment of movement.
2. The appearances of the projectile wound were in keeping with a range of greater than 1 metre.
3. There were no significant injuries elsewhere, and there was no evidence of defence-type wounds of the hands.
4. The angle of the projectile path would be in keeping with the deceased while standing being shot from a position slightly above and to the right. The gun may have been at a lower position if the deceased had either been leaning forward or kneeling.
5. The bruise to the back of the head was minor and most likely occurred with falling during the terminal episode.

6. The findings at autopsy would be in keeping with death on or around the 25/6/00, approximately 48 hours before examination of the body. With cooling a more accurate estimation of the time of death was not possible.
7. The presence of fibrous scarring of the heart with marked atherosclerosis of the coronary arteries indicated significant cardiac disease. The previous coronary artery bypass graft was, however, in good order.
8. Toxicological screening of blood did not reveal alcohol or any common drugs.'

(Exhibit C5a, 2-3)

- 1.7. A post-mortem examination of the body of Mr Arany was performed by Dr R A James, Chief Forensic Pathologist. Dr James confirmed that the cause of Mr Arany's death was traumatic brain damage complicating a gunshot wound to the head. He described the gunshot wound as follows:

'There was a gunshot entry wound in the midline of the forehead. The apparent entry site was surrounded by soot soiling and for 3 cm on the inferior aspect was a pattern of apparent tattooing. The wound extended backwards to involve the entire cranial vault with a large gaping entry/exit combination. The vault was received separately in a plastic bag with approximately 20 separate fragments of cranial vault most approximately 2 cm in diameter. Also received separately was one essentially intact cerebral hemisphere. No cerebral or cerebellar tissue remained within the gaping skull defect. No projectiles were recovered from within the cranial cavity. Splatters of blood were noticed on the back of each hand. The entry wound was situated 77 cm from the extended right thumb.'

(Exhibit C4a, p2)

- 1.8. Dr James commented:

'The deceased was apparently found 27/6/00 by his daughter at home. He had a past history of psychiatric disease. His death may have been associated with the death of his wife. A .223 calibre rifle was found adjoining the body.

The condition of the body is consistent with death on 25/6/00. It appears that after his death a dog has spent a considerable period sleeping on the body. The appearances of the entry wound site are consistent with self infliction. The apparent tattooing around the entry wound is not immediately explicable given that the wound is presumably self inflicted.'

(Exhibit C4a, p4)

- 1.9. The police officer assigned to conduct the investigation into these deaths was Senior Constable Matthew Pearce of Port Adelaide Investigations. He arrived at the scene with Detective Senior Constable Mott at 6:55pm that evening. Having inspected the scene and the rest of the house, Senior Constable Pearce concluded that there were no

signs of violence, no signs of unlawful entry onto the premises, and no signs of robbery or that a third party had been involved in the incident.

- 1.10. Senior Constable Pearce found another rifle in the master bedroom fitted with a silencer. He also found two single barrel shotguns and a bolt action rifle in a shed at the rear of the property in an insecure cabinet. He also found a quantity of ammunition. A later check revealed that Mr Arany had six firearms registered to him, and Senior Constable Pearce was able to account for all six at the scene, including the weapon found in close proximity to Mr Arany's body.
- 1.11. Sergeant Nicholas Maiden of the Police Ballistics Section attended the scene at about 8:55pm that evening and conducted his investigations. He noted the black pen in Mr Arany's right hand and that the rifle laying next to him was a Sako .223 calibre bolt action rifle. This is a particularly high powered weapon used for hunting large game such as deer and goats (see the evidence of Sergeant Riach at T188).
- 1.12. Sergeant Maiden's examination of the weapon indicated that it was in good condition and was very unlikely to have discharged accidentally.
- 1.13. The principal observation arising from the post-mortem examinations, which Sergeant Maiden attended, was that there was tattooing at the top of the remaining section of the forehead which indicates that the wound was not caused by a contact shot (Exhibit C11a, p5).
- 1.14. Sergeant Maiden concluded:

