



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of CMC**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

FILE NO(s): COR 2007/171

DELIVERED ON: 13 September 2012

DELIVERED AT: Brisbane

HEARING DATE(s): 21 September 2009, 9 December 2011 to 16 December 2011, 10 July 2012

FINDINGS OF: John Hutton, Coroner

CATCHWORDS: CORONERS: Inquest – adequacy and appropriateness of QPS response to 000 call, excited delirium

REPRESENTATION:

Counsel Assisting: Julie Sharp of Counsel

QPS Police officers: Craig Pratt, instructed by Gilshenan and Luton Lawyers

QPS Commissioner: Christina Heffner, instructed by Queensland Police Service Solicitor

Findings pursuant to section 45(2) of the Coroners Act 2003

These are my findings in relation to the inquest into the death of CMC:-

I find as follows:

- (a) The deceased person is CMC;
 - (b) CMC died during a physical altercation with her son;
 - (c) CMC died on Monday the 3 September 2007;
 - (d) CMC died in the state of Queensland;
 - (e) The cause of CMC's death was excited delirium.
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BACKGROUND, EVIDENCE AND DISCUSSION

CMC was born in New South Wales, she was 36 years old at the time of her death on 3 September 2007. CMC lived with her mother, N, sister and youngest son.

CMC's eldest son, S, who was 16 years old, was staying with his mother on 3 September 2007.

S did not participate in an interview with police during the course of the investigation. He gave his first account of events at the inquest when he was directed to give evidence pursuant to section 39(2) of the *Coroners Act 2003 Queensland* (the Act).

Apart from the statutory requirement of s. 45(2) of the Act, as mentioned in my findings above, the focus of the inquest was not only the cause of CMC's death, but also the adequacy of the Queensland Police Service (QPS) response to a triple-0 call made by S at 8:21pm on the night of her death.

EVENTS LEADING TO CMC's DEATH

S told the court that on the afternoon of his mother's death he finished work and was collected by N who took him back to her house where he was to stay the night. At the time, S was living with his father.

When they arrived, S recalls that his mother was 'in one of her moods'. N had warned him of this on the trip home.

S said his mother was rambling and yelling at N. He asked N if she would take him for a driving lesson in order to get away from the house.

When S and N returned from the driving lesson, S observed that his mother was intoxicated. He noticed a number of empty alcohol bottles in the bin.

Both S and N said CMC had a longstanding problem with alcohol and cannabis.

The situation escalated after an incident which occurred when CMC was bathing her younger son. She had apparently left him unsupervised in the

shower and the bathroom flooded. N chastised her about this and told her to clean it up.

CMC's reaction was extreme, although not unusual for her. N said that her daughter had 'gone off' and 'just went looney', saying things like 'you don't understand me/the Interferon' and 'Why was I born'. She wasn't really making sense according to N. Her voice was raised and she was yelling. N ignored her and CMC then turned her attention to S, who was in the lounge, and she began yelling at him and pushing him.

S describes his mother delivering a 'stronger than normal push'. He said that he was standing 'pretty strong' but when his mother pushed him, he went back a couple of steps. CMC then took a swing at him. S pushed CMC back and tripped.

During this interaction, S remembers his mother expressing paranoid thoughts. In evidence, S said that he 'seriously thought that she was crazy that night, like something was different about her that night, and physically she was stronger than she was normally, and I was surprised because, like, me being the size that I was, I wasn't much smaller than I am now.' (T 1-31).

According to N, CMC then went into the kitchen saying that she was going to ring the police. N recalls touching the phone and saying 'look, just settle down' (T 1-12). CMC's response was to throw the phone to the floor, breaking it.

CMC then went to the front door and started punching the security grill with force. She seemed oblivious to the obvious pain that must have caused. There were at least three punches, after which CMC went out the front door and slammed it behind her.

CMC continued screaming at N and S to let her back in and at some stage was let back into the house. Prior to this, N had hidden kitchen knives behind crockery in the cupboard, concerned that CMC might repeat previous behaviour which involved her threatening N with a knife and assaulting her.

Back in the lounge room, CMC continued screaming at S and N, after which she went into the kitchen where she apparently found a long bladed brown handled knife which N had overlooked, with which she stabbed the wall leading into the kitchen several times before throwing the knife onto the floor. The force she used was sufficient to create holes in the plaster wall.

