



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of
Clay Hatch**

TITLE OF COURT: Coroner's Court

JURISDICTION: Maryborough

FILE NO(s): COR 1865/07(2)

DELIVERED ON: 19 June 2009

DELIVERED AT: Maryborough

HEARING DATE(s): 15 -18 June 2009

FINDINGS OF: Ms Christine Clements, Acting State Coroner

CATCHWORDS: CORONERS: Police shooting, mental health issues

REPRESENTATION:

Counsel Assisting:	Mr Peter Johns
Constable Marc Rodgers, Constable Belinda Frazer, Constable Nicola Davies:	Mr Adrian Braithwaite (Gilshenan & Luton Lawyers)
Queensland Police Service Commissioner:	Mr Wayne Kelly (QPS Solicitors Office)

The Coroners Act 2003 provides in s45 that when an inquest is held into a death in custody, the coroner's written findings must be given to the family of the person who died, each of the persons or organizations granted leave to appear at the inquest and to various specified officials with responsibility for the justice system including the Attorney-General and the Minister for Police and Corrective Services. These are my findings in relation to the death of Clay Hatch. They will be distributed in accordance with the requirements of the Act and posted on the website of the Office of the State Coroner.

Introduction

Clay Hatch died in Maryborough on the morning of 2 May 2007 moments after being struck by a single bullet fired from the service pistol of a police officer. In the preceding minutes he had taken a supermarket cashier hostage and then, after police had arrived at the scene, stabbed him several times. In an acute psychotic state and with symptoms likely exacerbated by illegal drug use, Mr Hatch, knife held prominently, ran at one of the police officers. Although Mr Hatch had longstanding psychiatric problems, his recent history, thanks in part to committed and ongoing support from his parents, had not been suggestive of impending violence. He was 34 years of age.

These findings

- confirm the identity of the deceased person, the time, place and medical cause of his death;
- examine the events leading up to the shooting of the deceased man by police on the morning of 2 May 2007;
- consider whether the police officers involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force; and
- consider the adequacy and appropriateness of the mental health treatment received by the deceased man.

As this is an inquest and not a criminal or civil trial, these findings will not seek to lay blame or suggest anyone has been guilty of a criminal offence or is civilly liable for the death.

The investigation

As can be readily appreciated, whenever a death is connected with police action it is essential the matter be thoroughly investigated to allay any suspicions that inappropriate action by the officers may have contributed to the death. The family and friends of the deceased person are entitled to expect a thorough investigation and account of how their family member died in custody. It is also desirable that the general public be fully apprised of the circumstances of the death so they can be assured the actions of the officers have been appropriately scrutinised. The police officers involved also have a

right to have an independent assessment made of their actions so there can in future be no suggestion there has been any inappropriate action.

The Coronial and Disciplinary investigation was conducted by the QPS Ethical Standards Command and a detailed report for the Coroner was prepared by Inspector Brendan Smith.

In the course of that investigation, relevant QPS computer records were accessed; both in relation to the deceased and those containing notations made by communications staff at Maryborough station.

All medical records concerning Mr Hatch were seized from the Gold Coast Hospital and Palm Beach Mental Health Clinic. A detailed outline of Mr Hatch's mental health treatment was obtained from his treating psychiatrist, Dr Heinz Albrecht.

Train and bus company records were inspected and CCTV footage viewed in an attempt to identify the movements of Mr Hatch on the day before the shooting. Ongoing checks have been conducted on the mobile telephone of Mr Hatch. These show it has not been used since his death. It has never been found.

Mr Hatch's bank records were obtained showing he accessed \$600 at an ATM near Varsity Lakes on 30 April 2007.

Inquiries were conducted with a retail store and caravan park in Maryborough in order to ascertain Mr Hatch's movements on the evening of 1 May and the morning of 2 May 2007.

Interviews were conducted on the evening of 2 May 2007 with the two police officers and the police recruit who were present at the time of the shooting. The investigating officers conducted a video 'walk through' re-enactment of events at the scene with Constable Marc Rodgers, the officer who shot Mr Hatch.

Statements were obtained from eyewitnesses to the shooting as well as those police officers who subsequently attended the scene. Police communications staff were also interviewed.

Records were obtained from the Queensland Ambulance Service (QAS) showing they arrived at the scene 12 minutes after the shooting. Statements concerning the condition and treatment of Mr Richard Fenney, the person stabbed by Mr Hatch, were obtained from QAS and Hervey Bay Hospital personnel.

QPS scenes of crime officers attended the scene and conducted a thorough forensic examination. Photographs were taken of the scene and other relevant points of interest shortly after the shooting. A detailed forensic map of the scene was prepared.

Tape recordings of the '000' calls made to Maryborough police as well as police radio communications to and from that station were seized.

The two officers and the recruit who attended the scene were required to provide urine specimens. These were tested and showed no traces of drugs or alcohol.

The training records of the two police constables who attended the scene were obtained showing they had both recently conducted and passed their twice yearly operational skills and tactics (OST) training; this included modules in the use of firearms; appropriate use of force as per the QPS 'use of force model' and dealing with offenders armed with bladed objects.

On 6 May 2007 the Glock pistol used by Constable Rodgers was examined and test fired by a QPS firearms expert. It was found to be functioning as designed. An examination of the projectile taken from Mr Hatch's body showed rifling marks consistent with having been fired from a Glock pistol, however, a definite link to a specific weapon could not be established due to the quality and quantity of those marks.

Mr Hatch's body was identified to an Inspector from the Ethical Standards Command by his parents Bryan and Helen Hatch on 3 May 2007.

An autopsy examination was conducted later that day by an experienced pathologist, Dr Alex Olumbe, during which blood and urine samples were taken from the deceased and subsequently analysed.

