



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

**CITATION:** **Inquest into the death of Jenny Lee Cook**

**TITLE OF COURT:** Coroner's Court

**JURISDICTION:** Townsville

**FILE NO(s):** 2009/469

**DELIVERED ON:** 6 December 2013

**DELIVERED AT:** Cairns

**HEARING DATE(s):** 25 November 2013 to 29 November 2013

**FINDINGS OF:** Jane Bentley, Coroner

**CATCHWORDS:** Coroners: inquest, suicide, police investigation

### REPRESENTATION:

**Counsel Assisting:** Dr Kerri Mellifont, QC  
Ms Stephanie Williams

**Terry and Lorraine Pullen:** Ms Marjorie Pagani, Counsel

**Qld Police Commissioner:** Mr Scott Geeves, Counsel  
Ms Beth Kennedy, Office of the QPS  
Solicitor

**Det Sgt Kay Osborne  
and Constable Celia Bower:** Mr Troy Schmidt, Counsel  
Ms Wendy MacDonald, Qld Police Union  
Legal Group

## Table of Contents

Introduction .....	1
The scope of the coroner's inquiry and findings .....	1
Summary .....	2
Relevant medical history .....	3
WorkCover claim .....	4
Cause of death .....	4
The investigation .....	5
Paramedics .....	5
Immediate police investigation .....	5
Subsequent police Investigations and coronial investigation .....	9
Work colleagues and friends of Mr Cook .....	10
Friends and family of Ms Cook .....	11
Coroner's directions .....	12
Independent review .....	13
The inquest .....	13
The evidence .....	14
Police and Ambulance Officers .....	14
Other witnesses .....	23
Conclusions .....	25
Findings required by s. 45 .....	25
Identity of the deceased .....	25
How she died .....	25
Place of death .....	26
Date of death .....	26
Cause of death .....	26
Comments and recommendations .....	26
Comments .....	26
The adequacy of the police investigation into Jenny Cook's death .....	26
The circumstances surrounding the death of Jenny Cook .....	29
Recommendations .....	30

Section 45 of the Coroners Act 2003 provides that when an inquest is held the coroner's written findings must be given to the family of the person who died, each of the persons or organisations granted leave to appear at the inquest and to officials with responsibility over any areas the subject of recommendations. These are my findings in relation to the death of Jenny Lee Cook. They will be distributed in accordance with the requirements of the Act and posted on the web site of the Office of the State Coroner.

## ***Introduction***

### ***The scope of the coroner's inquiry and findings***

An inquest is not a trial between opposing parties but an inquiry into a death. The scope of an inquest goes beyond merely establishing the medical cause of death.

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 and, in appropriate cases, with a view to reducing the likelihood of similar deaths.

As a result, a coroner can make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future.

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.

Proceedings in a coroner's court are not bound by the rules of evidence. 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.

A coroner should apply the civil standard of proof, namely the balance of probabilities. However the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, then the clearer and more persuasive the evidence needs to be for a coroner to be sufficiently satisfied it has been proven.

If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence and, in the case of any other offence, the relevant department. A coroner may also refer a matter to the Criminal Misconduct Commission or a relevant disciplinary body.

These findings and comments:

- confirm the identity of the deceased person, the time, place and medical cause of her death;
- consider whether the actions or omissions of any third party contributed to her death;

- consider whether there were any inadequacies or deficiencies in the police investigation into the death;
- consider whether police investigating the death followed Queensland Police Service policies and procedures; and,
- consider whether any changes to procedures or policies could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.

## **Summary**

At the time of her death, Jenny Lee Cook was 29 years old and lived in Townsville with her husband, Paul James Cook. Ms Cook was employed as a Nutrient Analyst at James Cook University (JCU).

Mr Cook told police that at about 6.45pm on 19 January 2009 he returned home from his work at Townsville Correctional Centre and was unable to locate his wife or find a note from her. In her absence he took their dog for a walk. On returning home and not having heard from Ms Cook, he searched the house and then, at 7.38pm, sent a text message to his wife. However, Mr Cook heard Ms Cook's phone in the house. At that time he also noticed a knife missing from the knife block in the kitchen and became concerned for Ms Cook's wellbeing. Upon searching, Mr Cook found Ms Cook lying on the ground at the side of their two storey house, unresponsive and with a pool of blood around her body.

Mr Cook called the Qld Ambulance Service. Paramedics Haydon and O'Connor attended and confirmed that Ms Cook was deceased.

Police attended the scene and conducted an investigation into Ms Cook's death.

Located near and above Ms Cook was a large knife that was wedged between a window and its security screen on the outside of the house. The knife appeared to be from a set of knives in the kitchen. The handle had been wrapped with string which was covered with tape, presumably to assist with wedging the knife into the gap beside the window. The blade was protruding downwards at an angle.

Ms Cook was dressed in exercise attire – shorts, t-shirt and running shoes and a sun hat. She had a sheet and bath robe tie wrapped around her head and neck area, over the hat.

There were no signs of a forced entry to the house or any signs of a disturbance at the scene. Police did not locate a suicide note or the tape or string which was used on the handle of the knife.

The last known contact with Ms Cook was by an officer at WorkCover Qld who had a phone conversation with Ms Cook at 8.49am on 19 January 2009. They spoke about her recent progress with walking and riding her bike and that she may need to take taxis to some of her appointments. Ms Cook stated that she would be able to sort out travel for her return to work. She advised that she would meet with JCU on Thursday and see her GP on Friday.

Ms Pullen tried to call her daughter a number of times between 10.30am and 11am (Qld time) on 19 January but she did not answer the phone. Mr Cook called the home phone after lunch but there was no answer.

## Relevant medical history

On 26 October 2003 Ms Cook suffered an injury to her back lifting sediment samples on a boat while at work. In May 2007, Ms Cook suffered a further back injury at working dragging and lifting a 12kg sediment sample from a freezer. Simultaneously, Ms Cook was attending health practitioners for work-related stress. As a result of her back injury, Ms Cook made a WorkCover claim.

Ms Cook's back injury resulted in a prolonged period of lower back pain. Deterioration of her condition led to a L5/S 1 discectomy to address a disc protrusion in August 2007.

Following surgery Ms Cook commenced a long period of recovery and rehabilitation, which included further surgery. She was medicated for pain as well as for her mental health. Ms Cook's recovery included consultations with her general practitioner and psychologist. Ms Cook was also reviewed by a psychiatrist at the request of WorkCover.

Ms Cook first saw Ms Lisa Wu Won, Psychologist, on 20 November 2007. At that time she was given the Depression Anxiety Stress Scale and obtained a score that fell in the extremely severe range for depression and anxiety and a score in the severe range for stress. At that time she was taking antidepressant medication.

In August 2008, Ms Cook was again assessed and obtained a score that fell in the mild range for depression, moderate range for anxiety and moderate range for stress. She was taking Mirtazapine to alleviate her depressive symptoms.

In November 2008, Ms Cook was assessed as still suffering from Major Depressive Disorder although it was noted that, by then, it was 'mostly in remission' and she appeared to be motivated. Dr Chau, Psychiatrist, recommended an increase in the antidepressant and noted that such an increase may result in improvement in several weeks.

At that time Ms Cook said she was teary and easily upset but that she had got through 'the difficult stuff'. She denied having suicidal thoughts but admitted to having had them previously. She stated that she still experienced suicidal thoughts if 'there is a setback in recovery'.

Ms Cook was tearful when she explained that she and Mr Cook had been planning to have children in 2008 but those plans had been delayed due to the surgery.

On 17 December 2008, Ms Cook told her psychologist, Jenny Promnitz that she was frustrated at her [WorkCover] claim being accepted for an aggravation of a pre-existing condition. The psychologist said that this had caused a 'bump' in her progress.

Dr Chau opined, in a report dated 24 February 2009, that 'the additional setbacks on 19 January 2009 may have been enough to "tip her over the edge"'.

It is clear from all of the medical reports that the issue of the WorkCover claim, and especially whether Ms Cook's back injury was pre-existing, was a source of considerable stress to her. The other main source of her depression and stress was her perception that Mr Cook was not supportive of her or understanding of her difficulties.

Medical records from 15 December 2008 record that Ms Cook had previously engaged in cutting herself when she felt overwhelmed but that she was not feeling suicidal at that time.

Medical records also indicate that on 5 January 2009 Ms Cook was successfully using ice to stop her urge to cut herself.

By early January 2009 Ms Promnitz was of the opinion that Ms Cook was not suicidal, her depressed mood had improved and she was looking forward to returning to work. She said that Ms Cook had ceased ruminating on her WorkCover claim. Ms Promnitz judged her risk of suicide as 'low with occasional ideation'.

