



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Shane Robert Nielsen**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO: COR 15/06(7)

DELIVERED ON: 19 June 2009

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HEARING DATE(s): 28 November 2008, 6 February, 2 – 4 March, 21 May 2009

FINDINGS OF: Brisbane Coroner John Lock

CATCHWORDS: CORONERS: Inquest – Gunshot wound to head, adequacy of Police investigation

REPRESENTATION:

Counsel Assisting: Mr C Chowdhury of Counsel

Queensland Police Service: Mr W Kelly, Queensland Police Service Solicitor's Office

For the Family: Mr A Boe, Boe Lawyers

CORONER'S FINDINGS AND DECISION

1. These are my findings in relation to the death of Shane Robert Nielsen who died at 26 Mellino Drive, Morayfield from a gunshot wound to the head. On 1 January 2006 Margaret Nielsen found her son Shane Nielsen slumped in his lounge room chair with a gun across his lap and blood coming from his left side of his head. The circumstances of his death were investigated by police. The initial police investigation concluded that Mr Nielsen had taken his own life. Further investigations were conducted by police for the Coroner. This inquest will examine the adequacy of the police investigation and try to determine whether Mr Nielsen committed suicide or whether he has been murdered, as is thought to be the case by his family.
2. These findings seek to explain how the death occurred and consider whether any changes to policies or practices could improve investigations in the future and thereby give added confidence in the administration of justice where deaths occur in similar circumstances in the future. Section 45 of the *Coroners Act 2003* ("the Act") provides that when an inquest is held into a death, the coroner's written findings must be given to the family of the person who died and to each of the persons or organisations granted leave to appear at the inquest. These findings will be distributed in accordance with the requirements of the Act and also placed on the website of the Office of the State Coroner.

The scope of the Coroner's inquiry and findings

3. A coroner has jurisdiction to inquire into the cause and the circumstances of a reportable death. If possible he/she is required to find:-
 - a) whether a death in fact happened;
 - b) the identity of the deceased;
 - c) when, where and how the death occurred; and
 - d) what caused the person to die.
4. There has been considerable litigation concerning the extent of a coroner's jurisdiction to inquire into the circumstances of a death. The authorities clearly establish that the scope of an inquest goes beyond merely establishing the medical cause of death.
5. An inquest is not a trial between opposing parties but an inquiry into the death. In a leading English case it was described in this way:- *"It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends... The function of an inquest is to seek out and record as many of the facts concerning the death as the public interest requires."*¹

¹ *R v South London Coroner; ex parte Thompson* (1982) 126 S.J. 625

6. The focus is on discovering what happened, not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred with a view to reducing the likelihood of similar deaths. As a result, the Act authorises a coroner to make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future.² However, a coroner must not include in the findings or any comments or recommendations, statements that a person is or maybe guilty of an offence or is or maybe civilly liable for something.³

The Admissibility of Evidence and the Standard of Proof

7. Proceedings in a coroner's court are not bound by the rules of evidence because the Act provides that the court "*may inform itself in any way it considers appropriate.*"⁴ That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information.
8. This flexibility has been explained as a consequence of an inquest being a fact-finding exercise rather than a means of apportioning guilt. As already stated, it is an inquiry rather than a trial. If a witness refuses to give oral evidence at an inquest because the evidence would tend to incriminate the person, the coroner may require the witness to give evidence that would tend to incriminate the witness if satisfied it is in the public interest to do so. The evidence, when given (and any derivative evidence) is not admissible against the witness in any other proceeding, other than a proceeding for perjury.⁵
9. A coroner should apply the civil standard of proof, namely the balance of probabilities but the approach referred to as the *Briginshaw* sliding scale is applicable.⁶ This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, the clearer and more persuasive the evidence needed for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.⁷
10. It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially.⁸ This means that no findings

² Section 46 of the Act

³ Sections 45(5) and 46(3) of the Act

⁴ Section 37(1) of the Act

⁵ Section 39 of the Act

⁶ *Anderson v Blashki* [1993] 2 VR 89 at 96 per Gobbo J

⁷ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

⁸ *Harmsworth v State Coroner* [1989] VR 989 at 994 and see a useful discussion of the issue in Freckelton I., "Inquest Law" in *The inquest handbook*, Selby H., Federation Press, 1998 at 13

adverse to the interest of any party may be made without that party first being given a right to be heard in opposition to that finding. As *Annetts v McCann*⁹ makes clear that includes being given an opportunity to make submissions against findings that might be damaging to the reputation of any individual or organisation.