'As a result of my examination of the scene and the exhibits, I am of the opinion that Eva Arany was shot by her husband Geno (sic) using the Sako rifle exhibit EA 1, before he shot himself with the same rifle. It appears he may have used the black biro to extend his reach to the trigger, which is supported by the fact the wound to his head was not from a contact shot. Exhibit EA 4 is consistent with being related to the shooting of Eva Arany. Exhibits EA 1.1, 2 and 3 are consistent with the round that Geno (sic) Arany would have shot himself with. The presence of exhibit EA 5 (live PMC .223 round) is open to speculation but could have been ejected from the Sako rifle at some stage during the incident or dropped by Geno Arany prior to him shooting himself.

In my opinion there (are) no suspicious circumstances surrounding this incident.'

(Exhibit C11a, p9-10)

- 1.15. Having regard to the evidence before me, I accept Sergeant Maiden's conclusions and find that Jenó Arany shot his wife Eva using the Sako rifle mentioned above, and

that he then shot himself, probably using the black pen to extend his reach to the trigger.

## **2. Circumstances leading up to the deaths**

- 2.1. The evidence before me about the events of the last several days before these deaths is understandably slight.
- 2.2. On the evening of 27 June 2000, Ms Tundi Arany gave Senior Constable Beck some information about her parents' background and their health. She mentioned that her father had taken an overdose of medication in May 2000 and was admitted to the Queen Elizabeth Hospital, that he had been discharged in June on antidepressant medication, and that the arguments between her mother and father had continued after his discharge.
- 2.3. Ms Arany said that when she spoke to her parents on the previous Sunday (25 June 2000), her mother was extremely agitated because the dog had vomited and defecated in the house. She said that her mother was 'fanatically clean'.
- 2.4. When Ms Arany rang back later that afternoon her parents were still arguing, and her mother told her that her father had shot the cat. Mr Arany admitted to this daughter that he had done so, saying:

'I couldn't stand it suffering'  
(Exhibit C10a, p3)
- 2.5. Ms Arany telephoned the house again on Monday, 26 June 2000 and received no answer. The other daughter, Ms Kinga Jaccarini, telephoned her sister at work and said that she had also telephoned their parents and received no answer.
- 2.6. On Tuesday 27 June 2000, Ms Tundi Arany's partner attended the house and said that the car was still present and that the dog was barking and that he thought that 'something was not right'.
- 2.7. The two sisters attended with a key, entered the premises, and found their parents' bodies.
- 2.8. Ms Natalie Wilksch lived close to number 33 Webb Street, Henley Beach and was in the laundry of her house at about 4pm on Sunday, 25 June 2000. She said that at

about this time she heard a 'loud sharp bang', and then within a minute of the first noise she heard a second noise identical with the first, and coming from the same direction. She said that she thought the noises sounded like gunshots (Exhibit C8a).

- 2.9. It is difficult to be precise about these times, but it would appear that Ms Wilksch heard these shots soon after Ms Arany terminated the telephone call to her parents. It seems very unlikely that the noises were related to Mr Arany shooting the cat. Since there is no evidence of any other noises being heard, it is possible that he used the rifle fitted with the silencer to do that.
- 2.10. I therefore find, on the balance of probabilities, that the deaths of Mr and Mrs Arany occurred at approximately 4pm on Sunday, 25 June 2000.

### **3. Psychiatric issues**

- 3.1. Dr Anthony Davis, a Consultant Psychiatrist with wide experience in clinical psychiatry, provided me with a report concerning the treatment given to Mr Arany in the period prior to his death, and his opinions on the quality of that treatment and associated issues. He has set out the relevant psychiatric history in his report in a very clear and comprehensive way. I will therefore quote from his report as follows:

'Between April 1999 and June 2000, Mr Arany had presented on three occasions to The Queen Elizabeth Hospital, in context of emotional crises. He was hospitalised between 5/4/1999 and 7/4/1999, in an agitated and aggressive state, describing feeling of depressed mood and suicidal ideation.

