



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> days of August 2008 and the 19<sup>th</sup> day of May 2009, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Daniel William Barry O'Keeffe.*

*The said Court finds that Daniel William Barry O'Keeffe aged 34 years, late of 38 Turners Avenue, Coromandel Valley, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 7<sup>th</sup> day of February 2007 as a result of hypoxic encephalopathy following hanging. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and background**

- 1.1. Mr O'Keeffe was 34 years old at the time of his death on 7 February 2007. Mr O'Keeffe had for some years been a regular user of cannabis and intravenous amphetamines. He had been unemployed since July 2003 and his amphetamine use had intensified in the following years.
- 1.2. Mr O'Keeffe had a limited criminal history between 1988 and 1994 including three juvenile convictions for larceny, breaking and unlawfully entering premises and two adult convictions for larceny and false pretences. In 1997 he met Rebecca Osborne with whom he had a son, Isaac, who was born on 25 December 2001.
- 1.3. Mr O'Keeffe separated from Ms Osborne in December 2004. In July 2005 a domestic violence restraining order was served on Mr O'Keeffe to protect Ms Osborne. He breached this order and was convicted of that offence on 16 November 2005.

1.4. Mr O’Keeffe was a patient of the Domain Medical Centre. His records disclose that he was treated for depression during 2005. In October of that year he was prescribed Cipramil, an antidepressant medication. In December 2005 he was arrested on charges of endangering life, driving a motor vehicle without consent and dishonestly taking property without consent. He was convicted of these offences on 6 September 2006 but was placed on a good behaviour bond. During the year 2006, Mr O’Keeffe had met and formed a relationship with a woman called Monique Romeyko.

## **2. The offending leading to Mr O’Keeffe’s custody in February 2007**

2.1. In early December 2006 Mr O’Keeffe presented a stolen money order at a Post Office. It had been fraudulently altered to the amount of \$600. In the early hours of 22 December 2006 he was arrested by police for deception and unlawfully dealing with documents. He was conveyed to the Christies Beach Police Station and placed in the cells.

2.2. At about 2:30pm on the same day Mr O’Keeffe was remanded in custody by the Christies Beach Magistrates Court to appear again on 2 January 2007. He was returned to the cells and was reported by an officer employed by GSL as being upset that he would miss out on his son’s birthday<sup>1</sup>. At about 2:35pm he was observed by Police Cadet Craggs on the CCTV monitor to be attempting to hook some white material over the cell doorframe. He was then observed to tie the material around his neck. Officers attended the cell and removed the material from around his neck using a Hoffman knife. The material was found to be the soft plastic covering of the cell pillow. Mr O’Keeffe suffered no injuries. The police placed appropriate warnings on police computer systems.

2.3. At about 3:20pm on the same day, Mr O’Keeffe was placed in the GSL transport van to be conveyed to the Adelaide Remand Centre. Shortly after leaving Christies Beach Magistrates Court the escorting officers observed Mr O’Keeffe, by means of the internal CCTV, to be banging his head against the side wall of the van. He was then seen to wrap a seatbelt around his neck. At approximately 3:29pm the van was stopped and the GSL guards called triple zero for assistance. The guards opened the rear door of the van and saw that Mr O’Keeffe was barely conscious. They cut the seatbelt from around his neck and he slumped to the floor. Police and ambulance

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<sup>1</sup> Christmas Day

officers attended and he was conveyed to the Flinders Medical Centre. He arrived at Flinders Medical Centre at approximately 4pm on that day. He was assessed by staff at the Flinders Medical Centre. He told them that he could not handle gaol and wanted to see his son. He was detained under the Mental Health Act 1993. He was seen by consultant psychiatrist, Dr Newman, the following afternoon at 2pm. When specifically questioned about his hospitalisation, Mr O’Keeffe said:

‘I don’t want to go to gaol, I told the Judge that, it’s my son’s birthday on Christmas day, I want to be with him on his birthday.’<sup>2</sup>