11. If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed a criminal offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence, and to the chief executive of the department which administers legislation creating an offence which is not indictable.¹⁰

The Evidence

Background evidence

12. It is not necessary to repeat or summarise all of the information contained in the exhibits and from the oral evidence given, but I will refer to what I consider to be the more important parts of the evidence.
13. Shane Robert Nielsen was found located on a lounge chair of his residence deceased with a sawn-off 22 calibre rifle resting on his lap. A single gunshot wound to the left side of his head was seen. No suicide note was found. Mr Nielsen was known to be right handed. Despite these factors attending police considered it was likely to be a self-inflicted injury. His family have concerns about the police investigation and the conclusions drawn and believe that a third or third parties were involved in his death. The family did not believe he committed suicide. A few days after his death his mother Mrs Margaret Nielsen found a note¹¹ in a safe which said:

If anything happens people to check are

1. *Nick from the Finks Gold Coast A.K.A Nick the Knife, he was Blondies running buddy*
2. *Rebels mainly Gold Coast chapter & Max life member from Sunshine Coast & Jimmy Bossman's mate on card ex Rebel but still tight. Bossman & Juels*

14. It is apparent from what is subsequently now known that "Nick the Knife" is Nicholas John Forbes, "Bossman" is Daryelle Dixon and "Juels" is Julian Cruikshank. The note makes reference to the Finks and the Rebels which are known outlaw motor cycle gangs. The evidence shows that there is also a clear association, perhaps on the fringes, between Shane with elements of these outlaw motor cycle gangs. The inquest heard from a number of witnesses, but as will be apparent others were not so ready to cooperate with the initial investigation and have been

⁹ (1990) 65 ALJR 167 at 168

¹⁰ Section 48(2) of the Act

¹¹ See exhibit E1

difficult to locate to be served with a summons to attend and give evidence.

15. I will deal with some of the background personal information about Shane Nielsen that has mainly been gleaned from his parents. Shane Nielsen was 33 years old. His father Geoffrey Nielsen provided a statement¹² and gave telephone evidence as he was ill. His mother, Margaret Neilson gave 3 statements and also gave evidence. Mrs Nielsen in particular has been diligent and persistent in wanting her son's death investigated. The first statement she gave was to Police and is dated 16 March 2006.¹³ The second and third statements were drawn up by her lawyers and provided to the Coroner and were dated 28 November 2008¹⁴ and 20 February 2009¹⁵ respectively.
16. Mrs Nielsen reports that Shane was a large man and this is apparent from photographs taken at the scene and noted in the autopsy examination. His friends used the nickname "Largie" for him. He had not been able to work full-time for approximately 14 years and was on a Newstart Allowance. Shane had lived in the rented premises where he was found deceased for some four years. He had moved into the house with his girlfriend Candy Reardon however they had broken up the year before his death and he lived there alone since then.
17. His family, consisting of his mother and father, apparently saw Shane most days, particularly so in the last six months before his death. He would come over and do a few odd jobs at their house. He was a heavy drinker. Mrs Nielsen said that he and his father would often share a carton of beer in the afternoon and he might drink 7 – 8 Bourbon and coke cans before going home. Mrs Nielsen understood he would drink more at home. She said that Shane was against illicit drugs and was surprised to hear from his friends that he was using drugs such as "Ice".
18. Shane had a number of friends on the Gold Coast and would spend a lot of time there. This also changed in that in the six months prior to his death he went there less often. One of his close friends was Jason Beveridge but he also associated with Bryce Coster, Darryelle Dixon, Julian Cruikshank and others. The Arundel Tavern was a favourite meeting place and associates of or members of the Rebels Motorcycle Club often attended. Dixon was apparently a former member of the Rebels and it appears Shane was on the fringe of the group and Dixon was reportedly planning to bring Shane along into the membership.
19. Six months prior to his death it is evident from various sources that Shane was a victim in a home invasion where he was tied up with electrical tape. He was pistol whipped. The person who was reportedly being targeted was "Nick the Knife" and he unexpectedly arrived and

¹² Exhibit C13A

¹³ Exhibit C14

¹⁴ Exhibit E6

¹⁵ Exhibit C14 A

was severely beaten. Nick was associated with the Finks Motorcycle Club. A person known as "Titi Boy" was also beaten. A Stephen Walton was allegedly one of the assailants. He was with the Rebels. The incident was not reported to Police.¹⁶

20. On 14 August 2005 Shane was at the house of his friend Darryelle Dixon at Gaven. In a statement Shane gave to police he also says Julian Cruikshank was present. He had spent much of the weekend with them and others. At about 9.15pm Shane stated he was in the garage when he heard a lot of shouting and he heard gun shots. He hid for a while until police arrived. Stephen Walton was killed. Kris Dixon told police that he had been responsible for Mr Walton's death and he was charged with his murder. Monitoring of telephone calls made by Kris Dixon whilst he was in prison indicated that he was taking the blame for his brother, Darryelle, and he later gave an interview to police which stated Darryelle was the person who shot Walton. There was other corroborating evidence that Darryelle Dixon was involved and he was subsequently charged with murder. The proceedings against Darryelle Dixon were later discontinued. Issues of negating self defence may have been raised.¹⁷