### **WorkCover claim**

During her period of recovery, WorkCover disputed Ms Cook's claim that her back injury was entirely work related. WorkCover contended that Ms Cook's injury was partly attributable to a pre-existing disc degeneration. The claim remained ongoing at the time of Ms Cook's death.

On 16 January 2009, a barrister provided an opinion to the effect that the WorkCover decision that there was some pre-existing disc degeneration was correct and that Ms Cook should accept that decision and proceed with a common law claim based upon the specific date injury and aggravation of the L5/S1 level of her spine.

It was this advice that was found on the kitchen bench on the evening of Ms Cook's death.

Ms Cook received this advice, via email, from her solicitor on 16 January 2009 and replied to him on the same date stating that she was happy to take the advice and not proceed with QComp but proceed with a common law claim.

### **Cause of death**

An autopsy was performed by Professor David Williams, Consultant Forensic Pathologist, on 20 January 2009.

Professor Williams concluded the cause of Ms Cook's death was a single stab wound and that it was consistent with self infliction. The wound was to the left side of the chest, entering the left lung through the area between the 2<sup>nd</sup> and 3<sup>rd</sup> rib. At 135cm above the heels, the wound passed right downwards and backwards to penetrate the lung to a depth of 7cm. The wound also penetrated a branch of pulmonary artery within the left lung.

Both lungs demonstrated aspiration of blood, particularly the right side. The stomach showed that Ms Cook had swallowed blood. There were no pills, tablets or capsules found in her stomach.

Toxicology tests revealed small amounts of alcohol in the bloodstream and urine as well as ephedrine and antihistamine. Professor Williams opined that Ms Cook may have been mildly intoxicated with a combination of alcohol and hypnotics at the time of her death.

## ***The investigation***

### **Paramedics**

Queensland Ambulance paramedics, Robert Haydon and Christopher O'Connor, were the first to arrive on the scene. They received a call to attend 44 Sheerwater Parade at 7.51pm. They received a second advice, via mobile telephone, whilst en route, that the death may be suspicious. Both said that because of this advice, they were careful not to move Ms Cook's body.

They arrived at the house at 7.56pm and Mr Haydon said that there was nobody out the front of the house and there was no external light on. They knocked on the front door and Mr Cook answered. It seemed to Haydon that he was upset but Mr O'Connor thought he was 'emotionless'.

Mr Cook led them through the house and out to the back yard and then down the side of the house.

They saw Ms Cook lying on her left side on a timber board. Both her arms were out to the left. Haydon stated that Ms Cook was in the same position as depicted in the photographs taken by Scenes of Crime Officer (SOCO) Kraatz.

Haydon saw that rigor mortis had set in. It appeared to him that Ms Cook had been deceased for 'a period of time'. The paramedics pronounced Ms Cook deceased at 7.58pm.

It appeared to Mr Haydon that the sheet under Ms Cook and behind her head had been wrapped around her head and secured with the bath robe tie which was around her neck.

The paramedics noticed the knife wedged into the wall in front of Ms Cook.

Mr Cook was not in the yard whilst they examined Ms Cook, having returned inside the house. The paramedics went inside to speak to him. He told them that Ms Cook had been suffering from back pain and depression.

### **Immediate police investigation**

Police logs show that a total of 24 police officers attended at 44 Sheerwater Parade from 19 January 2009 to 20 January 2009 in response to Ms Cook's death.

Constables Bower and Mann were the first officers to arrive at 8pm – they remained there until 10.45pm.

Const Bower saw the paramedics at the side of the house. She saw a body and a knife sticking out of the wall. She noticed that there appeared to be a sheet under the body. She 'did not have a good look at the body at this stage'.

Const Mann saw Ms Cook from the side gate. She did not enter the yard or the house. She saw that Ms Cook was lying on a piece of wood and she saw a fitted bed sheet and part of a bath robe underneath her. She saw that Ms Cook was wearing a t-shirt, shorts and running shoes. She saw some kind of material wrapped around her head and upper face area. She saw the knife wedged in the wall.

Const Bower heard a groan from inside and went inside and saw Mr Cook near the kitchen bench. She saw a glass on the table with clear liquid in it and another glass sitting on the coffee table with dark liquid in it.

Mr Cook was visibly upset, crying and was having difficulty talking.

Const Bower asked Mr Cook if Ms Cook was on medication and he told her that she was on anti-depressants and had an appointment with WorkCover earlier that day. He said that the appointment was written in Ms Cook's diary. Const Bower looked at the diary and saw 'various appointments'. She went upstairs with Mr Cook and he showed her Ms Cook's medication in a bedside drawer and in a bathroom drawer.

Const Bower obtained from Mr Cook and gave to the paramedics a list of Ms Cook's medications, being Oxynorm, Norethisterone, Prochlorperazine and Zentel.

Detective Sergeant (DS) Osborn and Plain Clothes Constable (PCC) Cotter of the Kirwan Criminal Investigation Branch (CIB) and Detective Senior Sergeant (DSS) Wilkie arrived at 8.10pm.

DSS Wilkie assisted in coordinating the investigation until he left the house at 9.53pm.

DS Osborn went to the side gate of the house and spoke to Mr Haydon. She observed, from a distance of about five metres, the body of Ms Cook. She saw that Ms Cook was lying on her side facing away from the gate on a wooden board. She saw a knife wedged in the wall above where Ms Cook was lying.

DS Osborn did not go past the gate.

PCC Cotter also observed the scene from the gate. He did not 'approach any closer than about 5 metres' so could not be sure about the details of the scene.

DS Osborn and PCC Cotter then entered the house. DS Osborn saw some WorkCover documentation on the kitchen bench.

PCC Cotter warned Mr Cook in accordance with the *Police Powers and Responsibilities Act 2000* and then had a conversation with him which was recorded.

During that conversation Mr Cook stated:

- He got home from work at 6.45pm;
- Jenny was not home;
- The dog was upstairs;
- The back door was unlocked;
- He walked the dog;
- He returned and drank a Pepsi;
- He had a shower;
- He searched the house but could not find her;
- He texted her and heard her phone;
- He saw the knife was missing and emptied the dishwasher;
- He searched the shed;
- He turned all the lights on;
- He went around the side and could see something white lying there;
- He came back in and turned the floodlight on and then went back out;

- Jenny was cold and stiff – he moved her lips but didn't move her body at all;
- He called 000 and they told him to do CPR;
- Jenny was crying last night and he put on his Ipod and ignored her;
- He didn't talk to her this morning before he went to work;
- She had a back injury;
- She never told him she thought about killing herself;
- Where is the wound, what did she do?
- When he first got home he thought either she's left me or she's killed herself;
- She's got 12 diaries;
- First he thought she might have jumped from the balcony and then that she'd overdosed but someone said there was a knife there;
- That day at work he told his colleague, Bek Rogers, that his marriage was over.

Mr Cook then took PCC Cotter upstairs and showed him Ms Cook's medication. PCC Cotter stated that Mr Cook was clearly upset and distraught. He was crying.

Constables McSwan and Corsan arrived at the house at 8.20pm and were tasked to speak to neighbours. Const McSwan attended a neighbouring house and spoke to Lorraine Lawton who told her that she had seen Mr Cook arrive home at about 6.45pm that evening.

At about 8.50pm Mr Cook called his father and told him that Ms Cook had killed herself. Const Bower and DS Osborn also spoke to Mr Cook's father on the phone.

Mr Cook then phoned Ms Cook's mother, Ms Pullen, and DS Osborn spoke with her.

Const Bower sat at the table with Mr Cook. She stated, 'I was trying to comfort him and saying repeatedly we are here to help.'

Detective Inspector (DI) Kitching, the Regional Crime Coordinator (RCC), arrived at 8.53pm and was given a briefing by DS Osborn, DSS Wilkie and PCC Cotter. He remained at the scene and coordinated the investigation.

SOCO Kraatz arrived at the house at 8.55am.

He observed Ms Cook and noted that she was wearing a white floppy hat on her head and there was a brown fitted sheet partially draped over her head and under the length of her body. A white 'bandage' was loosely wrapped around her neck and appeared to be holding the sheet in place over the back of her head.

SOCO Kraatz took photographs of the scene and certain items inside the house and took a 'walk through' video of the inside of the house.

DS Osborn and PCC Cotter left the house with Mr Cook at 9.32pm and took him to the police station, arriving at 10.08pm, where PCC Cotter interviewed him.

