



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 9th, 10th, 11th, 12th, 13th, 16th, 17th, 18th, 19th, 20th days of October 2006, the 14th day of December 2006, and the 8th day of February 2007, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Stephen Andrew Cartwright.

The said Court finds that Stephen Andrew Cartwright aged 51 years, late of 23 Janz Avenue, Goolwa died at Christies Beach Police Station, 94 Dyson Road, Christies Beach, South Australia on the 10th day of February 2003 as a result of hanging. The said Court finds that the circumstances of his death were as follows:

1. Introduction and reason for Inquest

- 1.1. Stephen Andrew Cartwright was 51 years old when he died in the cells at the Christies Beach Police Station in the early hours of the morning of 10 February 2003. Closed circuit television images show that at approximately 2:34am that morning, Mr Cartwright suspended himself from an open doorway in his cell using blankets which had been provided to him some fifteen minutes earlier and which he had torn into lengths and fashioned into a ligature.
- 1.2. Mr Cartwright had been arrested the previous evening. His death was a death in custody within the meaning of the Coroner's Act 2003 and accordingly the Court was required to hold an Inquest to ascertain the cause or circumstances of his death in accordance with section 21(1)(a) of the Coroner's Act 2003.

2. Mr Cartwright's background

- 2.1. According to Annexure A6 of Exhibit C83, which was compiled from, amongst other sources, Parole Board case notes concerning Mr Cartwright, a profile was prepared by Senior Constable Steven Parfitt of the Major Crime Investigation Section. The profile shows that Mr Cartwright was a psychologist working from 16 Ozone Street, Victor Harbor. He held a Masters degree in neuropsychology from Flinders University. He had commenced his studies in psychology while serving a sentence of imprisonment from which he was released in 1991. He had an extensive criminal history commencing in 1966 with larceny. From the mid 1970's until 1991 he had convictions relating to drug possession and drug trafficking. In 1979 he was sentenced to three years gaol for possessing heroin for sale, possessing opium and hashish. In 1989 he was sentenced to eight years and six months for numerous counts of larceny, forgery, uttering, shed break and breach recognisance. He was released on home detention in January 1991 after serving one third of his four year non-parole period. He had not re-offended from that time until August 2002 when his wife, Raelee Cartwright, applied for a domestic violence restraining order and then again in November 2002 when he was convicted for driving under the influence and excessive speed.
- 2.2. Mr Cartwright had a history of heroin abuse which he said began in the 1970s while he was working in Sri Lanka. Mr Cartwright was the younger of two children born to Mr and Mrs Keith Cartwright.
- 2.3. Mr Cartwright separated from his wife Raelee Cartwright on 23 July 2002. He had two children who were aged five and six years at the time of his death in 2003. The children were born to Raelee Cartwright. Until the date of his separation he lived at 16 Ozone Street, Victor Harbor which was also the address from which he carried on his psychology practice. A domestic violence restraining order was made by the Christies Beach Magistrates Court on 30 July 2002 which restrained him from being on the premises at 16 Ozone Street, Victor Harbor other than for the purpose of conducting his practice as a psychologist. It also restrained him from assaulting, harassing, threatening or intimidating Raelee Cartwright.

3. Events leading up to Mr Cartwright's arrest on 9 February 2003

- 3.1. According to a police apprehension report Annexure A7 to Exhibit C83, Mr Cartwright was arrested in the early hours of the morning of 8 December 2002. The circumstances surrounding this arrest were as follows: late in the evening of Saturday 7 December 2002 the owner of a holiday home at 20 Gum Avenue, Victor Harbor arrived at that address to find a woman standing in one of the bedrooms of his house. The woman had no permission to be in the premises and it appeared that the premises had been broken into. The householder contacted police. When police attended, it became apparent that the woman was one Shelley Smart. She asserted that Mr Cartwright was in the house with her. However, he was not. Police attended the premises at 20 Gum Avenue and shortly after midnight while outside the premises they noticed a vehicle reversing from the driveway of number 19 Gum Avenue, Victor Harbor. The police officers approached the vehicle and directed the driver to return to the driveway of 19 Gum Avenue. The driver was Stephen Cartwright. At that time he was living at 19 Gum Avenue, Victor Harbor and the police searched those premises. The search revealed a quantity of property to the value of some \$20,000 belonging to the householder at 20 Gum Avenue. Mr Cartwright was alleged to have informed the police that he knew that the property which was located in his premises had been stolen from 20 Gum Avenue, Victor Harbor, however he also stated that Shelley Smart was responsible for the theft and that he was not involved. He was charged with one count of non-aggravated serious criminal trespass at a place of residence, one count of aggravated serious criminal trespass at a place of residence not occupied, and one count of receiving stolen property.
- 3.2. Mr Cartwright was granted police bail subject to the conditions that Mr Cartwright would:
- a. Reside at 19 Gum Avenue, Victor Harbor.
 - b. Not contact Shelley Smart.
 - c. Forfeit to the Crown the sum of \$1,000 if he failed to comply with term or condition of the bail agreement.
 - d. Would not attend 20 Gum Avenue, Victor Harbor.
- 3.3. On 6 January 2003 in the Victor Harbor Court of Summary Jurisdiction Mr Cartwright successfully applied for a bail variation for the removal of the condition prohibiting his contact with Shelley Smart. Accordingly he was permitted from that time on to have contact with her.

4. **Circumstances surrounding arrest of Mr Cartwright on 9 February 2003**

4.1. Senior Constable Robert Leslie Fisher

Senior Constable Fisher gave evidence at the Inquest and also provided a statement which was admitted and marked Exhibit C72 in these proceedings. He stated that in 2003 he was posted at the Goolwa Police Station and that on 9 February 2003 at approximately 2130 hours he was contacted by telephone from the Victor Harbor Police Station in relation to a disturbance at 23 Janz Avenue, Goolwa. Senior Constable Fisher was aware of the identity of the occupant of those premises. He was aware that the occupant was Shelley Smart through information he had received from detectives at Victor Harbor. He had been informed by detectives from Victor Harbor that a male partner of Ms Smart was not supposed to attend those premises¹. I assume this information had been conveyed to Senior Constable Fisher at a time prior to the variation of the bail agreement lifting the prohibition on contact by Mr Cartwright with Ms Smart. Shortly after this telephone call at 2130 hours, a further telephone call was received by Senior Constable Fisher from Victor Harbor Police advising that it was unnecessary to attend at 23 Janz Avenue because a further telephone call had been received advising that police assistance was no longer required.

4.2. Some time later, Senior Constable Fisher received a telephone call in relation to a person acting suspiciously in Liverpool Road, Goolwa. He attended at that location but saw nothing untoward. He alighted from his police car and walked around the locality and having seen nothing was returning to his car when he was hailed by somebody who whistled at him and called out, "Hey". He approached the person who was sitting on the footpath. Senior Constable Fisher asked for the person's name and he identified himself as Mr Cartwright. Mr Cartwright had a backpack. An empty half bottle of whiskey was on the ground next to him. Senior Constable Fisher formed the opinion that Mr Cartwright was moderately affected by alcohol. Mr Cartwright had a mobile telephone which was ringing and Mr Cartwright was able to cancel the telephone call quite readily with a push of his thumb and accordingly Senior Constable Fisher did not assess him as being severely affected by alcohol².

4.3. Senior Constable Fisher asked who the telephone calls were coming from and Mr Cartwright informed him that they were being made by Shelley Smart. After four

¹ Transcript, page 36

² Transcript, page 38

or five minutes another police car arrived at the scene. This was the Victor Harbor patrol car containing Senior Constable Watkins and Constable Jarman. These officers then commenced a conversation with Mr Cartwright, and Senior Constable Fisher effectively passed control of the situation over to those officers.

4.4. Senior Constable Fisher gave evidence that those officers were interested in the bail conditions that were applicable to Mr Cartwright. Senior Constable Fisher provided assistance to those officers to the extent of providing access to the Goolwa Police Station so that Senior Constable Watkins could access the SAPOL computer system to ascertain Mr Cartwright's bail conditions.

4.5. Senior Constable Fisher described Mr Cartwright's demeanour as follows:

‘...he was calm, he wasn't argumentative, he was polite.’³

4.6. After providing access to the police station for Senior Constable Watkins to check the computer system, Senior Constable Fisher had no further involvement with Mr Cartwright.

4.7. Senior Constable Watkins

Senior Constable Watkins gave evidence at the Inquest. He was also interviewed in relation to Mr Cartwright's death. The record of interview was admitted in these proceedings as Exhibit C73. In his record of interview Senior Constable Watkins stated that at about 2130 hours on 9 February 2003 he was working in the Victor Harbor Police Station when he received a 000 telephone call from a person identifying herself as Shelley Smart and claiming that she had been assaulted by her partner. Senior Constable Watkins said that he asked her if the partner was still there and she said he was outside. Senior Constable Watkins asked Ms Smart who her partner was and she said it was Stephen Cartwright. He then contacted the Goolwa Police (Senior Constable Fisher) and told him what the situation was. Some five minutes later another 000 telephone call was received from Ms Smart saying that she had made the complaint a few minutes earlier but that she now wished to withdraw the complaint as she felt safe. Senior Constable Watkins then rang Senior Constable Fisher and cancelled the first tasking.

³ Transcript, page 47

- 4.8. In his record of interview, Senior Constable Watkins also stated that at 2230 hours on 9 February 2003 a further telephone call was received at Victor Harbor Police Station. This telephone call related to a person acting suspiciously in the vicinity of Noble Avenue, Goolwa. Senior Constable Watkins contacted Goolwa Police to request that they attend (Senior Constable Fisher) and then departed for Goolwa with Constable Jarman to assist. On arrival at Goolwa Senior Constable Fisher was already in attendance and speaking with a male person. That person was Mr Cartwright. On becoming aware of the fact that it was Stephen Cartwright, Senior Constable Watkins realised that Mr Cartwright was subject to certain bail conditions because Senior Constable Watkins had been involved in the grant of police bail for the events that took place at 20 Gum Avenue, Victor Harbor in December of the previous year. Senior Constable Watkins and Constable Jarman made a check via police communications to determine the precise terms of Mr Cartwright's bail conditions. Not meeting with much success in that enquiry they then attended at the Goolwa Police Station with the assistance of Senior Constable Fisher to make further enquiries via the police computer as to the precise nature of bail conditions.
- 4.9. Senior Constable Watkins stated that at that time it was clear to him that Mr Cartwright was not residing at the address at Gum Avenue, Goolwa. He believed that Mr Cartwright may have been in breach of his bail conditions in relation to his place of residence. He was going to arrest Mr Cartwright at that point for a breach of his bail conditions but a telephone call came through on a police mobile telephone from Shelley Smart. Senior Constable Watkins spoke to Shelley Smart and told her that he and Constable Jarman were thinking about arresting Mr Cartwright for breaching his bail conditions because he did not have a place of residence. Ms Smart responded that she was happy for Mr Cartwright to stay at her address at 23 Janz Avenue, Goolwa. Senior Constable Watkins and Constable Jarman then conveyed Mr Cartwright to 23 Janz Avenue, Goolwa.
- 4.10. Senior Constable Watkins was asked why he did not proceed with the arrest at that stage. He explained his position as follows:
- ‘Obviously the residing condition is that he's to reside at 19 Gum Avenue but he's also allowed to associate with Ms Smart, Ms Smart was living in Goolwa, so whether the residing condition says - restricts you to residing there every day of the week, every night of the week that you have to reside there, he was allowed to associate with Ms Smart so obviously he could spend time with Ms Smart and obviously if he needed to

change bail conditions then perhaps he could change his bail conditions before the court at his earliest convenience.⁴

