



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 6th, 7th, 8th, 9th and 10th days of September 2010 and the 8th day of June 2011, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the deaths of Julia Hisae Morris and Raymond Glen Jast.

The said Court finds that Julia Hisae Morris aged 23 years, late of 8 Wear Avenue, Marden, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 23rd day of October 2008 as a result of a gunshot wound to the head.

The said Court finds that Raymond Glen Jast aged 54 years, late of 11 Ackland Avenue, Christies Beach, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 25th day of March 2009 as a result of a gunshot wound to the head.

The said Court finds that the circumstances of their deaths were as follows:

1. Introduction

- 1.1. This was a joint Inquest into the deaths of two people, Julia Hisae Morris who was 23 years of age at the date of her death on 23 October 2008 and Raymond Glen Jast who was 54 years of age at the date of his on 25 March 2009. Both of them attended at the Marksman Indoor Firing Range on Franklin Street in Adelaide on the days of their death and, using weapons provided to them at the firing range, they shot themselves and died shortly after at the Royal Adelaide Hospital.

1.2. Ms Morris

Ms Morris had experienced mental health problems for some years prior to her death. Since 2001 she had been receiving extensive treatment for a number of problems including eating disorders, anorexia and bulimia, self-harm, attempted suicide on numerous occasions, depression, anxiety, attachment disorder and borderline personality disorder. Between 2001 and her death in 2008 Ms Morris was detained under the Mental Health Act on a number of occasions. On many of those occasions SAPOL was involved. Ms Morris had attempted suicide on 20 October 2008, only 3 days before her death. On that occasion she tried to harm herself by the consumption of medication. She called Helpline after taking tablets and the police arrived shortly afterwards. The police detained her under the Mental Health Act 1993 and conveyed her to the Royal Adelaide Hospital for treatment. She was discharged on the morning of her death, 23 October 2008.

1.3. On 7 October 2008 Ms Morris' social worker from Eastern Community Mental Health Service lodged a firearms notification with SAPOL stating that Ms Morris suffered from borderline personality disorder and had a long history of impulsive self-harming behaviour, usually overdosing and cutting. The reason for the notification was stated to be that she was currently involved in rifle shooting through a club. This notification was sent by facsimile transmission to SAPOL on 7 October 2008 and was duly received by the Firearms Branch that day.

1.4. On 23 October 2008 Ms Morris contacted Marksman Indoor Firing Range by telephone to book a shooting package for that day. She was booked in for 1pm. She said that she had shot at Marksman before but that had been a year or so ago. When she arrived for her session she was greeted at the front counter. Her details were obtained on a visitor card. She chose the shooting package she wanted and paid for it with cash. Because she had shot at the range before, there was no need to show her the standard 6 minute safety DVD that is usually shown to first time users at Marksman. She was taken to the firing range and the range safety officer supervising her began instructing her regarding technique and ammunition. After some brief instruction she began shooting. During her session she received a call on her mobile phone. Upon returning from the phone call she asked her instructor how many shots she had left and was told that there were approximately 8 left.

- 1.5. Ms Morris then loaded the firearm, took one shot at the target and then pointed the gun at her right temple and discharged it. Emergency services were contacted at approximately 1:42pm. Ms Morris was taken to the Royal Adelaide Hospital where she was declared deceased at 3:34pm that day.
- 1.6. Mr Jast

Mr Jast did not have any history of mental health problems. In the months preceding his death he had marital problems and he and his wife had been undergoing marriage counselling. On 3 March 2009 Mrs Jast had asked Mr Jast for a separation. She had asked him for a sum of money to settle property matters between them and set a time limit of 2 months in which those matters should be finalised. At the same time, Mr Jast was experiencing problems at work and was under financial pressure as a result of that. He was afraid of losing his children through the separation. His sister spoke with him on 21 March 2009 which was 4 days before his death. It was her view that he was floundering both emotionally and practically. She thought that he might be on the verge of suffering a nervous breakdown but did not believe he was suicidal.
- 1.7. Some months prior to his death Mr Jast had suggested that he and his son go shooting at Marksman Indoor Firing Range but that had not eventuated. In the time leading up to his death he had been an employee of T&K Airpower, an air-conditioning installation company. On 18 March 2009 he had been spoken to by his employer about some problems with his work. On 19 March 2009 he resigned his employment having given one week's notice. In the meantime, he obtained another job with an Internet provider company and was due to start on 31 March 2009. On 25 March 2009 he attended his employment with T&K Airpower but, at about 8:15am, he said that he was suffering from gastro and would be going home. At about midday he attended at the Marksman Indoor Firing Range and purchased a shooting package which included 30 shots using a .44 calibre rifle. Upon completing that package he purchased a second package, this time for 50 shots from a .38 calibre pistol. During his first package his instructor, Mr Jason Williams, who had also been the instructor with Ms Morris when she took her life, felt uneasy about Mr Jast and his presentation. Despite this, Mr Williams sold him a second package and returned to the firing range with Mr Jast. After he had fired a few shots Mr Jast unloaded his weapon and asked to go to the toilet. Mr Williams felt that Mr Jast spent an unusually long time in the toilet and this aroused his suspicious even further. He was so concerned that he spoke with a fellow instructor and asked him to take over the supervision of Mr Jast for the