During that interview Mr Cook repeated the information he had given police earlier and also stated:

- He called Jenny from work on the activities phone and there was no answer – can't recall whether before or after lunch;
- He walked the dog for 20 to 30 minutes;
- When he came home from walking the dog he waved to Ms Lawton;

- He dropped the phone outside after speaking to QAS;
- He tried to move her arm a bit but it was set solid;
- Called her today to get the email address for Action Electronics but she didn't answer so went there in lunch break;
- 11.45am left work to pay bill;
- Paid it on credit card then got back to work 10 minutes late for first session.

The interview concluded at 11.20pm and they then took Mr Cook to alternative accommodation.

SOCO Brad Bardell arrived at the scene at 9.38pm.

Kraatz and Bardell tape lifted the knife handle for trace DNA and took photographs of it. Kraatz conducted a fingerprint examination of the metal security grill and frame but did not locate any fingerprints that would be suitable for comparison purposes.

Professor Williams arrived at the house at 10.39pm.

Kraatz took photographs of the wound located on Ms Cook at the direction of Prof Williams.

Kraatz also recorded a video of the scene.

At 12.10am 20 January 2009 DS Osborn and PCC Cotter re-attended the scene and entered the house and conducted further 'investigations and examinations' but 'nothing of interest' was located (quotes from statement of DS Osborn).

DI Kitching left the house at 12.30am.

Kraatz left the house at 12.40am.

At 1.40am on 20 January 2009 DS Osborn sent an email to 'Inquiries Townsville' (police) stating that the death was being treated as suspicious pending the outcome of the post mortem but would more than likely be ruled a suicide.

On 20 January 2009 DS Osborn, PCC Cotter, SOCO Kraatz and SOCO Bardell attended the post mortem of Ms Cook. Kraatz took photographs of the autopsy.

DS Osborn stated that the results of the post mortem 'indicated the injuries to the deceased were consistent with having been self inflicted'.

DS Osborn and PCC Cotter attended the house again at 2.56pm on 20 January 2009 and left at 3.10pm when the crime scene was released.

Later that day DS Osborn completed a Supplementary Form 1 (Police Report of Death to a Coroner). That document summarised the information provided by Mr Cook at the house and during his interview at the police station. It advised that the crime scene had been released. It stated that Ms Lawton, the neighbour, had seen Mr Cook come home from work at 6.45pm. It stated that Professor Williams had attended the scene and conducted an autopsy and that, 'the death was ruled suicide'. It provided information re Ms Cook's doctors, as requested by the coroner, and concluded, 'there are no suspicious circumstances in relation to this death. Matter to be finalised by uniform police.'

## **Subsequent police Investigations and coronial investigation**

On 10 March 2009, DS Osborn submitted a further Supplementary Form 1 to the coroner. In that she provided Ms Cook's medical details as requested by the coroner. She provided further information in relation to the physical aspects of the scene on 19 January 2009 and deduced, from those facts, the following conclusions:

- Ms Cook had wrapped a sheet/towel around her neck/head area possibly to avoid witnessing the injury being inflicted.
- She appears to have pushed her person onto the knife.
- It would appear she has died whilst still being impaled on the knife before body weight has caused her to fall to the ground due to the blood located at the scene '(no splatter on wall/window behind knife and minimal on clothing/ground/deceased)'

DS Osborn noted that there were no signs of a disturbance at the scene and no suicide note was located although a WorkCover claim was found on the kitchen bench.

On 26 February 2010, DS Osborn provided a third Supplementary Form 1 to the coroner. This document summarised the information obtained from the police investigation including the photographs taken by Kraatz and the examinations conducted by Bardell. It stated that DNA swabs taken at the scene had been sent for forensic examination and the only DNA located at the scene was that of Ms Cook.

DS Osborn's concluding paragraph read:

*I have read the report forwarded by Marjorie Pagani ... No direct evidence is presented towards establishing that the death was other than a suicide. The concerns raised in the report were all canvassed during the investigation as outlined above. Investigations into this death established that the deceased was depressed prior to her death due to ongoing issues regarding a back injury. There was no evidence to suggest that anyone else had been present at the scene when the death occurred or that any struggle had taken place prior to the death. The evidence located at the scene, from investigations and as a result of the post-mortem identify that the deceased died as a result of a self inflicted knife wound.*

On 16 October 2013, DS Osborn provided an addendum statement in relation to the matter. She stated that she was the designated investigating officer into the death of Ms Cook. She stated that:

- She and PCC Cotter conducted an extensive search of the residence between 12.10am and 12.40am on 20 January 2009 in an effort to locate any further evidence.
- Mr Cook was present for the search.
- Following the post mortem she had significant discussions with the Officer in Charge of Townsville CIB, Christopher Hicks, and the RCC, DI Kitching, and it was as a result of those conversations that the decision was made to release the crime scene at 3.10pm on 20 January 2009.
- If a death is suspicious then police must conduct a full investigation – if the death remains suspicious the police conduct a murder investigation and the

coronial investigation is suspended – if a murder investigation is not pursued by police the matter proceeds as a coronial investigation.

- Once a death is referred to a coroner the police are required to conduct all investigations required by the coroner.
- When the scene was released all evidence which could be obtained had been obtained and there was no benefit in maintaining the scene.
- On 16 February 2009 she liaised with Erin Stubbin of the Coroner's office via email and phone and forwarded a copy of the scene photographs and initial Supplementary Form 1 to her and was then advised by Ms Stubbin that 'no further police action was required'.;
- She made a note of this conversation in her diary
  - Diary note states, 'Nil further required from police at this time'.
- She briefed DI Kitching and DSS Hicks after that advice was received and it was decided that no further investigations were to be conducted.
- She sent an email to the police involved in the investigation stating that, 'the coroner has indicated he no longer requires a full investigation in relation to this matter'.
- The knife was seized by Const Hilton and lodged by Bardell.
- On 4 December 2009 she completed a disposal task forwarded to her by Hilton and authorised the disposal of the knife.
- The knife was destroyed on 12 August 2010.
- In hindsight she would not have disposed of the knife as she now realises that it should have been retained.

## **Work colleagues and friends of Mr Cook**

Statements have now been taken from a number of work colleagues of Mr Cook.

Madeline Ronan told police that Mr Cook left work at 5.30pm on 19 January 2009 after telling her that he had a headache.

Prior to Ms Cook's death she saw Facebook posts indicating that Mr Cook was spending time socialising with a work colleague, Rebekah Rogers, and another female (the non-identified female person - NIFP) prior to Ms Cook's death. The NIFP told Ms Ronan that she was spending a lot of time with Mr Cook subsequent to Ms Cook's death and that he told her that he could give her a better life than her current partner. However, a few months after Ms Cook's death the NIFP told Ms Ronan that Mr Cook was stalking her and would not leave her alone. Shortly after that Ms Ronan heard that Mr Cook had moved to Brisbane.

Jeremy Ries was also a work colleague of Mr Cook's and was the person Mr Cook stayed with on the night of Ms Cook's death. Mr Ries stated that Mr Cook told him that Ms Cook had cuts on her hands and wounds on her neck and that she had impaled herself on a knife and severed her windpipe. Mr Ries said that Mr Cook spent a lot of time with the NIFP subsequent to Ms Cook's death and Mr Cook told him, a couple of months after Ms Cook's death, that he was having a sexual relationship with the NIFP.

The NIFP told police that she had very little contact with Mr Cook prior to Ms Cook's death (this is inconsistent with his phone records which indicate he was sending her text messages and phoning her very frequently both prior to and subsequent to Ms Cook's death) but he did phone her and tell her that Ms Cook had died and that conversation took place whilst he was staying with his co-worker (presumably Mr Ries with whom he stayed for two nights). The phone call took place prior to funeral arrangements being finalised.

The NIFP said that she spent more time with Mr Cook after the death; she said to help him through that time. Later she got the feeling that Mr Cook wanted a relationship with her and for her to end her then current relationship but she was not interested. He became short and aggressive and hostile. She then ceased communication with him and heard from him about a year later when he told her he had a new girlfriend who was a hairdresser. She said that Mr Cook told her that Ms Cook could not have children because of her injury and that she was very distressed by that.

Rebekah Rogers provided a statement in which she stated that she worked with Mr Cook on the day Ms Cook died. She did not disclose the conversation which Mr Cook stated he had with her in relation to his marriage being over. She said that she had little contact with Mr Cook, both before and after Ms Cook's death.

### **Friends and family of Ms Cook**

Mr Terry Pullen, the father of Ms Cook, provided a statement to the Office of the Northern Coroner (ONC) in which he stated that Mr Cook rang him at between 8.15 and 8.30pm, NSW time, on 19 January 2009 and said that Ms Cook was dead. He said she was sunburnt and there was a lot of blood. He then said, 'I can hear the police arriving – I'll have to go now.'