Dr Newman found no evidence of acute psychiatric illness requiring treatment and he made a diagnosis of amphetamine abuse. It was his opinion that Mr O’Keeffe’s self-harm was motivated by his desire to avoid gaol. The detention order was revoked. Mr O’Keeffe was transported to the Adelaide Remand Centre at 3pm on 23 December 2006 and was admitted to the infirmary at 3:30pm that day. He was held under canvas<sup>3</sup> and a suicide risk assessment care plan was commenced. This meant that Mr O’Keeffe was placed on what is referred to as a ‘yellow sheet’, as a result of which he would be reviewed weekly by the High Risk Assessment Team, be seen daily by nursing staff and be ‘doubled up’ when released from the infirmary to the mainstream prison environment.

- 2.4. On 27 December 2006 Mr O’Keeffe was seen by Dr Karpinski of the Prison Health Service. Mr O’Keeffe told Dr Karpinski that he had attempted to harm himself because of his anger that he would not see his son over Christmas and on his birthday. He denied any further thoughts of self-harm and disclosed his amphetamine abuse. Dr Karpinski concluded that Mr O’Keeffe’s self-harm attempt was due to a situational crisis which had passed. He discussed with Mr O’Keeffe the option of remaining in the infirmary or going to a unit. Mr O’Keeffe stated that he would prefer to go to the unit and was confident that he could cope. He was discharged from the infirmary on yellow sheet status to be doubled up and seen by a nurse on a daily basis.
- 2.5. Mr O’Keeffe was held in Unit 1 at the Adelaide Remand Centre until his appearance at the Christies Beach Magistrates Court on 3 January 2007. On that occasion he applied for home detention bail. The matter was put off until 8 January 2007 to obtain further reports. On 8 January 2007 he appeared before the Christies Beach

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<sup>2</sup> Exhibit C82k, page 3

<sup>3</sup> Canvas blanket and canvas gown

Magistrates Court again and on this occasion he was granted home detention bail. He was to wear an electronic monitoring bracelet and not consume any alcohol or drug not medically prescribed. He was required to submit to a breath test or urine analysis as directed by the Community Corrections officer.

2.6. During the first period of imprisonment in the Adelaide Remand Centre, Mr O’Keeffe received visits from family members. He also made a number of telephone calls.

### **3. Mr O’Keeffe’s second period of detention at the Adelaide Remand Centre**

3.1. Mr O’Keeffe was on home detention bail from Monday, 8 January 2007 until Thursday, 25 January 2007. On that day he appeared again before the Christies Beach Magistrates Court. His home detention bail was revoked because he had breached his home detention conditions by returning a positive urinalysis test for amphetamines and cannabis, and for having removed his electronic monitoring bracelet. Mr O’Keeffe was conveyed to the Adelaide Remand Centre on 25 January 2007 and remained there until 2 February 2007.

3.2. During this second period of imprisonment he did not receive any visits. His birthday occurred on 1 February 2007. On that day he wrote a letter to Ms Romeyko in which he said that this birthday was the worst yet, that he had not received a card or phone call and was feeling ‘pretty down’<sup>4</sup>.

3.3. On 2 February 2007 Mr O’Keeffe spoke to fellow prisoners Chetwyn and Jackson. He told Mr Chetwyn that he would harm himself if Ms Romeyko did not visit him that day. Mr Chetwyn believed that Mr O’Keeffe was joking around and not being serious. He told Mr O’Keeffe not to do it as he had a child. Between 11:45am and 1pm the unit was locked down and the prisoners secured in their cells. Mr O’Keeffe was in his cell with prisoner, Mr Jackson. Mr Jackson said that Mr O’Keeffe appeared to be quiet and ‘down’<sup>5</sup>. Mr O’Keeffe told Mr Jackson:

‘If my girlfriend doesn’t show up this afternoon, I’m going to hang myself.’<sup>6</sup>

Mr Jackson did not think that Mr O’Keeffe was being serious. He said that Mr O’Keeffe did not strike him as the sort of person that would mean something of that nature.

