



# **CORONERS COURT OF QUEENSLAND**

## **FINDINGS OF INQUEST**

**CITATION:** Inquest into the death of Charlie Mark John Robertson

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** SOUTHPORT

**FILE NO(s):** 2015/2252

**DELIVERED ON:** 14 December 2017

**DELIVERED AT:** Southport

**HEARING DATE(s):** 22 November 2016, 13-22 March 2017.  
Written submissions 9 May 2017 to 1 December 2017.

**FINDINGS OF:** Terry Ryan, State Coroner

**CATCHWORDS:** Coroners: inquest, death in custody, mixed drug toxicity.

## REPRESENTATION:

Counsel Assisting: Miss Emily Cooper

Family: Mr Philip Beale and Mr James Doyon instructed by CMC Lawyers

Commissioner of Police: Mr Craig Capper, Queensland Police Service Legal Unit

Police Officers: Mr Adrian Brathwaite instructed by Gilshenan and Luton

Senior Sergeant Taylor: Mr Matt Black instructed by McGinness and Associates Lawyers

Senior Sergeant Hayden Mr Paul McCowan, McInnes Wilson Lawyers

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## Introduction

1. Charlie Robertson was just 19 years of age when he died on 13 June 2015. Charlie was undertaking a property course at Bond University. After receiving a Dean's award from the University on 12 June 2015, Charlie returned home to the unit he shared with two friends at an apartment complex at Nobby Beach on the Gold Coast.
2. Charlie and a group of his friends engaged in drug use during the course of the evening at his home, and he eventually went to sleep. Seven officers from the Queensland Police Service's Rapid Action Patrol executed a search warrant at Charlie's address early on the morning of 13 June 2015.
3. On arrival, the police officers thought that Charlie was asleep. Over the next 90 minutes several attempts were made by police officers to wake Charlie up, as the search of his home progressed. These included shining a torch on him, attempts to elicit a pain response with a sternum rub and chest pinch, shaking him, pouring water on him, and tipping up the bed where he was apparently sleeping. Each of these attempts was unsuccessful.
4. Although the Queensland Ambulance Service (QAS) had been called to the premises to attend to another male from Charlie's unit who injured his ankles after jumping over the balcony when police arrived, QAS officers were not asked to check on Charlie's wellbeing.
5. Police officers concluded their search and left Charlie in the presence of three teenage girls, who were minors, and had been at the premises overnight.
6. After asking an adult male neighbour to check on Charlie, the three young women left the unit at 8:37am, thinking that Charlie was still asleep. One of Charlie's flatmates returned home at 12:35pm and found that he was deceased.

## The inquest

7. Charlie's death was reported as a death that happened in the course of or as a result of a police operation. Charlie had also been in the custody of the police officers who were searching his home for the duration of the search. An inquest was mandatory under s 27(1)(a)(iii) of the *Coroners Act 2003*, unless I was satisfied the circumstances of the death did not require the holding an inquest.
8. The inquest opened with a pre-inquest conference on 22 November 2016. Following that pre-inquest conference, the issues to be investigated at the inquest were settled as follows:
  - The findings required by s. 45 (2) of the *Coroners Act 2003*; namely the identity of the deceased, when, where and how he died and what caused his death;
  - The adequacy and appropriateness of the manner in which various police officers dealt with the (then unconscious) Mr Robertson while in attendance at his residence on the morning of 13 June 2015; and
  - The adequacy of training provided to QPS officers with regard to recognising symptoms of a drug overdose.

9. Evidence was heard from the following 18 witnesses from 13 – 17 March 2017:
- A/Detective Senior Sergeant Christy Schmidt;
  - Victor Wolfram;
  - Taylah Gray;
  - Ebony Gray;
  - Nicholas Kinch;
  - Beau Kelly;
  - Madeleine Miller;
  - Constable Michael Foreman;
  - Constable Blake Sullivan;
  - Constable Adam Case;
  - Constable Benjamin Bristow;
  - Constable Benjamin Corcoran;
  - Senior Constable Grant Watkins;
  - Sergeant Ian Taylor;
  - Senior Sergeant Damien Hayden;
  - Acting Inspector Michael Dwyer;
  - Dr Michael Robertson; and
  - Professor Michael Kennedy.
10. The *Coroners Act 2003* makes it clear that the purpose of an inquest is not to determine questions of civil or criminal liability, or to apportion blame. An inquest provides an opportunity to set out all the relevant facts associated with a death, and to consider whether any recommendations might be made to prevent similar deaths occurring, or to otherwise improve public health and safety and the administration of justice.

## **The evidence**

11. I do not intend to summarise all of the factual evidence which is available to me in these findings. Instead, I will provide an overview of those facts which are most relevant to the matters I am required to find pursuant to s 45(2) of the *Coroners Act 2003*, and address the issues that were identified at the pre-inquest conference.

## ***Social history***

12. At the time of his death, Charlie Robertson lived with two friends, Beau Kelly and Nicholas Kinch, in a unit at the Magic Mountain Resort, Nobby Beach. The three friends had been living together since 16 May 2015.
13. Charlie was described in evidence at the inquest as a confident, intellectual and driven young man. He was physically healthy and had his life ahead of him. He was completing a degree in Property at Bond University, and working part-time as an Assistant Property Valuer.
14. Statements from teaching staff from the Faculty of Society and Design at Bond University, and from his employer described Charlie as reliable and conscientious, displaying leadership skills and a professional approach to any task he was given.

15. Charlie was clearly held in the highest regard by his family, friends and work colleagues. His family provided a statement in which they described Charlie as intelligent, self-motivated, hard-working, kind and caring. Understandably, his passing has represented a profound tragedy in their lives. I extend my condolences to them.

### ***Events leading up to the death***

16. During the evening of Friday 12 June 2015, Charlie and his mother attended an awards ceremony at Bond University where he received a Dean's Award. After the ceremony, Charlie told his mother that he was returning to his unit, possibly via the gymnasium, and that he was planning to have a 'quiet night'.
17. The evidence of Mr Kinch<sup>1</sup> and Mr Kelly<sup>2</sup> confirmed Charlie returned to the unit that evening. Mr Kelly and Charlie remained in the unit, however Mr Kinch left the unit to see a movie with his girlfriend at Australia Fair shopping centre at about 9:00pm.<sup>3</sup> Mr Kinch confirmed in his evidence to the inquest that he did not have any further contact with either of his flatmates over the course of the night or on the following morning.<sup>4</sup> Mr Kelly confirmed he and Charlie did not go to the gym that evening.<sup>5</sup> Mr Kelly's evidence to the inquest was as follows:

*Well, when I started we – we [indistinct] home, me and Charlie had dinner. We were planning on going to gym, but we, like, procrastinated while making dinner and shit. And then the gym was – staffed hours were – I had a trial at the gym, so I could only go during staffed hours.*

*Right?--So- we were going to go [indistinct] but it was, like – he just said no [indistinct] because he – he just got home from winning – he was granted dean's award for uni. And I [indistinct] I was happy for him and stuff so we, like, decided to celebrate, sort of. So then we, after dinner, went to – and got some cocaine – one gram – and we went halves – split it. And, yeah, we started having a few lines and stuff.<sup>6</sup>*

18. The evidence provided by other friends, namely Dominic Peresa<sup>7</sup>, Brooke Moore<sup>8</sup> and Gene Thompson<sup>9</sup> confirmed that Charlie and Mr Kelly had gone to Mr Peresa and Mr Thompson's home at about 9:30pm. Charlie and Mr Kelly stayed at this address for about half an hour.
19. I heard evidence from a variety of sources about the subsequent gathering at Charlie's unit. The timings obtained from the available CCTV footage are the most accurate evidence available on when relevant persons arrived.
20. At 10:52pm, the Magic Mountain CCTV footage showed two vehicles which investigating police believed to be Charlie's BMW, and a Toyota Aurion, enter the Magic Mountain complex through the driveway security gate.<sup>10</sup> Mr Wolfram confirmed in his evidence to the inquest that he drove to the unit that night, and

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<sup>1</sup> Transcript of proceedings, day 2, page 42 from line 34.

