



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 27th day of October 2015, the 31st day of March 2016 and the 17th day of November 2017, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Shaun Martin Keane.

The said Court finds that Shaun Martin Keane aged 31 years, late of 27 Wandora Crescent, Salisbury Park, South Australia died at Salisbury Park, South Australia on the 15th day of July 2012 as a result of carbon monoxide toxicity. The said Court finds that the circumstances of his death were as follows:

1. Introduction, cause of death and reason for Inquest

- 1.1. Shaun Martin Keane died on 15 July 2012. He was 31 years of age.
- 1.2. At about 10pm on the day of his death Mr Keane was found seated in the driver's seat of a black Holden sedan in the garage of his mother's premises where he was residing at the time. The premises were situated at 27 Wandora Crescent, Salisbury Park. A hose that was connected to the exhaust pipe of a motorised pushbike had been fed into the rear driver's side door of the Holden. Mr Keane was deceased.
- 1.3. At the time of his death Mr Keane was on home detention bail that had been imposed by a magistrate on 3 April 2012. The bail related to certain alleged offending that Mr Keane had allegedly committed on 28 February 2012, the day of his arrest by police. He was initially refused bail. In the period between arrest and the grant of bail by the magistrate, Mr Keane had been remanded in custody in the Yatala Labour Prison (Yatala). The principal condition of Mr Keane's bail was that he be subjected to monitored home detention at the Wandora Crescent premises to which I have referred.

A number of other conditions were imposed. They included a condition that Mr Keane attend any assessment, therapy or counselling deemed appropriate by his Community Corrections officer. Mr Keane was also required to wear a home detention bracelet.

- 1.4. Mr Keane's death occurred while he was under home detention and his death occurred at the place of that detention. Accordingly, pursuant to the provisions of the Coroners Act 2003 this was a death in custody in respect of which a mandatory Inquest was required. These are the findings of that Inquest.
- 1.5. Naturally police became involved in the matter and a detailed investigation ensued. Mr Keane's body was subjected to a post-mortem examination that was conducted by Dr Neil Langlois, a forensic pathologist at Forensic Science South Australia. Dr Langlois' post-mortem report¹ states that the cause of Mr Keane's death was carbon monoxide toxicity. The post-mortem findings included soot deposits in the nose, mouth and airways that were consistent with the inhalation of motor vehicle exhaust fumes. It is a well-known fact that carbon monoxide toxicity and death can be caused by the inhalation of motor vehicle exhaust fumes, in this case not the exhaust gases from the car that Mr Keane was located in, but from the engine of the motorised pushbike.
- 1.6. Other significant findings at post-mortem included the presence of methylamphetamine and amphetamine in post-mortem blood which is consistent with illicit use in a non-fatal quantity, and diazepam and nordiazepam in non-toxic quantities. Methylamphetamine and amphetamine are illicit substances of abuse. Diazepam is a sedative.
- 1.7. There is no evidence of the involvement of any other person in Mr Keane's death. I have found that Mr Keane caused his own death with the intention of causing his death.
- 1.8. I find that the cause of Mr Keane's death was carbon monoxide toxicity.

2. Background

- 2.1. Mr Keane's former partner was a woman by the name of Stacey Lee Birke². According to the statement of Ms Birke she had been in a relationship with Mr Keane for approximately eight years. The relationship lacked stability. They had two children who at the time with which this Inquest is concerned were four years and nearly two

¹ Exhibit C2a

² Exhibit C5a

years respectively. As of February 2012 Ms Birke and Mr Keane were estranged. I have already referred to Mr Keane's arrest on 28 February 2012. On that day an incident occurred involving the deceased and Ms Birke. It was alleged that Mr Keane assaulted Ms Birke and broke her nose.