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<sup>4</sup> Exhibit C50b, page 2

<sup>5</sup> Exhibit C83a, page 4

<sup>6</sup> Exhibit C83a, page 5

- 3.4. The prisoners were unlocked at 1pm. Mr Jackson and Mr O’Keeffe left their cell and went their separate ways. Sometime later Mr Jackson returned to the cell and saw that the perspex window to the cell, which he shared with Mr O’Keeffe, was covered from the inside with some toilet paper. This indicated to Mr Jackson that the toilet was being used, presumably by Mr O’Keeffe. The prisoners were in the habit of using magnets, obtained from magnetic strips with prisoner names printed on the reverse side, to attach toilet paper to the door in a way that afforded privacy over the perspex window when they used the toilet. The toilet was in front of the window and some prisoners resorted to the use of the toilet paper and the magnets to preserve their privacy.
- 3.5. About 10 minutes later Mr Jackson returned to the cell and attempted to gain access. Mr O’Keeffe did not respond to his calls. Mr Jackson approached two other prisoners, including Mr Chetwyn, and advised them that he could not gain access to his cell. They attempted to assist him to gain access but there was no response from Mr O’Keeffe. Mr Chetwyn looked through a gap in the cell door window and saw Mr O’Keeffe’s feet lying across the cell door. Mr Jackson then approached Correctional Officer Budgeon and requested that he unlock the cell. He explained the circumstances and informed Mr Budgeon that Mr O’Keeffe was on a yellow sheet. Mr Budgeon and another correctional officer, Mr Heyson, immediately went to Mr O’Keeffe’s cell and opened the door. They discovered him hanging by his neck from a torn strip of bed sheet tied to the top rail of the bunk bed. His face was blue and he was not breathing. They lifted him to support his weight and called a Code Black.
- 3.6. Numerous officers responded to the Code Black within a very short space of time. Mr O’Keeffe was cut down from the ligature by the use of a Hoffman knife. Mr Budgeon immediately commenced CPR.
- 3.7. An ambulance arrived and transported Mr O’Keeffe to the Royal Adelaide Hospital. On arrival there he was admitted to the Intensive Care Unit with a Glasgow Coma Score of 3. He was intubated and ventilated. A CT scan showed changes consistent with severe hypoxic brain injury. Mr O’Keeffe was extubated on 6 February 2007 and he died on 7 February 2007. An autopsy was conducted by Dr Allan Cala who produced a post-mortem examination report<sup>7</sup>. Dr Cala gave the cause of death as ‘hypoxic encephalopathy following hanging’ and I so find.

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<sup>7</sup> Exhibit C3a

3.8. In my opinion, the response of the correctional staff and the ambulance service to the Code Black was appropriate and timely.

**4. Supervision during association time**

4.1. During the day at the Adelaide Remand Centre prisoners are free to leave their cells and move around the individual units, except when they are locked down at lunch time. The evidence showed that during association time, the correctional officers within the unit would supervise the prisoners from the mezzanine balcony near their office. Correctional officers will undertake occasional random patrols when, and if, they have time to do so. Those patrols are not logged. From the mezzanine floor it is not possible for the correctional officers to see whether a cell window is being blocked by the use of toilet paper and magnets.

4.2. The Adelaide Remand Centre does not condone the blocking of cell windows by toilet paper. Officers would require the removal of toilet paper when it was detected. However, no real effort was made to prevent this practice. For example, in this case the evidence showed that the magnetic strips required for the affixing of the toilet paper were relatively common items within Unit 1 of the Adelaide Remand Centre.

4.3. Prisoners who have been placed on yellow sheets are not treated any differently from other prisoners during association time<sup>8</sup>.

4.4. The sheet, which was used by Mr O’Keeffe to tear up to form a ligature, was frayed, thus facilitating its use as a ligature<sup>9</sup>.