On 25/10/1999, he was admitted to hospital following an overdose of medication, in the context of an argument with his wife. He was transferred to The Adelaide Clinic, under the care of Dr Marty Ewer, until discharge on 4/11/1999. He was assessed to have a severe major depressive illness with psychotic features. He was discharged on a combination of Aropax, anti-depressant medication, and Pericyazine, anti-psychotic medication, as well as Oxazepam 15 mg at night to help with sleep. In this admission there is reference to a depressive state of one to two years duration, and a possibility of morbid jealousy.

On 30/5/2000, Mr Arany was re-admitted to The Queen Elizabeth Hospital following another overdose of medication. Once again, reference is made to an argument with his wife. He was assessed by the Psychiatric Registrar, Dr Maria Cominos, who was concerned about the severity of his depressive illness, and raised the possibility of major depression with melancholia and psychotic features. She detained Mr Arany under the Mental Health Act, and arranged for review by a consultant on the following day. Dr Rawson confirmed the Detention Order, (Form II) after which Mr Arany was transferred to Howard House under the care of the Health Service for Older People.

In the Queen Elizabeth Hospital file Dr Cominos noted that Mr Arany 'owns seven guns for goat hunting' in her initial assessment of 31/5/2000. She apparently spoke with Mrs Arany about removing the weapons from the home. The Howard House referral form, presumably completed by Mr M Shnukal noted the fact of 'seven guns at home - wife will take them out of the house!' (This is highlighted in red pen at the top of the referral form).

At Howard House, Mr Arany was reviewed by Dr Timothy Cheng, Psychiatric Registrar, and then by Dr Daven Kurl, Consultant Psychiatrist. Mr Arany appears to have settled down to a large extent and denied any ongoing suicidal ideation or symptoms indicative of melancholic or psychotic depression. A subsequent interview with an interpreter confirmed that he was no longer suicidal, nor experiencing psychotic symptoms. The treatment team identified complex family problems, which were thought to underpin some of the crises that had emerged over the last eighteen months.

Whilst in Howard House, it was considered that Mr Arany had a diagnosis of adjustment disorder with depressed mood, and that there was no need for any ongoing anti-psychotic medication. He was prescribed Sertraline an anti-depressant medication, as well as Temazepam to help sleep.

Mr Arany remained in the unit as a voluntary patient after the Form II had expired.

Mr Arany appears to have remained quite stable in the unit and was discharged home, on 16/6/2000 on a three day trial leave. He was reviewed by Dr Cheng and Ms Felicity Green at his home on Monday, 19/6/2000. Both Mr and Mrs Arany were present at the interview, and it appeared that both were pleased with progress, and that there were no signs of ongoing depression, psychosis or other abnormality of mental state. Both apparently had positive plans for the future and it was considered that Mr Arany was fit to be formally discharged from hospital. He was to continue with maintenance medication of Sertraline 50 mg daily and Temazepam 10mg at night as required, as well as other medications for medical conditions. Mr and Mrs Arany agreed to regular mental health follow-up and made an appointment to be reviewed in the following week.

The Discharge Summary concluded that the provisional diagnosis of an adjustment disorder with depressed mood was appropriate and that Mr Arany had prominent paranoid and narcissistic personality traits, which contributed to some of the difficulties encountered in recent times. Other medical concerns were listed.

It is noteworthy that Dr Cheng's initial assessment (1/6/2000) included a plan of management that listed under item 7, 'review firearms situation'. There is no further reference to the firearms issue in the notes documenting the course of the admission in Howard House, or in the notes pertaining to the review at home following discharge from hospital. There is no reference to this issue in the Discharge Summary.'

(Exhibit C17, p2-3)

- 3.2. I heard evidence from Dr Maria Cominos via video link with Brisbane, where she now practises. In May 2000, she would have been in the second year of her training as a Psychiatrist. Dr Cominos told me that when she interviewed Mr Arany on 31 May 2000 (the day after his admission to the Queen Elizabeth Hospital), he may still

have been under the influence of the medication he had taken the day before. She interviewed Mr Arany at length and made a commendably comprehensive note of her findings in the clinical record. It was during the course of this interview, when she was eliciting his medical history, that she discovered that he owned seven guns and that he had been a keen hunter and fisherman. She was so concerned about this issue that she made two separate notes in the clinical record to that effect, one of which was followed by two exclamation marks, and the other, in the margin, followed by three exclamation marks.