I am satisfied this matter has been thoroughly and professionally investigated and all sources of information have been accessed and analysed.

The evidence

I turn now to the evidence. I have not summarised all of the information contained in the exhibits and transcript but I consider it appropriate to record in these reasons the evidence I believe is necessary to understand the findings I have made. I note at the outset that the circumstances of Clay Hatch's death occurred suddenly and without warning and the situation leading to his death escalated rapidly. All the evidence indicates the young man, Richard Fenney who was stabbed, as well as the members of the public who were unwittingly drawn into events and the police officers, were subject to extraordinary stress and fear. Their statements detailing what occurred and their evidence in the inquest is considered having regard to that environment. It is not at all surprising that individuals' accounts vary in such circumstances. Accounts can be truthful but be incomplete or even mistaken when events have occurred so rapidly and caused such fear and stress.¹ I also note these findings have been

¹ Inspector Turner gave evidence of auditory and visual deprivation and recall occurring in circumstances of extreme stress.

prepared from notes taken during proceedings and without access to transcript. I reserve the right to correct the written findings.

Social history

Clay Hatch was aged 34 when he died on 2 May 2007. He lived with his parents at Worongary on the Gold Coast. He attended school in Brisbane before a final period of home schooling whilst sailing aboard a yacht with his parents. After leaving school he experienced difficulty in a less structured environment and found it hard to find or maintain employment. The information suggests he was somewhat of a loner and remained living with his parents.

His parents have been devastated by his death and declined to provide direct input into this inquest. Nor did they wish to attend. A couple of close friends did attend and Debbie Brewer gave brief evidence confirming Clay was loved by his family and staunchly supported throughout his life by his parents. His treating psychiatrist, Dr Albrecht also paid tribute to the care and support they provided their son and for the way in which they co-operated with the treatment team. Debbie Brewer knew Clay over an eighteen year period and was aware of the psychiatric illness that developed during his twenties.

She never experienced Clay acting in an aggressive manner although she described him as a loud man. Her two sons grew up knowing Clay and she felt they knew Clay as a caring and loving man.

Mental Health history and treatment

Mr Hatch's medical records reveal a history of drug abuse followed by the emergence of psychotic indicia in the late 1990's. He was treated from this time through the Gold Coast Mental Health Service (GCMHS); in particular at the Palm Beach Mental Health Clinic and, when necessary, at the Gold Coast Hospital. The records show a diagnosis of Drug Induced Psychosis was applied to Mr Hatch up until 2003. At that time a diagnosis of Schizophrenia, independent of drug use, was made. This diagnosis remained applicable up to the death of Mr Hatch.

On 17, 18 and 19 June 2000, Mr Hatch conducted 3 separate armed robberies. All involved violence of sorts. In one he carried a firearm and in another held a knife to the throat of a victim. On 5 September 2001 the then Mental Health Tribunal made a determination he was suffering from unsoundness of mind for the purposes of the *Mental Health Act* at the time of those offences. This was on the basis of the Drug Induced Psychosis with which he was then diagnosed.

As a result of this finding a forensic order was made which, while stating he was to be detained as a restricted patient at the Gold Coast Hospital, specifically contemplated he be granted leave to reside at his parents' address at Worongary. Indeed this is what happened almost immediately.

The forensic order remained in place until Mr Hatch's death. The evidence from his most recent treating psychiatrist, Dr Heinz Albrecht² was that the order was expected to remain in place for the foreseeable future. By the time of his death, Mr Hatch's order had been amended to allow more flexibility in relation to his place of residence (leaving it entirely at the discretion of the Gold Coast mental health authorities) but it continued to apply restrictions to Mr Hatch's activities and movements.

Over the course of the following 5½ years Mr Hatch was required to stay at the Gold Coast Hospital on three occasions. The first was for a brief period in 2004, the second a four week period in late 2006 and the last, a two week period in early April 2007.

The four week stay related to a change in medication (dealt with below). The last stay resulted from a breach of the forensic order on 4 April 2007. On this occasion Mr Hatch went missing in his parent's vehicle. It appears from notes made in hospital records he had done something similar in the preceding weeks. Mr Hatch's parents properly contacted the GCMHS through Mr Hatch's caseworker and reported the situation. Gold Coast police were notified and relevant paperwork forwarded empowering them to detain Mr Hatch and return him to hospital. In the event, Mr Hatch returned a few hours later and voluntarily attended the Gold Coast Hospital with his parents.

Over the following two weeks he remained under observation and his treatment plan was revised. The evidence of Dr Albrecht is that by the end of this two week period Mr Hatch presented well. The episode on 4 April 2007 was treated in the context of an increasing frustration Mr Hatch felt with his personal circumstances; namely the restrictive nature of the forensic order, his reliance on his parents and the need for ongoing management of his medication. Indeed Dr Albrecht described this as a negative consequence of what he saw as Mr Hatch's overall improving condition. The increased periods of lucidity experienced by Mr Hatch allowed him more insight into the state of his life and allowed more contemplation of a future which to him may have seemed to have held little but ongoing difficulties and frustrations.