remainder of the package. He also shared his concern about Mr Jast with Ms Jane Marks, the training administrator at Marksman. The new instructor for Mr Jast was Mr Bernard Pappas. He entered the firing range with Mr Jast and there were two other persons present, one of whom was a member of a club based at Marksman, and that member's guest. Mr Jast and Mr Pappas re-entered the range at about 12:56pm. At 12:58pm Mr Jast turned the pistol on himself and inflicted a single gunshot wound to his head. Emergency services were called and Mr Jast was taken to the Royal Adelaide Hospital where he was declared deceased at 3:45pm.

2. Witnesses

- 2.1. At the Inquest I heard from Mr Jason Williams about his involvement with both Ms Morris and Mr Jast. I heard from Mr George Korakianitis who was the club member present at the time of Mr Jast's shooting. I heard from Mr Bernard Papps in relation to Mr Jast's incident along with Mr Matthew Marks, Ms Jane Marks and Mr Andrew Marks, who spoke about the operations of the Marksman Indoor Firing Range.
- 2.2. Essentially there was no controversy about the circumstances surrounding the self-inflicted wounding of Ms Morris and Mr Jast. The main issues at the Inquest were:
 - 1) What measures might be taken to prevent or reduce the likelihood of a recurrence of a similar incident at Marksman Indoor Firing Range and other similar enterprises;
 - 2) The administration of the Firearms Act 1977, particularly in relation to notifications pursuant to section 27A of that Act such as was made in the case of Ms Morris, and the way in which SAPOL responds to notifications of that type.

3. Preventative measures

- 3.1. Several preventative measures were canvassed in the course of the Inquest. The first of these was the use of a tethering device to prevent a firearm being turned upon a user. I include under this category other forms of physical or mechanical methodology to prevent a gun being turned upon the user - for example, bullet proof glass safety barriers. Apart from these, a number of other preventative measures were considered:
 - 1) Close supervision;
 - 2) Enhanced range safety officer training;

- 3) Mental health awareness training;
- 4) Buddy / companion system;
- 5) Cooling off period.

- 3.2. Of these measures, clearly the most effective is tethering or a physical barrier. Mr Andrew Marks was asked about the utility of a tethering system. He said that he did not think it would be effective because the firearm could be turned over vertically and used to fire at the user. I do not accept this criticism. In my opinion a tethering system could be devised that would not permit the firearm to be reversed. The main, and most significant criticism in my opinion, that was advanced of this approach was that the experience of firing a weapon that is tethered would be diminished. That may well be true. However, in my opinion, that disadvantage is outweighed by the clear benefit to be obtained in preventing access to a firearm by a person bent on self-harm.
- 3.3. It was pointed out that a system of tethering or a physical barrier using bullet proof glass, which in my opinion is an alternative which should be explored, would be unsuitable for experienced gun users and for members of firearms clubs. I do not disagree with this contention and consider that the use of a tethering device or a physical barrier could be restricted to persons who walk into an establishment such as Marksman or any other firearms club at which access may be had to a weapon and who is not a member of a firearms club and suitably licensed to use firearms. Other persons who are licensed or who are club members could be permitted unfettered use of a firearm. Similarly, when the firing range is used for training purposes for security firms or other like organisations, there would be no need for a tethering arrangement. In my view, a tethering arrangement or the use of a physical barrier should be restricted to members of the public who are not members of a firearms club or the holder of a licence or permit to possess a firearm. It is only persons in that category who might not otherwise have reasonably ready access to a firearm, and who perceive a firing range as a suitable place to obtain access to a firearm with relative ease. Clearly, both Ms Morris and Mr Jast concluded that they could gain easy access to a firearm by attending Marksman Indoor Firing Range. Neither of them was a member of a club nor the holder of a relevant licence or permit.
- 3.4. In referring to a physical barrier, I have in mind a bullet proof glass screen that would enable a user to place his or her hand through an aperture, sufficiently large to enable

the hand to be introduced, but not sufficiently large to permit the weapon on the other side of the glass to be withdrawn. It is true that it might be feasible for a weapon to be turned and deployed through the aperture. However, in my opinion that is not a sufficient criticism of the notion to justify dismissing it. In any event, I would expect that an attempt to manipulate the weapon by pointing it through the aperture would be time consuming and, with proper supervision, could be prevented without undue risk to the safety of the supervisor or other persons in the firing range.