21. Geoffrey Nielsen was aware that his son and Darryelle Dixon were apparently friends. In his statement he refers to a meeting of the Arundel Tavern where Mr Dixon tried to get Geoffrey Nielsen to lend him money to be secured over the Nielsen's house because his (Dixon) funds were frozen and he needed to pay legal costs. His son Shane was very supportive of this at the time. Geoffrey refused and although there were no threatening words or behaviour from Mr Dixon he thought Mr Dixon was unhappy with his decision.

22. Mr Nielsen also thought that Shane's association with Mr Dixon could have something to do with his son's death. Mrs Nielsen recalls she said so directly to Mr Dixon shortly after his death although Mr Nielsen does not recall his wife having that conversation. Mr Nielsen thought that Shane was "running scared" and this was why he stopped going to the Gold Coast as much as he did. Despite reports to the contrary, Shane's father did not agree that Shane was drinking any more than usual nor had he been told of any specific threats. Shane had an old revolver which had belonged to Mr Nielsen but it was 100 years old did not work. He had been told by a Shane that he organised to get a gun from the Gold Coast and thought he had got it from Jason Beveridge and it was a Ruger 357.

23. Mr Nielsen was aware that his wife lent Shane some \$80,000.00 and Shane was lending money to others. Mrs Nielsen says she inherited some money when her mother passed away. She says that about

¹⁶ Information gleaned from the statements of Jason Beveridge(see exhibit C5), Bryce Coster (see exhibit C6) and Geoffrey Nielsen (see exhibit C13A)

¹⁷ The statement given by Shane Nielsen was exhibit C15. The balance of information was contained in a brief to the Southern Coroner regarding the death of Mr Walton

\$100,000.00 of this money found its way into Shane's hands. It is a bit unclear on what basis the money was given. In her statement dated 28 November 2008¹⁸ Mrs Nielsen says she received \$180,000.00 and withdrew the bulk of it from the bank in small amounts over a period of time and whenever Shane requested money she would give him cash. She said she lent the money to Shane so that he could lend money to his friends. Bryce Coster was lent \$20,000.00, Jason Beveridge \$10,000.00 and Ivan Sainz was lent up to \$58,000.00. She said that before Shane had died only a small amount had been repaid to her and none since his death.

24. Strangely her statement dated 20 February 2009¹⁹ Mrs Nielsen states that she gave Shane \$100,000.00 and that it was not a loan and that she did not expect the money back. She was aware Shane was lending the money to various people.

25. Mrs Nielsen's evidence on the obvious contradictions in the two statements was not particularly convincing. Her evidence in court was that the money was simply given to Shane. She says she was not aware who Shane lent the money to other than what she was told by her husband²⁰ but in her earlier statement she stated that Shane would not give her information about the terms and reasons beyond telling her the recipient and the amount.²¹

26. To be frank it does seem very strange that she would give/lend such a large amount of money to her son to give/lend to acquaintances whom it would seem could be considered bad loan risks. Whatever is the case it is accepted that Shane Nielsen had been lending large amounts of money and there was a note found at the scene which supports at least one such transaction in the amount which reportedly seems to have been directed to Bryce Coster.²² Mr Coster confirms details of the lending activities of Shane Nielsen in his statement²³ and although he did not want to go into details in his statement he confirmed there were others to whom loans were given.

27. Mr Coster could not be served with a summons to appear to give evidence. Neither could Mr Dixon or Mr Cruickshank. I am satisfied that the police made all appropriate enquiries and attempts to serve them. There are apparently a number of reasons why they may not want to be in touch with the police. Those who could be contacted were more readily available because they were in prison.

28. The inquest heard from Nicholas Forbes AKA Nick the Knife. He was asked to give evidence from prison by video link. Apart from agreeing

¹⁸ Exhibit E6

¹⁹ Exhibit C14A

²⁰ Paragraph 29 of exhibit C14A

²¹ Paragraph 28 of exhibit E6

²² Exhibit D1, photographs 45 – 48

²³ C6

that he is a member of the Finks he was adamant in reasonably colourful terms that he did not want to give any evidence. He was not helpful. I could have dealt with him for contempt but saw little point in doing so. He stated he was in prison awaiting sentence for refusing to give evidence before the Crime and Misconduct Commission over unrelated matters to this inquest.