- 3.3. Dr Cominos was in no doubt that the number of weapons in his possession, and the fact that he was suicidal when she spoke to him, indicated that Mr Arany's possession of these weapons represented a risk to himself or others (T67). She also noted that they were prized possessions of his, and that he had never used them before for the purpose of self-harm.
- 3.4. Dr Cominos said that she discussed the issue with Mrs Arany and her daughter and son-in-law. They told her that Mr Arany had no ammunition for the weapons (which was apparently not correct), and that they would arrange for the removal of the weapons. They were to be placed in the custody of a friend who had been a hunting partner of Mr Arany's, and whose custody of the weapons Mr Arany would be comfortable with.
- 3.5. Dr Cominos was confident that the weapons would be dealt with by the family in this way. She was sufficiently concerned about the issue, however, that she specifically drew it to the attention of Mr Michael Shnukal when they discussed Mr Arany's discharge from the Queen Elizabeth Hospital and admission to Howard House. Mr Shnukal was the Clinical Nurse Consultant at Howard House, the psycho-geriatric unit which was previously part of Hillcrest Hospital but which is now an annexe of the Queen Elizabeth Hospital.
- 3.6. In relation to her obligations pursuant to Section 20A of the Firearms Act, which I will discuss in due course, Dr Cominos said that she understood at that time that she had a discretion to notify the police if she considered a patient was an unsuitable person to possess a firearm. She did not realise that if the criteria in Section 20A are met, such a report is mandatory. It is pertinent to note that Dr Cominos was educated in Queensland, and was in South Australia for the purpose of her psychiatry training.

In Queensland, the relevant legislation is Section 151 of the Weapons Act 1990 which provides as follows:

'The doctor or psychologist may inform the commissioner of his or her opinion and give the commissioner any relevant information about the patient's condition and identity.'

- 3.7. Mr Shnukal told me that during his telephone conversation with Dr Cominos on 1 June 2000, she informed him of Mr Arany's psychiatric condition, and drew his attention to the fact that Mr Arany possessed seven guns at home. Mr Shnukal was so impressed with this information that he highlighted his note at the top of the referral form in red pen. It is strikingly obvious on the face of the document (see part of Exhibit C12d, volume 2).
- 3.8. Mr Shnukal said that on the basis of that information, he concluded that both the patient and others were at risk as a result of Mr Arany's possession of the firearms. He anticipated that a number of staff might be attending at the house at various stages after Mr Arany was discharged, and they also would be put at risk by his continuing possession of the firearms.
- 3.9. Mr Shnukal was refreshingly frank in his admission that he was very regretful that he did not make a notification to the police pursuant to Section 20A of the Firearms Act. It is not clear, however, that he was under a legal obligation to do so. I will discuss this in more detail later.
- 3.10. Dr Timothy Cheng was the Psychiatric Registrar at Howard House, and had been since June 1999. He was under the supervision of Dr Daven Kurl, Consultant Psychiatrist. Dr Kurl had only arrived in Australia and commenced duties on 29 May 2000.
- 3.11. Dr Cheng saw Mr Arany on a number of occasions during his stay at Howard House. The first was on 1 June 2000 at about 5pm when he saw him with Dr Kurl and Mrs Arany. Dr Cheng also made commendably comprehensive notes of his dealings with Mr Arany and, at the conclusion of the consultation on 1 June 2000, set out a treatment plan as follows:

- '① Further H<sub>x</sub> (history) needed with interpreter – booked Fri 2pm
- ② Chase organic tests/bloods
- ③ Contact GP re previous H<sub>x</sub> and T<sub>x</sub> (treatment)

- ④ H<sub>x</sub> from Adelaide Clinic
- ⑤ Commence antidepressant if indicated
- ⑥ Cease olanzapine
- ⑦ Review firearms situation
- ⑧ 'T/f (transfer) to green if settled.'