- 2.2. I should say something of the background that is described in Ms Birke's statement. Ms Birke met Mr Keane in 2004. After a few weeks they began dating. Ms Birke asserts that shortly after they began dating she discovered that Mr Keane was selling amphetamines. As it so happened Ms Birke was using this substance herself. In 2006 they were involved in a motor vehicle accident in which Mr Keane sustained a back injury. He began to abuse prescription medication including diazepam for which he would doctor shop. In 2007 the couple moved into a unit at Elizabeth Vale. Their first child was born. Ms Birke's statement describes Mr Keane's drug use during this period. She also describes aggressive behaviour on his part that seemed to have been precipitated by drug abuse. On one occasion they argued about something which caused Mr Keane to lose control. He punched his fists through the door. Their relationship became unstable and spasmodic. Mr Keane would beg her to take him back and vowed that he would stop taking drugs.
- 2.3. Ms Birke states that throughout her relationship with Mr Keane he had been violent towards her, but was only so when he was using drugs. She asserts that on occasions she had to call the police.
- 2.4. In 2008 the couple cohabited in premises at Salisbury North. Significantly, in this period Ms Birke states that Mr Keane lost his best friend to suicide. This individual gassed himself in the front yard of his premises. Ms Keane asserts that after this Mr Keane was never the same. From time to time he said that he would do what his friend had done. Thereafter Mr Keane's drug use became uncontrolled.
- 2.5. In 2010 Ms Birke fell pregnant with their second child which precipitated a reduction in Mr Keane's drug use as well as a period of more favourable mental adjustment. However, he spent several thousand dollars of their car accident compensation payout on amphetamines.
- 2.6. Another matter of significance as described by Ms Birke involved an incident that occurred a few months after their son was born when she found Mr Keane sitting in his vehicle at the front of the premises. The motor was running and a hose connected to the exhaust pipe had been fed into the car. Assisted by a neighbour, she pulled the hose

out of the car. Mr Keane then woke up and '*went crazy*'. Despite what appeared to have been an obvious attempt to gas himself, Mr Keane was unharmed. Neither the police nor the ambulance service were made aware of this incident.

- 2.7. In July 2011 Ms Birke moved out of the Salisbury North premises. She feared for her safety because Mr Keane was becoming more aggressive. Ultimately she moved to premises at Paralowie. They did not cohabit again. However, they would talk on the phone and Mr Keane would attend the premises and spend time with the two young children.
- 2.8. Ms Birke then describes the incident of 28 February 2012 which culminated in Mr Keane's arrest. She said that he assaulted her and broke her nose. In due course she became aware that Mr Keane had been released from Yatala on home detention and was living at his parents' premises at Wandora Crescent, Salisbury Park.
- 2.9. Ms Birke suggests that about a month after Mr Keane was released on bail she was told by Mr Keane that a group of male prisoners had assaulted and anally raped him in prison. Mr Keane would make other references to this incident to other people.
- 2.10. Ms Birke describes Mr Keane's demeanour while on home detention. He was fearful of returning to prison and indicated that he would do anything to avoid it. He would often break down in tears when he spoke of these matters. He said he was going crazy on home detention. It was arranged for Mr Keane to have the children every second weekend. A particular arrangement was in place for Mr Keane to have the children on the weekend of 14/15 July 2012. However, during an argument between Ms Birke and Mr Keane that occurred on Friday 13 July 2012, he announced that he could not have them. On 14 July 2012 he told her that he was being tested for Hepatitis C in the light of what he said had happened to him in prison. She told him that she did not want the children near him until he was cleared.
- 2.11. On Monday 16 July 2012 Ms Birke was advised by police that Mr Keane had been found dead in his car. She checked voicemail messages from the previous few days and had found three messages that had been left by Mr Keane on the afternoon of 15 July 2012 in which he had said nothing. However, she could hear a loud pinging noise like a car running.