- 4.11. In his record of interview, Senior Constable Watkins stated that on arrival at 23 Janz Avenue, Goolwa with Mr Cartwright, he left Mr Cartwright in the car and knocked on the door of 23 Janz Avenue to ask Ms Smart if she would like to speak to Mr Cartwright in the police vehicle. This would enable her to form her own judgement about whether she was still happy to allow him into the house. She agreed to this course of action and went out to the police vehicle and sat in it for a short time conversing with Mr Cartwright. She was willing for him to return to the house and Senior Constable Watkins then invited him to do so. At that stage Mr Cartwright stated that he would rather go to Christies Beach. Senior Constable Watkins then shut the door of the police car. Mr Cartwright immediately said “no he was joking” and that he did wish to stay at 23 Janz Avenue. At that point, after some persuasion, he entered the house and Senior Constable Watkins and Constable Jarman left the address to attend to another call.
- 4.12. Senior Constable Watkins and Constable Jarman then attended to a tasking at Port Elliott. After some little time at that tasking they received a telephone call from a neighbour of Shelley Smart complaining that there was a disturbance at 23 Janz Avenue. They then returned to 23 Janz Avenue and Senior Constable Watkins and Constable Jarman approached the house and stood on the verandah for several minutes listening to what was occurring inside the house. They could see Mr Cartwright walking around inside the house. They could not see Ms Smart but they could hear Mr Cartwright talking. They were not sure if he was talking to Ms Smart or if he was perhaps talking on a mobile telephone, but he appeared to be aggressive and abusive. They knocked on the door which was then answered by Mr Cartwright. They asked to speak to Ms Smart and Mr Cartwright readily agreed. When Ms Smart appeared they informed her that they were going to arrest Mr Cartwright for breaching his bail. On hearing this, Mr Cartwright asked Ms Smart to tell the police that he could stay with her and she stated words to the effect “yes he could stay here”. Senior Constable Watkins replied that Mr Cartwright would not be permitted to stay but would be taken to Christies Beach. Mr Cartwright was then placed in the police vehicle.

⁴ Transcript, page 73

4.13. Senior Constable Watkins then had a conversation with Ms Smart. She informed him that she had been taking refuge in the bathroom while Mr Cartwright had been in the house. He informed her that she should not have to put up with that sort of behaviour and that the arrest of Mr Cartwright was the correct thing for police to do. Senior Constable Watkins then said that he and Constable Jarman conveyed Mr Cartwright to the Christies Beach Police Station. While in the vehicle Senior Constable Watkins, recited Mr Cartwright's rights to him.

4.14. In his record of interview Senior Constable Watkins stated that he considered that the last attendance at 23 Janz Avenue would have occurred at approximately 2355 hours on 9 February 2003⁵. The trip from Goolwa to Christies Beach took approximately 40 minutes. During the trip Mr Cartwright, according to Senior Constable Watkins asserted that he did have a place to stay. In the record of interview Senior Constable Watkins stated that Mr Cartwright addressed the matter in this way:

‘What, what were we doing. He did have a place to stay. He was, he admitted he wasn't living at Gum Avenue that he was living with his wife at in the Ozone that he was living with Shelley he was that there must have been some hidden agenda and what were we doing and things like that. It was just basically along those lines’⁶

4.15. Senior Constable Watkins gave evidence about the events that occurred at the charge counter at the Christies Beach Police Station. Upon arrival at the police station Senior Constable Watkins and Constable Jarman presented Mr Cartwright to the sergeant in charge, Sergeant Allan. Senior Constable Watkins completed a prisoner screening form at that point. The prisoner screening form was brought into evidence as Annexure A9 to Exhibit C83a. The pertinent details of the record made by Senior Constable Watkins on that form are as follows. In answer the question whether the prisoner Mr Cartwright appeared to be under the influence of alcohol or drugs Senior Constable Watkins circled both alcohol and drugs because he was unable to say what was affecting Mr Cartwright. He wrote the word “grossly” to describe the extent to which Mr Cartwright was affected. In answer to the question does the prisoner appear despondent, he ticked the “no” box. In answer to the question whether the prisoner appeared irrational or disturbed, he ticked the “yes” box. In answer to the question whether the prisoner was in possession of medication, he ticked “yes”, but in answer to the question as to whether the prisoner gave any indication that he might be at risk,

⁵ Exhibit C73, page 13

⁶ Exhibit C73, page 13

Senior Constable Watkins ticked the “no” box. He ticked the box signifying that he objected to bail being granted.

- 4.16. Senior Constable Watkins acknowledged that after he had completed the prisoner screening form Mr Cartwright produced from his pockets a number of loose tablets. Senior Constable Watkins stated that he was concerned that a number of tablets had been produced by Mr Cartwright and stated that had he been aware of their existence in Mr Cartwright’s possession before he completed the prisoner screening form he would have been more likely to describe Mr Cartwright as a person at risk in answer to the appropriate question on that form⁷.
- 4.17. Senior Constable Watkins stated in evidence that Sergeant Allan expressed concerns to him about the charges proffered against Mr Cartwright. Sergeant Allan asked to speak to Senior Constable Watkins away from the charge counter and out of Mr Cartwright’s hearing to discuss the situation. Senior Constable Watkins said that it was fair to say that Sergeant Allan regarded the arrest as being over a trivial matter and that Sergeant Allan only accepted Mr Cartwright reluctantly. He agreed that Sergeant Allan may have said words to the effect “well there is a prima facie case here, I don’t think it will win in court and I’m not happy with the reason for the arrest but I’m obliged to accept him”.
- 4.18. Senior Constable Watkins stated that Sergeant Allan had an “attitude” in relation to residential conditions of bail. He elaborated:
- ‘Yes, an attitude that they didn't consider it a very serious breach if people weren't residing at their residential address... So it was deemed at that point of time that residing conditions weren't really strictly adhered to. So it's quite possible for someone to have a residing address but could spend nights elsewhere.’⁸
- 4.19. Senior Constable Watkins said that he informed Sergeant Allan that in his own opinion Mr Cartwright had committed an offence in that he had a residing residential condition of bail and he was in breach of his bail because he did not have anywhere to stay. He could not stay at Ms Smart’s house and he could not stay with his wife.
- 4.20. Senior Constable Watkins stated that he could not remember exactly how, but he was quite clear that at some point he became aware that Mr Cartwright was not residing at 19 Gum Avenue as required by his bail conditions.

⁷ Transcript, page 94

⁸ Transcript, page 142

4.21. Constable Jarman

Constable Jarman was interviewed following Mr Cartwright's death. His record of interview was admitted as Exhibit C74 in these proceedings. Constable Jarman also gave evidence at the Inquest. His evidence was broadly consistent with that of Senior Constable Watkins. I will not therefore review it in its entirety. However, certain aspects of his evidence are worthy of note.

4.22. Constable Jarman described Mr Cartwright as having been under the influence of alcohol or a drug. According to Constable Jarman, Mr Cartwright was "argumentative, abusive, and he was kind of – his faculties were impaired to a state in which he was sort of yelling loud, screaming, verbally abusing police and then sort of coming down to a calmer level"⁹. Constable Jarman described Mr Cartwright as being moderate to grossly affected by the alcohol or drug. However he could not recall smelling alcohol on Mr Cartwright while in the police vehicle.

4.23. Constable Jarman described Mr Cartwright's demeanour as remaining pretty much the same throughout the entirety of their interaction. In other words, from the first time he had any dealings with Mr Cartwright on the evening of 9 February 2003 right through until he last left Mr Cartwright at the charge counter, Mr Cartwright's general demeanour and behaviour remained the same. He stated that there was nothing in his dealings with Mr Cartwright that caused him to think that Mr Cartwright was at risk of self-harm¹⁰. However, it should be noted that Constable Jarman did not complete the prisoner screening form nor did he have a close involvement in the examination or production of the tablets by Mr Cartwright at the charging counter.

5. Events at Christies Beach Cells on 10 February 2003

5.1. Disposition of the officers

The evidence showed that there were three officers stationed at Christies Beach Police Station overnight on 9 to 10 February 2003. Those officers were led by Sergeant Rodger Allan. The next most senior officer was Senior Constable Derek Robb and the third officer was Constable Michael Noon. At this point it is useful to introduce the fact that an extremely thorough investigation of this matter was undertaken by Detective Inspector John Venditto as he then was, now Detective Superintendent Venditto. A statement was provided by Detective Superintendent Venditto and it was

⁹ Transcript, page 167

¹⁰ Transcript, page 189

received as Exhibit C83 in these proceedings. The report of his investigation was attached to that statement and was admitted in evidence as Exhibit C83a. A number of the annexures which have previously been referred to are annexures to that investigation report.

- 5.2. That report was described as a “Commissioner’s Inquiry into the Death in Police Custody of Stephen Andrew Cartwright”.
- 5.3. Detective Superintendent Venditto became involved in the inquiry at a very early time. In his statement¹¹ he says that he attended Christies Beach Police Station in relation to Mr Cartwright’s death at 10:15am on 10 February 2003. His report, Exhibit C83a, constitutes an extremely thorough and accurate investigation of all matters relevant to Mr Cartwright’s death.
- 5.4. The Christies Beach Police Station was equipped with closed circuit television (CCTV) recording systems. The recording system is a “multiplex” system which produces images from all CCTV cameras within the police station complex. There are some 42 such cameras and multiplex images are recorded from each of the cameras. These images can then be processed so that one can view consecutive images recorded from a particular camera in any part of the police station. In this manner, it was possible to compile a consecutive sequence of images of Mr Cartwright’s activities in his cell and exercise area adjacent to the cell while he was in that part of the complex.
- 5.5. According to a statement of Alan John Elsley which was admitted as Exhibit C26a in these proceedings, the multiplex systems at Christies Beach Police Station allow for multiple camera views to be recorded on the one videotape. There are two multiplexes at Christies Beach Police Station, one for the station area and one for the cells area. There are 16 cameras in the cells area and these are directed to a device called a “multiplexer”. The remaining cameras in and around the station, are directed to a second multiplexer. The multiplexer connected to the 16 cell cameras is designed to record periodically one frame from each camera. Each frame is 1/25th of a second in real time. There is a video cassette recorder linked to that multiplexer. The video recorder is set for recording 960 hours on one cassette tape. When you play back the tape, you see a series of 1/25th of a second images from each of the cameras.

¹¹ Exhibit C83

According to Mr Elsley, each camera has the ability to detect movement, and this modifies the frequency with which images from a camera which has detected movement are processed by the multiplexer for recording to the video recorder. In a state of equilibrium, the number of frames recorded on the video recorder is equal for all cameras over a given period of time, and the cameras record sequentially. If all cameras detect equal amounts of movement, the number of frames recorded from each camera will be equal over the time that equal movement is detected. If movement is detected only by some cameras, the footage from those cameras will be recorded more frequently than the others. Thus the system favours movement, according a higher priority and frequency to cameras showing movement. The system still records views from cameras not detecting any movement, but not as often as it would if those cameras were detecting movement. In a state of equilibrium, in which all cameras are detecting the same amount of movement (or no movement) the image from any given camera will be displayed every 205 seconds for $1/25^{\text{th}}$ of a second in real time.