29. Ivan Sainz gave evidence also by video link from prison. He is serving 5 years for robbery. He knew Shane having met him through Jason Beveridge. He had met Shane in 2005 and had not seen him for some 6 months prior to his death. He had seen Shane smoke "Ice". He said he had never borrowed any money off Shane but he had sold him a car for around \$7,000.00 He did not know anything about any money lending. It is unlikely he told the inquest everything he could.
30. The information provided in paragraphs 15 to 29 is off course not the whole story. This inquest is not determining what happened in either of the violent incidents referred to, or the extent of Shane's money lending arrangements or to what extent he was involved in outlaw motorcycle gangs. It is simply relevant to note that Shane was clearly involved, perhaps on the fringes, with some murky elements. He was a direct witness in two very violent incidents involving rival outlaw motorcycle gangs and the possibility that someone associated with those incidents, or someone to whom he had lent money to, may have wanted to harm Shane cannot be discounted.
31. Jason Beveridge provided police with a statement and also gave evidence. He stated that after the two incidents involving the bikies that Shane became paranoid about bikies, he was smoking more "Ice" and that he had taken to having a pistol with him. Shane had told him about a cut down rifle that he had. Mr Beveridge had also heard about an incident where Shane had apparently put a gun to his head and said he would kill himself. Shane denied this occurred when it was put to him by Mr Beveridge later. He confirmed the information that was contained in his statement in evidence although he was reluctant to tell the Court very much more until pressed. The basis of his evidence is that the threatened suicide incident was perhaps more of a silly carry on than a distinct suicidal threat/ideation. He confirmed that Shane had been acting in a paranoid manner about retribution from the Rebels after his two experiences. He was aware that Shane may have been lending money but he was either unable or unwilling to provide any details. He made mention of a number of persons who may have had involvement with Shane but was usually unable to provide any information as to surnames, including that of a person "Greg" whose funeral he says he had since attended. Ultimately I do not think Mr Beveridge has been forthcoming about everything he knew but I do not get the impression that he was directly involved in the circumstances leading up to Shane's death other than on the periphery.

32. Mellissa Marshall was eventually located by Police and served with a summons. She made her availability to give evidence difficult but eventually gave telephone evidence. She is Darryelle Dixon's ex-girlfriend and the mother of their child. She says she was having contact with Mr Dixon 2 to 3 times weekly with him until recently. His apparent absence does seem to coincide with her being first contacted by police to serve her with a summons and to gather more information concerning Mr Dixon's whereabouts. It is clear that Mr Dixon has been avoiding police, is no longer at his bail address and did not want to give evidence before the inquest. She confirmed that Shane Nielsen was depressed but in the context of being fearful for his safety. She was not altogether helpful and I think it can be taken that she would not want to give evidence implicating Mr Dixon. She did give the impression that Mr Dixon was Shane's friend, they saw Shane frequently and he was genuinely liked by the group.
33. On the issue of Shane's conduct or paranoia in the six months leading up to his death or at least following the two disturbing incidents he was involved in, there is ample evidence that this was the case. Mr Beveridge, Mr Coster, Ms Marshall, Mr and Mrs Nielsen, and his neighbours Mr and Mrs Orrock refer to a change in behaviour some 6 months prior to Shane's death. It seems that he had taken to accessing firearms and the note he left in his safe is indicative of a degree of apprehension regarding his future. It is easy to accept that considering the nature of the company he was keeping, coupled with the two incidents of violence, he may have been increasingly uneasy about whether or not he may be a target himself.
34. In her written statements to the Coroner Mrs Nielsen was adamant that Shane would not commit suicide. She says that he was raised in an environment where suicide was condemned and that she would tell him as he grew up that people who committed suicide were cowards and that it took a lot more guts to live in this world. She says that Shane once remarked *"I'd never shoot myself because if you don't do it right you can end up a head on a pillow, and I wouldn't want to put you through it, but somebody else might"*. This is certainly a strange topic to be speaking about apparently to someone as they were growing up. I have not placed any weight on Mrs Nielsen's evidence about whether or not Shane was unlikely to commit suicide. It is not uncommon in this jurisdiction and understandable for family and friends to want to believe that their loved one would not commit suicide, often in the face of strong evidence to the contrary. In this case it is the facts that need to be considered.

The Circumstances leading up to and finding Shane

35. Shane was at his parents' house at Morayfield until about 10.00 pm on 31 December 2005. His father reports that when Shane left he was in a good mood and happy and Shane said he would see his father the next day.