Despite Dr Albrecht noting a general overall improvement, a review of hospital records in March and April 2007 reveal continued concern from Mr Hatch's parents over his non-compliance with the taking of medication. It is clear that Mr Hatch was still prone to periods of psychosis. As recently as 24 April 2007 Mr Hatch's father had made contact with his case worker and described the difficulty they were having in making Mr Hatch comply with the taking of medication. This was, seemingly, not an unusual situation and far from new when one considers the context of his parents having undertaken the very difficult role of caring for him and helping to manage his condition over the preceding 10 years. Indeed I take this opportunity to make specific note that

² Dr Albrecht took over the treatment of Mr Hatch in October 2006. It was clear from his evidence that the death of Mr Hatch (the only one amongst his patients on his evidence) had affected him considerably. As a result he had clearly, both as part of the coronial investigation and independent of it, reviewed and contemplated Mr Hatch's medical history at some length..
Findings of the Inquest into the death of Clay Hatch

the voluminous medical records available to me reveal an admirable commitment on the part of Mr Hatch's parents in caring for him and in their maintaining regular and ongoing contact with mental health staff to ensure the best possible treatment was available. Dr Albrecht described them as within the top 5% of families he has dealt with in this respect and it would not surprise him if in fact they fell within a far more exclusive band of parents insofar as commitment to their child is concerned.

At its most severe, the psychosis suffered by Mr Hatch involved hallucinations, delusions and hearing voices, which he described as 'souls'. There is a suggestion that his non-compliance with the taking of medication resulted in part from being told by these 'souls' not to take it. In any case Mr Hatch had unfortunately not reacted well to a variety of anti-psychotic medications over the years. They either did not work and/or resulted in unsustainable side effects; in particular causing difficulty sleeping which in turn exacerbated the symptoms of the psychosis.

In October 2006 Mr Hatch was started on an anti-psychotic drug Clozapine; often used on patients unresponsive to other treatments. Under Queensland Health policy Mr Hatch changed to this drug during a four week period as an inpatient at the Gold Coast Hospital. Although the drug showed some initial promise, over time it resulted in a dangerous increase in blood-glucose and cholesterol levels and by January 2007 it was decided to discontinue its use.

At the time of his death Mr Hatch was taking the anti-psychotic medication Quetiapine.

In the lengthy course of his treatment in the community Mr Hatch at no time admitted to or gave indications of suicidal or homicidal ideations. He showed no fixation or particular interest in police or policing matters. He did not discuss or show any preoccupation with siege type situations or the taking of hostages. The evidence of Dr Albrecht is that when 'well' Mr Hatch was unlikely to voluntarily interact with other people.

Random drug screens were conducted on Mr Hatch and he complied with directions in this respect at all times. The most recent of these had been conducted on 6 April 2007 and did not show the presence of any illicit substances. Although a screening around Christmas 2006 suggested illegal drug use, the lack of any positive results subsequently was consistent with Mr Hatch's instructions that he had not been using illicit substances.

Events on 30 April and 1 May 2007

On 30 April 2007 Clay Hatch's parents dropped him off at a friend's place at Varsity Lakes to stay overnight before a scheduled medical appointment. This was indicative that Clay was generally well enough for his parents to feel confident to do this. The arrangement in place was for his parents to pick him up the next morning to attend his appointment with his case worker, Donna Campbell at the Palm Beach Office of Mental Health.

Joseph Tomaszewski had known Clay Hatch for 16 years. He told the inquest he saw Clay regularly, often on weekends when Clay would drop in to his house. He was aware Clay suffered from mental illness and was aware he had been diagnosed with schizophrenia. He knew he was required to take medication. He said Clay sometimes had nightmares and would sometimes appear to be self engrossed, "sitting there, giggling," in his words. He also referred to Clay hearing voices.

It was Sunday when Clay was dropped off to stay overnight. There were no indications from his parents of any unusual concern for Clay, but he remembered them confirming with him that Clay would remain at his residence. During the afternoon they went out to the shop briefly without incident and later in the evening a mate of Joseph's visited the premises. Joseph denied Clay consumed any alcohol or drugs that night to his knowledge. He said Clay had given up alcohol recently. He knew Clay had recently been in hospital during April but thought this related to blood sugar or blood pressure issues rather than mental health matters.

He denied any drugs being present in the house. Nor did he notice anything in Clay's behaviour to indicate Clay had taken any drugs. He said the last time he was aware Clay took drugs was when he was involved in the armed robberies in 2000.

He was aware Clay had medication but he did not see Clay take this although he thought Clay had taken the medication. When he went to bed around midnight, Clay was watching television. It was in the early hours of the morning he got up and realised Clay was no longer at the residence. He said he went to the home of the mate who had visited earlier, thinking Clay might be there, and drove around looking for him but without success. Clay's parents were not notified until morning. When Clay failed to keep his medical appointment his parents notified the police.

Joseph Tomaszewski said he had not detected anything unusual in Clay's demeanour although he thought perhaps he was a little quiet. He could not offer any insight into why Clay left, where he went or why he was next located in Maryborough. He was unaware of Clay ever being in possession of a firearm other than when he was involved in the armed hold up which occurred in 2000. He also denied any knowledge of Clay bearing an anti authoritarian feeling towards police. He last saw him wearing jeans and a t-shirt with no other luggage or bags.

He did not immediately tell Clay's parents that Clay had left his premises but waited until morning before informing them.

It is unknown when, and in what circumstances Clay Hatch accessed amphetamines and diazepam that were identified in his body at autopsy on 3 May 2007. I infer this happened at some time after he left his parents' home. Later inquiry revealed he had accessed his bank account at about 1pm on 30 April and withdrawn \$600. This would have been during the time he went out

shopping with Tomaszewski although he indicated he was unaware this occurred.

Gold Coast police made 6 broadcasts on 1 and 2 May with a missing person report but without success.

After his death there were extensive inquiries made. The next confirmed sighting of Clay after he left his friend's home was in Maryborough at about 4pm on 1 May. Police inquiries confirmed Clay attended the Dimmey's Store in Maryborough before booking into the Wallace Caravan Park under an assumed name of George Stevens. He indicated he had lost his wallet and phone and did not have any identification. It is unknown how he travelled from the Gold Coast to Maryborough or why he stopped at Maryborough. It was also noted he did not appear to have slept in the bed although I note his psychiatrist stated Clay was plagued by insomnia and could go days without sleeping when his illness was manifest.