N retrieved the knife and hid it in a bucket in the laundry. S's evidence was 'she was getting it through the wall so she was pretty forcible about it. She wanted to get it through. She was making sure of it' (T 1-34).

At that point, S went outside and called the police. Just prior to that, S heard his mother ask for the number to contact police. Both he and N thought this bizarre since CMC had telephoned police via the triple-0 service several times in the past.

The recorded triple-0 call was taken by Mr M and is addressed in greater detail below.

S told Mr M that his mother was:

'having a spaz attack' and that 'she snapped and she just fucking, she pushed me twice so I pushed her back and then did some bad stuff and then I, when they get here I'll tell ya. I think she's called them already but she said she has or she hasn't I don't know'.

S told Mr M 'I just need someone here quick.'

During the course of the conversation, S can be heard to say 'shut the fuck up, sorry not you. Um that was just um she's no, she's like a mental case, she's a nutbag and she's just snapped and I've just yeah'.

In evidence, S said that at that stage he was out on the driveway and his mother was yelling out to him from the front door.

S told the court that he phoned the police:

'because I feared for everyone's safety in the house. =... I was worried for Nan. I was worried for my brother more than anything. Like I'd dealt with it my whole life, mainly up until then, you know. Like I thought I was right, I was trying to protect them' (T 1-36).

S said that his concern arose out of:

'the stabs in the wall and after I'd thrown the monitor [a reference to him having just thrown his mother's computer monitor onto the front lawn] I didn't really want to go to bed without them coppers either taking her somewhere, either to the hospital was my main thought, or to ... the watchhouse because she needed to be somewhere to either sober up or to calm down, or to get some help' (T 1-36).

CMC continued to yell for 'a little bit longer'. After that, S said that his mother went to the shop, and about half an hour later, she returned.

At around this time, CMC went out through the back door and, it seems, dropped the key and locked herself out. She was then demanding her mother to find the key, and threatened to break the glass panel on the door if the key was not found. A short time later, her younger son found the key and let her in and the situation was defused.

N doesn't recall any further trouble between CMC and S between that incident and her going to bed. Before she went to bed, N asked S to wake her when the police arrived.

S recalled sitting on the couch in the lounge room after N and his brother retired to bed. He said that his mother was belittling him for some time.

S said that things settled after and described the dynamic at that time as follows:

'It came in phases after that. There was quiet moments and then she would come in and coming into the kitchen and get a drink, or something, and call me a piece of shit or like, you're the worst son in the world and all that sort of stuff, and then go back outside'. (T 1-37).

S said he was sitting 'like in a semi laying position' on the couch in the lounge room when his mother came from the kitchen to the lounge. He described the situation as follows:

'She came up to me on my left hand side and she swung at me with her right hand and as she swung at me with her right hand, I've grabbed the knife with my left hand and pulled it out and struck, sorry, and then I struck her in the neck with the knife and then – sorry, it just hard' (T 1-40).

In describing the shock of what had happened, S explained that he thought that everything had calmed down because it had been 'a fair while since she'd gone out and come in' and CMC's outbursts had become less frequent, at one stage she had even sat down on the couch and watched some television.

When CMC approached S on the couch just prior to the struggle, she said to him something like 'they're going to get you' or 'it's not going to hurt'. S remembers that the words his mother used were 'really strange'. He described his mother as speaking to him in a softer voice than she would normally use.

She appeared 'really plain and she was really calm. She said like something really strange and – and I kind of like – kind of just thought about what she said for a second, like lost what was happening in front of me and the next minute I'm getting this arm swung at me and I didn't even realise it was a knife until I grabbed it and – and cut my hand' (T 1-41, lines 30-40).

S remembers striking twice 'really quickly' towards her neck. 'And then she's pulled me to the ground, started striking me and that's when I started stabbing her in the stomach'.

S said his mother was hitting him in the face. She tried to grab him and was hurting him.

Regarding his mother's strength, S said:

'She got me to the ground so she was very – she got me to the ground fairly easily and I was angry and strong and in shock of what happened. Obviously, I had a lot of adrenalin running so I would have been very strong too and she's pulled me to the ground so she was very, very strong at that time, I would say, yeah' (T 1-40).