- 5.6. According to Mr Elsley's statement, the CCTV system has a monitor viewing operating system which runs independently of the video recording function. The monitor viewing system is operated by keyboards. There are two keyboards in the station area and one keyboard at the charge counter which is near the cells. The system allows for the movement of cameras for the station circuit, but the cameras fitted in the cell area are fixed and incapable of being moved by keyboard control. Operation of the monitor keyboard has no effect on the recording function of the system. Thus the system permits the live transmission of images from any single camera in the Christies Beach Police Station complex to be projected through any of a total of 7 television monitors within the police station. Five such monitors were located within what will be described in these findings as the station area or the station proper, and 2 such monitors were located within the Sergeant's desk area at the charge counter. There is no method for keeping an historical record of monitor view selections. Thus it is not possible to consult an electronic record to ascertain which monitors were devoted to which cameras in the early hours of the morning of 10 February 2003.
- 5.7. In addition to the multiplex CCTV systems described above, there is a further single video camera with audio capability which is located in the charge area. This system is

separate from the security or multiplex system just described, and it records when movement is detected within the charge counter area. Because this separate system records only one camera, it is continuous, and not intermittent as is the case with the multiplex systems. This system recorded the charging of Mr Cartwright, and I will describe that in due course. As already stated, it recorded sound, and therefore it is possible on listening and watching the recording, to hear Mr Cartwright speaking with Sergeant Allan, and it is also possible hear exchanges between Sergeant Allan and Senior Constable Watkins.

- 5.8. From all of these sources, Detective Superintendent Venditto made a number of observations of particular aspects of the charging process, and the movements of Mr Cartwright and Officers Allan, Robb and (briefly) Noon. I reproduce below a table of observations compiled by Detective Superintendent Venditto of events at the charge counter:

'Time	Observation
0043	Charging of Cartwright commences handcuffs removed
0044	Asked to remove glasses – disputed
0045	Cartwright comments 'This is fun isn't it'
0046	Cartwright protests he is not in breach of bail
0051	Cartwright protests charge
0055	Cartwright requests telephone call
0057	Cartwright offers his wife as a person who would accept him for the night
0058	Cartwright requests that police ring his wife
0101	Cartwright protests he doesn't understand what has happened
0103	Cartwright gives home address of 16 Ozone St Victor Harbor
0113	Cartwright asked to apply for bail
0116	Cartwright explains dosage of medicine he requires from his property
0118	Cartwright explains his medication to Allan including the drug Telfast which he explains are for stress and are required every 3 hours. (Allan withheld medication. Advised that if Cartwright displayed signs of illness then he would summons medical assistance.)
0118	Cartwright states he has severe depression and says 'I'm fucking coping until to night. Until these fucking arseholes came picked me up'.
0124	Cartwright behaving irrationally through comments
0127	Cartwright being difficult to obtain prints from
0136	Cartwright tells Allan he will need some medication because he hasn't had any since 9 o'clock
0138	Removed from charge area and out of camera view
0153	Back in camera view in charge area
0155	Cartwright receives bail review documents
0156	Cartwright handed phone by Robb, Cartwright having difficulty in trying to dial number '85729'.

0158 Robb hangs up phone. Cartwright agitated puts face in hands.
 0200 Cartwright leaves charge area to cell area¹²

5.9. The following table, from observations made by Detective Superintendent Venditto of the various CCTV systems referred to above, reveals that none of the officers on duty at Christies Beach Police Station were at or near the charge counter or cell area between the hours shown:

- 30:19 a.m. to 2.55:51 a.m. (approx. 25 mins);
- 03.02.13 a.m. to 03.54.13 a.m. (approx 52 mins)
- 04.02.01 a.m. to 06.09.56 a.m. (approx 127 mins)
- after 6.11:10 a.m.¹³

*Mr Cartwright hanged himself at approximately 2.34 a.m.

5.10. Detective Superintendent Venditto produced from the various CCTV sources a table of Sergeant Allan's movements as follows:

02.30.19	SGT ALLAN	Leaves charge area and out of camera view.
03.54.13	SGT ALLAN	Appears from behind a wall in charge area.
03.57.24	SGT ALLAN	Moving around charge area.
04.00.36	SGT ALLAN	Still moving around charge area.
04.02.01	SGT ALLAN	Leaves charge area and out of camera view.
06.09.56	SGT ALLAN	In camera view
06.10.03	SGT ALLAN	Conversation with Robb
06.10.14	SGT ALLAN	Enters charge area.
06.10.25	SGT ALLAN	"? Don't go out there."
06.10.55	SGT ALLAN	Conversation with Robb
06.11.05	SGT ALLAN	Leaves camera area
06.11.10	SGT ALLAN	Out of camera view. ¹⁴

5.11. Detective Superintendent Venditto produced from these sources a table depicting Senior Constable Robb's movements as follows:

02.20.53	SC ROBB	Out of camera view.
02.55.51	SC ROBB	Enters charge area and appears to check something on the rear wall. No prisoners voices heard.
02.56.04	SC ROBB	Enters cell area.
02.56.17	SC ROBB	Leaves cell area. In camera view.
02.56.23	SC ROBB	Looks towards fingerprint area and out of camera view.
03.00.07	SC ROBB	In camera view.
03.00.13	SC ROBB	Enters charge area.
03.01.53	SC ROBB	Leaves charge area.

¹² Exhibit C83a, page 27

¹³ Exhibit C83a, page 28

¹⁴ Exhibit C83a, page 28

03.01.56	SC ROBB	Out of camera view.
03.02.13	SC ROBB	Out of camera view
06.09.56	SC ROBB	In camera view.
06.10.03	SC ROBB	Conversation garbled/inaudible.
06.10.55	SC ROBB	Conversation garbled/inaudible.
06.10.58	SC ROBB	Leaves charge area.
06.11.05	SC ROBB	SC ROBB out of camera view. SGT ALLAN leaves charge area. ¹⁵

5.12. All three of the officers accepted, in their oral evidence, the accuracy of each of these summaries.

5.13. Disposition of the monitors in the station and charge counter areas

As stated above, the evidence of Mr Elsley is that there is no means of determining, by means of an historical log, electronic or otherwise, the disposition of the television monitors within the station and the charge counter area during the evening of 9-10 February 2003. The following is a review of the witness' evidence upon this topic.

5.14. Sergeant Rodger Allan confirmed¹⁶ that there were 5 monitors within the station proper, and 2 within the charge area, behind the charge counter.

5.15. Sergeant Allan stated¹⁷ that he recalled when the decision was made to install monitors within the Christies Beach Police Station cell complex. He said that the view of the charging sergeants at that time was that the installation of monitors would result in police officers using the monitors as a primary checking device rather than physically monitoring prisoners. He stated that the sergeants were concerned at this prospect.

5.16. Sergeant Allan stated¹⁸ that on the night in question there was a female prisoner in the cells by the name of Ms Voss. She had a male partner who had threatened to create a disturbance in or around the police station in protest at the detention of Ms Voss. Sergeant Allan stated that threats were made against the police station itself and the vehicles of police officers parked outside the station. He said that as a result of this, two of the monitors in the police station itself were set to show images of the exterior yard of the station.

¹⁵ Exhibit C83a, page 29

¹⁶ Transcript, page 219

¹⁷ Transcript, page 220

¹⁸ Transcript, page 235

5.17. Sergeant Allan gave evidence¹⁹ that he did not recall what was being depicted on the two monitors in the charge counter area during his shift that night. Neither did he recall if the monitors were scrolling through the various cameras within the cell area or whether they were fixed²⁰. Sergeant Allan could not remember whether the monitors were scrolling during his shift. He stated as follows:

‘Very rarely do they scroll. Every now and again we used to but most times they will be put on a specific cell but I don't know which one.’²¹

When asked why a camera would be placed on a particular cell, Sergeant Allan stated:

‘To watch a specific person that might be graffitiing the walls or scratching the walls or for various reasons.’

5.18. It is notable and concerning that when he gave that answer, Sergeant Allan did not mention a far more important reason for monitoring a prisoner, namely, the safety and well-being of the prisoner in question. His failure to mention that obvious reason for monitoring a particular prisoner while giving evidence at an inquest into a death in custody reveals that he still does not have any real understanding of the importance of prisoner welfare.

5.19. According to Exhibit C44a, a statement of Sergeant Hollitt who was the station sergeant on duty for the shift immediately preceding the shift of Sergeant Allan, the usual disposition of the monitors within the station proper is that three of the monitors are disposed to depict the public entrance to the station, the public foyer and the main entrance approach at the front of the station. The fourth and fifth of the station monitors are utilised for prisoner monitoring, or if there are no prisoners, for car park security. He stated that he could not be specific about the disposition of the station monitors when he commenced duty on 9 February 2003 at approximately 1500 hours. However, due to the incident with Mr Taylor (the person associated with prisoner Voss), Sergeant Hollitt gave instructions to monitor the exterior car parks and the front of the station in relation to Taylor's activities. He was not clear about the number of monitors that were externally deployed. It is possible that monitors four and five within the station proper may have been externally deployed as well,

¹⁹ Transcript, page 240

²⁰ The evidence of Mr Elsley was that the operator of any of the three consoles in the station can choose to hold the view of a particular camera or to “scroll” or vary the sequences seen on a particular monitor. He said that there is a choice of five different pre-programmed sequences. The five programs are: interior cameras, exterior cameras, cells, exercise yards or all cameras. Each monitor when in “scroll mode” depicts a 3 second view of what a particular camera is viewing before the monitor moves to the next camera for a further 3 second view. If the operator has selected the cell program, a 3 second view from a particular camera will be displayed on the monitor every 36 seconds. There will be a 33 second gap between views from the same camera.

²¹ Transcript, page 240

although I am unable to tell on the evidence. However, Sergeant Hollitt was able to say that of the two monitors in the charge counter area, one was directed to the prisoner Voss, and the other was directed to the cell of prisoner Hosszu. Ms Voss was being monitored because Mr Taylor had suggested that she was depressed and upset and might be at risk. Mr Hosszu was monitored because he had been aggressive, abusive, loud and demanding, and was kicking the cell door from time to time.

- 5.20. Sergeant Allan²², was prepared to accept what was put to him by Mr Keane as Sergeant Hollitt's description of the disposition of the cameras. It appears to me that Sergeant Allan simply had no recollection of the disposition of the cameras that night. Sergeant Allan could not remember if a camera was specifically directed to Ms Voss on that night. Nor could he remember whether a camera was directed to the cell of Mr Hosszu. Nor could he remember whether the monitors in the charge counter area were fixed or scrolling.
- 5.21. A great deal of effort was directed toward eliciting what knowledge Sergeant Allan had of the disposition of the cameras. At one stage he said that two of the cameras within the station proper were dedicated to showing the car park area²³. As to the two monitors in the charge counter area he simply could not recall. In particular he could not recall if any monitor was depicting the cell in which Mr Cartwright was eventually locked up.
- 5.22. Sergeant Allan stated that, if no one had made any changes to the disposition of the monitors prior to the commencement of his shift, the monitors would depict what had previously been set for those monitors²⁴.
- 5.23. Senior Constable Robb also gave evidence at the Inquest. He stated²⁵ that the monitors within the station area proper were all fixed to particular cameras and were not scrolling. He never changed the disposition of cameras during the shift. The cameras remained throughout the shift in the same disposition as they were at the commencement of the shift.
- 5.24. The other officer on duty that night, Senior Constable Noon, also gave evidence at the Inquest. His evidence was vague in relation to many things. He was argumentative

²² Transcript, page 316

²³ Transcript, page 357

²⁴ Transcript, page 360

²⁵ Transcript, page 411

with counsel. He was reluctant to concede that there were five monitors in the station area proper, a fact which I would have thought would have been well known to him²⁶. He asserted that it came to his attention after being interviewed in connection with this matter that one of the monitors within the station area was not working that night. It was put to him that he may have heard that a camera was not working, but he insisted that he was told that it was a monitor that was not working rather than a camera. He could not remember who told him this. He was asked if it would be unusual for a monitor to show a blank screen. He stated "Well yes, to the best of my knowledge most of the time they were working, all five."²⁷ He then qualified this statement by saying that on days and afternoon shifts "...you're so busy most of the time that you just don't get time to monitor the cameras." He was asked what he would do if he was working a night shift and he observed that one of the monitors was not working and replied "I'd just leave it there ... Rightly or wrongly I would presume that someone else had documented that it wasn't working and it would be corrected by radio technicians."²⁸

5.25. Senior Constable Noon stated that two or three of the monitors within the station proper were dedicated to the exterior area of the police station because of the threats made by Mr Taylor "that he would damage police cars"²⁹. Shortly after that passage of evidence, he said that at least one monitor was fixed upon the station car park. When asked whether any of the monitors were looking at the cells he said he could not remember. When he was asked whether he spent any time during his shift between the hours of 1:00am and 6:00am watching the monitors he stated: "would be cursory glances"³⁰. He acknowledged that he did not specifically check the monitors on any routine basis³¹. He stated that he did not make any adjustment to the views being depicted on the monitors during that shift³².