At about 8.00am on 2 May 2007 Mr Hatch hired a taxi from the Shell Service Station on Gympie Road. He requested to be taken to the gun and ammunition shop on Gympie Road. Such a premise could not be located and he was dropped off outside a small shopping centre on the corner of Gympie Road and Cran Street.

Events at Tinana Place Shopping Centre

This local group of shops called Tinana Shopping Centre in the town of Maryborough unexpectedly became the scene of a tragedy. The centre includes a Food Works store, a butcher, a real estate business, a bakery and several other stores. It was shortly before 10am when a man who appeared dishevelled and initially only somewhat agitated entered the real estate business. He stayed for around twenty minutes during which time the real estate agent, Darren Evans, became aware of him and thought something was not right about him. Mr Evans was in his office but he became aware his male receptionist was answering the man's questions concerning the whereabouts of a gun shop. When it was indicated the nearest gun shop was in Kingaroy, Mr Evans called out from his office that Kingaroy was three hours away. The man borrowed a yellow pages phone book and went outside to the nearby phone box. Mr Evans did not think much more about him as he was used to all sorts of people coming into the business. He noticed him again as he passed him on the way to the toilet outside and felt that something was "not right" and he kept on his guard but nothing occurred at that time.

It was perhaps ten minutes later that Mr Evans heard raised voices and went outside to see what was happening. By this time two customers from the Food Works store had entered the adjacent butcher shop with shocking news.

Mr Adrian Williams, who appears to be a mild mannered and unassuming personality, told the butcher he should call the police because a man was holding a knife to the throat of a young male shop assistant in the Food Works store. There was initially some incredulity until Mr Williams' account was supported by an older lady, Janet Edwards, who had also been in the store.

The butcher, Mr Darren Simpson, was persuaded to call the police while Mr Williams returned outside.

When Mr Williams first entered the Food Works store he walked straight into the unfolding scene. He saw a young male shop assistant being restrained by a man who was holding a knife to his throat behind the counter and demanding the police be called. The shop cashier was clearly in mortal fear and begged the man not to kill him. Mr Williams tried to calm the man down and told him he did not have a mobile phone but he would go and find a phone.

The man with the knife told Mr Williams to call the cops because he wanted a gun. Clearly he wanted the police to attend because he permitted Mr Williams to leave the shop to go to the butcher's to call the police.

The information given to the police by the butcher, Mr Simpson was

"I've got someone with a knife apparently holding (unintelligible) in the food store at Tinana Place shopping Centre."

The address was clarified and then Mr Simpson said:

"Apparently he's in the food store. I've just had a lady and a fella come in and tell me he's in next door right now."

The police checked the information with Mr Simpson saying:

"Okay. So it's a fellow with a knife?"

This was confirmed.

Mr Williams went back outside to see what was happening but despite his warning to another person about the sensor door at the entry to the Food Works store, it was activated and he was drawn back inside. He was beckoned in by the man with the knife and the young man being held hostage pleaded for his help and so he re-entered the store.

The young shop assistant was still being held behind a counter with a knife at his throat. Mr Williams noticed the store manager, Mark Steffen, had come out from the cold room and was near the counter trying to talk with the assailant and calm him down. The man responded by threatening to kill the shop assistant unless Mr Steffen and Mr Williams acceded to his demand to come closer and form a shield by linking arms. They were told to walk forward out of the store and then to stop by a veranda post.

The young man being held hostage was Richard Fenney who was aged 21 at the time. The man holding him hostage was Clay Hatch, who was aged 34. They did not know each other and it appears entirely random that the events

unfolded at this shopping centre and involved the particular group of people who were drawn into the incident.

Mr Hatch manoeuvred Mr Fenney and the two men acting as his shield ahead of him as he directed them to leave the store. By this time the butcher, Mr Darren Simpson, and the real estate agent, Mr Darren Evans had come out of their businesses to investigate. Mr Simpson had noticed Mr Hatch as he walked past his shop earlier and wondered if he was homeless due to his appearance and because he was carrying a plastic bag and towel.

Mr Simpson and Mr Evans saw Mr Hatch holding a knife to Mr Fenney's throat. Mr Simpson tried to talk with Mr Hatch and calm him down. Rather than being able to defuse the situation they found themselves drawn into the scene. They recognised the Food Works manager, Tony Steffen, whose arms were linked with another man as they left the store ahead of the knife wielding Mr Hatch who was holding Mr Fenney. Mr Simpson tried to calm the man down by assuring him he had called the police but Mr Hatch was not appeased and demanded Mr Simpson come over to him or he would stab Mr Fenney. Richard Fenney was pleading with Mr Simpson to help him and both he and Mr Evans felt compelled to join the group or risk Mr Fenney being stabbed.

Within a very short time two more people were drawn into the human shield. One was an older man, Mr Bertolotti who had just parked his car at the front of the food store. He saw a group of people and thought they were assembled for a photo before he was addressed by Mr Hatch who told him:

"You'll do, get over here."

The other person was Aaron Rossiter, aged 21, who had just arrived at the shopping centre and was also drawn into the group surrounding Mr Hatch who was continuing to threaten to kill Mr Fenney.

Mr Hatch was showing signs of extreme stress with witnesses noticing his head moving from side to side and signs of tension varyingly described as appearing as if affected by adrenalin, or angry, aggressive and agitated. Some witnesses could recall him using aggressive strong language demanding their compliance with his orders or he would stab Mr Fenney.