3. Mr Keane's arrest and remand in custody

- 3.1. As indicated, Mr Keane had been arrested on Tuesday 28 February 2012 in respect of the incident involving Ms Birke. He was charged with aggravated assault causing serious harm. He was initially refused both police bail and court bail and was remanded in custody to Yatala where he would remain until his release on home detention bail on 3 April 2012.
- 3.2. Upon Mr Keane's admission to Yatala he was first admitted to the infirmary to remain under constant observation until he had been assessed by one of the High Risk Assessment Team (HRAT) members. This was due to the belief that he had recent thoughts of self-harm. On Wednesday 29 February 2012 Mr Keane was assessed by a senior case manager, Mr Edward August. Mr August assessed Mr Keane to be at moderate to high risk of self-harm and determined that he was to remain under constant observation. Mr Keane was placed on a suicide risk assessment care plan. He remained in the infirmary until Friday 2 March 2012 when he was moved into an observation cell in G Division.
- 3.3. On 7 March 2012 Mr August re-assessed Mr Keane and noted that he presented much better than he had on the initial assessment in that he presented as stable with no apparent thoughts of self-harm. Mr August deemed Mr Keane to be at moderate risk of self-harm.
- 3.4. On Thursday 8 March 2012 Mr Keane was moved to B Division which is the mainstream Division within Yatala. He was placed in a shared cell. Mr Keane would remain in B Division until 13 March 2012 when he was moved to E Division for his protection and where he would remain until his eventual release on home detention bail on 3 April. E Division is the accommodation wing of Yatala that is used to accommodate protected prisoners.
- 3.5. The circumstances in which Mr Keane was removed to E Division are as follows. On 13 March Mr Keane requested to see Mr August. Mr August assessed Mr Keane and noted that he appeared to be fearful. He was threatening self-harm although he indicated that he had no plan as to how he would achieve this. Mr Keane gave a vague indication that people in B Division were going to get him if he was sent back to that Division. He requested a return to G Division stating that he would have no further thoughts of self-harm if he was removed from B Division. Mr August formed the opinion that Mr Keane most likely had been physically threatened in B Division, but he

had no reason to believe that Mr Keane had been sexually assaulted. Mr August spoke with the Division supervisor and Mr Keane's transfer to E Division was arranged to take place that day.

- 3.6. In his statement Mr August³ indicates that during his contact with Mr Keane on 13 March, Mr Keane refused to identify any specific threats or conflict with any specific inmates, stating only that he was suicidal and wanted to go to the higher security environment that G Division provides. He had not suggested nor implied that the threat related to any type of sexual assault. Mr August states that it is not unusual for an inmate such as Mr Keane to not '*name names*' when complaining of threats or assaults committed upon them by other inmates. In fact Mr August regarded Mr Keane's expressed thoughts of self-harm as more of a preventative measure calculated to secure his transfer out of B Division.
- 3.7. After Mr Keane was transferred to E Division, Mr August saw Mr Keane on one further occasion. This occurred on 20 March 2012. On this occasion Mr Keane presented as more relaxed and comfortable and asserted that since his move to E Division he had been coping much better. He denied any further thoughts of self-harm. He claimed that his only concern was not knowing what was taking place with this Court matter and his desire to get out of prison to be with his children. Given Mr Keane's future plans and having regard to the motivation that his children provided, Mr August assessed him as being at moderate to low risk of self-harm.
- 3.8. Mr Keane's various assertions about self-harm or suicidality were recorded in his case notes⁴. There is a note prepared by Mr August dated 14 March 2012 in respect of the HRAT process. This note refers to Mr Keane being fearful and suicidal and wanting to self-harm but without a plan. There is also reference to his failing to identify any specific threats or conflicts with inmates. There is a further note in the case notes dated 20 March 2012, again compiled by Mr August, where Mr Keane's more relaxed and comfortable demeanour is noted as well as his denials of current thoughts of self-harm. In fact Mr Keane is recorded as saying that he would never try and kill himself as he has children in the community and that he needed to be with them. The note records a recommendation that he be removed from the HRAT process. There is a further note of Mr August dated 23 March 2012 which records the committee's approval for

³ Exhibit C9a

⁴ Exhibit C25c

Mr Keane to be removed from HRAT. It records that Mr Keane was currently presenting as stable with no current self-harm ideation.