<sup>2</sup> Transcript of proceedings, day 2, page 25 from line 26.

<sup>3</sup> Transcript of proceedings, day 2, page 46 from line 26.

<sup>4</sup> Transcript of proceedings, day 2, page 46 from line 18.

<sup>5</sup> Transcript of proceedings, day 2, page 27 from line 44.

<sup>6</sup> Transcript of proceedings, day 2, page 27 from line 44.

<sup>7</sup> Exhibits F12 (audio); B12 (transcript).

<sup>8</sup> Exhibits F11 (audio); B11 (transcript).

<sup>9</sup> Exhibits F14 (audio); B14 (transcript).

<sup>10</sup> Exhibit E5.11.

that his car at the time was a 2010 Toyota Aurion.<sup>11</sup> I accept that this portion of the CCTV footage is evidence of Charlie and Mr Wolfram's arrival at the unit.

21. I also heard evidence from three young women who attended the unit a little later that night, namely Madeleine Miller (aged 16 years)<sup>12</sup> and identical twin sisters Taylah Gray<sup>13</sup> and Ebony Gray (aged 15 years).<sup>14</sup> At 12:10am on Saturday, 13 June 2015, the Magic Mountain CCTV footage confirmed someone from Charlie Robertson's unit gave three young women access to the Magic Mountain Resort via the pedestrian gate near the office.<sup>15</sup> I accept that this CCTV footage is evidence of Ms Miller and the Gray twins' arrival at the unit.
22. Mr Kelly and Mr Wolfram told the inquest that drugs were taken by each of the males in the unit throughout the night and into the early hours of the following morning. Mr Wolfram's evidence to the inquest was that he did not see Charlie take any drugs over the course of the night but he believed he was taking drugs.<sup>16</sup>
23. Mr Wolfram confirmed in his evidence that over the course of the night he was consuming ice, MDMA and Fantasy (also known as gammahydroxybutyric acid, or GHB).<sup>17</sup> He was consuming the GHB orally via a small plunger, and was not mixing it with anything else. His evidence was that although he did not see Charlie taking the GHB, it was possible that he was.<sup>18</sup>
24. Mr Kelly recalled that he and Charlie consumed Cocaine, MDMA and GHB over the course of the night.<sup>19</sup> This was confirmed by Charlie's toxicology results at autopsy.<sup>20</sup> He recalled that Charlie also took a Xanax. Mr Wolfram could not recall Charlie taking a Xanax.<sup>21</sup> As use of Xanax by Charlie was not confirmed by his toxicology results I make no findings in that respect.<sup>22</sup>
25. With respect to Charlie's use of GHB, Mr Kelly gave evidence that it was brought to the unit by Mr Wolfram.<sup>23</sup> The only evidence with respect to Charlie's consumption of the GHB was that of Mr Kelly. Mr Kelly confirmed it was contained in an Ajax bottle. While unsure of when it was consumed, he recalled that Charlie took an initial dose of 3ml, which was measured using a plunger.<sup>24</sup> He explained that the GHB was taken as a 'shot', and orange juice then used as a 'chaser'.<sup>25</sup>
26. Mr Kelly described the effect of GHB as "*like getting drunk but real quickly*", and that this occurred within about thirty minutes of taking the drug.<sup>26</sup> Mr Kelly recalled that, prior to this night, he and Charlie had taken GHB once before at a "boat

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<sup>11</sup> Transcript of proceedings, day 1, page 34 from line 45.

<sup>12</sup> Transcript of proceedings, day 2, page 2 from line 37.

<sup>13</sup> Transcript of proceedings, day 1, page 50 from line 43.

<sup>14</sup> Transcript of proceedings, day 1, page 69 from line 28.

<sup>15</sup> Exhibit E5.10.

<sup>16</sup> Transcript of proceedings, day 1, page 35 from line 28.

<sup>17</sup> Transcript of proceedings, day 1, page 35 from line 44.

<sup>18</sup> Transcript of proceedings, day 1, page 36 from line 14.

<sup>19</sup> Transcript of proceedings, day 2, page 30 from line 21.

<sup>20</sup> Exhibit A10.1.

<sup>21</sup> Transcript of proceedings, day 1, page 37 from line 7.

<sup>22</sup> Exhibit A10.1.

<sup>23</sup> Transcript of proceedings, day 2, page 31 from line 24.

<sup>24</sup> Transcript of proceedings, day 2, page 32 from line 11.

<sup>25</sup> Transcript of proceedings, day 2, page 35 from line 15.

<sup>26</sup> Transcript of proceedings, day 2, page 32 from line 20.

party” in early June 2015. Several patrons of this party had been admitted to hospital with suspected overdoses of liquid Fantasy.

27. Mr Kelly described how the second dose was taken early on 13 June 2015. His evidence to the inquest was as follows:

*“And can you recall how it came to be that you had a second dose; whose idea it -was?-Yeah-, it was – Charlie suggested it, because he goes, “Should we bust?” Because he goes, “Should we bust up some more frank?” That’s just, like, a term that we always use. Bust meaning have.*

*So is frank another term for -fantasy?- Fantasy, yep. And, anyway, yeah, I’m like, “Yeah, I’m [indistinct] if you are.” He said, “Yeah, well one more and then we’ll – like, then I will call it quits.” Because he had uni. So we set the alarm around the time – just after he had the thing, so that – he asked me to put it on charge next to my bed, because he was planning to have a sleep [indistinct], then so he would wake up, so he can – just make sure it’s next to my head, on charge. And so, yeah, we had the frankie- around 2.30 I think. Set it, and, yeah - - -*

*Okay?--- - - made sure it was next to his head.”<sup>27</sup>*

28. Mr Kelly confirmed that the second dose of GHB occurred about five minutes before Charlie’s alarm was set on his phone.<sup>28</sup> For this dose, he explained that instead of consuming the GHB as a ‘shot’ and then chasing it with the orange juice, the GHB was mixed in a cup that contained juice. He and Charlie each took 3ml of that mixture.<sup>29</sup>
29. Forensic evidence from the QPS Electronic Evidence Examination Unit confirmed that the alarm was set on Charlie’s phone at 2:04am to go off at 11:04am.<sup>30</sup> I find that the second dose of GHB was most likely ingested by Charlie just before 2:00am.
30. Evidence relating to how Charlie came to fall asleep, and his alleged use of Xanax, was also obtained from Mr Kelly. His evidence to the inquest was as follows:

*“Had Charlie said something to you about he wanted to go to -sleep?-Yeah-. It was, like, he said, “We’ll bust up another bit of frank and then I’m going to call it quits when it wears off,” like, you know, because he’s got uni. So he’s just going to have it right at, like, you know, then when it wears off go to bed. So then – so, yeah, that’s why the alarm was set, and he told me to make sure it was next to his head, and then he said, probably, like, only, like, an hour and a half, an hour or so after, he was like, “I probably need to do the Xanax soon.” He said, “I’m going to dump half a brick.” That’s what he said. A brick is a Xanax. It comes in four quarters. It’s rectangular. And he only had half. And that’s when I saw take that.*

*So you actually saw him -take?-Yeah-. I know it wasn’t in the toxicology report, but, yeah, I saw him have it.*

*Okay. And when you said that – well, when you’ve recalled that he mentioned that it was half a brick - - -?---Yep.*

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<sup>27</sup> Transcript of proceedings, day 2, page 33 from line 27.