After S had stabbed his mother several times to the stomach, he stopped and stood up. He said that he couldn't comprehend what had happened and sat on the couch for 10 minutes. Then he went and woke N.

N went to a nearby phone box and called 000. That call was made at 11:28pm and the police and ambulance arrived soon after.

MEDICAL EVIDENCE

Dr W said in evidence that he treated CMC from 2005 up until his last appointment with her in August of 2007, during which time he diagnosed borderline personality, consequential to sexual abuse and abuse generally, which in turn merged into post traumatic stress. It was Dr W's opinion that both diagnoses were interchangeable. During the course of his consultations with CMC, she disclosed to Dr W that she had suffered abuse throughout her life. More particularly, she was sexually abused by her father in her mid teens. [Her father later took his own life]. This sexual abuse had a life-long effect on CMC and was, in the opinion of Dr W, a contributing factor to the end point of her life. Dr W said she disclosed that she had also been abused by one of her previous partners. CMC also suffered from hepatitis C and haemochromatosis. These physical ailments were treated by regular bleeding and interferon. As far as Dr W was concerned, he thought CMC tolerated the drug interferon 'pretty well'.

As to CMC's state of mind, Dr W said he found it difficult to 'pigeonhole people', but she certainly had borderline personality features, as well as anti-social features and narcissistic features which combined. Dr W had not been provided with a copy of the autopsy report prior to his evidence in Court. He was unaware as to the situation which had arisen between CMC and her son, S the night of CMC's death, but upon being informed by counsel as to the situation, he agreed with counsel that CMC's behaviour was indeed strange.

It was Dr W's opinion that CMC's mental state could have predisposed her more to an excited delirium than that of a normal person and even the haemochromatosis could have contributed to her condition of an excited delirium.

During his evidence, Dr W said before he met CMC she had been diagnosed as having suffered from bipolar disorder. During the hearing, Dr W was furnished with a copy of the autopsy report and was asked to comment on the pathologist's opinion as to whether or not CMC may have suffered from an excited delirium. After reading the report, Dr W was of the opinion that CMC's behaviour on that night was really the crescendo of abuse she had suffered as a child, which he described as 'the beginning of the story', and that her bizarre behaviour on that evening was the end point of such abuse.

Dr W said in evidence 'But I would say, from what I've just read, the likelihood of a delirious state is quite probably high ... Quite High. Quite likely, it is really a high point of her irrational behaviour.' Having read the pathologist's report, Dr W opined that 'the pathologist had made a good case for an excited

delirium'. Dr W said that 'Classically, people recover completely from delirious states, unless they die.' In this case CMC died.

Dr Buxton, forensic pathologist, was asked to review the cause of death of CMC. He provided a report which was tendered. In evidence, Dr Buxton said that Dr Urankar (the forensic pathologist who conducted the post-mortem on CMC) made out a well-argued case for excited delirium, which is a condition where death occurs following a restraint; usually by police or security staff at a nightclub; whereby the person suffering the condition becomes agitated and may also be almost psychotic. The blood pressure accelerates as well as the body temperature which is mediated through adrenaline or one of the other adrenaline-like hormones. Dr Buxton likened excited delirium as sudden death during a restraint. It was Dr Buxton's opinion that although the knife wounds were not life threatening in themselves, the sheer factor of putting a knife through the skin can raise adrenaline levels and, even though life itself has not been affected, the adrenaline levels can also continue to rise when the agitation or major activity has ended, as Dr Buxton said, 'So you can still get the kick afterwards, maybe up to two minutes later and this can cause your heart to stop.'

Dr Buxton said excited delirium was hard to prove but Dr Urankar made a well argued case for it and that you can build up a history which can show excited or agitated delirium and the criteria being fulfilled, but whether it is the actual cause of death is hard to say. Having had the description of what took place that night read to him by counsel, Dr Buxton said all he could say was CMC was a woman who was certainly agitated, but whether the agitation led to an excited delirium which caused her death was beyond him as he was not a psychiatrist.

It was Dr Buxton's opinion that the stab wounds in themselves were not the cause of death; that none of these injuries hit anything of import; most of the abdominal stab wounds stayed within the subcutaneous or abdominal fat; the wounds to the neck did not pierce the carotid artery or the vagus nerve. It was Dr Buxton's opinion that the knife wound certainly missed everything that could have proved detrimental to CMC and they did not penetrate anything which could have led to her death.