(Exhibit C12d)

- 3.12. The statement 'transfer to green' refers to the two sections of Howard House. There was an 'orange' section where detained patients were accommodated, and which was referred to as a closed ward, and a 'green' section which was an open ward with a lower level of supervision.
- 3.13. Dr Cheng told me that he did not speak to Dr Cominos directly, but he knew from Mr Shnukal's entry on the referral form that the issue of firearms was important. He said that his reference to 'review the firearms situation' indicated an intent to confirm whether removal had occurred or not, and to 'explore the issue of safety further' (T105).
- 3.14. Dr Cheng conceded that, despite his note, the issue of firearms and safety was not raised again during Mr Arany's hospitalisation at Howard House. This is surprising because it was routine that during the first ward round after an admission, which in Mr Arany's case occurred on 6 June 2000, he said he would have referred back to his treatment plan to ensure that everything had been followed up (T106).
- 3.15. Dr Cheng said that this failure to follow through on this issue was an 'oversight'. He said that he knew that a plan had been put in place at the Queen Elizabeth Hospital although he had no confirmation that it had been carried out. He also pointed out that Mr Arany was no longer suicidal by the time he reached Howard House, and so the issue of safety receded somewhat. He said that if Mr Arany began showing suicidal symptoms again, he had no doubt that this would have prompted him to have considered this issue further (T106).
- 3.16. Dr Cheng accepted that the nature of Mr Arany's illness was such that there was a likelihood of relapse, and that on his present understanding of his obligations under Section 20A of the Firearms Act, he would have made a notification to the Registrar of Firearms as soon as he became aware of the issue. He told me that he has done so

on a number of occasions since that time, particularly since he has been working in the Rural and Remote division of the South Australian Mental Health Service (T108).

- 3.17. Dr Kurl told me that although he had only recently arrived in Australia, and was not specifically aware of the obligations pursuant to Section 20A of the Firearms Act, he was aware in a general sense that such obligations exist, and if the issue arose he would have sought advice either from the police or from the Departmental Solicitor to ascertain his obligations (T132).
- 3.18. Dr Kurl told me that he did not see the referral document filled out by Mr Shnukal. Any information he had about Mr Arany's condition was received either from Mr Arany personally, or from Dr Cheng. He did not recall reading Dr Cheng's entry in the clinical record about reviewing the firearm situation, and he had no recollection of the issue of firearms being raised at all.
- 3.19. Dr Kurl said that he would have been in no doubt that it was appropriate to have made a notification in Mr Arany's case, since he suffered from a depressive disorder and if the means to self-harm or harm others were available, a substantial risk existed which should be dealt with as a part of competent practice, regardless of the legal obligations (T151). He said that he would not have regarded it as sufficient that the family had indicated that they would remove the weapons. He said that it was the obligation of the psychiatrists to manage this issue on a more substantial basis, since Mr Arany's condition was unpredictable and there was a substantial risk of relapse. He acknowledged that a notification may have interfered with the therapeutic relationship between doctor and patient, but he said:

'Q.Do you see any difficulties with that course in terms of maintaining a therapeutic relationship between doctor and patient.

A. It may cause problems. Obviously it didn't actually come up so it's difficult to know how attached he was to the guns. Some people may have used them when they were younger, I presume, and then as they get older they perhaps recognise that they are something historical and they don't necessarily use, potentially could be dangerous to the grandchildren, or it may have been something that he particularly liked would upset him significantly and might cause resentment. He was prone to resentment, but that would be just another issue to deal with. The issue really, the supervening issue is about safety, and the legal requirements. So if your question is is that a reason not to report, the answer would be absolutely not.' (T151)

#### 4. **Issues arising at inquest**

##### 4.1. Standard of treatment

Dr Davis told me that, in his opinion, the treatment given to Mr Arany at the Queen Elizabeth Hospital and at Howard House was reasonable and appropriate. He said:

'In reviewing the clinical assessment and management, I consider that Mr Arany's overall treatment was reasonable and that every effort was made to assess suicidality, the nature of his depression, the presence of psychosis and ongoing risk for self-harm. The initial mental state certainly suggested a severe mental illness with psychotic features, but over a number of days there was a significant shift in mental state, which is not uncommon in the context of admission to hospital. The treatment team at Howard House made a careful discharge plan with close follow-up, which was appropriate. Anti-depressant medication was introduced and appeared to be helpful, and was certainly indicated.'