5.26. Senior Constable Noon acknowledged that it was possible that up to three of the monitors in the station proper were fixed on the car park area³³. He had no

²⁶ Transcript, page 605

²⁷ Transcript, page 606

²⁸ Transcript, page 608

²⁹ Transcript, page 609

³⁰ Transcript, page 609

³¹ Transcript, page 610

³² Transcript, page 611

³³ Transcript, page 641

recollection of where the other two monitors were fixed. When asked if one was directed to prisoner Voss' cell, he could not remember³⁴.

- 5.27. Sergeant Anthony Flavel gave evidence at the Inquest. He came on duty at approximately 7:00am on the morning of 10 February 2003. He stated that he recalled that the monitors in the charge counter area when he came on duty were disposed as follows: one was directed to the cell of prisoner Voss, and the other was on the 'A' block or 'A' quadrangle area³⁵.
- 5.28. In his evidence, Sergeant Allan referred to the possibility that the surveillance camera within cell B4, which housed Mr Cartwright that evening, had some defect. This matter was dealt with by Detective Superintendent John Venditto³⁶ who explained that the camera was in fact working but merely showing an inferior image. Nevertheless, the image, while "noisy" was not impossible to view. Detective Superintendent Venditto said, having observed the multiplex footage derived from that camera, "the image in my view was fine"³⁷. The matter was quite clearly explained in the statement of Mr Elsley³⁸. I mention that Mr Elsley is employed by Australian Integrated Security and he works in the installation, repair, servicing and commissioning of closed circuit television systems and has done so for 19 years. He stated that during his examination of the CCTV system at Christies Beach Police Station on 13 February 2003:

'During my examination of the system today I discovered that the camera fitted in cell B4 is very noisy with horizontal lines across it, but with the light on in the cell it still provides a clear enough view to enable observers to see what is occurring inside the cell.'

- 5.29. I am not aware of how Sergeant Allan came to hear that there was a defect in the camera in cell B4. According to Detective Superintendent Venditto, Sergeant Allan raised this when he was interviewed by Detective Superintendent Venditto shortly after the death of Mr Cartwright³⁹ but when informed of the truth of the matter that the camera had been checked and was operating correctly albeit with an inferior transmission, Sergeant Allan corrected himself and withdrew his suggestion that the camera was not working. It is unfortunate that Sergeant Allan renewed this as an

³⁴ Transcript, page 642

³⁵ Transcript, page 672

³⁶ Transcript, page 783-784

³⁷ Transcript, page 784

³⁸ Exhibit C26a

³⁹ Transcript, page 783

issue at the Inquest. It is interesting that Senior Constable Noon was suggesting that a monitor was not operational on that evening. There is no evidence whatsoever to suggest that any monitor was not operational. Probably, Senior Constable Noon heard a version of the story about the camera which may have been mentioned to him by Sergeant Allan at some point, and Senior Constable Noon confused this story and mistakenly believed that the story related to a malfunctioning monitor. In any event, the true position was that the cell camera in cell B4 was “noisy” as suggested by Mr Elsley, but the footage it depicts of Mr Cartwright on the night in question is sufficiently clear for me to have no doubt about what I was observing when I reviewed the CCTV footage. If any of the officers in the station that night had been watching the images at the crucial time, they would have had no difficulty in seeing what Mr Cartwright was doing.

6. Layout of cells at the Christies Beach Police Station

- 6.1. During the course of the Inquest I held a view of the Christies Beach Police Station. The police station is quite modern, having been built in approximately 1992. The sallyport and cell area is on a different level from what has been referred to as the “station proper”. The sallyport is in the nature of a garage into which police vehicles can be driven for the unloading of prisoners. There is a door from the sallyport into the charge counter area. Immediately to the left as one enters the charge counter area from the sallyport is a fingerprinting area. As one proceeds in a southerly direction from the sallyport, the charge counter is on the right. It has protective glass and an opening through which paperwork and property can be passed. There is a doorway into the area behind the charge counter further south. Opposite this doorway is another doorway which leads into the cell area. As one walks through that doorway, there is a common area from which one can gain access to four separate cell areas which are designated ‘A’, ‘B’, ‘C’ and ‘D’. Each of these areas has an exercise yard which then provides access to cells by means of lockable doors. Area ‘B’, in which Mr Cartwright was locked up, consists of a single small exercise yard and a single small cell. Two of the other areas have two cells leading off the exercise yard for those areas, and one of them has three cells leading off the common exercise yard. All together there are nine cells, two of which are sufficiently large to hold two prisoners. Mr Cartwright’s cell was a single cell.

- 6.2. In addition to those cells, there are within the station proper, two further cells. One of these is a padded cell, and the other an observation cell. Neither of these had any part to play in the events of 9-10 February 2003. The distance between the charge counter and the common area from which access may be obtained into each of the cell exercise yards is approximately three metres. It is quite possible for conversations to take place between prisoners within the separate cell blocks. Indeed, on the night in question, conversations were taking place between some of the prisoners. There was quite a lengthy conversation occurring between Ms Voss and another prisoner Mr Dunseith. Mr Dunseith gave evidence at the Inquest. Mr Cartwright engaged in brief conversation with these two prisoners from his cell area. It is possible to hear these conversations from the charge counter area. Similarly, it would be possible for the prisoners to hear what is occurring at the charge counter area. Having said that, the acoustics of the cell complex and charge counter area are poor. Sounds echo extensively within the two areas. This becomes apparent when one listens to the audio sound track of the video recording of events at the charge counter. Throughout the recording one can hear voices in the background. It becomes clear, on a consideration of the whole of the evidence, that these voices would include those of Ms Voss and probably Mr Dunseith or other prisoners. It is not possible to hear from the video sound track exactly what is being said by Ms Voss and the other prisoners. However it is possible to hear most of the conversation that takes place at the charge counter area in which the main protagonists are Mr Cartwright and Sergeant Allan.
- 6.3. Within each cell block there is an intercom speaker and microphone. It is activated by means of a button. There is an intercom in each of the exercise yards and a further intercom in each of the cells. The intercom communicates with the charge counter and the two monitor consoles in the station proper. When a prisoner presses the intercom button a buzzing is heard at the charge counter and in the two monitor stations in the station proper. An officer who is at any one of those positions may respond to the buzzing of the intercom, and have a conversation with the relevant prisoner.

7. Events at the charge counter

As I have already noted, the events at the charge counter are recorded on a videotape with sound track. I have viewed the videotape and listened to the sound track. Having heard the sound track and watched the video my impression is that

Mr Cartwright was certainly affected by alcohol. However, he was not unpleasantly affected. He was not aggressive or violent. He certainly swore and expressed frustration with the situation he was faced with, although in a way which was surprisingly good humoured. He was not a large or intimidating person. He was quite well spoken.

8. Evidence of Sergeant Allan as to events at the charge counter

- 8.1. According to the evidence of Sergeant Allan, Mr Cartwright was brought in by the arresting officers at about 12:50am on 10 February 2003. He was agitated, angry, annoyed and noisy according to Sergeant Allan. Mr Cartwright made it plain that he did not wish to be there and felt that he should not be there. In Sergeant Allan's opinion, Mr Cartwright was affected by alcohol but only slightly to moderately. Sergeant Allan stated that Mr Cartwright "wasn't an outrageous prisoner or anything like that. I didn't see him as being threatening or anything like that. He was just angry at being there."⁴⁰
- 8.2. Sergeant Allan said that the arresting officers informed him that Mr Cartwright had been arrested for breach of bail. Sergeant Allan said that Mr Cartwright conceded that he was not residing at the address specified in the bail agreement at which he was supposed to reside but that Mr Cartwright made the point very strongly that while he may not have been living at the specific address in the bail form, this fact was known to police at Victor Harbor. Sergeant Allan described Mr Cartwright's position as being that "everybody that - in Victor Harbor that should have known, knew where he was, and he was quoting names of the Senior Sergeant of the CIB..."⁴¹.
- 8.3. Sergeant Allan stated that this concerned him most definitely, to the extent that he had a conversation with the arresting officer. Sergeant Allan said that he left the charge area and had a conversation with the arresting officer "about that very matter"⁴².
- 8.4. Sergeant Allan related his conversation with Senior Constable Watkins in relation to the charge. Sergeant Allan stated that he informed Senior Constable Watkins that a bail condition requiring a person to reside at a certain address was not to be interpreted to mean that the person must be there twenty-four hours a day. He gave as an example a person who gives his parents' address as a place of residence, and then

⁴⁰ Transcript, page 242

⁴¹ Transcript, page 244

⁴² Transcript, page 244

spends two nights at his girlfriend's house during the week. Sergeant Allan considered that not to be a breach of bail. Senior Constable Watkins responded that the bail agreement stipulated that Mr Cartwright should be living at that address and that he was not. Sergeant Allan accepted that on the face of it, at a prima facie level, Mr Cartwright had a case to answer and therefore Sergeant Allan was "obliged to accept him as a prisoner"⁴³. However, Sergeant Allan also informed Senior Constable Watkins that Sergeant Allan believed that the charge would not be successful when it went to Court, and may subsequently be withdrawn.

- 8.5. Sergeant Allan was of the view that, although Mr Cartwright was charged with having breached a bail agreement, he was eligible to apply for bail. It is interesting to note that Senior Constable Watkins took a different view in relation to this issue. However, the relevant bail authority was Sergeant Allan and Senior Constable Watkins' view of the matter is, to that extent, not relevant. Mr Cartwright was invited to make a written application for bail which he did, and duly signed it. Sergeant Allan then proceeded to consider the bail application and decided to refuse bail. His reason for refusing bail was that he did not consider that Mr Cartwright had anywhere else to go and that he could not be sure that another offence would not be committed by Mr Cartwright if he were to be granted bail. Another consideration was that Mr Cartwright was now at Christies Beach, but lived in the Goolwa/Victor Harbor area. It was two o'clock in the morning and it was impractical for Mr Cartwright to find transport⁴⁴. Sergeant Allan was asked whether the arresting officers could have taken Mr Cartwright back to Victor Harbor or Goolwa had Mr Cartwright been granted bail. He responded:

'I think that would have been really stretching the friendship of Victor Harbor, because they wanted to solve the problem at Victor Harbor not take it back with them.'⁴⁵

- 8.6. Sergeant Allan said that Mr Cartwright was searched and produced a number of loose tablets. On a form entitled "Sergeants Questionnaire" Sergeant Allan recorded the names of the medications as conveyed to him by Mr Cartwright. The medications included panadeine, Temazepam, Asamax, and Telfast. Under the heading "Reason Prescribed" Sergeant Allan wrote "ulcer/depression"⁴⁶. Sergeant Allan also recorded

⁴³ Transcript, page 245

⁴⁴ Transcript, pages 245 and 248

⁴⁵ Transcript, page 249

⁴⁶ Transcript, page 250

that Mr Cartwright had Hepatitis C on the same form, information which had been conveyed to him by Mr Cartwright in answer to questions.