Dr Urankar found that in all, not one of the stab wounds was fatal. Dr Urankar said that the level of alcohol in the urine indicated that CMC had actually started metabolising alcohol; consequently her blood level of alcohol would have been higher previously. Dr Urankar's reluctance for saying excited delirium was the cause of death was based on the fact that at the time of autopsy she was not in possession of all the features which were needed to come to a final conclusion as to excited delirium being the cause of death.

As a result, Dr Urankar came to the conclusion as to an 'undetermined death' but in her report she raised two possibilities as the cause of death; excited delirium; and the heart itself. When the evidence of the struggle between CMC and her son, S was put to Dr Urankar, Dr Urankar said, on the balance of probabilities, the cause of death was more the excited delirium because a

heart condition would definitely contribute to the whole scenario, and that knowing what she knew at the time of the inquest about the cause of death, Dr Urankar said she would be quite confident in saying that the cause of death was excited delirium.

QPS RESPONSE TO THE TRIPLE-0 CALL

S made a triple-0 call that was recorded by the Gold Coast Communications Centre at 8:21pm on 3 September 2007. The recording reveals that S told Communication Radio Operator (CRO) Mr M that –

‘My mother she’s having a spaz attack and I kind of had a spaz attack too and we did bad stuff and um, and yeah my grandmother’s like yeah I just need someone here because she’s um, I will **snap**, serious I’ve already **snapped** once I nearly killed her I admit that...¹

Shut the fuck up! Sorry not you. Um, that was just, um, she’s no she’s like a mental case she’s a nutbag and she’s just snapped and I’ve just yeah.

...

Yeah she’s snapped and she just fucking, she’s pushed me twice so I pushed her back and then did some bad stuff and then I, when they get here I’ll tell ya. I think she’s called them already but she said she has or she hasn’t I don’t know.

...

But I just need someone here quick.’

In response to Mr M’s questions, S said that no ambulance was required and there was ‘not really’ a serious assault, but that ‘it would be good if you could get someone here quickly.’

S confirmed that he was afraid his mother would assault his grandmother, that there had been an ‘AVO out once’ between his mother and grandmother and that there had been violence between him and his mother that night.

During the course of the call, S indicated that his mother was screaming, and he said that she had ‘probably’ had mental health issues.

QPS did not respond to the call. When N telephoned triple-0 again at 11:28pm, CMC was dead.

This issue was the subject of an internal police investigation resulting in two reports under the hand of Inspector O Elloy of the Internal Investigations Branch, Ethical Standards Command: 9 October 2007 (Exhibit D13), 11 April 2008 (Exhibit D12).

An additional report was prepared by Superintendent J Pointing to the Assistant Director, Ethical Standards Command, dated 5 December 2007. That internal investigation report was provided to the Office of the State

¹ The transcript of the phone call records the highlighted words as ‘stab’ rather than ‘snap’ and ‘snapped’.

Coroner, along with other documents addressing steps taken by QPS to reduce the risk of a similar incident occurring in the future, in September 2011 (Exhibit D11).

Mr M gave evidence in the proceedings and, prior to that, had been interviewed by police on three occasions. Concerns were raised with him about information that was included and omitted from the 'job card' (Exhibit D11a, p.15) and regarding the possible impact of Mr M having stereotyped the 16 year old caller.

Mr M was criticised by police investigation for not including information about S having 'stabbed' his mother. In fact the words used by S were to the effect that his mother had 'snapped'. In any event, Mr M explained that he might have been preoccupied by his focus on obtaining the address. This information was critical in case the call ended abruptly.

Inspector Hartz, of the Police Communications Centre (PCC) at Beenleigh, suggested that Mr M might have asked more questions to clarify the information he had been given. For example, Inspector Hartz thought it would have been helpful to clarify when the incident involving the 'stabbing' (or 'snapping') took place and what the caller meant by having done 'some bad stuff'.

Mr M maintained (in interviews and in evidence) that he did attempt to clarify the information he was receiving, while simultaneously recording information he was being given and ensuring that necessary information (such as the address) was obtained.

Inspector Hartz acknowledged that Mr M's role is a difficult and stressful one. He also pointed out that even if Mr M had asked additional questions, the result might have been the same.