(Exhibit C17, p3)

4.2. Dr Davis questioned whether Mr Arany was suffering a condition which he described as 'morbid jealousy', a condition where the patient's jealousy becomes irrational to the point of being delusional. There are certainly features of Mr Arany's condition which might suggest this. For example, Mr Arany told Dr Cominos that he was disturbed because Mrs Arany would carry her washing outside to the clothes line in her skirt and that their neighbour could see her legs.

4.3. One of the daughters reported to nursing staff at Howard House on 3 June 2000 that Mr Arany accused his wife of being unfaithful and described him as 'paranoid and suspicious'.

4.4. On 8 June 2000 Kinga Jaccarini told Dr Cheng that her father was:

'... a controlling and jealous man all his life and has always been 'suspicious' or 'paranoid' of people. He has always monitored his wife's activities and does not let her go out alone or if he sees her talking to people sometimes accuses her of having an affair and becomes angry.

...

The couple do not have any significant friends because Mr Arany becomes suspicious of their motives ...'

(Exhibit C12d)

4.5. Dr Kurl said that, in his opinion, Mr Arany was not psychotic or delusional. The dosage of Olanzapine, an antipsychotic medication commenced at the Queen Elizabeth Hospital, was extremely low and was unlikely to be providing a therapeutic

effect. He said that the cessation of Olanzapine was directed because it may have been ‘obfuscating’ the clinical picture and that it was necessary, while Mr Arany was an inpatient, to assess whether there was any psychosis present (T146). After the medication was ceased, there were no psychotic or delusional symptoms identified.

- 4.6. Dr Davis accepted that Mr Arany’s jealousy and controlling behaviour may have been personality based rather than psychotic, particularly in view of Mr Arany’s troubled childhood and early adulthood when paranoia and hyper-vigilance were no doubt survival mechanisms (T158). However, he thought antipsychotic medication may have been useful in relation to Mr Arany’s jealousy, although he was unable to put this any more strongly than a probability (T161).

4.7. Conclusions

Having regard to those matters, I make no criticism of the clinicians at Howard House for cessation of antipsychotic medication, and I accept that this is an area where there can be legitimate disagreement between clinicians. In all other aspects, I find that Mr Arany’s treatment at Howard House was reasonable and appropriate.

- 4.8. Dr Davis also acknowledged that even if antipsychotic medication had been prescribed, there was no guarantee of its efficacy. He said:

‘... I acknowledge that antipsychotic medication does not necessarily modify symptoms of morbid jealousy or prevent the crises that inevitably ensue in the context of this psychological disorder.’

(Exhibit C17, p3)

4.9. Obligations pursuant to the Firearms Act 1977

Section 20A of the Firearms Act is as follows:

‘(1) Where a prescribed person has reasonable cause to believe that--

- (a) a person whom he or she has seen in his or her professional capacity is suffering from a physical or mental illness, disability or deficiency that is likely to make the possession of a firearm by the person unsafe for the person or any other person; and
- (b) that person holds or intends applying for a firearms licence or possesses or has the intention of possessing a firearm,

the prescribed person has a duty to inform the Registrar in writing of the person's name and address, the nature of the illness, disability or deficiency and the reason why, in the opinion of the prescribed person, it is or would be unsafe for the person to have possession of a firearm.’

A ‘prescribed person’ includes a medical practitioner and a nurse (see Section 20a(5) and Regulation 44).