- 8.7. Sergeant Allan was obliged to request that Mr Cartwright acknowledge that he had been informed of the reasons for refusal of bail and sign to that effect. When Sergeant Allan was explaining the refusal and the requirement that Mr Cartwright acknowledge by his signature that the reasons for refusal had been explained to him, Sergeant Allan informed Mr Cartwright that it was Sergeant Allan's view that Mr Cartwright would be provided with Court bail when he went to Court the following day.
- 8.8. Sergeant Allan confirmed that Mr Cartwright stated that some of his tablets were for depression. However because the tablets were loose Sergeant Allan was not prepared to give Mr Cartwright any of them. He stated that it is a firm policy that police do not allow prisoners access to loose medication⁴⁷.
- 8.9. The video footage to which I have previously referred shows that Mr Cartwright requested some tablets at the point immediately after he handed them over. He is clearly heard to request particular quantities of particular tablets. Sergeant Allan is heard to refuse this request, and to inform Mr Cartwright that if he needed the tablets later, they could take him to the hospital. Mr Cartwright replied to the effect that it would be necessary to take him to the Royal Adelaide Hospital. I have the impression from Mr Cartwright's reaction at this point that he was feeling a certain hopelessness in his situation.
- 8.10. Sergeant Allan recalled that Mr Cartwright made a request for a telephone call. He stated⁴⁸ that Mr Cartwright stood near where the telephone was with Senior Constable Robb assisting him to dial a telephone number and Sergeant Allan believed that Mr Cartwright was attempting to contact his sister. However, Mr Cartwright and/or Senior Constable Robb were unable to get through. Sergeant Allan states that because of the existence of the domestic violence restraining order in relation to Mr Cartwright, he and Senior Constable Robb were "reticent about letting him make

⁴⁷ Transcript, page 252

⁴⁸ Transcript, page 255

further phone calls because he was going to ring people that he probably shouldn't be ringing”⁴⁹.

- 8.11. In fact, the footage referred to shows that Mr Cartwright never was provided with the requested telephone call. The footage shows Mr Cartwright being assisted by Senior Constable Robb, in that Senior Constable Robb was holding the telephone and dialling numbers that were being recited by Mr Cartwright. But Mr Cartwright was hopelessly vague as to the correct telephone number of his sister. He recited several numbers, but not a complete telephone number. There was no way that either Sergeant Allan or Senior Constable Robb could have truly thought that Mr Cartwright was providing a telephone number which could be used to contact someone. It is plain that Mr Cartwright was unable to recall the telephone number of his sister. The footage also depicts the fact that Mr Cartwright requested his mobile telephone. However, it became apparent that the mobile telephone was not amongst his possessions. I think it likely that Mr Cartwright may have left the mobile telephone at Goolwa in the house of Ms Smart. I think it likely that Mr Cartwright may have wanted to refer to his mobile telephone to obtain a telephone number for his sister. When he was unable to use his mobile telephone for that purpose, he attempted to recall his sister's telephone number. His attempts to recall the number were patently unsuccessful. If it were not for the tragedy which was to unfold later that night, one might almost be tempted to regard Mr Cartwright's amiable efforts to recall his sister's telephone number as faintly comical. He was intoxicated, and unable to bring the telephone number to mind.
- 8.12. In my opinion, there was an opportunity at that point for either Sergeant Allan or Senior Constable Robb to have inquired of Mr Cartwright his sister's name. They could then have obtained her telephone number from a telephone directory. However, no effort was made to assist in this regard. Effectively, Mr Cartwright was not afforded a genuine opportunity to telephone his sister or anyone else.
- 8.13. The video recording depicts Mr Cartwright saying words to the effect that he had severe depression and that he was coping well until tonight. Although his recollection

⁴⁹ Transcript, page 256

was not good, Sergeant Allan conceded that he would have heard and considered that statement by Mr Cartwright⁵⁰.

- 8.14. Sergeant Allan conceded that Mr Cartwright asked him at least twice for access to his medication after it had been confiscated. The video recording shows him asking for particular tablets. Sergeant Allan said to Mr Cartwright words to the effect “if you look like requiring them, we will find out”⁵¹. Sergeant Allan stated in evidence that he meant by these words that if Mr Cartwright felt that he really needed to take the medication then the police would take him to hospital. He then agreed that this would depend upon Sergeant Allan’s own assessment of Mr Cartwright’s requirements as to medication. Sergeant Allan conceded that he could not make such an assessment. Sergeant Allan agreed that the assessment would have to be made at a hospital. It was pointed out to Sergeant Allan that Mr Cartwright had asked twice to have access to his medication. Sergeant Allan was asked whether, if Mr Cartwright had asked a third time, Sergeant Allan would have taken him to the hospital. Sergeant Allan replied “possibly”⁵². I do not consider it at all likely that Sergeant Allan ever had any intention of taking Mr Cartwright to hospital. I am left with no confidence that Sergeant Allan would have obtained medical assistance for Mr Cartwright unless Mr Cartwright collapsed or was otherwise in extremis.
- 8.15. As I have already noted, Mr Cartwright made reference to a need to take him to the Royal Adelaide Hospital. He suggested that the officers contact the Royal Adelaide Hospital by telephone. He also suggested that they contact the Victor Harbor Clinic. No action was taken in response to these requests.
- 8.16. Ultimately, Sergeant Allan accepted that he failed to take adequate account of Mr Cartwright’s statements that he suffered from depression⁵³. Sergeant Allan also accepted that he failed to take action to verify the medication in Mr Cartwright possession and his need for it⁵⁴. Sergeant Allan suggested however that the signs which suggested that Mr Cartwright was a person at risk, namely that he suffered from depression, was affected by alcohol, was agitated, requested contact with a relative which was denied to him, and was isolated from other prisoners and contacts, was a state of affairs which was shared by 80 percent of the prisoners presenting at the

⁵⁰ Transcript, page 336

⁵¹ Transcript, page 337

⁵² Transcript, page 338

⁵³ Transcript, page 371

⁵⁴ Transcript, page 371

Christies Beach Police Station. At this point Sergeant Allan's evidence was somewhat confused⁵⁵. I do not take him to be seriously suggesting that 80 percent of the prisoners presenting at the Christies Beach Police Station share each and every one of those circumstances. This was a further sign of his general tendency to trivialise important issues of prisoner safety.

9. Some further observations of the video recording of events at the charge counter

9.1. I have previously stated that I have carefully watched the video recording of events at the charge counter. It is possible to hear exchanges taking place between Mr Cartwright, Sergeant Allan, and Senior Constable Robb. The following does not purport to be a verbatim transcription of what is audible on the sound track.

Cartwright states: "what am I charged with."

A police officer responds: "breach of bail."

Cartwright: "then I think you ought to ring my wife."

At this point Sergeant Allan and Senior Constable Robb are checking the computer system.

Cartwright: "I think you ought to check the records. If you ring my wife she might say I can go back there tonight and if you ring Detective Mark Williams..."

There is then a police officer's voice referring to Mr Cartwright being at his co offender's address.

Cartwright: "I haven't changed it. I don't need to, the police know where I am."

Senior Constable Watson: "He has nowhere to reside – he's not residing anywhere – he's had a blue – he's been kicked out of the house there at Goolwa – his co offender's house. Can't go back to Gum."

Cartwright: "Yes I can – try me at either address. And I've got at least one phone call."

Robb: "So he now can't reside at Gum?"

Watson: "He hasn't been residing there."

Cartwright: "No I haven't but the police know that down there. If my wife says that I can come back now is that okay?" Pause. "I'm sorry but is it?"

Allan: "Is your name Stephen with a ph."

Allan: "So you're not living anywhere at the moment is that the story?"

Cartwright: "I've just reconciled with my wife late this afternoon."

Police Officer: "He has a Restraining Order."

Cartwright: "And the restraining order is the most bizarre thing you've ever seen. It allows me in to half of the house but not the other half. I'm on very good conditions

⁵⁵ Transcript, page 372

with my wife and if you wish to ring her tonight and tell her I'm in custody and can I come home she will say yes."

Mr Cartwright starts to give a telephone number.

Cartwright: "Gum Terrace – that's gone – yes and the local police know that, but I haven't been back to Court to address that. I've released that lease."

Allan: "Date of birth Stephen?"

Cartwright: "In the meantime the local detective down there Mark Williams and Senior Sergeant Henschke know where I am – which is 23 Janz Avenue. What the fuck's going on? Ring my wife up that's where the original ..."

At this point Allan and Watson leave the charge counter to confer out of frame.

Robb: "Are these prescription are they Stephen."

Mr Cartwright then engages in an exchange relating to tablets.

Mr Cartwright: "I'm sure Raelee's rung you up and said don't let Steph back – no she hasn't – oh she has hasn't she – can I ring her number. What if she says yes then you guys ..."

Police officer: "Okay Stephen you're not living anywhere at the moment."

Cartwright: "Yes I am."

Police Officer: "What do you do for work."

Cartwright: "I don't wish to answer any questions. I want to see my lawyer."

Cartwright: "My home address is 16 Ozone Street Victor Harbor... Can I have a phone call please."

Allan: "In a minute mate – when we're finished this."

Cartwright: "What if my wife says tonight that it's okay for me to come home."

Police Officer "Tomorrow you'll go to court."

Cartwright: "And she's asked me if she can talk to me tomorrow... And Graham Lowry asked me actually to come in tomorrow and talk... He knows exactly where I've been... Sorry that's not important – no – and I spoke to him for an hour yesterday – that's not important – Graham spoke to me yesterday – that's not important."

Cartwright "I want a phone call, now... And do I ring Graham tomorrow and tell him what's happened to me?"

There ensues discussion in relation to the bail application that Mr Cartwright is being encouraged to fill out. Mr Cartwright requests his glasses and they are provided to him. He appears to be upset because of some damage to the glasses. I am not suggesting that the glasses have been damaged by police. They may have been damaged earlier in the evening. In any event Mr Cartwright is visibly upset because they are damaged. He is heard to be saying that the glasses are only two days old and are prescription glasses. Eventually Mr Cartwright signs the bail application.

Sergeant Allan then asks Mr Cartwright the names of the medications as he has to list them down.

Cartwright: "I'm going to need half of the yellow one, one of the small little ones, half of the big ones and half of the white ones – it's very complicated."

Allan: "What are the yellow ones?"

Cartwright: "Small white – temazepam – if I can take one (inaudible) I need half one ..."

Allan: "I don't want to know what you need, I want to know what they are."

Cartwright: "Can I please have my phone call."

Allan: "Who do you want to ring."

Cartwright: "I want to ring the person I am not allowed to be and tonight and she says yes come home ..."

Allan: "Your not allowed to call her then."

Cartwright: "Don't be silly."

Cartwright: " Hepatitis C – severe anxiety and depression – and yes I'm fucking coping until tonight."

Cartwright: "Gum Avenue – I have been there for a month and a half and you know who knows about that. I don't have the lease at Gum and I've told police that."

The video then shows a further discussion between Sergeant Allan and Mr Cartwright in relation to his medication. At 1:38am Mr Cartwright is placed in his cell after having his fingerprints taken. At 1:53am Senior Constable Robb and Sergeant Allan bring Mr Cartwright out and Sergeant Allan advises Mr Cartwright that bail is refused. He is informed that bail is refused because he has nowhere to live and that Mr Cartwright can tell the court about his contentions the following day. It is clear that Senior Constable Robb is present during this exchange although Senior Constable Robb said in evidence that he was not aware that Mr Cartwright had been refused bail by Sergeant Allan⁵⁶. In evidence Senior Constable Robb asserted that he went to considerable efforts to obtain information about the terms of the Domestic Violence Restraining Order later that evening. His stated reason for doing so was that he was wanting to see whether it would assist Mr Cartwright's prospects of getting bail⁵⁷. The video shows that Senior Constable Robb knew before the search for the Domestic Violence Restraining Order that bail had already been refused.