He did not appear to respond to anyone's attempts to calm him or to respond to any pleas to release the hostage.

It was at this time when Mr Hatch had gathered the six men around himself and Mr Fenney that a police car drove into the car park and parked at an angle towards the butcher and real estate shops in close proximity to the group who were now out into the car park area in front of the Food Works store.

The passenger side of the car was closest to the group and on that side of the car was Constable Belinda Frazer and Police Recruit Nicola Davies. Constable Marc Rodgers was the senior officer driving the vehicle.

The first record of a call to the police communications centre was at 10.20.50. This was a call made by Mr Hatch from the Food Works store after he had grabbed Mr Fenney and held a knife to his throat. In this call Mr Hatch assumed the identity of Mr Fenney and told police he had a young shop lifter at the Food Works store and requested them to come and get him.

The second call received by police was from the butcher Darren Simpson some 6 seconds later. The timing appears to indicate perhaps Mr Hatch made his call to the police after he had sent Mr Williams out to ring the police.

The local crew of rostered police from the Maryborough Police Station were sent out by Sergeant Roff and drove into the car park after turning off the siren. The information they had was there was a man with a knife at another person's throat at Tinana Shopping Centre.

As the police arrived in the car park they were told by Sergeant Guan over the radio to look for -

"about five blokes out the front of the Food Works there at Tinana Place. And apparently one's got a knife."

Constable Frazer acknowledged over the radio-

"You can show us off job we can see them."

The group was around the edge of the paved veranda outside the store. They were unwillingly shielding Mr Hatch and Mr Fenney. The gist of what can be elicited from the various accounts is this: Constable Rodgers got out from the driver's seat first which was on the side of the car away from the group. He moved towards the back of the car as Constable Frazer got out on the passenger side. Initially Recruit Davies stayed put as she was uncertain what was happening. There was shouting and someone at the back of the group was demanding the recruit get out of the car or he would stab the hostage.

She did so, which put her in a position closest to the group and the man armed with a knife.

Some witnesses including Constable Rodgers could recall the man calling out to the police officers to throw down their guns.

I am quite satisfied that neither officer had drawn their weapon. Constable Rodgers moved along towards the rear of the police vehicle and out from behind it. Initially he had his hands up gesturing in an open fashion towards the group and calling upon him to calm down.

Not surprisingly he cannot remember exactly what he said but I accept from all the evidence it was along the lines of 'calm down mate'.

Mr Hatch did not respond to the police officer other than by continuing to yell out and threaten to stab Mr Fenney. He demanded the police throw down their guns

Suddenly Mr Fenney screamed out he had been hit or stabbed and many of the group either heard or saw this happen as Mr Hatch brought his weapon down several times into Mr Fenney's back and neck. The police officers witnessed this. There was a momentary pause before Mr Hatch stabbed Mr Fenney again a number of times and the surrounding group of men broke rank and fled in all directions. One of the group, Mr Evans ran approximately in the direction where Constable Rodgers was emerging from behind the car. Constable Rodgers suddenly saw the assailant run towards him with the knife upheld at around shoulder height shouting he would kill him.

Mr Evans thought he was the target and ran past the police officer who was shouting "Stop, Stop" as he back tracked away a couple of metres from the threat.

I accept Mr Hatch was approximately five metres or less from Constable Rodgers when he withdrew his gun from his holster and brought it to bear on the oncoming Mr Hatch. There was no time to issue a formal warning that he was about to shoot unless the assailant desisted. There was insufficient time even to bring the weapon into the proper position in the middle of his body and hold it there to aim and fire. He shot one round from a position low at the side of his body. The bullet hit Mr Hatch in the neck. He still had forward momentum and he moved a step or two forward before falling spiralling onto his back as he fell to the ground.

The overwhelming evidence from witnesses was that no weapons were drawn by any police officers until immediately before the shooting occurred. Unsurprisingly in such a stressful situation Mr Simpson cannot recall what was called out by the police officer if anything as he was focusing on the man with the knife. Other witnesses could recall seeing and hearing Officer Rodgers respond. They confirmed he initially approached the group with hands open and forward seeking to calm Mr Hatch and talk with him.

Throughout the incident, Mr Simpson remained one of the closest to Mr Hatch and Mr Fenney. He could not say whether he grabbed Mr Fenney or he fell toward him after he was stabbed in the second attack, but Mr Simpson assisted in getting Mr Fenney to a seated position. As this happened he remembered Mr Hatch going straight past him running at the male police officer with his arm up in front of him wielding the knife at around shoulder height.

He could not recall anything actually said or yelled out at this time before he heard a shot.

When asked to assess the distance between the police officer and Mr Hatch, Mr Simpson thought it was less than 4 metres. After hearing the sound of the shot Mr Simpson saw Mr Hatch still moving forward with his own momentum before falling forward. He had the impression the police officer had stepped backwards before he fired.

Mr Simpson was then immediately occupied with assisting Mr Fenney who was bleeding copiously from wounds to the neck and head.

The estimate of distances varied between witnesses as did the time it took for the whole episode to unfold. Mr Simpson's final estimate was around four metres between the police officer and Mr Hatch when the shot was fired.

Although Constable Rodgers has no memory of this I accept the evidence of recruit Davies that he attempted to clear his weapon which had jammed after the first shot. A subsequent examination of the weapon showed the magazine had not returned to the proper position and the incoming round was not properly seated. Inspector Turner explained the weapon was not faulty but this probably occurred due to the restricted position from which the officer discharged the weapon, possibly obstructing the magazine when it was in contact with the accoutrement belt.