3.5. It may be objected that a tethering device or a physical barrier such as I have described would be impractical for use at some outdoor facilities such as those used by firearms clubs. In my opinion, those practical difficulties could be overcome and the benefits to be gained outweigh the disadvantages that might be experienced including the cost of erecting a suitable facility.

3.6. In my opinion, the other alternatives that have been mooted such as closer supervision, better training for range officers, mental health awareness training, a buddy system and a cooling off period are not likely to be sufficiently effective and I would not advocate any of these as a substitute for physical tethering or a bullet proof glass barrier.

3.7. Administration of the Firearms Act and notification provisions

Section 27A of the Firearms Act 1977 provides that if a medical practitioner or other prescribed person has reasonable cause to suspect that a person he or she has seen professionally is suffering from a physical or mental illness such that there is a threat to the person's own safety or the safety of another associated with the person's possession or use of a firearm, and that the person has or might be intending to acquire a firearm, the medical practitioner or other prescribed person must make a report to the Registrar of Firearms. The report must be made as soon as is practicable and must include the name and address of the person the subject of the suspicion and the suspected threat to safety and the circumstances giving rise to the threat, including the nature of any physical or mental illness or condition contributing to the threat.

3.8. It should be noted that section 27A might not be apt to capture a person who is not intending to acquire a firearm, but is instead intending to gain access to a firearm by means of resort to a firing range. Curiously, section 27A was amended in 2008 to narrow its application to acquisition. Prior to that it extended to an intention to

possess a firearm and would have been apt to apply to a case such as that under consideration here. In my opinion, this is a curiosity and it seems to be undesirable. I draw it to the attention of the Attorney-General and the legislature for consideration. However, it seems to me that a medical practitioner is unlikely to be deterred from making a report under section 27A by distinctions as fine as those to be drawn between acquisition and possession. If a medical practitioner were concerned about possession, I would image he or she would be equally concerned about acquisition and a notification would be made in any event. For that reason, I do not consider that it is necessary to make any recommendation about this curious aspect of the history of section 27A.

- 3.9. The Firearms Act 1977 also makes provision for prohibition orders. Section 10A provides that a police officer may issue an interim firearms prohibition order against a person if the police officer suspects on reasonable grounds that possession of a firearm by the person would be likely to result in undue danger to life or property, or the person is not a fit and proper person to possess a firearm.
- 3.10. Under section 10B the Registrar of Firearms may issue a firearms prohibition order (not merely an interim order) against a person if satisfied of the same criteria referred to in relation to an interim prohibition order and furthermore that it is in the public interest to prohibit the person from possessing or using a firearm. Subsections 6B(1)(c) and 6B(3) of the Firearms Act require that the Registrar of Firearms must maintain a register of firearms prohibition orders (including interim orders) and must make the register available to the public by electronic or other means. The register is presently available in the form of a PDF document downloadable from SAPOL's website.
- 3.11. The evidence showed that SAPOL receives approximately 800 notifications per year pursuant to section 27A of the Firearms Act. As at the date of the Inquest, the Registrar of prohibition orders recorded the names of only 54 persons.
- 3.12. Senior Sergeant Pippos has been attached to the Firearms Branch for 10 years. He gave evidence about the Branch's practice upon receiving a notification under section 27A of the Firearms Act. He said that if the person the subject of the notification has a firearm's licence the Branch would suspend the licence and seize the person's

firearms pending an investigation as to what the actual situation was¹. Senior Sergeant Pippos was asked whether, upon the Firearms Branch receiving a notification under section 27A, steps are taken to notify all firearms clubs and approved firing ranges of the danger that the person might pose to themselves or others. Senior Sergeant Pippos said that this does not occur on a routine basis. He said that this is because of the provisions of the Government's information privacy principles. He said that where the person is licensed and it is known that the person is a member of a club, then the club is advised, but not all clubs are advised. He said that there would be issues of privacy to be overcome. Senior Sergeant Pippos said that a person may not be medically unfit for the rest of their lives, that the notification may have been made because of a marital dispute, the loss of a child or some other sort of psychological issue. He pointed out that if SAPOL were to notify all clubs that a person is the subject of a notification, it would then be necessary to notify them when the person ceased to be the subject of a notification. That might occur very soon afterwards².