- 9.2. At approximately 1:56am Mr Cartwright is heard saying maybe he should call his sister. As I have described, Senior Constable Robb is seen to take the phone from him

⁵⁶ Transcript, page 524

⁵⁷ Transcript, page 524

but Mr Cartwright cannot give the right number. Senior Constable Robb takes Mr Cartwright to the cells at 2:00am exactly.

- 9.3. A new prisoner Mr Belotti is brought in for charging at 2:15am. At 2:12am the intercom buzzes and Sergeant Allan is heard to say “What now?” A voice which I believe to be Mr Cartwright responds “Well not ‘what now’, I’m actually after a phone call.” Sergeant Allan is heard to reply “You’ll just have to wait.” At 2:18am, the intercom buzzes again, and Sergeant Allan is heard to say to Senior Constable Robb, “Oh no that’s him again.” and apparently turns the intercom off.
- 9.4. At 2:19am Senior Constable Robb is seen to walk into the cells with blankets for Mr Cartwright.
- 9.5. At 2:20am a voice is heard over the intercom saying “Hello, hello.” I believe that the voice is that of Mr Cartwright.
- 9.6. At 2:30am the intercom rings again for some time and stops at 2:31am. It immediately commences to ring again and continues for some time without being answered.
- 9.7. In summary, Mr Cartwright makes numerous statements that officers at Victor Harbor police know that he is not residing at the Gum Avenue address. He makes numerous statements to the effect that his wife would permit him to stay with her that night. He makes numerous requests for a telephone call. He is heard to say quite clearly that there is nothing in the Restraining Order that stops him from calling his wife or calling anyone. It is clear that Sergeant Allan was unhappy about the nature of the charge. Indeed at one point in his evidence Sergeant Allan states:
‘I don’t think he breached his bail if that’s what the question is’⁵⁸
- 9.8. It therefore seems clear that Sergeant Allan has difficulties accepting the appropriateness of the charge even to this day.

10. **The requests for a phone call**

It is clear that Mr Cartwright made many requests to be afforded a telephone call. It is equally clear that these requests were persistently ignored until finally he was allowed to attempt to make contact with his sister. He was assisted in this by Senior Constable

⁵⁸ Transcript, page 246

Robb however, the attempt was fruitless because Mr Cartwright could not remember his sister's telephone number. No effort was made by either Sergeant Allan or Senior Constable Robb to obtain the name of Mr Cartwright's sister in order that they could make enquiries about her telephone number to assist him. Furthermore, Mr Cartwright persistently stated that the Domestic Violence Restraining Order did not prevent him from contacting his wife. There seemed to be a view held by Sergeant Allan in particular that the obligation of a police officer to permit a prisoner to make a telephone call is in some way qualified by the lateness of the hour. That is simply not correct. Section 79A(1)(a) of the Summary Offences Act 1953 provides an entitlement to make a telephone call to a nominated relative or friend to inform the relative or friend of the prisoner's whereabouts. There is no restriction in Section 79A as to the time at which such a telephone call may be made. As a police officer with 36 years of experience I would have expected Sergeant Allan would have understood this.

11. **Medication**

Mr Cartwright made several requests for his medication. These requests were not acceded to. He had also stated that he suffered from depression, anxiety and an ulcer and that the medication was required for these conditions. On the evidence, it appeared that none of the loose tablets provided by Mr Cartwright was antidepressant medication. Nevertheless, this fact was not known by Sergeant Allan at the time. Indeed, Sergeant Allan believed that the medication was provided for depression. Sergeant Allan's position was that if the medication is loose and not packaged, the prisoner must go to hospital. Mr Cartwright asked twice for his medication – once at 1:16am and once at 1:36am. It will be recalled that Sergeant Allan responded at one point to the effect that he did not want to know what Mr Cartwright needed but what the medication was called. This is clearly an inappropriate response to the information that Sergeant Allan had received. He was on notice about Mr Cartwright's medical conditions about anxiety and depression. The response was completely inadequate and served to heighten Mr Cartwright's levels of frustration and despair.

12. **Should Mr Cartwright been defined as a person "at risk" of self harm**

- 12.1. It is startling that neither Sergeant Allan nor Senior Constable Robb regarded Mr Cartwright as being at risk of self harm. I have already referred to Sergeant Allan's view that those signs that were displayed by Mr Cartwright (and which in my view should have been sufficient to show that he was a person at risk), were shared by eighty percent of the prisoners presenting at Christies Beach Police Station. I have already said that I did not take him to be seriously suggesting that this is true. Nevertheless, his suggestion to that effect shows that to this day he really does not have a proper understanding that Mr Cartwright was indeed at risk. The factors which, in my opinion, set him out as a person at risk are as follows:
1. He stated that he suffered from depression and anxiety and an ulcer that was stress related.
 2. He was affected by alcohol.
 3. He was in possession of numerous tablets and was expressing a need for them.
 4. He was agitated.
 5. He was requesting contact with a relative or friend which was denied to him.
 6. He was isolated from other prisoners and contacts.
- 12.2. Sergeant Allan's evidence in relation to his belief that Mr Cartwright was not at risk of self harm is to be found at T260. Senior Constable Robb's evidence to the same effect is to be found at T429. Senior Constable Robb appeared to be preoccupied with whether or not a prisoner verbalised an intent to harm himself or herself in assessing risk of self harm. This is clearly inadequate. A far more sophisticated approach is required. Sergeant Allan appeared to believe that alcohol did not increase the risk of self harm. Eventually however he conceded that a prisoner who is affected by alcohol may be at risk of aspirating his or her own vomit. Even this concession was only made after it was specifically put to him.
- 12.3. Mr Cartwright was placed in the cell by himself. This is a further element to be considered in assessing his risk of self harm. I am not critical of the decision to place him in a cell alone. He was an apparently professional person who was quite well spoken and may have been harassed by other prisoners. However, the decision to place him in the cell alone simply meant that the police officers on duty that night had a particular responsibility to supervise him. Unfortunately, they did not fulfil that role. The standing orders that were in operation at Christies Beach at that time

provided that a prisoner in a single cell was to be monitored as a person at risk of self harm. To that extent it is irrelevant whether Sergeant Allan and Senior Constable Robb thought Mr Cartwright was at risk of self harm. In the event, neither of the officers complied with the Standing Orders in that respect.

13. **Failure to monitor Mr Cartwright between 2:18am and breakfast time the following morning.**

The evidence at the Inquest quite clearly established that there was no physical inspection of Mr Cartwright between the delivery of the blankets to him by Senior Constable Robb at 2:18am, and the delivery of breakfast to his cell at approximately 9:00am the same morning. I assume, for obvious reasons, that no officer within the police station that night observed him by television monitor at any time after 2:34am. From that time he was continuously hanging by the torn blankets until his discovery at breakfast time nearly seven hours later.

14. **What did the three officers on duty do during that shift.**

14.1. Sergeant Allan spent time involved in the charging process for Mr Cartwright. This took over an hour. He was also involved in charging another prisoner, Mr Belotti. He gave evidence that he spent a considerable amount of time preparing a report of a job selection interview panel as well.

14.2. Senior Constable Robb gave evidence that he spent a considerable amount of time looking for Mr Cartwright's Domestic Violence Restraining Order. However, by the time he was doing that the application for bail had already been refused. It was suggested by his counsel in submissions that his reason for looking for the Domestic Violence Restraining Order may have been to determine whether there was anything in it that prevented Mr Cartwright making his requested phone call, and that by the time he discovered the Domestic Violence Restraining Order, Sergeant Allan was of the view that it was too late to do anything about it. However, Senior Constable Robb's clear evidence was that he was searching for the Domestic Violence Restraining Order in relation to the bail application. In any event, it seems to me that a considerable amount of time was wasted by Senior Constable Robb in searching for the Domestic Violence Restraining Order to no particularly useful purpose.

- 14.3. Constable Noon appeared to visit the cell area only once during his shift. The purpose of that visit was to undertake the fingerprinting of a particular prisoner by the name of Robertson. Apart from this he spent his shift checking bail cards within the station proper. He received a telephone call from Shelly Smart in the early hours of the morning. Ms Smart asked if she could come in and see Mr Cartwright. She asked if the officers could inform Mr Cartwright that she wanted to come and see him and that she would see him as soon as possible in the morning. It is a pity that Constable Noon did not pass this message on to Mr Cartwright as it might have provided him with some reassurance. Constable Noon stated in evidence, “I just remembered sitting at that desk for an awful long time”⁵⁹ in relation to that shift. He referred to working through bail cards. He also said that he was on duty within the station proper in the event that any member of the public might present to the police station at that hour or in the event that any telephone calls might be made to the police station at that hour. It was acknowledged that the police station was in fact locked and that any presenting member of the public would have to press a buzzer in order to obtain access to the police station. Furthermore, the only telephone calls that would have been received in the police station at that hour of the night were telephone calls made directly to the phone number for Christies Beach Police Station. Any emergency calls would be made to the Police Communications Centre. Waiting for the telephone to ring, waiting for a member of the public to present in the early hours of the morning – these can hardly be described as onerous duty.
- 14.4. Indeed, at one stage in his evidence, Sergeant Allan, who admitted not assigning any particular duties to Constable Noon, also admitted that he did not actually know what duties Constable Noon was carrying out during the shift. Sergeant Allan added that he expected that Constable Noon might in addition to checking bail cards and minding the phone, have been cleaning the office. In the meantime, eight prisoners were in the cells and no member of the station was conducting physical checks of the cells. Sergeant Allan did think that Constable Noon might have looked at the television monitors from time to time. However, he certainly made no effort to ensure that this was happening. In his evidence he appeared to be comfortable in admitting that he had no expectation of Constable Noon in relation to checking the welfare of prisoners, and expected that Constable Noon would be in the station to answer the

⁵⁹ Transcript, page 646

phone and do counter duties. Sergeant Allan stated as follows in relation to Constable Noon:

‘His responsibility was, as I said previously, telephone calls and if anyone came to the door and miscellaneous station duties, tidying up the station. Also the monitoring – keeping an eye on the cameras, on the monitors.’⁶⁰

- 14.5. In effect Sergeant Allan had no particular expectations of Constable Noon during that shift. As the Senior Officer on duty he made no effort to ensure that Constable Noon was productively engaged during that shift. The shift was a night shift which one would not expect to be extraordinarily busy, at least within the station proper.
- 14.6. Certainly one would not expect, many, or any, persons to be visiting the police station to attend to business during that hour of the night. It would be interesting to speculate on the reception that a member of the public wishing to attend to non urgent business at 3 o’clock on that morning would have received from Constable Noon. I do not believe that Constable Noon would have been happy to provide assistance for ordinary public enquiries – what was described as Sergeant Allan as “counter duties” – at 3 o’clock in the morning. I believe it more likely that he would have directed the member of the public to come back during business hours. Detective Superintendent Venditto summarised the position as follows:

‘Well, I have worked in a Local Service Area and I understand what Local Service delivery is, you have two competing interest, it’s 2 o’clock in the morning and you have a cell full of prisoners. I wouldn’t expect, a man of his experience would be sitting waiting for a door to open, waiting on the chance that a phone would ring, they can divert the phones, they can listen to a buzzer at the door and someone at 2 o’clock in the morning can also wait a little while.’⁶¹

- 14.7. I agree whole-heartedly with Detective Superintendent Venditto’s sensible summary. Constable Noon’s attempts to justify “sitting waiting for a door to open, waiting on the chance that a phone would ring” were terribly unconvincing when one considers that there were eight prisoners in the lock up. That lock up was merely metres away. It might have well have been in another State as far as Constable Noon was concerned.
- 14.8. Superintendent Linda Williams also gave evidence at the Inquest. She conducted a review of Superintendent Venditto’s report in circumstances that I will discuss presently. It was put to Superintendent Williams that Mr Noon’s perception of his

⁶⁰ Transcript, page 321

⁶¹ Transcript, page 837

role at night was to sit in the station for the entire period that other officers were not present. Superintendent Williams stated:

‘If Noon’s evidence subsequent has been that he thought he could do that, then it can be taken that he doesn’t understand his role.’⁶²

15. **No assessment of duties or designation of cell guard**

Sergeant Allan admitted that he did not during the night direct or dedicate either of Senior Constable Robb or Constable Noon to be a designated cell guard.⁶³ This is a direct contravention of clause 4.7 of the Standing Orders which specifically provide that, “The station Sergeant is to nominate a member to closely monitor all prisoners.”⁶⁴

16. **Physical checking of prisoners during the early hours of the morning 10 February 2003**

16.1. The subject of physical checking is dealt with in the Standing Orders that were applicable at the time. They were tendered as Exhibit C66. I set out below the relevant Standing Orders:

‘4.7. The station Sergeant is to nominate a member to closely monitor all prisoners. This includes performing regular physical inspections of the cells and prisoners. Any person deemed to be at risk will be monitored continually, physically and electronically.