The aftermath

Constable Rodgers went to Mr Hatch and kicked away the knife still in his hand before bending to check for a pulse or any sign of respiration. There was none, although a short time later the recruit saw some movement which prompted further examination of Mr Hatch, but it was confirmed he was deceased. The ambulance was called and information radioed in immediately that one person had been shot and was deceased and another person had been stabbed multiple times.

Fortunately Mr Fenney made a full recovery and no-one else was injured.

Relationship between Mr Hatch's behaviour, his condition and toxicology

The evidence of Dr Albrecht is that, under the influence of amphetamines, Mr Hatch would have become increasingly disordered in his thoughts leading to disorganised behaviour. It is likely that amphetamines, combined with his underlying psychosis, would have resulted in him experiencing auditory and visual hallucinations with paranoid themes.

The level of the drug Diazepam detected in Mr Hatch after death were not consistent with what would have been found if he had only ingested the drug as prescribed. Mr Hatch had last been prescribed Diazepam at the Gold Coast Hospital and only had enough to last until 8 days after discharge. The levels in his system indicate more recent use and evidence given at the inquest by Dr Albrecht indicates the drug is readily available on the black

market either in pure form or mixed with amphetamines. Dr Albrecht stated that Diazepam had the potential to have a disinhibiting rather than a sedating effect when used in combination with amphetamines.

Mr Hatch was found to have two tablets in a plastic bag on his body. The prescription sticker on the bag was for Clozapine and had been issued in January 2007. This drug had not been prescribed to Mr Hatch since that time. It is not clear whether the tablets contained in the bag were in fact Clozapine. This goes to the issue of whether Mr Hatch had recently taken his prescribed medication. Toxicology tests did confirm low levels of the prescribed anti psychotic medication, quetiapine. Regardless of whether he was adhering to his prescribed medication, it is clear there was capacity in any case for Mr Hatch's condition to spiral out of control when aggravated by the other drugs mentioned.

Dr Albrecht agreed that Mr Hatch's behaviour was indicative of him suffering an acute episode of psychosis. In particular he cited the apparent willingness to interact with people so readily and the seeming focus on obtaining a gun as being entirely inconsistent with Mr Hatch when 'well'. I am satisfied, having regard to Mr Hatch's medical history, that his actions were a manifestation of his psychosis. There is no evidence to suggest he had any suicidal ideation or that he formed an intention to manufacture a confrontation with police during the course of any lucid thought process. His actions were the result of an acute episode of a severe and unpredictable illness exacerbated by illicit drug use.

The autopsy

An autopsy examination was conducted on 3 May 2007 by Dr Alex Olumbe in association with the consultant Professor Ansford. This examination confirmed a single projectile entered the left side of the front of the neck just above the collar bone. This traversed backwards through muscle and into the neck. The passage of the bullet severed or lacerated major structures including the proximal part of the left common carotid artery and left internal jugular vein. It caused multiple fractures of the first thoracic vertebra as well as causing contusion and laceration of the spinal cord.

The pathologist considered death may have been rapid due to the injuries sustained including severed blood vessels and contusion and laceration of the spinal cord. This opinion accords with observations made at the scene of Mr Hatch's death where witnesses observed him moving forward with momentum after being shot, then falling and spiralling onto the ground on his back. A check made for vital signs within a short time confirmed there was no sign of pulse or respiration.

Toxicology tests revealed the presence of amphetamine and methylamphetamine at low levels in the blood and high levels in the urine. This indicated usage of amphetamines which were being eliminated through urine. Other drugs were detected including diazepam and low levels of the

antipsychotic medication quetiapine. Inactive metabolites of cannabis showed previous use of cannabis.

The pathologist concluded Mr Hatch died due to a gunshot wound to the neck. Underlying coronary atherosclerosis contributed to the death.

Findings required by s45

The Coroner's Act 2003 states at section 45

- (1) A coroner who is investigating a suspected death must, if possible, find whether or not a death in fact happened.
- (2) A coroner who is investigating a death or suspected death must, if possible, find—
 - (a) who the deceased person is; and
 - (b) how the person died; and
 - (c) when the person died; and
 - (d) where the person died, and in particular whether the person died in Queensland; and
 - (e) what caused the person to die.

I find:

- (a) The identity of the deceased person was Clay Hatch
- (b) Constable Marc Rodgers and Constable Belinda Frazer accompanied by police recruit Nicola Davies attended at the Tinana Shopping Centre in Maryborough on 2 May 2007. They were responding to emergency calls by members of the public indicating there was a man armed with a knife involving another person at the Food Works store. As they arrived in the car park they were updated with further information that there was a group of about five men and one had a knife. They were unaware when they arrived whether there was a group of offenders or whether there was a fight or exactly what the situation was. When they arrived they discovered a man armed with a knife holding hostage a younger man. There was a group of six men with their arms linked in front of the other two.

The man armed with the knife was Clay Hatch. The group of six men had been commandeered into positions to shield the armed man and the group was just outside the Food Works store in the car park. The police officers alighted from their vehicle and Officer Rodgers tried to calm Mr Hatch by speaking and moving away from behind the police vehicle. Mr Hatch threatened to kill the hostage and demanded the officers throw down their guns although there is no evidence that any officer had drawn their weapon at

this time. Mr Hatch again threatened to stab Mr Fenney and did so repeatedly causing an immediate crying out from Mr Fenney. Mr Hatch again stabbed Mr Fenney a number of times and the surrounding group dispersed in various directions. One person, Mr Evans ran in the direction of the male police officer.

When the surrounding cordon broke, and the hostage was somehow free of his assailant, Mr Hatch ran towards the male police officer with his arm outstretched in front of him, clutching the knife around shoulder height. He was shouting he would kill him.

Mr Evans ran past the police officer who was yelling out to Mr Hatch to stop. The officer retreated a couple of steps before drawing his gun and firing a single shot from about hip height and to the side of the officer's body.