36. Mrs Orrock recalls hearing the stereo coming from Shane's house late that evening. At about 2.00 pm on 1 January 2006 Mrs Orrock heard a bang coming from what she believed was his shed. She expanded on the events of the 1 January 2006 when she gave evidence. The events of that day were no doubt disturbing and she has been receiving therapy and as a result has been encouraged by her therapist to recall the events. Mrs Orrock now remembers hearing Shane on his back porch sometime that morning of 1 January 2006 swearing to someone else there. The swearing was more in the form of laughter than anger.
37. Mr Orrock recalls a white utility motor vehicle being at Shane's house the morning of 1 January 2006 which he had not seen before. He heard voices and laughter and some swearing (not angry) in the back yard before he left for work that morning between 10.00 am and 11.00am.
38. I find that on the basis of the evidence of Mr and Mrs Orrock that Shane was not alone during some part of the morning of 1 January 2006 and that he was having a conversation with someone for some period of time. The importance of this evidence is that the identity of that person is not known but considering what subsequently occurred it is surprising that this person/s never came forward and told anyone about that visit. I am not suggesting that this person/s had a direct involvement with what occurred some hours later but they would have known that they were potentially an important witness, particularly as to Shane's state of mind.
39. In her first statement given to police Mrs Nielsen recalls that Shane visited their house on 31 December 2005 and had spent most of the day at the house with his father, herself and her mother-in-law. They had been drinking during the afternoon. He left at about 10.15 pm to go home. She believes that she had a missed call from him at about 11.50 pm that night. On Tuesday she had not heard from Shane and this was unusual. She tried to ring him at about 5.00 pm and when she could not contact him she thought she would visit him whilst on her way to pick up food for herself and her family.
40. Later that afternoon at about 5.10 pm Mrs Nielsen attended her son's residence and found her son deceased in his lounge room. Mrs Nielsen had gained access to the locked premises by using her own set of keys. Shane's usual practice when at home was to leave the front door open and the screen door locked. On this occasion Mrs Nielsen was able to open the security door without using a key and was able to open the wooden front door with the key. The screen door can only be locked with a key however the front door can be locked by pulling it shut and a key is not needed.

41. Mrs Nielsen saw her son sitting in his lounge chair and screamed. Shane was not wearing a singlet or a shirt and she says he would always wear at least a singlet.
42. Mrs Orrock came out of her house in response to Mrs Nielsen's scream. Mrs Nielsen was hysterical and Mrs Orrock could only work out that something had happened. Mrs Orrock called an ambulance and then went to the house and found Shane in the lounge chair with a gun across his lap. She felt for a pulse and could feel he was still warm. She recalls turning off the television which was on loudly.
43. In the week following Shane's death Mrs Orrock recalls a person with a beard and leather jacket and riding a motorcycle up and down the street two or three times. The description of the motorcycle puts in the category as resembling what we would understand to be a Harley-Davidson type motorcycle.

The police investigation

44. The First Response Handbook for Police officers states that in relation to potential suicides: *"the death should be treated as suspicious until such time as investigations clearly indicate that the deceased met death without the intervention or assistance of another person. Treating the death as suspicious involves complying with the procedures for the investigation of a major incident."*²⁴ This essentially reflects the position as set out in section 8.5.1 of the Operating Procedures Manual (OPM) and the State Coroners Guidelines.
45. Detective Senior Constable ("DSC") Gary Beddoes was attached to the Caboolture Criminal Investigation Branch ("CIB"). He attended the scene after other police were in attendance. When he left later that night he considered his part in the investigation was completed. It was not until some time later, presumably due to the persistence of Mrs Nielsen that CIB were brought back into the investigation and on 9 November 2006 he prepared a report to the Coroner.
46. It is fair to say that DSC Beddoes and other police officers who attended that day came to a very early conclusion that Shane Nielsen had committed suicide. After that conclusion was reached the CIB officers withdrew and the investigation was then handed over to and conducted by Constable Crabtree, a very junior police officer who is no longer with the police force.
47. Constable Crabtree was sworn in on 3 August 2005 so at the time of Mr Nielsen's death she had 4 months experience. She had not previously been involved in a death investigation. She seems to have assumed that the cause of death was from suicide as this is what is stated in the Form 1 which was sent to the Coroner that day or shortly

²⁴ Page 74 First Response handbook, 7th edition, October 2007

after. She stated that her main concern was to complete the paper work. She was not aware of any guidelines relating to treating such a death as suspicious until investigations indicated otherwise. At the point of completing the Form 1 she did not think she had to further actively investigate the death. Her belief was that the conclusion that Mr Nielsen's death was a suicide was formed within half an hour and it would seem her belief was made in consultation with other more senior officers such as Senior Constable ("SC") Bazzo and DSC Beddoes.