- 4.10. I have considered this section on a number of previous occasions, but in particular in the inquest into the deaths of John and Claire Corani (no. 20/97), and most recently in the inquest into the death of Wayne John Gillies (no. 8/03). Mr Gillies died by a self-administered gunshot wound to the head on 4 April 2000, just over two months before Mr and Mrs Arany died. The finding in that inquest was published on 27 May 2003.
- 4.11. Contrary to the situation in Gillies, the doctors in this case have all frankly admitted that the preconditions for a report to the Registrar existed. In Gillies, it was argued that the doctors did not consider that Mr Gillies' ongoing possession of a firearm was unsafe.
- 4.12. In particular, it was not disputed in this case that even though a patient may no longer be psychotic, or present an immediate risk of harm, the fact that there is an ongoing risk of relapse is sufficient justification for a report. I said at paragraph 6.6 of that finding:
- 'That section clearly contemplates that the practitioner should have regard to the patient's overall condition, and that although the patient may not be actively suicidal, there is a substantial risk that he may become suicidal in the course of the illness, and the possession of a gun constitutes an ongoing threat to the safety of the patient or another person. In my opinion, the obligation to report pursuant to the Firearms Act is much wider, and calls for a judgement about the risk that the patient's condition may deteriorate, and his or her ongoing possession of a gun may become unsafe during the course of such deterioration.'
- 4.13. It was expressly conceded by Dr Cominos, Dr Cheng, Dr Kurl and Mr Shnukal for that matter, that those criteria were met and that it would have been appropriate to make a report in this case.
- 4.14. The question whether Mr Shnukal was under a duty to report depends upon whether he had 'seen Mr Arany in his professional capacity' within the meaning of section (1)(a) quoted above. I have no doubt that any contact Mr Shnukal had with Mr Arany was in that capacity, although the words 'see' or 'seen' imply, in this context, some form of professional consultation, where the professional forms a judgement about the patient's condition. Mr Shnukal did not do this, although he received the information from Dr Cominos in that capacity, and he supervised many nurses, and participated in ward rounds, in that capacity. The point was not fully argued in this case so I merely raise it as a matter of interest.

- 4.15. I heard evidence from Sergeant Douglas Riach of the South Australia Police Firearms Investigation Section. Sergeant Riach told me that notifications pursuant to Section 20A of the Firearms Act are usually made via facsimile, on a form which has been widely distributed among professional groups who represent professions 'prescribed' by the Act. He said that once such a notification is received, it is taken to the Firearms Adjudication Section where a notice is prepared, and then officers from the Firearms Investigation Section attend at the premises, serve the notice, and seize whatever weapons are present at those premises. He said that these actions usually take place on the same day as the notice is received, unless the holder of the firearms licence is still accommodated in an institution, in which case the notice is served upon that person and the premises are then visited after liaison with the relatives (T181).
- 4.16. In urgent cases, or where a notification is received out of normal business hours, police will often attend as a matter of urgency and exercise their powers under Section 32 of the Firearms Act to seize firearms on the basis that:
- '(c) A person who has possession of a firearm is not a fit and proper person to have possession of that firearm; or
  - (ca) continued possession of a firearm by a person would be likely to result in undue danger to life or property'
- 4.17. Sergeant Riach told me that his officers do not conduct an investigation into the merits of the report made by the practitioner concerned. He said that upon receipt of a report the weapons are seized, initially for a period of three months pursuant to powers vested in the Registrar of Firearms pursuant to the Act, and subsequently as determined by the Firearms Consultative Committee. He said that the firearms licence is suspended during that period and the suspension is not lifted until either the Registrar or the Committee receive information from the treating practitioner that it is no longer unsafe for that person to possess a firearm (T190).
- 4.18. Incidentally, Sergeant Riach told me that if a notification had been made in this case, and if police when attending at Mr Arany's premises to seize the firearms had found the silencer, then more serious consequences would have followed. The possession of silencers is illegal (see Section 29A of the Firearms Act), and carries with it a penalty of \$10,000 or imprisonment for two years. Sergeant Riach said that if the silencer had been found, it is likely that proceedings would have been taken to have Mr Arany's licence to possess firearms cancelled, and it would have been very unlikely that he

would ever have been able to obtain reinstatement. This may have been in addition to whatever criminal proceedings might have been taken in relation to possession of the silencer (T187).