The distance between the officer and Mr Hatch when Mr Hatch started running was less than ten metres and the distance between them when he fired was less than five metres. Mr Hatch landed on the ground even closer to the officer after he was shot.

Constable Rodgers had no option except to shoot in these circumstances to prevent grievous injury or his own death.

Clay Hatch was shot in the neck and sustained fatal injuries. He died almost immediately due to those injuries.

- (c) Clay Hatch died on 2 May 2007.
- (d) Clay Hatch died at Tinana in Maryborough in Queensland.
- (e) Clay Hatch died due to a gunshot wound to the neck.

Concerns, comments and recommendations

Section 46, in so far as it is relevant to this matter, provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.

QPS use of force model and justification for use of firearm

The Queensland Police Service is subject to the law and restricted to only use force when lawfully required to do so.

I am satisfied in all the circumstances that Officer Rodgers was justified in drawing his service revolver and firing it once at Clay Hatch. His efforts to calm the situation and consider how he might persuade Mr Hatch to release the hostage and relinquish the knife were only open to him for moments. The situation escalated dramatically with the multiple stabbing of the hostage in the neck and back, followed almost immediately by another spate of stabs.

This led to the fracturing of the conscripted shield of people forced into the situation as they fled in all directions to avoid Mr Hatch. The hostage Mr Fenney was released and Mr Hatch immediately ran at the male police officer with an outstretched arm at around shoulder height, still wielding the knife and shouting verbal threats to kill him. The distance between Mr Hatch and Officer Rodgers was less than 10 metres when Mr Hatch commenced running at him. The officer took backward steps to gain some time and space and called out for Mr Hatch to stop but without effect. In all these circumstances the decision to draw and fire his weapon was justified.

Allocation of resources and risk assessment by police

Communication issues between police communications and attending police

The Maryborough police communications was staffed by Sergeant Guan and Senior Constable Coles on the morning of 2 May 2007. There were three incoming triple zero lines and three land lines. Calls could, and did, come in simultaneously but the officers were seated next to each other and endeavoured to keep each other informed.

This whole incident occurred within a very short time frame. It commenced at about 10.20am when Mr Hatch took Mr Fenney hostage and telephoned police with a misleading report of a shoplifter. It concluded when Officer Frazer advised over the police radio an ambulance was required. This was at 10.26am.

Any review of the police response is with the benefit of hindsight and motivated solely to review possible opportunities that were missed to defuse the situation, reduce the risk of harm to the public, and to the attending officers.

The first call from Tinana Shopping Centre was at 10.20.50. In that call Mr Hatch assumed the identity of Richard Fenney and falsely reported:

*“My name’s Richard Fenney. I’m at Food Works Gympie Road.
I’ve got a young shop lifter, he’s about fifteen. Could you come
down and get him please.”*

The operator attempted to clarify the address –

“Mate, this Tinana Place, is that near the Westside Tavern?

“Food Works, Gympie Road”

“Yeah, is that at Tinana Place?”

“Yeah, it is.”

The first opportunity to recognise a potentially serious incident was when Mr Simpson made a triple zero call from the butcher shop at Tinana Place Shopping Centre. The transcript records:

"I've got someone with a knife apparently holding (unintelligible) in the food store at Tinana Place Shopping Centre."

The address was clarified before Mr Simpson went on to say;

"Apparently he's in the food store. I've just had a lady and a fella come in and tell me he's in next door right now."

The call from Mr Simpson followed just 6 seconds after the initial call which had referred to Tinana Place Food Works.

A second triple zero call was received at 10.23.56 from Mr Martin at Tinana Shopping Centre checking the police had been notified of the disturbance.

The information supplied was:

"There's a guy apparently with a knife at somebody else's throat...outside Food Works. There's three people involved, four now."

The caller's name was confirmed and that he was ringing from the real estate business. The call operator asked for details of the person and was told –

"There are four blokes."

He could not describe them from where he was making the call.

Then Mr Martin said-

"He's got five people under hostage. He's got five people there at the moment and they've, they've got a knife with all of them...Actually he's taken them hostage, he's standing behind them."

The operator asked if they were in a car or in the car park and the question was answered

"in the car park outside Food Works."

A female voice was heard saying tell them to hurry up and the operator responded-

"They're on their way, that's no worries, that's fine, they're already on their way."

Sergeant Guan was the officer who received this call. The call took approximately 63 seconds.

It was a short time after this call, perhaps as little as a minute that Sergeant Guan answered the radio call from the crew attending the scene in car 206. He said;

“Yeah, how’s it going 206? Looking for about five blokes out in the front of the Food Works there at Tinana Place and apparently one’s got a knife.”

The crew responded, apparently as they drove into the car park:

“You can show us off job, we can see them.”

Sergeant Guan did not inform the attending crew there was a hostage situation. He acknowledged this was an oversight.

Within the next minute Richard Fenney was stabbed multiple times by Clay Hatch who then ran at Constable Rodgers brandishing the knife and threatening to kill him. The police officer was in imminent danger and drew and fired his weapon, causing fatal injury.

Given the very small time interval it was probably impossible to warn the car crew in sufficient time not to enter the car park and to be alert to the true situation, but there was still a failure by the communications officer to pass on the specific information that it was a hostage situation.

Involvement of police recruit in incident

The officer in charge of the day crew was Sergeant Roff. When the first two calls came in referring to Tinana Shopping centre, Sergeant Coles came into the dayroom and relayed the information to attend the shopping centre. The information which was being responded to was that there was a man with a knife, possibly holding up someone in the food store. It had been reported by a man and a woman who had been in the store and gone next door to the butcher with the report.