3.13. Senior Sergeant Pippos was asked about interim prohibition orders. He gave evidence that firearms prohibition orders are not normally used in relation to mental health notifications³. In fact he confirmed that they are not used at all as a method of responding to mental health notifications⁴. He said that prohibition orders are only made in relation to persons considered to have serious criminal intentions with the use of firearms⁵. He could not explain why prohibition orders are not used in a wider range of cases and, in particular, in relation to mental health notifications. He confirmed that it is not only he who holds this view but that it is a general SAPOL policy position⁶.

3.14. Senior Sergeant Pippos confirmed that, for example, the Marksman Indoor Firing Range would only receive information concerning a notification if there was something on that notification indicating that the person might be intending to go to Marksman Indoor Firing Range itself⁷.

¹ Transcript, page 445

² Transcript, page 458

³ Transcript, page 460

⁴ Transcript, page 460

⁵ Transcript, page 460

⁶ Transcript, page 462

⁷ Transcript, page 464

- 3.15. On the face of it this seems to be an unnecessarily narrow approach to the administration of the Firearms Act and particularly the use of firearms prohibition orders.
- 3.16. It was submitted by counsel for Marksman Indoor Firing Range that the Act contemplates that a mental health notification under section 27A should lead to a police officer suspecting, on reasonable grounds, namely the existence of the notification from a mental health professional, that possession of a firearm by the person the subject of the notification would be likely to result in undue danger to life or property, or that the person is not a fit and proper person to possess a firearm. In those circumstances the police officer has a duty, goes the submission, to make an interim prohibition order. This in turn would lead to a duty on the part of the Registrar to enter the interim prohibition order on the register of firearms prohibition orders. It would then be accessible to Marksman Indoor Firing Range and other commercial range operators who would then be forewarned should the person seek to gain access to a firearm at their premises. In written submissions provided on behalf of the Commissioner of Police it was submitted that the Act does not operate in that manner and that instead, something more would be required than a mere notification.
- 3.17. It was strongly submitted by the Commissioner that the intrusiveness of the publication of the names of persons the subject of section 27A notifications, on a regular or routine basis, would be unduly intrusive.
- 3.18. In my opinion, the policy underlying the legislation is not clear. I agree with counsel for Marksman Indoor Firing Range that the Act could be administered in the manner suggested by her. It could certainly be argued that the apparent policy of SAPOL not to use the prohibition order provisions in relation to mental health notifications under section 27A, and reserving it only for serious criminal activity, is unduly restrictive. Indeed, it may be the case that upon receipt of a mental health notification pursuant to section 27A, a police officer has a positive duty to consider whether to utilise the power to make an interim prohibition order, and that the present policy which appears to rule this out in every case, is contrary to the intention of the Firearms Act.
- 3.19. For my part, I am reluctant to express a view either way. It seems to me that there is some merit in the Commissioner's argument about privacy, although it is far from clear to me that the information privacy principles cited by Senior Sergeant Pippos

have any application to a decision whether or not to make an interim, or even a final, firearms prohibition order. It may be that the proper answer lies in a more rigorous approach to analysing the section 27A notifications, and actively considering whether an interim prohibition order is warranted in each particular case. It may be that further information might need to be obtained from the notifying mental health professional in some cases.

- 3.20. It may be that the Firearms Act needs to be revisited by the Parliament to clarify the legislative intention in relation to the interaction between mental health notifications pursuant to sections 27A and the making of prohibition orders with the ensuing publication of the name of a person the subject of a notification on the public register. It may be that a routine or even any publication of that nature might serve to discourage mental health professionals from making notifications. On the other hand, it does seem that something more ought to be done upon receipt of a notification than appears presently to be done.
- 3.21. I intend to recommend that the Attorney-General consider the material contained in this finding and considered in the course of the Inquest with a view to considering whether it is necessary to amend the Firearms Act to make the situation clearer.

4. Recommendations

- 4.1. Pursuant to Section 25(2) of the Coroners 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.
- 4.2. I recommend as follows:
- 1) That the Attorney-General consider the amendment of the Firearms Act to require that commercial range operators, including firearms clubs, be obliged to install suitable tethering and/or bullet proof screening for use by persons who are not the holder of a firearms licence or member of a club. The requirement should be subject to such exceptions as may be prescribed, including the provision of training to security organisations where the trainees may not hold firearms licences. There may be other necessary exceptions;

- 2) That the Attorney-General consider the material contained in this finding with a view to deciding whether it is necessary to amend the Firearms Act to make the situation clearer regarding the application of the prohibition order regime to mental health notifications.

Key Words: Gunshot Wound; Suicide; Firing Range

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

Seal the 8th day of June, 2011.

State Coroner