<sup>28</sup> Transcript of proceedings, day 2, page 34 from line 6.

<sup>29</sup> Transcript of proceedings, day 2, page 35 from line 33.

<sup>30</sup> Exhibit C5.



- - - can you just explain how you know that to mean a -Xanax?-That's- just what they call bricks, because they look like bricks.

Okay. So that was as a result of previous use with Xanax; is that -right?-Yep. Yep, yep.”<sup>31</sup>

31. Mr Kelly recalled that Charlie had experienced a similar cocktail of cocaine, MDMA and GHB previously. However, on that occasion, he recalled that Charlie had not consumed any Xanax.<sup>32</sup> Ms Miller described each of the males in the unit that night as being “so off their face.”<sup>33</sup>
32. Also relevant to the events of this particular night, was that after several noise complaints<sup>34</sup>, the on-site Security Guard, Heath Clements attended to Unit A28 at 12:38am and spoke to Charlie.<sup>35</sup> Mr Clements asked the occupants to stay indoors, keep off the balcony and keep the noise down. Mr Clements said that information had been provided to police by the Magic Mountain Resort management team in the first week of Mr Kinch, Mr Kelly and Charlie’s tenancy. His evidence was as follows:

*“Cause you’re always getting phone calls about cars parked in other people’s carparks. So they were bad for that and that’s in the first, we found all this out in the first week so as soon as I know all that I let the managers know. And um they suggested well we’ll get the police onto this and they can check it out. So and it was the first, within the second, third week of them living here that we’d actually given all the information to the police that’s how bad it was getting.”<sup>36</sup>*

### **The search warrant**

33. On 11 June 2015, a search warrant had been obtained by Constable Michael Foreman of the Gold Coast District Rapid Action Patrol (‘the RAP’).<sup>37</sup> In his evidence to the inquest, Constable Foreman explained the events which resulted in the search warrant being obtained:

*“So I believe it was the 16<sup>th</sup> of May. I was performing a night shift with the Gold Coast Rapid Action Patrols and we’d stopped and intercepted a vehicle that I believe was at Miami, and in that vehicle was a male person by the name of Nicholas Kinch and we searched the car and searched him and we recovered, I believe, 42 ecstasy tablets in the possession of Mr Kinch from on his person and some in his vehicle. And as a result of that, Kinch was charged with possession of drugs. We also then examined his mobile phone on the night and we established that there was a supply of those drugs [indistinct] as well. He was subsequently charged for supply and as a result of having that phone, we performed a cellphone download, which downloads a whole contents of the phone including all the messages, and after examining those messages, we – we developed investigation into drug possession and supply with male person Beau Kelly, whose name was in Kinch’s phone a lot, and there was evidence in that phone to say that Beau Kelly was – was supplying and possessing quantities of drugs here on the Gold Coast. So as a result of – of, yeah, that –*

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<sup>31</sup> Transcript of proceedings, day 2, page 34 from line 34.

<sup>32</sup> Transcript of proceedings, day 2, page 36 from line 21.

<sup>33</sup> Transcript of proceedings, day 2, page 7 line 2.

<sup>34</sup> Exhibit B2.8.

<sup>35</sup> Exhibit B5, page 8.

<sup>36</sup> Exhibit B5, page 8.

<sup>37</sup> Exhibit C2.

*that celebrite information and those text messages, a warrant was executed that day at Magic Mountain apartments.”<sup>38</sup>*

34. Just after 6:30am on Saturday, 13 June 2015, Constable Foreman, along with six other police officers (Sergeant Ian Taylor, Senior Constable Grant Watkins, and Constables Blake Sullivan, Adam Case, Benjamin Bristow and Benjamin Corcoran) from the Gold Coast RAP went to unit A28 to execute the search warrant. The unit was entered with force by breaking open the door.
35. The occupants of the unit were asked at the inquest what they noticed about Charlie just before police entered the unit. Mr Wolfram’s evidence was that Charlie was peacefully asleep, and that there was nothing wrong with him.<sup>39</sup> Mr Kelly recalled that Charlie was lying beside him on Mr Kelly’s bed. Charlie was snoring, which he did not think was unusual. Mr Kelly described how he had placed Charlie on his side as a “*cautionary measure*”.<sup>40</sup> He said there was no real concern for Charlie at that time. Similarly, the Gray sisters had no concerns about Charlie being asleep.<sup>41</sup> Ms Miller’s evidence to the inquest on this point was as follows:

*“Do you remember before the police came to the unit? Do you remember any of the boys referring to Charlie being franked or franked -out?-No-. They left. No.*

*Okay?--They- didn’t say anything about what was happening to him.*

*Yes. Okay. And once again it’s really important. This is before the police entered the unit. Do you remember having any concerns at all for Charlie and the way that he was sleeping or anything like -that?-I- remember the girls and I just said “Shouldn’t you guys try wake him up because of his snoring?”. But they didn’t really say anything, and as soon as the police raided they left.”<sup>42</sup>*

36. Four of the seven police officers were wearing their own body-worn cameras. However, Constable Foreman was the only officer whose camera recorded continuously throughout the search.<sup>43</sup> The investigating police officer, Detective A/Senior Sergeant Christy Schmidt, explained the circumstances surrounding the other body-worn cameras in her report.<sup>44</sup>
37. While Constable Foreman’s footage is continuous, and helps to confirm events, the body-worn camera represents a single, narrow view, and does not necessarily show everything in Constable Foreman’s field of vision at any particular time. Accordingly, it cannot be assumed that an event did not happen because the event described by a witness cannot be seen or heard on the footage.
38. Constable Foreman’s footage was important evidence of the events which transpired during the execution of the search warrant. It assists to clarify who was present at any given time. To an extent, it also confirms relevant conversations between police and the young women present at unit A28.

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<sup>38</sup> Transcript of proceedings, day 2, page 54 from line 29.

<sup>39</sup> Transcript of proceedings, day 1, page 36 from line 41.

<sup>40</sup> Transcript of proceedings, day 2, page 37 line 32.

<sup>41</sup> Transcript of proceedings, day 1, page 54 line 44 (Taylah); day 1, page 73 from line 43 (Ebony).

<sup>42</sup> Transcript of proceedings, day 2, page 7 from line 16.

<sup>43</sup> Exhibit E3.

<sup>44</sup> Exhibit A20 at page 74.