Sergeant Roff dispatched the two constables Rodgers and Frazer and also agreed to the police recruit Davies accompanying them. He clearly considered whether or not she should attend, but authorised it. He was aware recruits should not attend dangerous situations. In evidence it appears Sergeant Roff expected the unfolding scenario to be one where some people known to the police who carried knives for their own protection due to disability, but who were considered harmless, were the subject of the report. Unfortunately this was not the case.

The young recruit appeared to be aware of the possibility she would not be allowed to attend but jumped at the opportunity to do so. The risk was very real given her inexperience coupled with the lack of any accoutrements. She

was totally unarmed. Constable Rodgers briefed her as best he could indicating she should maintain her own safety as a priority but not be backward in coming to the assistance of the other two officers if called upon to do so. It was simply good fortune the young recruit was not targeted by Mr Hatch as she was the closest uniformed officer after the car was parked within close range of the group outside the food store.

As soon as Sergeant Roff became aware of escalating reports from the Tinana Shopping Centre he rushed to equip himself with his own accoutrement belt and hastened to the scene on a code two status to help. He told the inquest he considered the possibility of involving a police negotiator from Hervey Bay, but he wanted to attend the scene first to help his officers and assess the situation.

He assumed the communications team would inform the officers of the upgraded threat and new information. He was still driving to the scene when he heard the request for an ambulance as one person had been shot and another had multiple stab wounds.

It is important to recognise the very real, on the job risks that police officers face daily, and to be mindful of the instructions not to expose inexperienced and unarmed recruits to situations of potential danger.

Awareness of risk from person armed with instrument with a blade

Inspector Turner emphasized the importance placed on safety during training, especially when faced with a possible assailant armed with a blade. After extensive international review, the safe perimeter had been extended from 7 metres to 10 metres from a person armed with a blade. This distance was established after it was discovered how quickly an assailant could move towards an officer and the potential to deliver a lethal wound when armed with a blade, before the officer could respond.

Constable Rodgers certainly appreciated the risk when he was faced by Mr Hatch running at him probably from a shorter distance than this. He yelled out to "stop, stop," and he retreated a couple of steps and then withdrew his weapon and fired as a measure of last resort.

The evidence from Constable Frazer in the inquest was of concern. She had survived the experience unscathed and had recently undergone training. Despite this she needed prompting upon re-examination before she could elicit the correct safe distance when faced with an assailant armed with a knife. Her estimates of distance were also at odds with other witnesses. I do not intend to be unduly critical of this except to support an opportunity for further training to increase her skills.

Treatment of Mr Hatch's mental health condition in the community

I am satisfied that the treatment afforded to Mr Hatch by Dr Albrecht and other mental health workers was appropriate. I am satisfied that the treatment afforded to Mr Hatch gave proper and balanced consideration both to the Findings of the Inquest into the death of Clay Hatch

management of his condition and the need to protect the community. The treatment history showed ongoing compliance, over a long period, with a restrictive forensic order. In hindsight, the brief incident on 4 April 2007 in which Mr Hatch went missing may have signalled the likelihood of further non-compliance although even now a link is not clear. I am satisfied that, on the information available at the time, the decision to impose a two week period of detention and monitoring of Mr Hatch for what was a very minor breach in the context of a 5½ year old order that had otherwise been adhered to, was sufficiently prudent. Even if others might have acted differently in the circumstances it could certainly not be said that a reasonably competent professional in Dr Albrecht's position could not have made that decision.

The hospital appropriately made contact with Mr and Mrs Hatch after his death to offer their condolences and assistance. Dr Albrecht offered to meet with the family. The family have been invited to forward any concerns they have in relation to the mental health treatment afforded to Mr Hatch. None have been forthcoming and this is consistent with what appears from the material available to me to have been a very good and productive relationship between the GCMHS and Mr Hatch's parents.

Conclusion

Clay Hatch's death was a tragedy and his loss to his family and friends cannot be measured. He was a young man struggling with a serious mental illness and the restrictions this placed on his life. Despite being loved and supported by his family and receiving ongoing psychiatric treatment and care he struggled to cope with fluctuating psychosis. Medications were variably successful but came at a great cost in terms of significant medical deficits, and disabling and limiting side effects. There were times in the past when he attempted to self medicate or otherwise escape his dilemma with illicit drugs but generally he was compliant with his medication regime and the restrictions imposed on his life. He also usually complied with abstaining from illicit drugs and alcohol. The last recorded occasion of illicit drug use was around Christmas 2006. His psychiatrist changed his medication over the years in a constant endeavour to manage his illness with least impact on his health and general well being. In recent times his mother had indicated he seemed as well as he had been in years. But his psychiatrist noted with the reduction in some level of sedation he became more aware of his own prognosis and was frustrated at the limitations.

Tragically Clay accessed amphetamines and diazepam in unknown circumstances and absconded. The combination of dis-inhibition and paranoia exacerbated his underlying schizophrenia and he became psychotic and disconnected from reality. Whilst affected in this manner he was unlike his "well" self, causing enormous fear and injury to innocent people.

Richard Fenney survived a terrifying and frenzied attack which was totally unprovoked and random. Others were unwittingly drawn into the nightmare and feared for their lives. The two young police officers and recruit were thrust into this situation without warning. They and particularly Constable Rodgers

reacted professionally and capably in the only way the situation could have been resolved.

Constable Rodgers and the Commissioner of Police extended their sincere regret and condolences in the course of this inquest to Clay Hatch's family and friends on the tragic death of Clay Hatch.

I thank all those who have assisted in investigating and participating in this inquest, which is now closed.

Christine Clements
Acting State Coroner
Maryborough
19 June 2009