4. Mr Keane is released on bail

- 4.1. On 22 March 2012 a Magistrate ordered a home detention bail enquiry report to be compiled. Mr Keane was further remanded in custody to 29 March 2012. The home detention bail report was not completed by the time of that Court appearance. Mr Keane remained in custody until 3 April 2012 by which date the necessary bail reports had been compiled. On that date a Magistrate ordered that he be released on monitored home detention bail to the address at Wandora Crescent, Salisbury Park.
- 4.2. The necessary documentation had been compiled by Ms Fiona Vasey⁵ who is employed by DCS. In 2012 her principal role was as a report writer for sentenced prisoners applying for release on home detention, either on bail or as part of their sentence.
- 4.3. Ms Vasey compiled a Home Visit Risk Assessment and a bail home detention report. Ms Vasey supplied a statement to police some three years after these events⁶. Thus it is unsurprising that she had no recollection of compiling these reports. The contents of her statement is based on her usual practices.
- 4.4. In the documentation attached to Ms Vasey's statement there is a Home Visit Hazard and Risk Assessment. This document was compiled from the Justice Information System (JIS). It refers to the JIS custodial case notes indicating self-harm and suicidal thoughts on the part of Mr Keane. However, the same information has not been repeated within the Bail Inquiry (home detention) Report that goes to the Magistrates Court. This proforma document contains a question as to whether there is a diagnosis of mental/intellectual or personality disorder and in this case the answer is indicated as no. This is accurate insofar as it was not known that there was any diagnosis of a mental illness as such. It would have been better if this document had contained more detailed information about whether or not an applicant for bail had a previous history of self-harm or suicidal ideation.
- 4.5. As indicated earlier, the address to which Mr Keane was bailed was the premises of his mother, Ms Lynette Keane. Tendered to the Court was a statement of Ms Keane⁷. Ms Keane refers to the suicide of Mr Keane's male friend who had gassed himself in his

⁵ Exhibit C25

⁶ Exhibit C25a

⁷ Exhibits C4a and 4b

front driveway. She asserts that this had affected her son adversely. It was shortly after this death that Mr Keane himself had started talking about taking his own life. He said that he hated being '*here*' and that he wanted to be '*up there*' with his friend. Ms Keane asserts that she believed that both Mr Keane and Ms Birke had been using drugs but that Ms Birke had become clean. She had been aware through Ms Birke that her son had tried to gas himself in the past.

- 4.6. Ms Keane says that during her son's period on remand in Yatala, she spoke to her son on a number of occasions and visited him once. He would say that he hated being in prison and could not wait to get out. He was granted home detention bail to her house. She states that she did not see her son taking illicit drugs whilst on home detention although she saw him taking Valium (diazepam) which he said was helping him sleep.
- 4.7. Ms Keane suggests that whilst under home detention her son was positive to begin with, but when employment fell through he became totally withdrawn. He would often sit in his car for hours on end. He would often say '*I can't do this anymore, I can't go on Mum*'. She was aware that her son had arranged to see a counsellor. Her son's mood improved when an arrangement was put in place for him to see his children. He had access to the children on only one weekend. He was due to have them again on the weekend on which he died, but the argument with Ms Birke had prevented this.
- 4.8. Ms Keane's statement reveals that a week before the weekend of 13 July 2012 her son was crying and told her that he had been assaulted by two men in prison. Although he did not say so explicitly, Ms Keane inferred that he had been raped in prison and she believed from what another sibling had said that this was the case. It was suspected that Mr Keane himself believed that he had Hepatitis C as a result of the rape. Mr Keane expressed some anxiety that he would not see his children again as his former partner had implied that he was now filthy.
- 4.9. In her statement taken on the day of Mr Keane's death, Ms Keane states that on the previous evening her son had admitted to her that he had been sexually abused in prison, saying that one man had held him down and another had held his head. She also said that on the previous evening he had been crying because his ex-partner had not allowed him to have access to the children that weekend. He had said that he could not do this anymore and wanted to be left alone. This statement explains the circumstances in which Ms Keane located her son deceased.