27.4. Physical checks of prisoners in cells are to be recorded in the charge book and are to be at intervals of not less than once per hour, and more frequent, if ordered by a station Sergeant or deemed necessary by the member on cell guard duty. Checks are to be made at irregular intervals.’

The fact of the matter is that no physical inspections were conducted upon Mr Cartwright from the time that blankets were provided to him at 2:19am until he was found dead in his cell the following morning some seven hours later. The video footage shows that Senior Constable Robb went into the cell area at 2:56am. However, he obviously did not check Mr Cartwright at that point.

16.2. As might be expected, each of the three officers on duty on that night was questioned extensively about their understanding of physical checks of prisoners. None of the officers provided a satisfactory explanation. Sergeant Allan agreed that, at any time

⁶² Transcript, page 945

⁶³ Transcript, page 238

⁶⁴ Exhibit C66b, page 3

when he was a Sergeant on shift, not just on the night of 9-10 February 2003, it was possible that prisoners would regularly have gone unchecked for extended periods⁶⁵. Furthermore, Sergeant Allan acknowledged that it was not his practice to record physical checks as required by the Standing Orders⁶⁶.

- 16.3. Sergeant Allan was questioned about how he would go about conducting a physical check⁶⁷. His evidence was most unsatisfactory. He was asked how he would undertake a physical check if a prisoner were asleep. He responded:

‘See if they were breathing, I would imagine. Hopefully and not wake them up.’

This answer provides me with no reassurance that Sergeant Allan appreciates how to go about conducting a physical check of a sleeping prisoner. I said to Sergeant Allan that I was left with the feeling that there was a lackadaisical attitude towards prisoner checks⁶⁸. His response:

‘I would suggest that there were, and I’ve said this quite candidly, that there were work practices that evolved in Christies Beach that left some things desired.’

In my opinion, in that answer Sergeant Allan entirely understates the position. The work practices not only left “some things desired” but in my opinion were entirely unacceptable. Indeed, they were unprofessional.

- 16.4. Sergeant Allan agreed to the proposition that as at February 2003, unless there was some suspicion that there might be a problem, once a prisoner had been placed in his or her cell and had apparently gone to sleep, that prisoner would not be physically checked at all. Sergeant Allan appears to express the opinion that the only way to physically check a prisoner who is sleeping is to wake the prisoner up⁶⁹. This might well be so on some occasions – for example if there is a suspicion that a prisoner is affected by drugs or alcohol and is in danger of losing consciousness. However, if there is no such suggestion, it seems to me that it is not necessary to wake a sleeping prisoner in order to physically check upon his or her wellbeing. Simply seeing that the prisoner is breathing regularly and not distressed should suffice. I am astonished that a police officer of 36 years experience such as Sergeant Allan was unable to give a clear and convincing explanation of the process of conducting a physical check of a

⁶⁵ Transcript, page 329

⁶⁶ Transcript, page 330

⁶⁷ Transcript, page 366

⁶⁸ Transcript, page 367

⁶⁹ Transcript, page 368

prisoner. This should be the most basic skill that one would expect a police officer regularly in charge of cells to have.

- 16.5. Senior Constable Robb's evidence in relation to this subject was, in my opinion, evasive. I particularly refer to transcript pages 511 to 515. During that passage of evidence, Senior Constable Robb was asked whether he had ever conducted any physical checks of any prisoner on any night shift. His reply, after some further discussion was, "I would say it would be infrequently."⁷⁰ When pressed further on that subject he stated that it would be "very infrequent I would think."⁷¹
- 16.6. During this passage of evidence Senior Constable Robb was asked about physical checks. He stated "physical checks were quite a rare occurrence as in hands on walk up and touch." Senior Constable Robb was informed that he was not being asked about walking up and touching prisoners. He was being asked about physical checks comprising something less than that. He displayed a remarkable lack of understanding or confidence in answering questions about what a physical check might comprise. He was asked whether if he was able to view a prisoner lying on a bed he would regard that as a physical check. He was asked whether if he saw a person's chest moving up and down regularly with occasional movements of their limbs that might be regarded as a physical check. He was asked whether if he went into a cell and saw that the person's chest was going up and down and breathing sounds were audible whether that might be regarded as a physical check. He responded:
- 'In most cases on a night shift possibly but it would depend on the interaction that's gone on previously. If you have concerns for that person, then obviously you would try and rouse them, things of that nature.'⁷²
- 16.7. He was asked what was the purpose of a physical check in his opinion. He responded that it is to try and find out "the state in which that person is currently in, whether it be unconscious or they're responsive to you, that type of thing"⁷³.
- 16.8. In summary, Senior Constable Robb's evidence in relation to his understanding of what constitutes a physical check, and the reason for physically checking a prisoner, were completely unsatisfactory. He displayed a poor understanding of how to

⁷⁰ Transcript, page 512

⁷¹ Transcript, page 512

⁷² Transcript, page 513

⁷³ Transcript, page 514

conduct a physical check considering he has been a police officer since 1978. In my opinion it is frightening that a police officer of that experience could not provide a clear and confident description of something as fundamental as checking upon the welfare of prisoners.

- 16.9. Constable Noon's description of what constituted a physical check was superior to either Sergeant Allan or Senior Constable Robb. He stated that it was not necessary to wake a prisoner up if they were seen to be breathing and said that the main concern was to see that they were physically breathing and showing no signs of distress.⁷⁴

17. **The open cell door**

- 17.1. I have already explained that Mr Cartwright was able to suspend himself using the torn blankets by means of the open door between his exercise yard and his cell. Senior Constable Robb gave evidence that it was standard practice in the cell complex at that time to leave the door between the cell and the exercise yard open⁷⁵. Senior Constable Robb stated that this practice was adopted by all sergeants at that time⁷⁶.
- 17.2. Sergeant Flavel gave evidence at the Inquest. He was another sergeant attached to Christies Beach Police Station in February 2003. Sergeant Flavel stated that leaving the cell door open between the cell and the exercise yard was a common practice at Christies Beach Police Station at the time and a practice which he followed at that time also⁷⁷. According to Exhibit C66a, a statement of Acting Superintendent Smith, he was acting Chief Inspector at Christies Beach Police Station in 1999 and 2000. He became aware of a recommendation relating to cell doors which was made after a prisoner attempted to take his life. Constable Carl Asker conducted a risk assessment at that time and recommended that cell doors be kept closed and locked. Superintendent Smith was aware that this recommendation reflected what was already a requirement of the Standing Orders. However, to reinforce the recommendations, Superintendent Smith issued a memo to all Christies Beach Police Station staff drawing their attention to the need to comply with the cell Standing Orders and to ensure all doors within the cell complex were kept locked when the prisoners were within the cell or exercise yard area. The memo also drew attention to the

⁷⁴ Transcript, page 651

⁷⁵ Transcript, page 436

⁷⁶ Transcript, page 436

⁷⁷ Transcript, page 678-679

requirement to physically check prisoners and not to rely on video surveillance. None of the officers on duty on the night of 9-10 February 2003 recalled this memo⁷⁸.

17.3. I can conclude the practice of leaving cell doors open was wide-spread amongst staff at the Christies Beach Police Station in February 2003. This is quite remarkable considering the abundant evidence that it was inherently unsafe to leave the doors open.

18. **Blankets**

18.1. The clear evidence at the Inquest was that the blankets available for prisoners in the cells in February 2003 fell into two categories. The first category was safety blankets. The second was the ordinary woollen grey blankets. The grey woollen blankets were of variable condition. Some were relatively threadbare, and some even had holes in them. As such, they were readily susceptible of tearing. The safety blankets were also referred to as non-tearable blankets. Unfortunately, the only blankets available to Senior Constable Robb on that night were of the grey woollen variety, and it appears that the blanket that was provided to Mr Cartwright was capable of being torn into lengths from which a ligature could be fashioned.

18.2. It goes without saying that it is a deplorable state of affairs that blankets were being provided to prisoners that could be torn in this way. I accept the evidence that grey woollen blankets are no longer provided to prisoners in police cells within South Australia. In the circumstances, I need not explore this issue further other than to observe it is absolutely essential that prisoners not be provided with the means by which they might take their own lives. Remarkably, Sergeant Allan gave evidence that he did not understand or consider that the woollen blankets posed a risk to the safety of prisoners⁷⁹.

18.3. As Detective Superintendent Venditto points out in his Investigating Officer's report⁸⁰, the General Orders now stipulate that blankets should be made from non-tearable material. This is clearly appropriate.

19. **General Orders and Standing Orders and the Venditto Report**

⁷⁸ Transcript, Sergeant Allan page 307, Senior Constable Robb 460, Constable Noon 682.

⁷⁹ Transcript, page 324

⁸⁰ Exhibit C83a, page 41

- 19.1. As I have already noted the Investigating Officer's report in this matter was prepared by Superintendent John Venditto. On 11 February 2003 he was appointed by the Deputy Commissioner of Police as the senior police officer responsible for the conduct of a Commissioner's Inquiry in relation to the death of Mr Cartwright. Exhibit C83 is a statement by Detective Superintendent Venditto which describes in outline his investigation. Exhibit C83a is his report. The Terms of Reference given by the Acting Deputy Commissioner of Police to Inspector Venditto (as he then was) included the following:
1. The circumstances surrounding the arrest of Cartwright on 9 February at Victor Harbor, his release on bail, the appropriateness of the bail conditions imposed and his conveyance later that evening to Janz Avenue, Goolwa by police.
 2. The adequacy of existing SAPOL policy and procedure relative to prisoner management and level of compliance at the Christies Beach cells.
 3. The adequacy of existing Local Service Area policy relative to prisoner management and level of compliance at the Christies Beach cells
 4. The standard of existing facilities within the Christies Beach cells including all aspects of design, configuration, accessibility and electronic surveillance.
 5. Any other relevant issues arising from this incident.
- 19.2. He was required to report by 17 April 2003. He sought a brief extension due to a slight expansion to the Terms of Reference and his report was in fact provided on 30 April 2003⁸¹.
- 19.3. Detective Superintendent Venditto's report is thorough, detailed and comprehensive. It is an impressive document. In my opinion, it could be used as a model for future investigations of this kind.
- 19.4. As will be apparent from the Terms of Reference described above, Detective Superintendent Venditto had a very wide mandate to consider all possible issues touching upon the death of Mr Cartwright. Indeed, to the extent that the Terms of Reference referred to existing SAPOL policy and existing Local Service Area policy, they went beyond the circumstances touching upon Mr Cartwright's death. In my view, the Terms of Reference, prepared by Acting Deputy Commissioner Burns, were

⁸¹ Transcript, page 727

commendable. Detective Superintendent Venditto found in his report that there were a number of inadequacies and shortcomings in both the relevant General Orders and the Standing Orders. At page 67 of the report the following paragraph appears:

‘The issue of the variance between Local Service Area cell Standing orders represents an opportunity for vast improvement and consistency in this area. Previous Coronial Inquests relating to death in police cells have commented on the necessity for all documentary material relating to the welfare and safety of prisoners in a particular LSA being contained in a single folder. In this regard the investigation found that after an examination of LSA cell Standing Orders there is no reason why each LSA cannot be represented by a single corporate folder outlining the minimum and essential requirements in this area.’