39. As police entered the unit, Mr Kelly, Mr Wolfram and Ms Miller jumped from the unit's balcony. Sergeant Taylor, Senior Constable Watkins and Constable Foreman then remained in the unit, while the other officers proceeded back downstairs to locate those who had jumped from the balcony.
40. While this was happening, Senior Constable Watkins located the Gray sisters hiding in a wardrobe. He initially took them to sit on a couch located in the master bedroom. Constable Foreman located Charlie, who he said was lying on his back on the bed in the master bedroom, snoring loudly.<sup>45</sup> The master bedroom was ordinarily occupied by Mr Kelly. However, the body-worn camera footage clearly depicts Charlie lying on his right-hand side when he was first discovered by Constable Foreman.<sup>46</sup>
41. Senior Constable Watkins, and Constables Foreman and Corcoran made some initial attempts to rouse Charlie. These attempts are captured on the body-worn camera footage.<sup>47</sup> Constable Corcoran pulled out a torch and shone the light on Charlie in a zig-zag motion. He also took a pillow from Charlie's mid-section and threw it into the corner. Neither of these attempts drew any response.<sup>48</sup>
42. Constable Foreman then touched Charlie's leg (after which Charlie is seen on his back). This was followed by Senior Constable Watkins' application of a sternum rub. Officers' Watkins and Foreman then proceeded to lift Charlie's upper body up off the bed, after which he fell back on the bed on his back. Both officers confirmed in their evidence that neither of these measures led to any sort of response from Charlie. He remained as he had been.<sup>49</sup>
43. The body-worn camera footage then captured a conversation which was predominantly between Senior Constable Watkins and the Gray sisters. This started immediately after the unsuccessful attempt to rouse Charlie by lifting his upper body off the bed.<sup>50</sup>
44. Senior Constable Watkins turned to the twins who were sitting on the nearby couch, and asked them "*what's he taken.*" The Gray sisters took a moment, before one of them answered with the word "*Frank.*" The footage does not capture any acknowledgement of this from either of the officers who were present. Importantly, nor does it capture any attempt to clarify the meaning of the word "*Frank*" with the Gray sisters.<sup>51</sup>
45. However, the twins were told of the importance of seeking medical attention for Charlie if he had taken anything. Shortly afterwards, one of twins is recorded as asking if Charlie's condition was "*normal*". Senior Constable Watkins asked if he had "*taken some pills as well*". After Taylah Gray replied "*not that I know of*" the twins responded "*probably*" and "*most probably*" respectively.

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<sup>45</sup> Transcript of proceedings, day 2, page 58 from line 20.

<sup>46</sup> Exhibit E3.1 from 00:00.

<sup>47</sup> Exhibit E3.1.

<sup>48</sup> Transcript of proceedings, day 2, page 61 from line 44.

<sup>49</sup> Transcript of proceedings, day 2, page 59 from line 9 (Foreman); day 4, page 7 from line 30 (Watkins).

<sup>50</sup> Exhibit E3.1, from 00:24:40.

<sup>51</sup> Exhibit E3.1 from 00:25.

46. Sergeant Taylor was the most senior officer in the unit during the execution of the search warrant. He remained on the balcony initially before going downstairs to assist Mr Wolfram, who had injured his feet jumping from the balcony. While the Gray sisters were still on the couch in the master bedroom, Sergeant Taylor also made some unsuccessful attempts to rouse Charlie. He pinched the top of Charlie's chest, on his chest plate.<sup>52</sup> Sergeant Taylor also trickled a small amount of water on Charlie's forehead.<sup>53</sup>
47. Ms Miller voluntarily returned to the unit and was detained by police for the purpose of the search warrant, along with the Gray sisters. They were taken from the couch in the master bedroom to a couch in the main living room, where they were read the formalities relating to the warrant. This process is caught on Constable Foreman's body-worn camera footage.<sup>54</sup> Charlie remained on the bed in the master bedroom throughout.
48. The officers proceeded to conduct a search of the unit. After going downstairs and helping to detain Mr Wolfram, Constable Adam Case went back at the unit and was present when Sergeant Taylor tried to rouse Charlie with water. Constable Case made no attempt to rouse Charlie. He conducted a search of two bedrooms, before he was assigned as property officer, because Constable Corcoran was with Mr Wolfram downstairs.
49. Constable Case's evidence was that he was mostly stationed at the dining room table, completing paperwork required for lodging property and exhibits.<sup>55</sup> This is largely confirmed by the body-worn camera footage.<sup>56</sup>
50. Constable Blake Sullivan returned to the unit in time to see Ms Miller return, and for the substantive search to be undertaken. He had been downstairs attempting to access to a number of different areas of the carpark and surrounds.<sup>57</sup>
51. Constable Sullivan's evidence was that, around the time the formalities of the warrant were read out, there was a conversation between police officers about whether Charlie needed to be woken up. Constable Sullivan's evidence on this issue was as follows:

*"Prior to the girls being moved to the couch that was in the living room, were you present, at all, for any attempts – physical attempts to try and wake Charlie -up?-No-.*

*Were you made aware, at any stage during the execution of the warrant, that there had been attempts made by any of the other police officers to try and wake Charlie -up?-I- believe when we – we put the girls in the lounge room to execute the search warrant, so they were near the – the property table and stuff like that, I said, "He's – are we going to get him up to – for the search warrant?"*

*Yes?--And- I was told, "He's – he's asleep and he's not waking up, so we're going to leave him there until the execution of the search warrant."*

*Okay?--He's- not the person we're after, so we'll let him sleep it off.*

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<sup>52</sup> Transcript of proceedings, day 4, page 69 from line 28.

<sup>53</sup> Transcript of proceedings, day 4, page 70 from line 32.

<sup>54</sup> Exhibit E3.1 from 00:29:00.

<sup>55</sup> Transcript of proceedings, day 3, page 9 from line 24.

<sup>56</sup> Exhibit E3.2 from 00:21:20 onwards.

<sup>57</sup> Transcript of proceedings, day 2, page 90 from line 35.

*Right. Can you recall who you were told that -by?-No-, I'm not sure of the exact words that were said but - - -*

*Yes?--- - - - that's what I got from the conversation. I don't know who it was. It might have been just – you know, the group – because we're all standing around - - -*

*Yes?--Michael Forey- speaks – and executes the search warrant.*

*Okay. So it might not have been with just one other police officer, it - - -?---Yeah, there might have - - -*

*- - - might have been a collective conversation?--- - - - been a couple present, yeah. I believe it was Sergeant Taylor but I couldn't be certain.”<sup>58</sup>*

52. After his initial interaction with Charlie, Constable Corcoran went downstairs to attend to those who had jumped off the balcony. From that point, Constable Corcoran remained with Mr Wolfram for the duration of the search. He only re-entered the unit to conduct a secondary search of the rear bedrooms, before the warrant was concluded.<sup>59</sup>
53. While the warrant was being executed, the attending police called the QAS to examine Mr Wolfram's injuries. The QAS subsequently attended and transferred him to the Robina Hospital.<sup>60</sup> Unfortunately, QAS paramedics were not asked to examine Charlie at any stage.
54. During the course of the search, Constable Foreman's body-worn camera captured a number of conversations with the young women about Charlie's condition. He was snoring loudly, but was otherwise completely unresponsive.
55. In summary, the young women told police Charlie had been drinking, he had a “big night” and he had a sleeping problem.<sup>61</sup> At no time did the young women convey any information to police to suggest they held significant concerns for Charlie. However, they did ask police if his condition was “normal”, and suggested that he had taken “Frank”, some pills as well as consumed alcohol.
56. Toward the end of the warrant's execution, a search was also conducted under and around the mattress Charlie lay on. Constable Foreman's body-worn camera largely recorded this event.<sup>62</sup> Constable Foreman was standing at the doorway to the master bedroom. Senior Constable Watkins and Constable Sullivan were physically involved in the search and Sergeant Taylor was standing in the master bedroom observing.
57. Senior Constable Watkins recalled how the search came to be conducted. His evidence in this respect was:

*“Can you just describe how that particular bed came to be searched? Was it anybody's idea in particular – those sorts of -things?-We- had a conversation between myself, Constable Sullivan and Sergeant Taylor to see if anyone had actually searched under the bed for any drugs or in relation to that. Myself and*

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<sup>58</sup> Transcript of proceedings, day 2, page 93 from line 35.