4.10. Ms Keane sums up her son's frame of mind as follows:

'In my opinion I believe that Shaun took his own life as he was terrified of going back to prison, he had spoken to me about his lawyer and he had said that he didn't think he was very good. Shaun didn't fully understand what was happening with his case and he believed that he was going back to prison for about one to four years. Shaun had already told us that he was raped whilst inside and he was terrified that if he went back inside they would get him again. I believe that Shaun would have taken all his Valium to calm himself before getting into the car. ' ⁸

4.11. While on home detention bail Mr Keane consulted a number of support persons including his general medical practitioner, a social worker based at Northern Drug and Alcohol Services SA and a psychologist at Clinical Psychology and Counselling Service. This was all undertaken in accordance with the conditions of his bail agreement.

4.12. Dr Somnath Ghosal is a general practitioner based at Trinity Medical Centre which is located at 31 Bagster Road Salisbury North. Dr Ghosal first met Mr Keane on Monday 7 May 2012 when he attended requesting a script for Serepax which is a benzodiazepine commonly used in the treatment of anxiety. Dr Ghosal saw Mr Keane on two further occasions, Friday 25 May 2012 and Wednesday 4 July 2012. On these occasions Mr Keane discussed his drug use, his anxiety and depression and his fear of crowded places. Dr Ghosal prepared a mental health care plan and referred the deceased to Dr Pamela Carroll. At the appointment of 4 July Dr Ghosal noted that Mr Keane was still slightly depressed which made him feel flat. He still felt anxious and nervous, that he was only having an average amount of sleep and that his motivation and energy levels were low. Dr Ghosal specifically asked him about thoughts of self-harm to which Mr Keane said that he had no thoughts of hurting himself.

4.13. Amber Keefe-Bedford is a social worker based at Northern Drug and Alcohol Services SA (DASSA). Mr Keane first met with Dr Keefe-Bedford on Friday 11 May 2012 for an initial assessment. During this assessment Mr Keane spoke about his drug use. Mr Keane re-attended DASSA on Tuesday 5 June 2012 when he further spoke of his anger problems and how drugs had affected his life, resulting in the breakdown of his relationship with Ms Birke. Mr Keane last attended DASSA on Tuesday 3 July 2012. At no time whilst he was attending DASSA did he discuss his time in prison or any of his self-harm attempts or thoughts.

⁸ Exhibit C4b

- 4.14. Dr Pamela Carroll is a registered psychologist. Mr Keane rang to arrange an appointment as he was suffering from anxiety. Dr Carroll arranged the appointment and met with Mr Keane on Monday 18 June 2012. An initial assessment was conducted with the deceased. He was diagnosed with moderate depression, extremely severe anxiety and moderate stress. Mr Keane told Dr Carroll that in 2010 he had tried to gas himself in his car outside his partner's house. He said that his reason for attempting to take his own life was because Ms Birke had asked him to leave due to his drug taking behaviour. He stated that he could not deal with the stress and the pain. His attempt was foiled after Ms Birke and a neighbour had found him in the car. He also told Dr Carroll that on 7 November 2009 his best mate had gassed himself in his car outside of his parents' house. Mr Keane stated that he had obtained the idea of gassing himself from this incident. He also admitted that in 2011 he had cut his own wrists in order to seek attention. On the last occasion that Dr Carroll saw Mr Keane he said that he was feeling flat and down and that this was mostly due to his not working. He said that he had no loss of appetite, that he was sleeping fine and that he had no intention to commit suicide.
- 4.15. Mr Keane also told Dr Carroll that he was scared of doing further jail time. He said that he saw himself safer at home than in jail. He made statements that suggested that he was looking forwards and not backwards and that he was determined not to take drugs anymore and to 'wake up'. Dr Carroll was aware that Mr Keane was attending DASSA and was also seeing Dr Ghosal with whom she had contact. She noted that Dr Ghosal had conducted a risk assessment that included the observation that Mr Keane had no current suicidal ideation, plan or intent. Dr Carroll contacted Mr Keane's lawyer to advise the lawyer that Mr Keane had attended her clinic on two occasions and that he had an ongoing appointment. Dr Carroll's treatment of Mr Keane was obviously truncated by his death. It is difficult to judge what progress if any Mr Keane had made with Dr Carroll. This is particularly so having regard to the fact that amphetamines and diazepam were in Mr Keane's blood at post-mortem.