#### 4.19. Conclusions

In all those circumstances, I conclude that in the circumstances of this case, the criteria set out by Section 20A of the Firearms Act existed in relation to Mr Arany, and that a report should have been made pursuant to that Section by Drs Cominos and Cheng and, arguably, by Mr Shnukal. I accept that Dr Kurl was not aware of the firearms issue, and was therefore under no duty to report.

4.20. Further, I find that if a report had been made, South Australia Police would have acted to seize Mr Arany's firearms and have his licence suspended pending total recovery from his psychiatric illness. It is very unlikely that any such recovery would have occurred. Having regard to Mr Arany's age and lack of mobility, it also seems unlikely that he would have been able to obtain a firearm illegally.

4.21. Of course, it was open to Mr Arany to choose a number of other ways to harm himself or commit suicide. However, it seems to me that even though such a tragedy cannot be prevented, it is very much less likely that Mrs Arany would also have died had Mr Arany been no longer in possession of firearms.

### 5. Recommendations

5.1. In the Gillies matter I made the following recommendations:

'8.1. I have already considered the provisions of the Firearms Act in the finding of Corani (Inquest number 20/97). In that finding, I recommended:

- (1) Amending Section 20A(1) of the Firearms Act by deleting "reasonable cause to believe" and inserting in lieu thereof "reasonable cause to suspect"; and/or
- (2) Inserting a provision in either the Firearms Act 1977 or the Mental Health Act, 1993, to the effect that, in the event that any person is detained pursuant to the Mental Health Act 1993, a report should be made by a responsible person to the Registrar of Firearms.

8.2. It may be that if those amendments had been made, Drs Pye and Pincombe might have found it easier to justify a report on the basis of a reasonable suspicion rather than a reasonable belief. I therefore recommend, pursuant to Section 25(2) of the Coroner's Act, that the recommendations I made in Corani receive further consideration by the Attorney-General.

- 8.3. I have referred in these findings to the wider scope of the reporting obligation on a medical practitioner pursuant to the Firearms Act, compared with the obligation to detain pursuant to the Mental Health Act.
- 8.4. As I did in Corani, I recommend that the medical profession be reminded of these obligations by the appropriate agency, whether that be one or more of the following agencies:
- The Minister of Health;
  - The Department of Human Services;
  - The Medical Board or South Australia;
  - or a combination.'
- 5.2. I note that there have been no moves to amend the Firearms Act as I suggested. Since there is no dispute in this case that there was 'reasonable cause to believe' that Mr Arany's continuing possession of firearms was unsafe, it is not necessary to repeat that recommendation here.
- 5.3. However, I have information before me that recommendation 8.4 has been complied with. I was supplied with a copy of a standard letter written by the Minister for Health, and addressed to a wide variety of agencies. The letter appends a 'communiqué' which contains a commentary on the findings in Gillies, and supports my contention in that case that the obligation to report pursuant to the Firearms Act is much broader than the obligation to detain contained in the Mental Health Act 1993. The communiqué also provides addresses where the full text of the findings could be accessed, and where full text of the Firearms Act and the Mental Health Act could be found.
- 5.4. I have also been provided with a copy of a memorandum issued by Dr Shane Gill, Director of Clinical Services at the Community Mental Health Service, Royal Adelaide Hospital, which refers to the Gillies finding, and which provides a sensible and helpful analysis of the obligations placed on practitioners by Section 20A of the Firearms Act.
- 5.5. On the basis of this information, I am satisfied that steps have been taken to draw these issues to the attention of the medical profession, and that they are more aware of their obligations as a result. This may be reflected in the evidence of Sergeant Riach that, in his experience, the level of notifications has risen recently. He said that the police have also been conducting education sessions and distributing the proforma

notification form in an effort to bring these issues to the attention of persons prescribed under the Act.

- 5.6. In those circumstances, and having regard to the fact that the deaths of Mr Gillies and Mr and Mrs Arany are so close in time, it is not necessary to repeat that recommendation either.

*Key Words: Suicide; Homicide; Gunshot Wound; Psychiatric/Mental Illness; Firearms Act*

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

*Seal the 29<sup>th</sup> day of January, 2004.*

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*Coroner*