<sup>59</sup> Transcript of proceedings, day 2, page 64 from line 9.

<sup>60</sup> Exhibit C16, page 23.

<sup>61</sup> Exhibit E3.1 at 24:40; Exhibit E3.3 at 22:25.

<sup>62</sup> Exhibit E3.3 from 19:50.

*then Constable Sullivan went to the bed. I actually picked the bed up – the mattress up – I pushed it up and had a search underneath – put it back down. During that time, Constable Sullivan was holding Charlie. When I put the bed down, I, then, pulled the bed out from the wall and I located a large knife down the back of the bed.”<sup>63</sup>*

58. Senior Constable Watkins’ evidence was that he was located at the base of the bed, and he lifted the mattress upwards to an angle that was just over 45 degrees. Constable Sullivan was at the other end of the bed, closest to the wall. According to Senior Constable Watkins, Constable Sullivan held Charlie’s body while the mattress was being lifted.<sup>64</sup> He said that Charlie was lying on the bed during this time, with his body supported by Constable Sullivan.<sup>65</sup>
59. Constable Sullivan’s evidence was that Senior Constable Watkins lifted the mattress up to chest height.<sup>66</sup> In terms of where Charlie was on the bed while this was being done, Constable Sullivan’s evidence was:

*“...The mattress was then lifted by Senior Constable Watkins on the – the end of the mattress. I moved down to the – because Charlie started to slide a bit, so I’ve moved down, holding him. He’s then moved around to the other side of the mattress and shuffled down the side, lifting the other side of the mattress, while I held Charlie and he’s checked in behind the mattress and found a large knife. But during the process of Senior Constable Watkins being behind the other side of the mattress, I was holding Charlie and his head – he lifted his head and looked at me. Opened his eyes and I thought he was about to wake up. And I’ve said, “Mate, it’s the police, don’t – don’t worry, it’s the police.” And then he’s just gone back to sleep, closed his eyes and continued snoring in the bed. After Senior Constable Watkins come out with the knife from behind the bed, put the mattress back down and I’ve rolled Charlie onto his side because, obviously, he – he’s woken up, he’s going to wake up soon. Put him in the recovery position, where you bend the knee over, with his head supported, and then left the room.”<sup>67</sup>*

60. When asked to clarify the movements made by Charlie at this point, Constable Sullivan’s evidence to the inquest was as follows:

*“---I just – it just felt like he was sort of waking up, that sort of – where you open your eyes to wake up and I thought oh, he’s going to – I’m right in his face because I’m holding him. He’s going to wake up and be shocked because I’m in his face. I sort of said, “Oh, it’s okay, it’s okay. It’s the police. We’re doing a search warrant”. But then during this – that quick period, he’s closed his eyes and put his head back down.”<sup>68</sup>*

61. This evidence as to Charlie’s eyes opening was not directly corroborated by any of the other officers. Senior Constable Watkins thought Constable Sullivan said “he’s awake – or something like that if I recall. Yes.”<sup>69</sup>

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<sup>63</sup> Transcript of proceedings, day 4, page 11 from line 1.

<sup>64</sup> Transcript of proceedings, day 4, page 11 from line 26.

<sup>65</sup> Transcript of proceedings, day 4, page 11 from line 22.

<sup>66</sup> Transcript of proceedings, day 2, page 95 from line 32.

<sup>67</sup> Transcript of proceedings, day 2, page 95 from line 8.

<sup>68</sup> Transcript of proceedings, day 2, page 96 from line 1.

<sup>69</sup> Transcript of proceedings, day 4, page 12 line 33.

62. During his evidence at the inquest, Sergeant Taylor could not recall any response, voluntary or not, from Charlie while the mattress was being lifted.<sup>70</sup> This was in contrast to what he said during his disciplinary interview with investigating police, where he recalled that Charlie lifted his head when the mattress was being put down.<sup>71</sup> Written submissions on Sergeant Taylor's behalf maintained that because of this distinction, his version of events at the inquest and in his disciplinary interview were not inconsistent. I consider that there is insufficient evidence to establish any type of response from Charlie at the time the mattress was lifted or put back into position.
63. Sergeant Taylor's evidence was that Charlie's body ended up on the floor as a result of the mattress being lifted. When asked to provide detail as to how Charlie's body was positioned on the floor, he said that he could not recall seeing that.<sup>72</sup> He recalled when Charlie's body was placed back on the bed, that he was placed in a recovery position.<sup>73</sup>
64. The body-worn camera footage is of most assistance in determining how the mattress was lifted. The footage shows the mattress lifted past an angle of 90 degrees to bed so that it rests up against the wall. Although Charlie's body cannot be seen clearly, it is most likely from the mere positioning of the mattress and Charlie's size<sup>74</sup> that at least part of his body has ended up on the floor.<sup>75</sup>
65. Having regard to Sergeant Taylor's evidence and the camera footage, I find that Charlie's body ended up on the floor of the master bedroom after the mattress was lifted by Senior Constable Watkins. Unfortunately, at the point at which the mattress is up against the wall, Constable Foreman turned and looked in the direction of the living room, obscuring from camera view what was happening in the master bedroom. On the footage, laughter can be heard coming from inside the master bedroom. It cannot be ascertained conclusively who was laughing.
66. The evidence from the officers involved in the lifting of the mattress was to the effect that Charlie did not smell of liquor and the bed was not soiled or wet at that time. He continued to snore loudly. The officers did not think that Charlie required medical attention.
67. The outcome of the search was that steroids, a quantity of MDMA and various other drug related implements were located and seized from the kitchen and the bedrooms of Mr Kinch and Mr Kelly. The search was concluded just before 8:00am and the officers left Charlie in the unit with Ms Miller and the Gray sisters.

### ***After the search***

68. After the police officers left the unit, Ms Miller and the Gray sisters sought help from a neighbour, Gordon Whitehouse, who came into the unit to see Charlie. Mr Whitehouse assisted investigating police by providing a version of events, a transcript of which was tendered at the inquest.<sup>76</sup> Mr Whitehouse told police that the young women were "in hysterics" when they came to his door. He entered

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<sup>70</sup> Transcript of proceedings, day 4, page 75 from line 44.

<sup>71</sup> Exhibit B34, page 24.

<sup>72</sup> Transcript of proceedings, day 4, page 73 from line 34.

<sup>73</sup> Transcript of proceedings, day 4, page 75 from line 34.

<sup>74</sup> Charlie was 191cm tall and weighed 84kg.

<sup>75</sup> E3.3 from 19:55.