Mr Pullen spoke to his daughter on the phone about once per week and he thought that prior to her death she had sounded cheerful and was positive about her health and future and looking forward to going back to work.

Lorraine Pullen, Ms Cook's mother, provided a statement to the ONC. She said that she travelled to Townsville in April 2008 to assist Jenny after her second surgery and she stayed at a caravan park as Mr Cook did not want her to stay at the house. She left Townsville in August 2008 and spoke to Ms Cook on the phone two or three times per week.

In November 2008, when Mr and Ms Cook moved into their new house, Ms Cook had a 5 kilogram weight limit.

Ms Pullen said that the day after Ms Cook's death DS Osborn phoned her and told her that Ms Cook had died of a knife wound to the chest and that it was self-inflicted. Ms Pullen phoned her back shortly afterwards and said that she thought this was impossible. DS Osborn assured her it was the case and told her that only Ms Cook's fingerprints had been found on the knife.

On 21 January 2009, Ms Pullen went to the house at Sheerwater Parade. She saw the board on which Ms Cook had been found. It was leaning up against a fence. She tried to move the board but it was too heavy for her to move at all. Ms Pullen is a trained nurse and has had a lumbar 5 sacrum 1 disc injury and is of the opinion that Ms Cook would not have been able to move the board.

Mr Cook told Ms Pullen that when he first saw Ms Cook he didn't see the knife, only the blood and that he phoned 000 and told them that his wife had killed herself.

Ms Pullen attempted to phone Ms Cook on Monday from 11.30 to midday (Daylight Savings Time) and the phone rang out each time.

On the evening of 21 January 2009 Mr Cook had a conversation with Ms Pullen during which he discussed the money he would get from Ms Cook's superannuation fund and that he would be able to pay out the house loan. He also told her that there was a woman at work that the other guys found attractive because of her breast enhancement surgery but he did not feel attracted to her. Ms Pullen was surprised and perplexed at this statement which seemed to come out of the blue.

Later that evening Mr Cook said to Ms Pullen that they should continue with the WorkCover claim and share the money.

Mr Pullen's parents paid for Ms Cook's funeral. According to Ms Pullen, Mr Cook later phoned the funeral director and requested that she repay him the monies paid to her out of the compensation claim. She replied that she would repay the money to the people who had paid for the funeral. He told her that he should be paid the money as he had paid \$50,000 in legal fees to win the case.

Ms Pullen viewed Ms Cook at the funeral home and saw two wounds on her chest – a small cut 1.25cm across between her ribs and another horizontal cut on her neck, below the larynx, also about 1.25cm across.

Ms Pullen believes that Mr Cook did not fully repay a loan she had made to Ms and Mr Cook in 2004. In 2004 Ms Cook told Ms Pullen that Mr Cook had told her to pay a higher percentage of her wages to superannuation because there would be an additional death benefit payable.

Ms Pullen was told that when Mr Cook sold the house in about April 2009 there was a woman living there with him.

### **Coroner's directions**

Between 20 November 2009 (when the death was reported) and 23 February 2010 there is no record of a direction from the ONC for anything other than a full police investigation to occur. There is no record of any correspondence indicating that the coronial investigation into the death had ceased.

Despite the record of written communications between the Coroner's office and DS Osborn indicating otherwise, on 16 February 2009, DS Osborn sent SOCO Bardell an email advising that the coroner no longer required a full investigation in relation to this matter. She stated that this was her belief at the time arising from conversations she had with staff of the ONC. Her note of the conversation in her diary states, 'Liaised with Erin Stubbin, Coroner's Office. Nil further required from police at this time'.

It is clear that DS Osborn's interpretation of the communication of 16 February 2009 was incorrect. Her interpretation is also inconsistent with subsequent emails sent to her by the ONC.

On 9 June 2009, she sent an email to the ONC asking whether the coroner had finalised the matter as 'there are a number of exhibits outstanding and some forensic testing that is yet to be done on items that the DNA unit is querying whether or not they are required'.

Staff of the ONC replied that the coroner had not finalised the matter and would be reviewing it and that DS Osborn would be advised of the outcome of the review in due course.

Despite this clear advice and with the knowledge that there was further forensic testing which could have been carried out, DS Osborn authorised the disposal of the knife on 4 December 2009.

### **Independent review**

Leading Senior Constable Mark Griffiths, NSW Police, having reviewed the scientific evidence at my request, concluded that the evidence supported the conclusion that Ms Cook took her own life by impaling herself on the knife wedged between the window and the wall of the house. SC Griffiths found no evidence of another person being directly involved in the death.

### ***The inquest***

A pre-inquest directions hearing was held on 27 August 2013 and the inquest listed to commence on 25 November 2013. The parties were given leave to appear and it was advised that the issues to be explored at inquest were:

1. The circumstances surrounding the death of Jenny Cook; and
2. The adequacy of the police investigation into Jenny Cook's death.

Material gathered during the police investigation and the coronial investigation was tendered as evidence at the commencement of the inquest. A total of 66 exhibits were tendered at the commencement of the inquest including witness statements, documents, photographs and electronic discs. Numerous further exhibits were tendered during evidence.

At the commencement of the inquest I directed that the female person who was identified during the coronial investigation as possibly having a relationship with Mr Cook around the time of Ms Cook's death was not to be identified during the inquest and was to be referred to as the non-identified female person (NIFP).

Nineteen witnesses were called to give evidence:

- Robert Haydon
- Christopher O'Connor
- Const Mann
- Const Bower
- Const McSwan
- DS Gatehouse
- DS McLucas
- Paul Cook
- DI Kitching
- A/Inspector Arthy
- PCC Cotter
- Lorraine Lawton
- Janice Cavanagh
- Professor David Williams
- SOCO Kraatz
- SOCO Bardell
- SOCO Griffiths
- DS Osborn

- Jeremy Ries

## ***The evidence***

### **Police and Ambulance Officers**

Although the evidence indicates that Ms Cook's body was moved, at least slightly, after death, none of the investigating officers could have moved the body as they did not get close to it. The paramedics both stated that they were very careful not to move the body as they had been notified en route that it was a suspicious death. The SOCOs did not move the body.

Const Bower gave evidence of her actions and conversations at the scene. It was established by her evidence and the questions asked of her and propositions put to her that she decided shortly after arriving at the house that Ms Cook had committed suicide. It is unclear why she came to this conclusion but it seems the reaction of Mr Cook to the death and the fact that he told her that Ms Cook was suffering from depression must have contributed to this belief.

Const Bower stated that she did not go closer than about 10 metres to the body but that when she first arrived she used a torch to shine around the area and saw the knife.

Const Bower said that she was one of the junior officers at the scene and it was not her job to make decisions about the investigation or to come to conclusions about how Ms Cook died.

PCC (as he then was) Cotter gave evidence that he was a first response CIB investigator and arrived with DS Osborn who was the investigating officer.

He stated that he didn't decide that the death was a suicide until after the post mortem although he conceded, reasonably, that suicide was one of the possibilities being considered from the time he arrived on the scene.

PCC Cotter spent most of this time at the scene with Mr Cook and questioned him quite extensively about his movements that day and the sequence of events that had occurred after his return from work. He and DS Osborn took Mr Cook to the police station where PCC Cotter recorded a formal interview with him. They then took Mr Cook to a friend's house where he stayed that night.

PCC Cotter, in accordance with scene preservation guidelines and procedures, did not get close to the body.

PCC Cotter and DS Osborn later returned to the house, arriving there at 12.10am and carried out a search of the premises until they left again at 12.40am.

PCC Cotter stated that he was looking for anything of interest. He was not given any directions about any particular item that he should search for.

Although PCC Cotter was present at a discussion and briefing between the forensic officers and Osborn and himself that occurred at the house that evening, he was not aware, until he was told whilst sitting in the witness box giving evidence, that the handle of the knife had been wrapped in string and tape. He said he did not find any string or tape during his search but it is clear that he was not, at that time, alerted to the fact that those items were of interest and relevant to the investigation.

PCC Cotter was not aware of or involved in any further investigations in relation to the matter subsequent to the post mortem and the release of the crime scene on the afternoon of 20 January 2009.

Interestingly, PCC Cotter, now a detective and obviously an experienced investigator said that he had never seen a suicide committed in the same circumstances as Ms Cook's death i.e. running onto a knife.

Const McSwan presented as a truthful and forthright witness. She said that when she received the call to attend the scene she was advised that the death was an apparent suicide.

Her role in the investigation was to make enquiries with the neighbours and she identified and obtained the relevant information from Ms Lawton.

SOCO Kraatz stated that he was briefed by DS Osborn when he arrived at the house. She showed him the body and the knife and that was done from a distance of a couple of feet from the body. He said that she told him to be aware of the string and the tape on the knife as well as the blood on it.