That is most likely the case. At the time of the call, CMC was calling out to S something about phoning police, although Mr M could not hear that. She was not behaving in a threatening way. After the call, the situation settled down, CMC left the house and went to the shops (according to S's recollection).

Mr M initially told investigators (Exhibit D11a, p.27) –

'He wasn't forthcoming initially – it was a bit hard he was being very vague, he just wanted police around there straight away so it's very hard to gauge, um he was 16 so um I was thinking um you know a lot of kids exaggerate because they haven't got much life experience basically I suppose...'

That statement was clarified in the second interview (Exhibit D11a, p.64-66).

Mr M said that he meant that young people can come across as 'a bit more panicked'. When asked what techniques he might engage to deal with that, Mr M said that he would talk in simpler terms, treat the person with respect

and 'give them some more grace'. Mr M said he would attempt to cut through potential exaggeration by continuing to ask questions.

The internal investigation found that –

'In exercising that judgment (about what code to assign the job), Mr M may have assumed that S exaggerated the situation, however, he took into account other factors in assessing S's information and classifying the seriousness of the job.'

Mr M classified the job as a 'Code 3A', which indicated the job should be attended to without delay, without lights and sirens. The job was numbered 1143.

The internal investigation found, and Inspector Hertz agreed, that Code 3A was the appropriate code in all the circumstances, particularly since there was no immediate threat to person or property (Exhibit D11, p.24).

Mr M had appropriately recorded the code indicating the job might involve a person with mental health issues. Further, Mr M followed up the call by running checks through 'the system' to ascertain if there were any domestic violence orders in place, and whether the people involved were 'persons of interest'.

Given the circumstances as stated above, it can't be said that Mr M acted inappropriately.

While he might have asked further questions and recorded further information, those additional steps are unlikely to have made any difference to the outcome. That is because further questions are unlikely to have revealed any information that would have elevated the job from a Code 3A. Further, the real problem on the night of CMC's death was a shortage of crews available to respond to the unusually high number of incoming jobs.

The officers responsible for allocating resources to jobs were Sergeants Hearn and Cushing. On 3 September 2007, Sergeant Hearn worked the 2pm – 10pm shift, with Sergeant Cushing taking over from him.

Sergeant Hearn told investigators that he looked at the job card for job 1143 and saw that 'it was just a threat' and there was no relevant history relating to the address (Exhibit D11, p.5).

The job was not immediately allocated because there were no cars available. Sergeant Hearn let the job sit, waiting for car 210 to become available. It was the only unit operating in Southport that night.

Car 210 returned to the Southport station at 9:06pm to lodge property taken from a knife-wielding, mentally-ill patient they had taken to the Gold Coast Hospital.

Sergeant Hearn then allocated another job (1187) to car 210. That incident involved a group of 15-20 people robbing and assaulting members of the public outside the hospital.

The internal investigation, unsurprisingly, found this was an appropriate allocation of resources. It clearly appeared to be more urgent than the situation described by S.

Sergeants Cushing and Hearn undertook a 'handover' prior to Sergeant Cushing starting his shift at 10pm. Job 1143 was not specifically mentioned and there were 17 other jobs in the queue waiting for allocation.

Sergeant Cushing expressed frustration to investigators about the 'ongoing difficulty in responding to calls for service through lack of available police and the distress that causes him and other officers.' (Exhibit D11, p.10)

At 9:42pm (before the official start of his shift), Sergeant Cushing tried to have job 1143 tasked to the 10pm - 6am Southport crew. That could not be done because on 3 September 2007 there was no 'cover car', or additional unit in operation and the only car available was busy.

At about 10:30pm, Sergeant Cushing rang the District Duty Officer, Senior Sergeant Underwood, complaining that he had 5-7 jobs in the queue and that the Southport car was unavailable. The crew was then undertaking an interview.

Officer Underwood told Sergeant Cushing to task the Runaway Bay or Nerang cars to the jobs.

It seems that Sergeant Cushing attempted to do so, but at 11:30pm the job was sent back with the comment that the Southport crew were 'untaskable' since they were busy conducting an interview.

Not long afterwards, at 11:20pm, the call from N was received.

The investigation found that both officers exercised their judgement in allocating the sparse resources appropriately. I agree as there is no evidence to suggest otherwise.

I close the inquest.

John Hutton
Coroner
Brisbane
13 September 2012