<sup>76</sup> Exhibit B15.

unit A28 and checked Charlie's pulse. Mr Whitehouse told investigating police he had completed senior training in CPR.<sup>77</sup>

69. Ebony Gray recalled in her evidence to the inquest that the idea of calling an ambulance was discussed with Mr Whitehouse. Her evidence was as follows:

*-?---Well, when the cops left, just before, as well, we also got the neighbour to come over and check on him.*

*And how did, can you just describe how that -happened?-Well-, at – Maddy went over and knocked on the door and said, like, “Can you please help us, can you please help us?”*

*Yes?--“We- – our friend, we don't know what he's taken. He's just been drinking and it looks like he's passed out, but really he's” – and when – when the – when the neighbour went in the room to go check on him, he's like, “He's going to be fine”, like, “He's fine.” And we actually recall saying, “Should we call an ambulance?” And he said, “No, he's going to be fine.”<sup>78</sup>*

70. Mr Whitehouse thought Charlie had a normal pulse, he was snoring, and he could see the rise and fall of his chest. Mr Whitehouse thought he was 'fine' and he just needed to sleep it off.<sup>79</sup> Unfortunately, Mr Whitehouse was unable to be located to be served with a summons to give evidence at the inquest. When asked about this circumstance, Detective A/Senior Sergeant Schmidt explained that there were multiple arrest warrants issued for Mr Whitehouse, relating to a breach of parole and other offences.<sup>80</sup> Given Mr Whitehouse's status and the inability for his evidence to be tested in any way, its reliability is significantly diminished.
71. Ms Miller and the Gray sisters then left the unit, leaving Charlie alone inside. The effect of their evidence to the inquest was that they were concerned for Charlie, but did not know what to do. Ms Miller recalled calling some of Charlie's friends, however they did not come to the unit to help, and did not take her concerns seriously.<sup>81</sup> Ms Miller could not say whether Charlie was still snoring when she left the unit, however she did recall that there was no vomit around Charlie's mouth, or fluid on the bedding, when she left.<sup>82</sup>
72. CCTV footage from the Magic Mountain Resort shows the three young women exit the complex through the pedestrian gate near the office at 8:37am.<sup>83</sup> After this time, the property manager, Ms Brits, slipped a 'Notice to Leave' for excessive noise under the unit door. Two RAP officers went back to the unit to serve a 'Notice of Damage' in relation to the front door, which was left in the letter box. There is no evidence that anybody else attended at unit A28 before Charlie's body was found. However, that possibility cannot be excluded given the extent of damage police officers caused to the door.
73. At 12:35pm, the Magic Mountain Resort CCTV footage showed Mr Kinch and Leon Smith jump over the fence from Miami High School into the grounds of the

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<sup>77</sup> Exhibit B15, page 7.

<sup>78</sup> Transcript of proceedings, day 1, page 76 from line 12.

<sup>79</sup> Exhibit B15 pages 6 – 7.

<sup>80</sup> Transcript of proceedings, day 1, page 11 from line 15.

<sup>81</sup> Transcript of proceedings, day 2, page 10 from line 21.

<sup>82</sup> Transcript of proceedings, day 2, page 10 from line 36.

<sup>83</sup> Exhibit E5.10.



resort.<sup>84</sup> They used an internal door which required no security access and gained entry into the centre of the complex. They found Charlie deceased on the bed in the master bedroom of Unit A28.

74. At 12:41pm the QAS was contacted, and they arrived at 12:45pm.<sup>85</sup> No efforts were made to commence CPR, as Charlie's body was cold with some early stage rigor mortis, and cyanosis with lividity. An ECG displayed asystole in leads I, II and III. At 12:50pm, paramedics declared Charlie deceased and issued a Life Extinct certificate.

## Autopsy Results

75. A full internal autopsy examination, with associated toxicology testing and CT scans, was conducted by forensic pathologist, Dr Dianne Little, on 15 June 2015. Dr Little's report was tendered at the inquest.<sup>86</sup>
76. External examination revealed no injuries which contributed to the death. There was no evidence of any significant injury. Dr Little found no needle puncture marks on the body. Internal examination revealed a mildly enlarged heart with absence of valvular heart disease or coronary artery atherosclerosis. Patchy interstitial fibrosis was seen on microscopic examination.
77. Dr Little confirmed that toxicological analysis of refrigerated, preserved, femoral blood detected the following drugs:<sup>87</sup>
- Methylenedioxymethylamphetamine (MDMA) and its breakdown products methylenedioxyamphetamine (MDA) and methylamphetamine;
  - Cocaine, and its breakdown products benzoylecgonine and methylecgonine; and
  - Gammahydroxybutyric acid (GHB).
78. Dr Little commented that both MDMA and cocaine affect the heart. Chronic use can cause heart enlargement, fine scarring and accelerated degenerative narrowing of the coronary arteries. Dr Little considered that all of these changes put the heart at risk of causing sudden death, especially when it is under stress, as can occur with the ingestion of drugs.
79. Dr Little confirmed that toxic effects of GHB include coma, seizures, vomiting and respiratory arrest. Dr Little also confirmed that the GHB could potentiate the effects of the cocaine and MDMA.
80. Dr Little concluded that the formal cause of death was the toxic effects of multiple drugs – cocaine, methylenedioxymethylamphetamine (MDMA) and gammahydroxybutyric acid (GHB).

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<sup>84</sup> Exhibit E5.12.

<sup>85</sup> Exhibit C16.

<sup>86</sup> Exhibit A19.

<sup>87</sup> The detected levels of these drugs is considered below with respect to the evidence of Dr Robertson and Professor Kennedy.

## Investigation Findings

81. Charlie's death was investigated by the Queensland Police Service Ethical Standards Command (ESC). The investigation was led by Detective A/Senior Sergeant Christy Schmidt, who provided a report detailing the findings of the investigation. This report was tendered at the inquest.<sup>88</sup> Detective A/Senior Sergeant Schmidt also gave evidence at the inquest.<sup>89</sup>
82. The comprehensive police investigation was informed by recorded interviews with all persons who were in unit A28 on the night before Charlie's death. This extended to known close friends or associates of Charlie. Interviews were also conducted with the unit manager, the complex security guard, as well as the neighbour (Mr Whitehouse) who provided 'assistance' to the three young women before they left the unit on the morning of 13 June 2015.
83. Disciplinary interviews were conducted with all of the police officers involved in the search of unit A28 on 13 June 2015. A direction to answer questions pursuant to section 4.9 of the *Police Service Administration Act (PSAA) 1990* was given to all the officers at the beginning of their disciplinary interviews, abrogating privilege against self-incrimination.
84. Detective A/Senior Sergeant Schmidt's evidence was that the police investigation revealed Charlie was an active user of dangerous drugs. This conclusion was supported by his associates including Beau Kelly and Mr Kinch.<sup>90</sup>
85. The police investigation found that the RAP officers attended Charlie's residence and executed a search warrant that suggested Mr Kelly was involved with dangerous drugs. Charlie's identity had been confirmed via QPS intelligence, by the three young women, and with identification found in Charlie's bedroom.
86. No dangerous drugs or other illegal items were found in Charlie's bedroom. In the interviews between ESC and the RAP officers, it was common ground that there was no investigative interest in Charlie, and no need to have him awake to confirm his identity or question him. Detective A/Senior Sergeant Schmidt also concluded that the young women were attempting to divert police attention from Charlie and did not confirm his drug use.<sup>91</sup>
87. Whether officers should have sought medical treatment for Charlie when executing the search warrant, based on his symptomology, was also considered as part of the ESC investigation. The ESC investigation found that officers had conducted a risk assessment by way of seeking information from the young women, who did not divulge Charlie's drug use.
88. It was also found that the officers' training did not include symptomology of a drug overdose, and that this exceeded the knowledge provided in the basic first aid training. The officers assumed Charlie was drunk and asleep. In the officers' minds, this explained why he was unresponsive.

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<sup>88</sup> Exhibit A20.

<sup>89</sup> Transcript of proceedings, day 1, page 6 from line 41.

<sup>90</sup> Exhibits B12 and B11 respectively (transcripts); F12 and F11 respectively (audio recordings)

<sup>91</sup> Exhibit A20, page 85 paragraph 19.2.