48. Constable Crabtree's evidence was that the note found by Mrs Nielsen was given to her some time later and she simply placed it on the file. A short time after this, the file was dispatched to CIB for consideration. She did not actively make any enquiries about the note.
49. SC Bazzo was Constable Crabtree's partner on 1 January 2006 and he attended the scene with her. He decided she should take responsibility for reporting the death to the Coroner. This was in order to give her experience and on the basis that he would oversee her initial report to the Coroner. He saw the shortened firearm across Shane Nielsen's lap and also a miniature six shot revolver on a side table to his left. He decided to call out officers from the CIB as part of usual police procedures but he had by that time formed a view that this was a suicide.
50. The conclusion reached by the police as to why Mr Nielsen's death was a suicide was due to a number of issues. Firstly, there was no sign of forced entry to Mr Nielsen's house. As DSC Beddoes understood, Mrs Nielsen had to open the front door to gain access however he made no check of the locking mechanism of the security door at the front. No fingerprints were requested to be taken of the front door however it is apparent that the security door did need a key to lock it but the wooden door could be closed by simply pulling it shut.
51. Secondly, it was seen that there was no sign of a struggle in the premises which were clean and tidy. There were no injuries of a defensive nature found on Mr Nielsen.
52. Thirdly, the fact that the firearm was across his lap and the way Shane Nielsen was seated. A .22 calibre shortened rifle being approximately 40 cm in length was located across Shane's lap. There was a contact gunshot wound to the left temple.
53. Gunshot residue was located on the back of Mr Nielsen's right hand. It is understood that Mr Nielsen was right-handed and this was thought to be consistent with the proposition that he held the firearm in his left hand to inflict the wound to his temple area with the firearm then falling across his lap and on top of his right wrist.
54. The fact that there was no suicide note did not give any reason to doubt that conclusion. Often that is the case.

55. SC Bazzo recalls that Mrs Nielsen raised with police on the night of Mr Nielsen's death that she believed this was a homicide and he passed this information on to the CIB officers. He was also aware that night that Shane Nielsen was a witness to a murder involving an outlaw motorcycle gang. This apparently did not raise any suspicions for him. He did not think it relevant to include that suspicion in the Form 1 report to the Coroner.
56. Sergeant Drohan and Constable Leonforte were the first to arrive on the scene and secured the premises. After officers Crabtree and Bazzo arrived, Sergeant Drohan conducted a door knock of neighbouring houses. He had also formed a view that it was a suicide. It was not until 27 June 2006 that Sergeant Konowalenko conducted a further door knock to talk to neighbours including Mrs Orrock who had already provided a statement in April. He did so to give Constable Crabtree a hand. Mr Orrock was not spoken to until November 2006. Sergeant Konowalenko performed his task on the understanding that it was a suicide.
57. Located on a kitchen bench was an open bottle of alcohol and an empty glass was located at Mr Nielsen's feet. SC Ford attended as a Scenes of Crime officer and took photographs and checked for fingerprints from the glass and bottle of Bourbon. None were found although they are good surfaces for finding fingerprints. I accept that if the glass had been used constantly there would be smudging and not a lot would be found. He did not fingerprint the front door because there was no sign it had been forced and door handles are not good surfaces for finding fingerprints. Neither of the weapons found at the scene were checked for fingerprints as he considered they would not be suitable for a powder fingerprint examination. Not surprisingly an examination some 3 years later did not reveal anything of value on the weapon. SC Ford had been told by attending police that this was a case of suicide.
58. Sergeant Graham is a Forensic Services officer and had experience in examining firearms. He tested for gunshot residue by taking swabs of the hands. These were later tested by Gary Asmussen, a scientific officer. The effect of their evidence is that there was one discharged cartridge in the shortened .22 calibre bolt action single shot rifle. In such a firearm you would not expect leakage of GSR from the chamber or trigger end but from the muzzle of the gun. Gunshot residue was found on the back of the right hand. The photographs show the muzzle was resting on Mr Nielsen's right hand and it would be expected to locate GSR on Mr Nielsen's right hand from the muzzle. This could be from a build up of GSR if it had not been cleaned or from the muzzle in the course of firing if it ended up in that position. It would not be likely for GSR to be found on the firing hand if Mr Nielsen had fired it himself. This evidence does not exclude the possibility of the gun being used by Mr Nielsen in his left hand and finding its way on to his lap and on his right hand after firing. It also does not exclude the possibility of the gun

being placed on Mr Nielsen's lap and resting on his right hand on the gun by someone else.