5. Conclusions

- 5.1. In the comprehensive report of the investigating officer Detective Brevet Sergeant Benjamin Wilkes of the Elizabeth Criminal Investigation Branch there are a number of issues that he identified as worthy of investigation.

- 5.2. Detective Wilkes investigated whether appropriate steps had been taken to investigate the complaint made by Mr Keane to DCS staff that he had been threatened while in prison. Detective Wilkes has concluded that given that Mr Keane did not provide any information other than that he wanted to be moved within the prison, it appears that there were limited avenues open to investigate his complaint. I agree with that conclusion and so find.
- 5.3. Detective Wilkes identifies an issue as to whether the response from DCS staff to move Mr Keane into protective custody was adequate to protect him from harm and to alleviate his thoughts of self-harm. It will be remembered that Mr Keane was moved from B Division to E Division immediately following his complaint. Following this transfer Mr Keane reported feeling happier and safer. It was also noted by DCS that Mr Keane was sleeping better and appeared more relaxed and made no further threats of self-harm. They are the conclusions reached by Detective Wilkes reflect all this. The reality is that there could have been little more done by DCS staff at Yatala for Mr Keane. In the event Mr Keane did not take his life within the four walls of Yatala.
- 5.4. Detective Wilkes investigated whether while on home detention Mr Keane's mental health concerns had been adequately addressed and monitored given his previous attempts of self-harm. In this regard I have referred to the support provided to Mr Keane by clinicians and other service providers. Detective Wilkes identified that DCS staff spoke with or visited Mr Keane regularly and that contact was regularly maintained. Reports from DCS indicate that DCS staff were aware of his mental health problems and that they had issued pass-outs that had enabled Mr Keane to attend therapy and counselling sessions. The Court concludes that during Mr Keane's period of home detention his mental health concerns were adequately addressed and monitored.
- 5.5. Another issue identified was whether it was appropriate for Mr Keane to have been released on home detention bail given his risk of suicide. In this regard Detective Wilkes observes that when courts are determining whether a person is eligible to be released on monitored home detention bail a number of factors are considered in accordance with sections 4 and 10 of the Bail Act 1985 and that the Bail Act does not identify and permit risk of self-harm as a matter that can relevantly be taken into account. I am not certain that this is an accurate statement of the law. One of the matters that a court takes into consideration in respect of any grant of bail is the likelihood or otherwise of the bailed person attending court when required. It would

seem to me that if a person was identified as being at high risk of suicide whilst on home detention bail there would be a concomitant risk of the person not answering his or her bail. One can envisage a case in which an applicant for release on home detention bail is so overtly and acutely suicidal that the risk that the person might commit suicide whilst on home detention bail simply cannot be ignored by the court when considering bail. Thus, I am not persuaded that in all cases the risk of self-harm or suicide would be an irrelevant consideration on the question of granting bail. However, I am satisfied that in all of the circumstances of this particular case there was, in reality, nothing preventing the Court from granting home detention bail. It would have been better if within the bail home detention report there had been specific reference made to the risk of self-harm in Mr Keane's case, but it would seem to me that this would not have made any difference to the court's decision to grant home detention bail. The reality was that Mr Keane was an appropriate candidate for home detention bail notwithstanding his history of mental anguish.

6. Recommendations

- 6.1. Pursuant to Section 25(2) of the Coroners Act 2003 the Court is 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.
- 6.2. The Court recommends that DCS staff members responsible for compiling Bail Inquiry (Home Detention) Reports be instructed to make specific reference to any information that is relevant to the applicant's risk of self-harm or suicide. I direct this recommendation to the Chief Executive of the Department for Correctional Services.

Key Words: Death in Custody; Home Detention; Suicide

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

Seal the 17th day of November, 2017.

Deputy State Coroner