4.5. I have no criticism of Mr O’Keeffe’s medical treatment by the infirmary staff within the Adelaide Remand Centre. He was appropriately identified as being at a risk of self-harm and was placed on a yellow sheet regime. I note that Mr O’Keeffe was prescribed Cipramil during his second admission on 29 January 2007. When Dr Karpinski saw him two days later, he had not commenced the Cipramil. Apparently Mr O’Keeffe was not aware that he had to present to the nursing staff at the morning medication round in order to obtain his Cipramil. In my opinion this is unfortunate. I have commented in previous findings that it is unrealistic for prisoners to be treated in the same manner as ordinary members of the public when it comes to their medical treatment. In the matter of Brooke and Foster<sup>10</sup> I made certain recommendations in an

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<sup>8</sup> Transcript, page 49

<sup>9</sup> Transcript, page 51

<sup>10</sup> Inquest 23/2006

attempt to deal with this matter. I intend to repeat those recommendations on this occasion.

- 4.6. The practice of using toilet paper to afford privacy continues to this day<sup>11</sup>.
- 4.7. According to Correctional Officer Budgeon, who gave evidence at the Inquest, it would not be practical without additional staff for correctional officers within a unit at the Adelaide Remand Centre, such as Unit 1, to monitor yellow sheet prisoners during general association time without additional staff<sup>12</sup>. During association time the cell doors are always kept shut whether prisoners are in the cells or not. If a prisoner goes into his cell he is able to lock himself in. A prisoner is able to remain unobserved within his cell for a long period of time during the period of free association<sup>13</sup>.

## **5. Conclusions and recommendations**

- 5.1. Pursuant to section 25(2) of the Coroner's Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.
- 5.2. In my opinion, Mr O'Keeffe was able to hang himself in his cell due to the existence of certain factors which could be eliminated. Those factors are as follows:
  - a) The presence of numerous hanging points within almost all cells at the Adelaide Remand Centre. This point has been made on many occasions before by this Court. It is true that it is very difficult to eliminate hanging points entirely. That said, it is possible. Furthermore, even the elimination of more obvious hanging points would be a step in the right direction. The more difficult it is to find a hanging point, the more difficult it is for a prisoner to harm himself. Indeed, Mr O'Keeffe had attempted to harm himself whilst in the Christies Beach Police cells. Those cells are designed to be 'safe' in that ligature points are minimised. Mr O'Keeffe was detected before he had the opportunity to harm himself.
  - b) Mr O'Keeffe was able, with relative ease it seems, to shred a worn out bed sheet. The means to make a ligature was therefore readily to hand. It should not be beyond the wit of modern prison authorities to eliminate this risk. There was some discussion about 'non-tearable' sheets during the Inquest. It appears that the

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<sup>11</sup> Transcript, page 136

<sup>12</sup> Transcript, pages 142 and 192

<sup>13</sup> Transcript, page 157

only suitable 'non-tearable' material for sheeting is canvas<sup>14</sup>. That may be so, but the situation is made very much worse by the provision of worn out sheets such as those referred to by Detective Brevet Sergeant Burrage in the course of his evidence<sup>15</sup>.

- c) The ability of a prisoner who has been identified as being at risk of self-harm to seclude himself for lengthy periods without supervision during periods of free association poses an obvious risk. In my opinion, the Department for Correctional Services needs to institute a system for monitoring high-risk prisoners on yellow sheets during association time on a regular, and recorded, basis. I so recommend.

5.3. I repeat previous recommendations in relation to the elimination of hanging points at the Adelaide Remand Centre.

5.4. I recommend that all worn sheets at the Adelaide Remand Centre be withdrawn from service and replaced by serviceable sheets which should be replaced on a regular basis.

5.5. I recommend that the Prison Health Service become the subject of specific statutory recognition. Some relaxation of the ordinary obligations of confidentiality imposed upon a medical practitioner should be provided for, if the provision of information were in the best interests of the prisoner. The statute should modify the relationship of the health service to the prisoner in a way better designed to recognise the realities of the prison system than the current approach which is largely based upon the same system which applies to persons who are not imprisoned.

*Key Words: Death in Custody; Hanging; Prisons*

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

*Seal the 19<sup>th</sup> day of May, 2009.*

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*State Coroner*

Inquest Number 26/2008 (0189/2007)

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<sup>14</sup> See letter to State Coroner dated 12 September 2008 from the Chief Executive, Department for Correctional Services

<sup>15</sup> Transcript, page 51