Kraatz fingerprinted the window frame and then discussed with the other police whether to take DNA samples or prints from the knife. It was decided that DNA was the most important evidence so Bardell tape lifted the string and tape on the handle of the knife and took swabs of the handle and, after Kraatz took photos of it, bagged it and seized it.

Kraatz did not discuss the DNA testing of the knife with anyone or whether further tests were to be conducted on it. He said that it would have been possible to dust the blade of the knife for prints after the DNA testing was conducted.

Kraatz stated that it may have been possible to get fingerprints from the plywood board using ninhydrin. The possibility of retaining the board for further testing was not discussed with Kraatz.

Kraatz said that had he been the decision maker he would have dusted the knife blade for prints after it had been swabbed for DNA but he had no input into those decisions.

Kraatz said that there was minimal disturbance in the stones around Ms Cook and he could see no indication that the board had been dragged to its position underneath her.

There was no blood on the wall and the only blood near to it was a drop on the stones which had come from the tip of the knife blade.

Kraatz gave evidence that he examined the window frame and he found no fingerprints. He found no evidence that the window frame had been wiped clean (as there was fine dust on the window which was consistent with what he would expect from an external window) and that there was no evidence that someone had touched the window with gloves (in which case he would expect to see marks in the dust and there were none).

Mr Brad Bardell, SOCO at the time of the death, gave evidence that he attended the scene and was directed by Inspector Arthy to examine the body and the surrounds.

He was of the opinion that the scene indicated that there was no struggle and no indication that any other person was involved in the death of Ms Cook.

He noted the wrapping of the knife handle and tape lifted it for contact DNA. He said that all of the exterior string was dabbed by tape for contact DNA.

Bardell was unaware of whether DS Osborn knew about the wrapping of the knife handle whilst they were at the scene.

Mr Bardell examined the body of Ms Cook and came to the conclusion that she had been moved slightly after death as the lividity was not consistent with her position when he saw her.

Bardell seized the knife and lodged it as an exhibit. His next priority in relation to forensic examination would have been to look for fingerprints, however, he said that one would have to take into account that the presence of fingerprints of a person who lived in the house may not have been that helpful to the investigation. He agreed, however, that prints in the position one would have held the knife to push it into the gap in the wall would have been relevant and unlikely to have been left by a person in the course of normal use.

Mr Bardell attended the autopsy and his perception following that was that there was no indication of involvement by another person and he did not receive any directions from investigators to undertake any further examinations or tests. A couple of weeks later he was told by Osborn that the coroner required no further investigations. He kept the knife until April 2009 and then lodged it in the property room in Townsville.

Mr Bardell said he was not a party to any discussions about retaining the plywood board. He lifted it and looked underneath after Ms Cook's body had been removed. He did not find anything of interest. He said that the board was very cumbersome for him to move such that he wouldn't have tried to pick it up. There was no indication that the board had been dragged along the gravel.

Inspector Kitching was the Regional Crime Coordinator (RCC) in Townsville at the time of Ms Cook's death. He said that his role was to overview, manage and coordinate serious crime investigations.

He was present at the house on 19 January 2009 and coordinated the investigation. He said that it was his responsibility to ensure that the matter was properly investigated. He said that the immediate overview of the investigation was done on 20 January 2009 after the autopsy and from then on the investigation was managed by the Officer in Charge of the Townsville CIB. Kitching received no briefings after 20 January 2009.

As at 20 January 2009 Kitching was of the understanding that the investigation had revealed no evidence which would suggest that any other person was involved in the death of Ms Cook. The post mortem had not revealed any evidence of defensive injuries, violence or a struggle. The crime scene was released on 20 January 2009 and that decision was made by investigators in consultation with him.

Kitching could not say whether a search was conducted for the string and tape and he was unaware of the scientific tests that were carried out on the knife.

He stated that it would be reasonable to expect that those items were searched for. In relation to the DNA testing of the string he stated that, as the investigation up to

that time had revealed no evidence of anything suspicious it would be up to the coroner to direct any further investigations.

Kitching said that it was his belief that on 16 February 2009 the coroner had provided written advice to the police that there were no further investigations required.

Kitching agreed that the possibility of obtaining some evidence had now been lost and that the disposal of the knife was inappropriate.

He said that he would have expected areas of the house such as the laundry, the bins and the garage to have been searched as part of the investigation. He agreed that it would have been useful and reasonable for police to confirm the whereabouts of Mr Cook on the day of the death.

Kitching said that he would expect that the investigators would have viewed the knife and the body or obtained the relevant information from the SOCOs and would have been told about or be aware of the string around the knife and would have searched for it.

Kitching agreed that the fact that a coroner may make directions about an investigation does not alleviate the duty of the investigating officer and the QPS to fully investigate a death.

Acting Inspector Arthy was a frank and helpful witness. In January 2009 he was the Senior Sergeant in charge of the Townsville forensic officers. He was advised of the death and attended the scene at 9.40pm. He was the officer coordinating the forensic examination of the scene by Kraatz and Bardell. He liaised with Inspector Kitching and relayed information to him as provided by Kraatz and Bardell.

He said that he and Kitching stayed outside the house that night – they allowed the investigating officers to do their job and they would then report to them and then they would make further decisions – they would review, overview and direct the investigation. Inspector Kitching was co-ordinating the investigators.

It was a joint decision of Arthy, Kitching and the SOCOs to lock up the crime scene that night pending the results of the autopsy.

Arthy told Bardell and Kraatz to pay particular attention to the knife to determine whether there was any evidence of second party involvement. He thought at the time that DNA sampling of the knife would provide the best evidence.

Arthy said that immediately upon the SOCOs leaving the scene their information is available to the investigating officers. He said there is usually an exchange of information between the SOCOs and the investigating officers.

He said that, in his view, this matter was downgraded very quickly. He said it was up to the detectives to obtain information from the SOCOs before making any decisions. He agreed that at the time the decision was made to cease investigating:

- toxicology results had not been obtained;
- the string had not been sampled further ;
- results of the tape lifting samples had not been received.

Arthy stated that further examinations could have been conducted on the knife for as long as it remained in the possession of the police.

Arthy agreed that the fact that the plywood board was large and bloody did not mean that it could not be seized.

Arthy stated that decisions made after the post mortem greatly affected the direction of the investigation. He was satisfied after the autopsy that the death was more than likely a suicide.

Arthy stated that he found it hard to believe that DS Osborn had not viewed the photos or seen the knife. The forensic report was available to her on Qprime at about midday on 20 January 2009.

DS McLucas stated that he and Gatehouse went to the scene to see if they could assist as they were on the night shift. When he got there Bardell, Kraatz, Arthy and Kitching were present. About 5 minutes after he arrived, Professor Williams arrived and the investigators took up with him. He didn't see the body or the knife.

It was clear there was nothing for him to do at the house so he went to the Townsville CIB and took up with DS Osborn there.

He completed and swore the crime scene application and the information in it was obtained from DS Osborn. The death was suspicious so it was treated as a homicide until it was decided otherwise. At 2.39am when he obtained the warrant it was being treated as a homicide.

McLucas searched the house for about half an hour from 12.40am. He couldn't recall where he searched but was pretty sure that he searched the kitchen and said he 'cast [his] eye' over the whole house.

DS McLucas said that he didn't search any bins and he was definitely not told to search for string and tape. He said that, because he was not aware of the significance of those items, had he seen them in a drawer he would not have thought them relevant.

DS McLucas was asked how an investigating officer would be satisfied that the whole house had been searched and said that there was no protocol – one relied on common sense and verbal communication.

At the time he gave evidence DS McLucas was unaware that the knife handle had been wrapped in string and tape.

DS Gatehouse gave evidence and was a forthright and helpful witness. He said that, in addition to the information contained in his statement, he now recalled, having reviewed his notes etc, that he and McLucas returned to the house after getting the crime scene warrant and they were involved in the search of the house.

DS Gatehouse was the only officer who had any recollection of where he searched. He stated that he searched the front room on the left. He noticed that the computer was missing from the work station and brought that to the attention of senior officers and was told that they were aware of that and that it was away being repaired.

He looked through the cupboards in that room. He said he was looking for a suicide note and also anything that seemed unusual or out of place. He was not told to look

for string or tape so if he had seen those items in a drawer he would not have thought them relevant.

It was his view that it was the responsibility of the investigating officer to keep overall control of and overview the investigation and it was that officer to whom the other investigators reported.

In completing his Official Police Diary, DS Gatehouse had printed the relevant page of the running sheet, which was written by McLucas and pasted that page into his official police diary. That was his diary entry. He stated that it was the practice of plain clothes officers in the Townsville region to complete their diaries in that fashion at that time (and this was evident from other diary entries which were produced for the inquest) but it was no longer the practice in the Townsville region as the current inspector will not accept that kind of entry.