89. Detective A/Senior Sergeant Schmidt's evidence was that, in hindsight, it would have been prudent for the officers to seek medical attention for Charlie rather than assume he was drunk and asleep, irrespective of whether he was a primary suspect or not. She described the officers' decision in this regard as follows:

*"Thank you. Now, if I could take you back now to paragraph 19.4 of your report on page 85. You've said there that:*

*The death of Charlie is regrettable. However, there is no evidence to support a criminal prosecution against any person regarding his death.*

*You see that -there?-Yes-.*

*Can you explain for his Honour, please, how you came to that -view?-I- don't believe any police officer or civilian at the moment is responsible for Charlie's passing. The officers were deprived of vital information and their first aid training, they made a bad decision.*

*Thank you. And it's right, isn't it, that the officers – when the search warrant was, I guess, in its initial stages, an ambulance was, indeed, called for Victor Wolfram, wasn't -it?-Correct-. Correct.*

*And so can I ask what did that information suggest to you, in terms of why medical assistance wasn't sought for Charlie?--Again-, I think the lack of information provided to the officers, and they did get the medical attention for Mr Wolfram; they just saw Charlie, what they thought was asleep and because he was snoring, that – they didn't realise, obviously, the consequences of not getting medical attention for him.*

*Thank you. So would you agree that it's not a case that the officers were, indeed, lazy or disinterested or anything like -that? I don't think so. I don't – I think in hindsight, of course they would do things differently. They just made a terrible decision that day not to get medical attention for him."*<sup>92</sup>

90. Detective A/Senior Sergeant Schmidt also said Ms Miller and the Gray sisters had made a bad decision in not seeking medical attention for Charlie, although they sought to clarify Charlie's condition with Mr Whitehouse.<sup>93</sup>
91. Detective A/Senior Sergeant Schmidt pointed out that the officers were acting on information received primarily from the young women, and the actions of the young women in misdirecting and misleading the officers during their risk assessment questioning should be considered as contributing to the decision not to seek medical attention.<sup>94</sup>
92. While the ESC investigation found that the officers showed a lack of dignity and respect for Charlie when the mattress he was lying on was lifted upwards and searched underneath, it found no evidence the actions of the officers caused any injuries which contributed to the death of Charlie.
93. The ESC investigation found the officers did not follow relevant policy, procedure and legislation:-

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<sup>92</sup> Transcript of proceedings, day 1, page 16 from line 11.

<sup>93</sup> Transcript of proceedings, day 1, page 16 from line 40.

<sup>94</sup> Exhibit A20, page 5 paragraph 2.28.

## **“2012/33 STANDARD OF PRACTICE PROFESSIONAL CONDUCT**

### *12. Conduct Towards Members and other Persons*

*In the course of their duties, and in particular when exercising discretionary powers, members are to:*

*a) treat all persons with respect and dignity and in a reasonable, equitable and fair manner; and*

## **QPS Operational Procedures Manual (OPM)**

### *Section 16.1 Custody*

*Police officers and watchhouse officers who have custody of persons are to ensure that persons are treated with dignity and that they are provided with the necessities of life; and*

## **Police Service Administration Act (PSAA) 1990**

### *Section 2.3 Functions of service*

*(g) the provision of the services, and the rendering of help reasonably sought, in an emergency or otherwise, as are -*

*(i) required of officers under any Act or law or the reasonable expectations of the community; or*

*(ii) reasonably sought of officers by members of the community;”<sup>95</sup>*

94. Detective A/Senior Sergeant Schmidt referred all seven officers to Assistant Commissioner Paul Taylor for disciplinary action. The findings of AC Taylor with respect to each officer were tendered at the inquest.<sup>96</sup> Since Charlie’s death, all of the officers have been provided with Restorative Training and First Aid Training to assist in their ability to conduct future risk assessments.

## **THE ADEQUACY AND APPROPRIATENESS OF THE MANNER IN WHICH VARIOUS POLICE OFFICERS DEALT WITH CHARLIE WHILE IN ATTENDANCE AT HIS RESIDENCE ON THE MORNING OF 13 JUNE 2015**

95. I consider that the attending police officers who witnessed Charlie’s condition acted inappropriately and incompetently with respect to his presentation on the morning of 13 June 2015.
96. The evidence from the officers at the inquest confirmed that Charlie did not respond to any of their attempts to rouse him, including the application of a pain stimulus on two occasions. He did not respond when he was tipped off the bed. This was not a matter of concern for any of the officers. At no point during the execution of the search warrant was there any discussion among the attending officers about calling an ambulance to assess Charlie. This was despite the fact that QAS officers were already in attendance at the resort treating Mr Wolfram.
97. The officers who had contact with Charlie placed an over-reliance on the fact that he was snoring, and therefore breathing. However, the evidence suggests that Charlie was at that time unconscious, and likely going into respiratory depression.
98. The actions of the officers involved in lifting the mattress while Charlie lay unconscious on it was highly inappropriate in the circumstances. It showed a lack of any respect for Charlie. The sound of laughter while Charlie fell from the mattress reflects very poorly on the officers involved. I accept, however, that

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<sup>95</sup> Exhibit A20, page 86 from paragraph 19.6.

<sup>96</sup> Exhibit C23.

there is insufficient evidence that this particular incident contributed to Charlie's death in any way.

99. I also accept the evidence that, at the time of Charlie's death, front line police officers were only trained in basic first aid. This included basic cardio-pulmonary resuscitation (CPR), and how to deal with other simple matters. First aid training for front line police in Queensland did not include identifying and/or treatment of the symptoms of drug use or drug overdose.
100. However, training for police officers at the Queensland Police Academy included the contents of the 'QPS First Response Handbook'.<sup>97</sup> This handbook is aimed at being a 'pocket guide' for police, and is issued to all police officers as a 'ready reference' or 'aide memoir' to assist in the performance of their duties.<sup>98</sup>
101. Relevantly, the Handbook includes a Custody and Arrest Risk Evaluation Tool, which provides that officers observing the following indicia should consider seeking immediate medical assistance:

- *“Profuse sweating and shivering at the same time*
- *Loss of consciousness*
- *Semi-conscious and unresponsiveness*
- *Seizure*
- *Respiratory rate below 6 breaths per minute*
- *Severe headache*
- *Chest pain*
- *Obvious respiratory distress*
- *Gagging, coughing or choking lasting longer than 4 minutes after OC Spray.”*<sup>99</sup>

102. None of the attending police officers was able to recall this handbook during their evidence. Even if the officers had been instructed how to respond to these indicia during their initial training, they were not applied to Charlie's presentation during the execution of the search warrant. As Constable Case's evidence confirmed, the idea of seeking medical attention for Charlie did not cross his mind:

*“During your time in the unit, did you engage in any conversation at all with any of the other police officers about Charlie's presentation and whether he needed medical -attention?-No-.*

*Okay. And why was -that?-There- was nothing to alert me to think that he was in need of assistance or there was anything wrong. I thought that he was sleeping.”*<sup>100</sup>

103. Constable Foreman's reasoning in leaving Charlie in the unit without seeking assistance can be summarised as follows:

- He believed that that Charlie was “just drunk”. He had friends present; and he was in his own bed, at his own residence, and there was no reason that he could not just continue sleeping.

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<sup>97</sup> Exhibit C14.

<sup>98</sup> Exhibit B28, page 5 at paragraph 16.

<sup>99</sup> Exhibit C14, page 168.

<sup>100</sup> Transcript of proceedings, day 3, page 10 from line 40.