Detective Superintendent Venditto made the following recommendations:

Recommendation 1.

It is recommended that the completed investigation file be forwarded to the Professional Conduct Branch for adjudication.

Recommendation 2

It is recommended that SAPOL develop and deliver a corporately approved training and development program to all station/cell staff in relation to prisoner management with particular emphasis on “care and custody” issues.

Recommendation 3

It is recommended that the General Order – Prisoners be condensed to an introductory text and the issue of prisoner management is rewritten and promulgated as a SAPOL special General Order applicable and binding to all LSA cell areas.

Recommendation 4

It is recommended that the CCTV at Christies Beach cells is updated, upgraded and reconfigured to comply with industry standards in terms of servicing, sequencing and necessary requirements.

Recommendation 5

It is recommended that SAPOL carry out an assessment of all Local Service Area cell design and associated practices and equipment ie blankets etc with a view to identifying and reducing the number of hanging points, in particular the practice of leaving cell doors open and equipment susceptible for use in suicide attempts.’

With the exception of recommendation 4 relating to the CCTV system, all of the above recommendations have been implemented. The CCTV system is yet to be upgraded but this has been planned for and will occur in the near future. In my opinion, the implementation of all of Detective Superintendent Venditto’s recommendations is appropriate.

- 19.5. Deputy Commissioner White commissioned two further reviews following Detective Superintendent Venditto’s report. One of these was carried out by Inspector Linda

Williams and the second by Superintendent Paul Schramm. Evidence was heard at the Inquest from each of those two officers. It transpired that the material examined by each of those officers was less extensive than that which was considered by Detective Superintendent Venditto. Although at first sight it appeared that Inspector Williams and Superintendent Schramm held views which differed to those of Detective Superintendent Venditto particularly in relation to the need to change General Orders and Standing Orders, the differences tended to resolve themselves into matters of emphasis when Superintendent Williams and Superintendent Schramm gave their oral evidence. In any event, all of Detective Superintendent Venditto's recommendations were accepted and implemented by SAPOL, so there is no doubt that the organization accepted their appropriateness in acting upon them. In my view, the recommendations of Detective Superintendent Venditto are sensible and worthwhile, and it was appropriate that they be adopted.

20. **The View**

- 20.1. I have already referred to the fact that the Court and counsel took a view of the Christies Beach Police Station and cell complex during the course of the Inquest. The view was useful in placing the events of 9 and 10 February 2003 in context and assisted in my understanding of the oral evidence. I was concerned to note that there appeared to be only one officer available within the complex during the view who was able to demonstrate the use of the CCTV system in changing the images that could be depicted upon the station monitors. It is true that a view is to be used for the purpose of enabling a tribunal to understand the questions that are being raised, and to follow the evidence and to apply it, but not to put the result of the view in place of the evidence⁸². It would therefore be inappropriate to make any general assumption about whether the state of knowledge at Christies Beach Police Station in relation to the operation of the CCTV system has improved since 2003. However, counsel for the Commissioner of Police very frankly and properly conceded during submissions that at least on the occasion of the view, there did not appear to be a high level of proficiency in the use of the CCTV system by the officers then present with the exception of the one officer who was called upon for the purpose of demonstrating the system.

⁸² Scott V Numurkah Corporation (1954) 91 CLR 300 at 313

20.2. In my opinion, the use of the CCTV system should be something which is second nature to all officers at the Christies Beach Police Station. I will return to this matter in my recommendations.

21. **The disciplinary proceedings**

21.1. Sergeant Allan gave evidence that as a result of his failure to ensure that checks were carried out he was charged with a breach of Regulation 15 of the Police Regulations to which he pleaded guilty and was subjected to a penalty of suspension of two weeks without pay⁸³. According to Exhibit C76 - a letter from Deputy Commissioner White dated 15 May 2006 to counsel assisting me - Senior Constable Robb was charged with being negligent in carrying out his duty contrary to Police Regulation 15. Senior Constable Robb was fined \$600.

21.2. It would be inappropriate for me in these findings to make any comment upon the adequacy or otherwise of the penalties imposed upon these officers. It would also be inappropriate for me to comment as to whether any other officer should have been charged. It will be apparent from my findings that I am critical of the actions of all three of the officers Allan, Robb and Noon on duty on that night. In my opinion, each of them failed Mr Cartwright to one degree or another.

21.3. When this Inquest came on for hearing, it became apparent there was a concern on the part of counsel for Sergeant Allan and Senior Constable Robb about the admission and or production of evidence concerning the outcome of the disciplinary proceedings as outlined above. The Deputy Commissioner had written to Counsel Assisting of the outcome by the letter⁸⁴, which I have already referred to. Counsel for the Commissioner was invited to tender that letter. Counsel for the Commissioner stated that the Commissioner had chosen to notify the Coroner of the outcome of the disciplinary proceedings⁸⁵. The Commissioner accepted that the outcome of those proceedings was relevant to the matters for consideration by the court at the Inquest. However, counsel for the Commissioner declined to tender the letter confirming that disciplinary action had been taken against both officers Allan and Robb. He advised that he did not have instructions to tender the material. He was asked whether it was the Commissioner's position that the document should not be revealed. He stated that

⁸³ Transcript, page 265

⁸⁴ Exhibit C76

⁸⁵ Transcript, page 213-214

the Commissioner did not maintain that position. In the end counsel for the Commissioner accepted the proposition that the Commissioner was happy for the document to be admitted in evidence but not to tender it – the document would have to be brought in at the Court’s own motion⁸⁶.

- 21.4. In my opinion, the outcome of the disciplinary proceedings against Sergeant Allan and Senior Constable Robb was most certainly relevant at the Inquest into the death of Mr Cartwright. The disciplinary proceedings were taken as a result of things done or not done by the two officers concerned on the night. But they happened a long time after Mr Cartwright’s death. For that reason it could be said that the disciplinary proceedings are not themselves relevant to the cause or circumstances surrounding Mr Cartwright’s death. However, the Court has power to add to its findings any recommendation that might, in the opinion of the Court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest⁸⁷. It is clear that if the officers had taken certain steps Mr Cartwright’s death might have been avoided. Therefore any action or lack of action by the Commissioner of Police in correcting failures on the part of the officers on duty on the night is relevant in deciding what recommendations might be necessary to prevent a recurrence of a similar event in the future. For that reason, I would have expected that the Commissioner of Police would have wished to inform the Court of action taken against the relevant officers as a result of their conduct on the night in question.
- 21.5. Presumably, in taking disciplinary action, the Commissioner took the view that he was justified in doing so. In my opinion, public confidence in the Police Force can only be maintained if the public is satisfied that proper standards of discipline and employee conduct will be applied and adhered to within the Police Force. The Commissioner should not be reluctant to inform the public of action taken against individual officers where their conduct or lack of action may have played some part in relation to a death in police custody. I note that section 48 of the Police Complaints and Disciplinary Proceedings Act 1985 contains a secrecy provision relating to police disciplinary matters. However, none of those provisions applies to the officers themselves and they can be questioned in Courts, including the Coroner’s Court, about the fact of, and the outcome of, any disciplinary action taken against them. It is reasonable to expect that such questions may be asked in cases involving deaths in

⁸⁶ Transcript, page 214

⁸⁷ Coroner’s Act Section 25(2)

police custody where police may have been negligent or indolent in the discharge of their duties. Furthermore, section 48 of that Act does not prevent the Commissioner of Police from disclosing the outcome of disciplinary proceedings under that Act if he chooses to do so. In my opinion, it is unfortunate that the Commissioner was not prepared to tender the letter from the Deputy Commissioner. Effectively, this amounted to a willingness to provide information to the State Coroner otherwise than in open Court about a matter that the Commissioner and his counsel clearly considered relevant. This attitude lacks transparency. I would hope that in future, the Commissioner would openly tender evidence of disciplinary action taken against police officers in relation to circumstances the subject of an Inquest into a death in police custody. As will be apparent, the letter was tendered by Counsel Assisting me.

22. **Conclusion**

- 22.1. It would be futile to speculate about the reasons why Mr Cartwright took his own life in the cell that night. The best that I can do is to search for answers to a different question: can another death in custody be prevented in future where the circumstances are similar to those of this case? South Australia Police has responded abundantly. There have been three Commissioner's Reviews, and the relevant General and Standing Orders have been examined, revised and rewritten. But the orders they replaced could never have been read as instructing custodial officers not to check those in their care for hours on end, disregarding prisoner safety while attending to the relative trivia of bail cards and selection panel reports. The following passages from the evidence of Deputy Commissioner White, an officer with 43 years experience, reveal his bewilderment about how such a thing could have happened:

'I suppose what - and I should say too, if I may - what took me by so much surprise is that at the executive level you have a fair feeling about what's going on in the organisation and the amount of emphasis of what was done in prisoner management across all of our watch-houses, that I know that LSA commanders pay particular attention to that, and it just came as an absolute surprise, shock, whichever word I want to use, that this had occurred and the length of time in which obviously Mr Cartwright had not been checked. I - anyway.'⁸⁸

'It's difficult for me to comment on the thought processes of the members involved and clearly I can only go by what they've said in explanation but I also query, is it so much a lack of knowledge, which may well have been one of the reasons, is it also a lack of application? That was my concern, that in fact this is not rocket scientist stuff, this is

⁸⁸ Transcript, page 1062

basic policing and - from day one as a constable I knew what my responsibilities were and I believe that everyone knows what their responsibilities are but it's how they've applied themselves, I think is also a question.’⁸⁹

22.2. So shocked was the Deputy Commissioner that he instigated not one, but three inquiries before he came to accept that there was room for improvement in the general and standing orders. The Deputy Commissioner’s point that prisoner custody is basic policing and not “rocket science” led him to suspect that lack of application may be a better explanation than inadequate policies and procedures for what happened on 10 February 2003. I agree with him. Orders and guidelines can help conscientious officers do their job better, but they can never be a substitute for conscientiousness. Policies and guidelines make good staff more effective, but they cannot make poor or indolent staff conscientious and diligent.

23. **Recommendations**

23.1. Pursuant to section 25 (2) of the Coroner’s Act 2003 I recommend that staff at Christies Beach Police Station be provided with proper training in relation to operation of the CCTV surveillance system within the station on a regular and continuing basis to ensure that all staff have a working knowledge about the operation of the system, particularly so that they are in a position to readily and easily manipulate the system to display any given cell or exercise area on any given monitor or to scroll through all cells and exercise areas sequentially.

⁸⁹ Transcript, page 1063

23.2. In view of the very comprehensive recommendations made by Detective Superintendent Venditto, acted upon by the South Australian Police already, I do not see any need to make any other recommendations.

Key Words: Arrest and Detention; Death in custody; Hanging; Inattention; Monitoring/Observation of prisoners; Police.

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

Seal the 8th day of February, 2007.

State Coroner