59. Once CIB decided that Mr Nielsen's death was not a homicide the responsibility for investigation came back to SC Bazzo who said that as soon as the Form 1 to the Coroner was completed that was the end of the investigation. Very surprisingly, given his seniority, SC Bazzo did not seem to be aware of the various guidelines referred to previously that police should consider a death such as this as suspicious until investigations indicated otherwise.
60. Police were not at that time aware of the note found in the safe which I will refer to shortly. That probably came into police possession some time later but even so on the night in question his family were suggesting to police that third parties were involved. Police intelligence should have been easily able to link Shane as being a witness in the murder of Mr Walton and SC Bazzo was in fact aware of this. The report to the Coroner prepared by DSC Beddoes in November 2006 confirms that the detail of this information was given to police by Geoffrey Nielsen on the night of 1 January 2006 and was confirmed with police officers on the Gold Coast. It is apparent that Shane Nielsen in fact made admissions to possessing a Ruger 357 for which he was charged and convicted. Combined with the evidence of money lending that was found at the scene, and the fact that he was right handed this should have put police on notice that more investigation needed to be made before the death could be treated as not being suspicious.
61. But there is more. At the scene police found 9 mobile telephones. A small amount of amphetamine was found. Subsequently efforts were made to check some of the sim cards and numbers that had been dialled without what appears to be little success. One phone had a text message dated 24 December 2005 saying "Merry Xmas big boy. Thanks fella. Enjoy morrow hav beer with ya old man 4me. It gets better buddy smile thru it let the grey hair do its thing, Catc". The phone was registered to a Brett Small to an address that turns out to be a Bunnings Hardware. Mr Small was not known there and has not been located, if he exists at all.
62. Sometime shortly after his death Mrs Nielsen arranged a locksmith to open a safe Shane had in the third bedroom. In the safe she found the note previously described which she says was in his hand writing. She does not remember when she took it to a police but clearly it was at some stage given to Constable Crabtree. Police records suggested that it was some time in April and that would appear to be the case because the statements taken from Mr and Mrs Nielsen on 16 March 2006 made no reference to it or some of the concerns that were being suggested by them subsequently.

63. It is apparent that Mrs Nielsen subsequently attended almost weekly at the police station to try and talk to Constable Crabtree about her concerns.
64. Detective Sergeant Shane Stirling is an experienced detective currently attached to the Homicide Unit. He was asked to provide an opinion and advice to the Coroner as to the adequacy of the investigation. He did not disagree with the opinion reached as to it being suicide but noted a number of matters that required attention including:
- a) Further investigation should have been conducted in respect to various mobile telephones found at the dwelling;
 - b) Kris and Darryelle Dixon should have been interviewed;
 - c) The weapon should have been fingerprinted;
 - d) A more comprehensive door-knock should have been conducted at the time or at least more detailed notebook statements taken;
 - e) DNA samples should have been taken of the glass found and the weapon;
 - f) Once Constable Crabtree had the note it should have been investigated by CIB as to the identity of the persons listed and they spoken to;
 - g) The money lending activities warranted some investigation as did the association with outlaw motorcycle gangs;
 - h) Mr Dixon's girlfriend should be spoken to;
 - i) He agreed that there were elements at the scene which suggested suicide such as no disturbance or forced entry but that other elements need to be excluded or included and he thought you would need longer than 30 minutes to come to that conclusion and it should have been treated as something more than it was and probably looked at a bit further; and
 - j) It did not seem appropriate that a junior first year constable was investigating unless she was receiving guidance and assistance from a more senior officer.

The Autopsy

65. Dr Kathryn Urankar, a staff specialist forensic pathologist, performed an external and internal autopsy examination and took toxicology samples. The main injuries found was a single gunshot wound to the head. The entrance wound was in the left temporal region with the bullet coursing upwards and backwards through the brain. The bullet did not exit the head and was found located between the skull and the scalp. There was soot staining of the rim of the entrance wound with a patterned mark suggesting it was a contact-type injury. There was mixed inflammatory cell infiltrate around the entrance wound suggesting survival for some time following the injury. Toxicology found a level of alcohol of 0.16% but as this was from chest cavity blood the result is to be interpreted cautiously.
66. Dr Urankar stated that the location of the wound in the temporal region of the head, the tract of the bullet upwards and backwards and the fact

it was a contact wound were consistent with a suicide. Dr Urankar had researched a scientific study which found that in 8% of suicides by gunshot wounds the person used their less dominant hand. She was able to demonstrate that it was relatively easy for someone to hold the particular weapon in their non-dominant hand to inflict a similar wound.