DS Gatehouse opined that he believed the new policy in relation to diary entries is appropriate and should be adopted statewide.

DS Osborn's evidence was, at times internally inconsistent and her answers were often unhelpful and evasive.

She stated at the outset of her evidence that she conceded some deficiencies with the investigation which, in hindsight, she would have addressed being:

- Confirmation of the whereabouts and movements on the day of Mr Cook;
- The knife should have been retained.

Despite these apparent concessions, Osborn subsequently and unreasonably maintained that her decision to discontinue the investigation at about 3.10pm on 20 January 2009 was reasonable and appropriate in the circumstances.

Further, although she stated that Mr Cook's movements should have been confirmed she then immediately gave evidence that she was 'certain' that those investigations had in fact been carried out on 20 January 2009 by PCC Cotter.

It is clear (especially since the Office of the Northern Coroner has now undertaken those enquiries) that such enquiries would have involved taking statements from a number of witnesses, obtaining information from the prison, obtaining records from a computer shop and other enquiries. It cannot be imagined that, having left the crime scene in the early hours of the morning of 20 January 2009 and then being present for the autopsy later that day, PCC Cotter could possibly have attended to those matters. Further, if he had, one would expect that Osborn, as the investigating officer, would have intimate knowledge of the outcome of those investigations and would have included that information in her Form 1 report to the Coroner and supplementary Form 1 reports.

It cannot be accepted that DS Osborn's evidence was at all truthful in regard to that matter.

Osborn stated emphatically that she had no knowledge, until a few days before the inquest, that the handle of the knife had been wrapped in string and tape. She said she had never heard that before and had never been told. She was then shown a supplementary form 1, completed by her, that contained that information. She stated, incredibly, that she had cut and pasted that information from that provided by the SOCOs but she had not read her supplementary form 1. When it was later

pointed out to her that she had signed that document as being true and correct, she immediately stated that she had in fact read it when she submitted it but had since forgotten about it.

Osborn agreed that the circumstances of Ms Cook's death were extremely unusual but said that she conducted the investigations that were required by those circumstances and treated the death as a suspicious one until it was determined otherwise.

She said that after the post mortem and after discussions with the SOCOs on 20 January 2009 she determined that the matter was a suicide and so released the scene.

Up until that time a number of steps had been taken in the investigation:

1. the SOCOs had examined the scene and the body;
2. there had been a search of the house;
3. PCC Cotter had spoken to Mr Cook at the house and interviewed him at the police station;
4. Professor Williams had attended the scene;
5. the autopsy had been held (at 1.30pm).

After the autopsy DS Osborn said that she spoke with Inspector Kitching and telephoned the (then) coroner and spoke to him and then she and Kitching decided that the matter was no longer a suspicious death. Once that decision was made she said it was up to the coroner to order any further investigations that he required.

She agreed that subsequent to the release of the crime scene nothing further was done to investigate the death.

DS Osborn said that she thought that when she left the house to return to the station with Mr Cook she had not spoken to Bardell. She disagreed with the suggestion put to her that it would have been important to ascertain what the forensic examination had uncovered prior to interviewing Mr Cook. She said that a formal interview with a suspect was merely an opportunity to get their version of events. She disagreed strongly with the suggestion that the purpose of an interview with a suspect was to obtain admissions and/or elicit evidence and repeated again her understanding that the purpose of an interview was to obtain the suspect's version.

Osborn said that she assumed that if the SOCOs at the scene had found anything of interest they would have told her.

Osborn said she never inspected the knife and did not view the photos of the scene (including the knife) and so, did not know, until a few days before the inquest, that the handle of the knife was wrapped with string and tape.

When asked how she could have determined the matter was a suicide when she had not even confirmed the version of the only possible suspect, Osborn stated that she made the decision based on the evidence at the scene (which she had already admitted she had not looked at) and the results of the post mortem. She said the possibility that the death was a homicide had been removed completely at that time (less than 20 hours after the death had been reported to police).

DS Osborn stated she now realises that the knife should have been retained for the reason that the family may have wanted tests done on it.

When it was put to her that the knife should have been retained because it was contrary to the Operational Procedures Manual (OPMs) to dispose of property before a coronial investigation had been completed she said that she acted in accordance with the general property OPMs and was not aware of the OPMs regarding property and coronial investigations (which are in the same chapter).

She said she had only recently become aware of that OPM and had never received training in the OPMs.

Osborn stated that the OPMs were not legislation and therefore did not have to be followed. She said that generally they should be followed but it was up to an investigator to decide whether to follow them as they are a policy document and set out 'best practice'.

Osborn conceded that if she had known that string and tape had been used to wrap the knife handle then she would have looked for those items at the house.

She agreed that there had been a breakdown in communications such that she, as the investigating officer, was not aware of important information regarding the matter but said that she didn't know why that occurred and said it was the District Duty Officer or the RCC who was in charge of the scene rather than she.

Osborn agreed that if she had spoken to SOCO Kraatz and he had told her that the blade of the knife could have been tested for fingerprints and if that had been beneficial to the investigation then she would have ordered it to be done. It seems clear that Osborn did not speak to Kraatz in relation to the investigation at any time after 19 January 2009.

Osborn conceded that she should have looked at the photos of the scene, which were available to her on the night, at the scene, and the next day, along with a report of the forensic examination. DS Osborn, as the investigating officer, neither consulted nor considered any of this information at any time.

Osborn agreed that she had carried out no investigations into the financial affairs of the Cooks including whether Mr Cook would have gained financially from the death of Ms Cook.

Osborn said that she did not recall looking at Ms Cook's diary (which was seized from the house and later returned to Mr Cook).

She saw the plywood board under Ms Cook's body but did not enquire or look into where it had come from, how it came to be there and whether Ms Cook had the capacity, considering her back injury, to move it.

Osborn said that she wouldn't have considered seizing the board because it was big and covered in blood.

She was asked whether anybody picked up a phone from near the body of Ms Cook (as Mr Cook said he had dropped it there whilst speaking to QAS). She said she didn't know – it is unlikely she knew that Mr Cook said he dropped it.

Osborn said that she would have coordinated the search of the house but could not recall which rooms she or the other officers searched. She didn't know if all of the

rooms had been searched. She didn't recall anyone other than her and Cotter searching the house (this is incorrect as Gatehouse and McLucas also searched).

Osborn said that she had considered the sheet and tie on Ms Cook's head and was of the opinion that she had been blindfolded but didn't think that fact put the death in the suspicious category.

Osborn said that she had read the submission of Ms Pagani (for the family of Ms Cook) prior to 23 February 2010 when she sent a supplementary form 1 addressing it. However, it did not occur to her to check whether the knife was still in existence even though she was aware that queries were being made about the evidence in the case. In fact, the knife was still in existence at that time but was destroyed in August 2010.

Leading Senior Constable Mark Griffiths stated that if he had been conducting the investigation into the death, which was unusual and obviously suspicious, he would have tried to obtain fingerprints from the knife and sampled and sub-sampled the string for contact DNA.

He said it would have been beneficial to seize the plywood board prior to releasing the scene and he would have considered whether it could have been tested for fingerprints.

He said communications between forensic officers and investigators are very important and should be ongoing – before the scene is examined, whilst they are at the scene and afterwards. He said information found by both parties is relevant to the investigations of the other.

SC Griffiths stated he was of the opinion that the knife was perpendicular to the ground at the time it entered Ms Cook's chest and then it came to end up at a downward angle after she came off the knife. He said that, if it had been at the angle at which it was seen after her death, she would have had to push herself up onto it.

SC Griffiths said he believed Ms Cook had come off the knife quite quickly and then been in a position with her palms flat on the ground for some time. In that position she had vomited up the blood which was seen on the side of the board and the lividity in her palms had been established. She then rolled backwards and ended up in that position, except for the fact that someone had rotated her right arm clockwise so that her palm was then facing up.

SC Griffiths said that in the circumstances of this death he would expect further DNA sampling of the string and then discussions with investigators about fingerprinting. He said he would have kept sending the string to the lab until he got a DNA result as he would expect DNA on string which had been wound in such a fashion.

He said the main thing was to retain the knife so further investigations could be done if required.

He gave evidence that he was of the opinion, having reviewed the evidence available, that Ms Cook committed suicide. He based this opinion on the lack of any physical evidence found at the scene of a struggle. He stated he considered that, had Ms Cook been pushed onto the knife, there would be signs of her struggling and/or trying to get away. There were no such disturbances in the gravel and the blood was inconsistent with any struggle.