67. Under cross examination she agreed that homicide could not be excluded.

Summary of Findings

68. There may have been indicia at the scene that were consistent with the death being from suicide. The police OPM clearly states that an apparent suicide should be treated as suspicious until such time as investigations indicate otherwise. In this case it seems the decision was made in about 30 minutes. How that decision could be made without further investigation astounds me. Very early in the events of the evening police were aware that Shane Nielsen's parents thought others might be involved. There was certainly evidence that Shane had been involved as a witness in the killing of Mr Walton 6 months earlier and this involved outlaw motorcycle gangs. Shane Nielsen had been found possessing a Ruger pistol. There was evidence of some money lending. A number of mobile telephones were found as were some drugs. Shane was right handed and the scene at least suggested he used his left hand to shoot himself. Those circumstances warranted further investigation there and then but this did not occur until much later. The officers from the CIB left the scene and although Scenes of Crime took photos no fingerprints or DNA was attempted on the firearm. The investigation was handed over to a junior uniformed Constable of 4 months experience. She and many of the other officers who attended did not have any knowledge of the OPM which stated an investigation in those circumstances should consider Mr Nielsen's death as suspicious of third party intervention until satisfied otherwise. No other investigations then took place. There seemed to have been some confusion as to who was doing what and who was responsible for investigating. Constable Crabtree's main thoughts were to ensure she completed the paper work correctly. It is understood that mentoring and advice to junior officers was available to Constable Crabtree but the evidence did not lead me to a conclusion this was particularly effective and was largely ad hoc.

69. When the note was handed over to the police it was placed on a file and then sent to CIB for an overview. It was only after Mrs Nielsen's continued persistence that DSC Beddoes was brought back on to complete a report to the Coroner. A review by an experienced homicide detective, at the request of the Coroner found a number of deficiencies in the investigation, most of which could not be adequately addressed some 2 to 3 years later down the track.

70. Shane Nielsen was undoubtedly mixed up to some extent with members of outlaw motorcycle gangs including a number whom it is clear were willing to use extreme violence including killing. He was involved in two incidents directly. He was lending large amounts of money to a number of persons who have not repaid that money. He was reportedly anxious and paranoid about retribution from those sources and had taken to possessing firearms. He left a note about who he thought should be considered if something happened to him. None of this was investigated until much later and then not completely. Many of the potential witnesses have made themselves absent.
71. Although there is no evidence which directly implicates any one person in Shane's death, third party involvement simply cannot be excluded. There are just too many suspicious possibilities. To that extent an open finding will be made.

Findings required by s45

72. I am required to find, as far as is possible, who the deceased was, when and where he died, what caused the death and how he came by his death. As a result of considering all of the material contained in the exhibits and the evidence given by the witnesses I am able to make the following findings in relation to the other aspects of the death.

The identity of the deceased was: Shane Robert Nielsen

How he died: Shane Robert Nielsen died from a gunshot wound to the head. The state of the evidence is such that it remains open as to whether Shane Nielsen discharged the firearm into his head with an intention of taking his own life or whether some third party/parties were involved in inflicting the gunshot wound.

The place of death was: 26 Mellino Drive, Morayfield, Queensland.

The date of death was: 1 January 2006.

The formal cause of death was:

- 1(a) Gunshot wound to the head

Concerns, Comments and Recommendations

73. Section 46 of the Act 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. In this case the adequacy of the police investigation has been found to be wanting. As a result a number of avenues of investigation were not taken, or were taken late when the trail was perhaps lost. The investigation was left in the responsibility of a junior police officer, who no doubt had access to varying mentoring arrangements and access to senior officers for advice, but this did not seem to have been utilised or her investigation supervised. A thorough

investigation may have led to a conclusion which strongly supported a finding one way or the other. Unfortunately this will now be difficult if not impossible to discover. Two principal issues are evident. These were addressed by Mr Boe in his written submissions and they are entirely valid and appropriate.

74. Firstly the evidence indicates that the knowledge by a number of the police officers who attended this scene of the principles of investigating suicide as set out in the Operating Procedure Manual and the First Response Handbook is deficient. **I recommend** that the Commissioner of Police note the findings made in this inquest and take appropriate action to address these deficiencies. Without limiting the Commissioner's discretion, I can think of many cost effective measures that could be adopted through directives and education that would at least be a start.

75. Secondly, the evidence supports a finding that there was distinct confusion in establishing the lines of responsibility for the investigation and it **is recommended** that:

- a) The Commissioner ensure there are suitable protocols or directives in place that establishes clear lines of communication and responsibility for similar investigations involving the CIB and uniform branches of the service;
- b) That in the event information becomes available which is relevant to the investigation it is exchanged and brought to the knowledge of the division in charge of the investigation;
- c) That the branch or officer responsible for the investigation be clearly identified for contact purposes; and
- d) That should an inexperienced officer be responsible for such an investigation, procedures for formal supervision should be invoked.

I close this inquest. My condolences are expressed to the family and friends of Shane Nielsen.

John Lock
Brisbane Coroner
19 June 2009