SC Griffiths said there was no physical evidence found at the scene which would suggest that any other person was involved in the death but agreed that whether or not there were prints on the knife and the board and whose prints they were and further DNA testing of the string, would have assisted police in coming to a view as to whether that was, indeed, the case. He stated that the knife, the string and the tape were the critical items in this investigation.

### **Other witnesses**

Lorraine Lawton was the neighbour of Mr and Ms Cook in January 2009. She gave evidence that she saw Mr Cook return home from work at between 6.50 and 6.55pm on 19 January 2009. She recalled the time as she was waiting for her daughter to come home and watching the news and the sport had just finished and she was waiting for the weather report to come on. She said she believed he was coming home from work as he was dressed in work clothes and getting out of the car he drove every day.

Ms Cavanagh lived across the road from the Cook's house. She said she recalled the day Ms Cook died as police had come to her house later that night. She was at home that day and she heard the Cook's dog crying. It began about midday and did not stop until about 3pm or 4pm that afternoon. She believed it was down the side of the house behind the fence (where Ms Cook's body was found). She was concerned that it was hurt or caught on something as she had never heard the dog crying before.

Mr Jeremy Ries gave evidence that prior to 2013 (when he was spoken to at the coroner's direction) he had not been spoken to by police.

Mr Ries was a work colleague of Mr Cook and was the person with whom Mr Cook stayed on the night of the death. Mr Ries said Mr Cook told him he found Ms Cook laying on a plastic sheet down the side of the house. Mr Cook told him that she had a few cut marks on her neck.

Later on, when Mr Ries and Mr Cook were back at work Mr Cook told him that Ms Cook inflicted some superficial wounds on her neck and then wedged the knife in the wall and stabbed herself with it.

About 4 to 6 weeks after the death of Ms Cook, Mr Cook told Mr Ries that he was having a relationship with the NIFP which involved sexual intercourse. Mr Cook told him that she wanted him to sell the house and move away with her. Mr Ries commented that he thought that would be inappropriate and Mr Cook agreed with him and said he was not going to do it.

Professor Williams gave evidence that Ms Cook died from exsanguination caused by a single stab wound to the chest and he estimated that that death occurred six to 12 hours prior to the death being reported. He stated that the wound was consistent with self-infliction and that the autopsy revealed nothing that was inconsistent with suicide or that would indicate homicide.

Professor Williams said it was likely that he expressed the opinion that Ms Cook's wound was self-inflicted to the police at the scene when he inspected the body on the evening of 19 January 2009.

Professor Williams was asked whether there were any other wounds on the body of Ms Cook as Ms Pullen stated that she saw a cut near Ms Cook's larynx when she

viewed the body at the funeral. Professor Williams said there was definitely no other wound and was of the view that any other cut seen post autopsy would have been the result of the autopsy.

Paul Cook gave evidence. In relation to the scene he stated that the plywood board had been left over from the construction of the house and he had not gotten around to disposing of it. He said it weighted between 10 and 20kg and was awkward to move as it was about 5 foot by 5 foot. He said he believed Ms Cook would have been able to move it. He could not recall who moved it after Ms Cook's death but agreed that it was leaning against the fence when Mr and Ms Pullen visited. Some time later he disposed of it.

Mr Cook stated that he could not recall any specific conversations with Ms Cook about her WorkCover claim in the couple of days before her death. He did not recall seeing the advice that was found on the kitchen bench.

He said that on 19 January 2009 he left work to go to lunch at about 11am. He went to pay a bill at Action Electronics. Documents obtained from that business by the ONC reveal that Mr Cook paid the bill at 12.23pm. He said he could not estimate how long the trip was between the prison and Action Electronics.

He said when he got back to work he attempted to phone Ms Cook to get an email address that he needed for an insurance claim but she did not answer the phone.

Mr Cook said when he got home that evening from work (at about 7pm) he thought it was unusual that Ms Cook was not there. He found the dog shut out on the upstairs balcony. He took the dog for a walk and at some stage texted Ms Cook and heard her phone beep in the office.

He started looking around the house for her and then found her handbag and shoes. He looked in the garage and then went outside and saw her lying down the side. He then went back inside and turned the exterior lights on. Mr Cook was vague about the sequence of events subsequent to seeing Ms Cook from the backyard. He recalled calling the ambulance and telling them that his wife had killed herself. They told him to attempt CPR but he knew it was useless and he dropped the phone outside and then went back into the house.

Mr Cook stated that prior to Ms Cook's death he was only work friends with the NIFP. He stated that he had called her a couple of times on her mobile but only in relation to work issues such as leave and he would 'be surprised if it was more than five times' that he called her.

Mr Cook stated that after the death the NIFP and Rebekah Rogers were very helpful and offered to mow his lawn and clean his car. He said in the week after the death he did contact the NIFP but only in relation to taking leave from work.

Mr Cook initially said that he talked to the NIFP and Ms Rogers for about a month after Ms Cook's death but then, under questioning from Counsel Assisting, admitted that there was a period about 2 to 3 months after the death when he had an intimate relationship with the NIFP. He said he had sex with her but later stated he had not had sexual intercourse with her at any time but did have an intimate relationship.

When confronted with the telephone records proving that Mr Cook in fact called or texted the NIFP 52 times between November 2008 and January 2009, Mr Cook

stated that he didn't think it was that often but maintained that she was only a work friend.

The phone records showed that Mr Cook had texted or called the NIFP 92 times in the month after Ms Cook's death – more than three times per day. He accepted this and stated that he was also emailing her and would have sent her emails at least as many times as he called and texted.

It is clear from the information Mr Cook provided to the police the night of Ms Cook's death that he was finding it difficult to deal with her back injury and the effect it was having on her. He told police that he had told Bek Rogers that day at work that his marriage was over. He stated unequivocally to police that on the night of 18 January 2009 he did not comfort his wife when she was crying and upset, that he ignored her and went to bed and fell asleep and then did not speak to her in the morning as he was late for work.

That was inconsistent with evidence he provided for the WorkCover claim in which he said that he had comforted his wife on that night and hugged her until he fell asleep. Mr Cook attempted to explain the inconsistency by stating that he did both that night but, as with much of his evidence, he could not recall the sequence in which events occurred. I do not accept his evidence at the inquest in this regard and find that the version he gave to the police on 19 January was the truth.

Mr Cook also tried to resile from the statement he made to the police that when he returned home and thought Ms Cook might have left him, he was happy.

It is likely that he has represented his actions on the night of 18 January 2009, for the purposes of his WorkCover claim, in a different light to the information he provided to police and is now reluctant to provide evidence inconsistent with his claim. I find that his evidence at this inquest in relation to his actions on the night of 18 January 2009 was deliberately untruthful.

Mr Cook stated that he had only become aware when reading the material sent to him by ONC prior to the inquest that the knife of the handle was wrapped in string and tape and that the police had never asked him about that or the location of those items.

Mr Cook stated that after Ms Cook's death he was paid \$400,000 from her superannuation and life insurance and \$150,000 to \$200,000 from WorkCover. He sold the house in May 2009 for \$570,000 and he owed about half of that amount on the mortgage.

Mr Cook was seemingly often evasive and sometimes untruthful in his evidence to the court.

## ***Conclusions***

### ***Findings required by s. 45***

**Identity of the deceased** – Jenny Lee Cook

**How she died** – Ms Cook died from a single stab wound to the chest. The knife entered the left side of her

chest, 135cm above her heels and 6.8cm to the left of the midline. It entered the left side of her chest passing between her second and third ribs and pierced her left lung to a depth of 7 centimetres, causing bleeding in the lungs.

I am unable to determine whether or not Ms Cook committed suicide.

**Place of death –** 44 Sheerwater Parade, Douglas, Qld, 4814

**Date of death–** 19 January 2009

**Cause of death –** Exsanguination caused by a single stab wound to left lung

### ***Comments and recommendations***

#### **Comments**

Section 46 of the *Coroners Act 2003* 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.

#### **The adequacy of the police investigation into Jenny Cook's death**

Police first became aware of the death of Ms Cook shortly before 8pm on 19 January 2009. By 3.10pm on the following day the investigating officer, DS Osborn, had decided that Ms Cook committed suicide and that it was not a suspicious death, had released the crime scene and had determined that no further investigations were to be carried out.

The decision was made in circumstances where the most preliminary investigation had revealed that the death occurred in extremely unusual circumstances.

Prior to that decision being made the following had occurred:

- A forensic examination had been carried out at the scene by police scientific officers.
- A search of the scene had revealed no evidence of disturbance or struggle.
- Mr Cook had been spoken to at the house and interviewed at the police station.
- Professor Williams, the forensic pathologist, had attended the scene and told police that he thought Ms Cook had committed suicide.
- An autopsy had been carried out.
- Professor Williams had advised police that Ms Cook had died from a single stab wound to the chest and that the wound was consistent with self-infliction.
- Police checks had indicated no history on police systems of domestic violence between Mr and Ms Cook.

At the time DS Osborn ceased investigations the following matters had not been considered and/or investigated by police:

- Verification of the version of events provided by Mr Cook, including:
  - his whereabouts on 19 January 2009 including;
    - statements from work colleagues;
    - phone records;
    - evidence of payment of bill at lunch time;
  - Ms Cook's medical history and propensity for suicide;
  - The status of Ms Cook's WorkCover claim;
- The relationship between Ms and Mr Cook including content of text and email messages;
- The relationship between Mr Cook and other female persons including identifying that his phone records contained numerous contacts with the NIFP and obtaining content of text messages and emails between them;
- The financial benefit to be gained by Mr Cook on the death of his wife;
- DNA results of the blood on the knife;
- DNA results of the initial testing of the string on the knife;
- Further DNA testing of the string on the knife;
- Fingerprint testing of the knife;
- Formal opinion from SOCO Bardell on blood stain pattern analysis;
- Search for and location of the string and tape used to wrap the knife;
- Examination of Ms Cook's diaries;
- Examination of Ms Cook's phone and email records;
- Investigations in relation to the whereabouts of the plywood board prior to that day and whether Ms Cook could have moved it into place beneath her;
- Consideration had not been given as to whether the plywood board should be seized and examined;
- There had not been an organised and thorough search of the house.

DS Osborn stated that when she made the decision to close the investigation she had not looked at the photos of the scene or the preliminary report of the SOCOs. Both were available to her on the police database at about midday on 20 January 2009. In fact, she was unaware of critical details in relation to the death such as the fact that string and tape had been used to wrap the handle of the knife. Her evidence was that she did not become aware of those facts until days before the inquest commenced.

Some of the information not obtained as part of the initial investigation is now unable to be obtained because of the passage of time:

- The content of text messages and emails;
- Content of the Cook's computer;
- Examination of the plywood board;
- Information as to Mr Cook's movements on the day;
- Location of the tape and string used to wrap the knife.

Further testing on the knife is now impossible as the knife was destroyed in August 2010. DS Osborn authorised the destruction of the knife on 4 December 2009 even though she knew at that time that the coronial investigation was ongoing and that there were further forensic tests that could have been carried out on the knife.

DS Osborn approved the disposal of the knife without the authorisation of the coroner as required by the QPS Operational Procedures Manual.

It is evident that, even though DS Osborn did not take the initiative and talk to the SOCOs, Bardell chased her up with regards to further testing. On 9 June 2009 he

sent her an email asking whether further DNA testing was required. She then emailed the Coroner's Office and asked whether the investigation was complete. She was told it was not and the coroner would review the matter. She did not, however, do anything further about the testing or the query and instead, authorised the destruction of the knife.

DS Osborn agreed that there was absolutely nothing which would have prevented her delaying the decision to finalise the investigation into the death of Ms Cook.

Had even some of the more obvious avenues of investigation been addressed prior to the matter being concluded, the outcome of those is likely to have provided further evidence as to the circumstances of the death of Ms Cook, provided closure to Ms Cook's family and friends, and also, in all likelihood, prevented the need for this inquest.

The inadequate investigation has also had the result that suspicion has been cast on Mr Cook, he has had to appear at the inquest and he has been the subject of much media attention during the inquest.

Senior police involved in the investigation agreed that there was a breakdown in communications between investigators and forensic officers. However, it seems clear that relevant and important information was made available to DS Osborn at a very early stage of the investigation by the scientific officers and she did not deem it necessary to look at or consider that information. As stated above, when SOCO Bardell had not heard from DS Osborn in June 2009 he followed up and asked whether she required further testing done on the knife. Her response was to authorise its destruction.

Whilst it did not affect the investigation, the entries of the kind that were being made in official diaries at the time of Ms Cook's death, in the Townsville region, are inconsistent with the OPMs and defeat at least one of the main purposes of keeping a diary i.e. contemporaneous notes written by the officer which cannot later be amended or changed. If the officers involved in the investigation had kept better notes, their evidence may have been of more assistance to the inquest (for example, it may have been possible to ascertain whether the house had been thoroughly searched).

Whilst the available scientific evidence supports the initial police opinion on Ms Cook's cause of death, that opinion was formed less than 24 hours after the death and in the absence of a scientific officer's report on blood stain pattern analysis, DNA analysis of the string on the knife, independent verification of Mr Cook's version of events or Ms Cook's medical history. Without a suicide note, the death should have been treated as suspicious until those matters were investigated.

Although DS Osborn's actions were not to the standard which would normally be expected of an investigating officer, I cannot find that her acts and/or omissions in relation to the investigation amount to official misconduct as defined in the *Crime and Misconduct Act 2001* and therefore, I decline to refer the matter under s. 48(3) *Coroners Act 2003*.

The response by police officers to the coronial investigation, specifically the inquest, was disappointing. Documents and information that were in the possession of police and easily accessible and which had been requested as long ago as March 2013 were only produced on the second day of the inquest and then only in response to a further direction made in court.

Such information was requested numerous times from March 2013 up until the week before the inquest and was requested via the Coronial Support Service officer, via the Chief Superintendent, Northern Region and via the Solicitor for the Commissioner. Whilst I believe those requests were passed on to the relevant areas and police officers it is obvious that they were, in some instances, ignored and in others, complied with only partially.

Such a lack of response to and compliance with coronial directions is contrary to the OPMs and also to s. 794 *Police Powers and Responsibilities Act 2000*.

### **The circumstances surrounding the death of Jenny Cook**

As stated above, investigating police concluded on 20 January 2009 that Ms Cook committed suicide against a background of back injury and depression.

The evidence obtained during the coronial investigation indicates that Ms Cook had been suffering from a back injury for about two years prior to her death and this had caused her to become anxious and depressed. She was still upset about the outcome of her WorkCover claim. However, her treating doctors and those who knew her, including Mr Cook, were of the opinion that her mood had been gradually improving in line with her physical injuries and that she was at a stage when she was looking forward to returning to work.

It is clear from the medical reports that in late 2008 and early 2009 the main sources of Ms Cook's depression were her anger at the decision of WorkCover that her back injury was pre-existing and her perception that Mr Cook was not supportive or understanding.

On 16 January 2009 Ms Cook received an opinion from a barrister that the WorkCover decision that the injury was pre-existing was correct. This opinion was found on the kitchen bench on the day of her death.

Mr Cook knew that she was upset the night prior to her death but he was unaware of the cause as he did not speak to her about it.

When Ms Cook was upset and crying in the bathroom, Mr Cook offered her no support. He asked her where his Ipod cord was and then went to bed, leaving her crying alone.

Therefore, it seems that the two issues that most upset Ms Cook were present in the days before and on the day of her death.

There are many unusual circumstances surrounding the death of Ms Cook, if it is to be accepted that she committed suicide:

- There was no suicide note although the evidence suggested that she was a meticulous record keeper and kept up to 12 diaries;
- There was no event identified which would explain such an action when she had been improving both physically and mentally;
- She was found lying on a plywood board which she would have found very difficult to move to the site and had not been dragged to that position;
- She was wearing exercise attire including a large sun hat at the time of death;
- She had a sheet tied around her neck and head area with a bath robe tie and it is likely that she was blindfolded when the knife pierced her chest;

- She apparently had spent some considerable time preparing the knife with string and tape but those items were not found in the house (although the police were not looking for them);
- There are no 'hesitation' or 'practice' wounds – only a single deep stab wound;
- Her body had been moved after death but Mr Cook, the paramedics and the police all state emphatically that they did not move her body;
- Ms Cook apparently chose a violent and painful method of suicide when she had access to medication of which she could have ingested a fatal dose;
- Ms Cook apparently did not indicate to any person that she had been or was contemplating suicide.

Whilst the only evidence obtained and now available, points to suicide, taking into account the failures in the investigation, and the destruction of the knife in particular, I am unable to determine whether Ms Cook's death was the result of suicide and that aspect of the finding must remain open.

### **Recommendations**

I recommend that the Commissioner of Police consider:

1. Whether any action should be taken in relation to Detective Sergeant Osborn's non-compliance with the Operational Procedures Manual of the Queensland Police Service; and,
2. Whether any action should be taken in relation to the inadequacy of the police investigation into the death of Jenny Lee Cook.

I close the inquest.

Jane Bentley  
Coroner  
CAIRNS  
6 December 2013