- The young women reported that they had not seen him take drugs; and he did not see any indicia of drug use.
  - Charlie's lack of response to a sternum rub, which was designed to inflict at least a small amount of pain, and being lifted off the mattress, was not a concern because he was snoring. He believed that Charlie was asleep after a "big night". He had seen a lot of drunk people not be able to be roused, and keep sleeping.<sup>101</sup>
104. Sergeant Taylor's explanation for not seeking medical attention for Charlie was that it was never something that he had considered, and it was never something that was raised by anyone else in the team.<sup>102</sup>
105. I agree with submission of counsel assisting that the fact that the officers sought medical assistance for Mr Wolfram shows that this is not the case that the officers were being lazy, or disinterested, with respect to Charlie's welfare. There would have been no inconvenience in having Charlie looked at by the paramedics who were already downstairs.
106. I accept that the officers genuinely believed that there was no need to seek medical attention for Charlie. However, I also consider that this question was the subject of inadequate consideration at the time, particularly in the context of the complete lack of any response by the profoundly unconscious Charlie to any external stimuli. Police officers were told by the twins that he had "probably" taken pills and "*Frank*".
107. The officers were conducting a search of the unit for drugs. Apart from the fact that he was asleep, Charlie did not present with indicia of excessive alcohol consumption. He did not smell of alcohol and there was no evidence that alcohol had been consumed in the unit, apart from the assertions of the twins. These facts should have triggered concerns that Charlie was affected by drugs.
108. It was inappropriate for the police officers to place reliance on the views of the three young women about Charlie's condition, particularly after the young women were informed that they were being detained for the purpose of a drug search and possibly faced criminal charges. It was also inappropriate for the police officers to leave Charlie alone with three young women who were minors, including one who had absconded upon police arrival at the unit.
109. Most of the officers (except Constable Corcoran who was not present in the unit for the majority of the search) agreed, with the benefit of hindsight, that they should have sought medical attention for Charlie.<sup>103</sup>
110. I also heard evidence on this issue from Senior Sergeant Damien Hayden, who is the current Officer in Charge of the QPS Operational Skills Training Unit (OSTU). As part of the investigation conducted by the Ethical Standards Command, Senior Sergeant Hayden conducted a review of the body-worn footage and the interviews of each police officer, and provided an opinion as to

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<sup>101</sup> Transcript of proceedings, day 2, page 62 from line 34.

<sup>102</sup> Transcript of proceedings, day 4, page 79 from line 44.

<sup>103</sup> Transcript of proceedings, day 4, page 80 from line 5 (Taylor); day 4, page 14 from line 1 (Watkins); day 3, page 12 from line 6 (Case); day 3, page 55 from line 21 (Bristow); day 2, page 99 from line 36 (Sullivan).

the appropriateness of the use of force applied by the officers during the execution of the search warrant.

111. Senior Sergeant Hayden said that the primary focus of the officers was on the detection of drug-related offences, rather than on Charlie's wellbeing. In Senior Sergeant Hayden's view, this was inappropriate.

*They've attended an address. They've attempted a forced entry on the – on the premises. They've used a ram. They took several blows to enter the premises. Due to the holdup at the door, three persons were allowed to escape from the premises. One person made good their escape, one person was injured, one person being returned after being contacted by police to – to come back. So the actual tactics used there I – I was critical of, and I think that the officers, after the execution of the warrant, were more focused on regaining control of the situation and recovering the situation, particularly considering that – yeah – 50 per cent of the persons on the premises escaped, that they were more worried about their management, and may have been focused – and it appeared to me that they were focused on that, as opposed to dealing with the issue with Charlie.*

.....

*Considering- that – the fact that Charlie was there and that attempts were made to rouse him and he was unresponsive: I believe that the police should have gone or shift focus or reassessed their mission priority from the execution of the warrant and – and drug detection to checking onto him as was well-found [indistinct] that – that he was – was okay or wasn't – you know, if he was under the influence of drugs or if he was – if his health was compromised.”<sup>104</sup>*

112. In terms of the information being provided by the young women in attendance during the execution of the warrant, Senior Sergeant Hayden confirmed in his evidence that, on the body-worn footage, he heard one of the young women respond 'Frank' when asked by a police officer if Charlie had taken anything. Senior Sergeant Hayden gave evidence that he would have expected this information to have been "further explored" by police.<sup>105</sup> As noted above, some clarification was sought and obtained in relation to whether Charlie had taken any pills.
113. When asked to describe how he would have expected police to act when dealing with a situation involving an unresponsive person, Senior Sergeant Hayden's evidence was that when a person is unresponsive, action should be taken. He said that although the person may be asleep and may be not offering a high level of resistance, such as a stimulant-affected person, the person could be suffering a medical emergency. He said that if Charlie had been in a watch-house, and a police officer had checked him and he was unable to be roused, help would have been sought. He also said that if Charlie had been in a public place he was confident that if police attended and were unable to be rouse him medical attention would have been sought. He said that it "just seems that the police officers in this situation just couldn't join the dots. They were focused on dealing with the raid, as opposed to the identification of the medical emergency that was taking place.”<sup>106</sup>

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<sup>104</sup> Transcript of proceedings, day 5, page 6 from line 36.

<sup>105</sup> Transcript of proceedings, day 5, page 9 from line 16.

<sup>106</sup> Transcript of proceedings, day 5, page 9 from line 27.

114. I agree with the conclusions of Senior Sergeant Hayden as outlined in the above paragraphs.

### **WAS THE DEATH PREVENTABLE?**

115. I find that Charlie's death was preventable in the circumstances.

116. The inquest was assisted by two experts, Dr Michael Robertson, who was appointed by the Court, and Professor Michael Kennedy who was briefed by those acting for the family. While separate reports were provided by each expert, their evidence at the inquest was heard concurrently.<sup>107</sup>

117. Dr Robertson is a pharmacologist and forensic toxicologist with Independent Forensic Consulting. He has more than 20 years' experience studying and researching the effects of drugs and poisons on humans, including mechanisms of action; desirable effects and adverse effects.

118. Professor Kennedy is a clinical pharmacologist and consultant physician with over 30 years' experience in managing an acute medical admissions roster. He is also an Associate Professor at St Vincent's Hospital in Sydney, in the Department of Medicine and Clinical Pharmacology and Toxicology, conjoint with the Department of Pharmacology, University of New South Wales.

119. When asked about the levels of the drugs found in Charlie's blood at autopsy, both experts were in general agreement. Dr Robertson's evidence was that methylamphetamine was present in a medium to low concentration consistent with recreational use.<sup>108</sup> MDMA, or ecstasy, was present at a relatively high concentration and consistent with ingestion of a number of pills.<sup>109</sup> Cocaine was also present at a relatively low concentration.<sup>110</sup> GHB was present at a medium to high concentration. Dr Robertson explained that this level was obtained from bloods taken at autopsy, so the actual level of GHB could have been higher at the time of death.<sup>111</sup> Professor Kennedy was in general agreement with this. Dr Robertson explained that, despite the sample of blood being femoral, the exact level of GHB at the time of death would not be able to be ascertained.<sup>112</sup>

120. In terms of Charlie's death being formally categorised by Dr Little as being from the toxic effects of multiple drugs, Dr Robertson explained that the GHB was the significant contributor to death, and Professor Kennedy agreed. The evidence from the doctors is extracted as follows:

*“MS COOPER: Yes. Thank you. Dr Robertson, in terms of the pathologist's cause of death as being stated in Dr Little's report, listing a number of these drugs as being the cause, in your opinion, is there one particular drug that is more causative than the others?”*

*DR ROBERTSON: Yes. And I think the GHB is the most likely significant contributor.*

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<sup>107</sup> Transcript of proceedings, day 5, page 33 from line 28.

<sup>108</sup> Transcript of proceedings, day 5, page 35 from line 45.

<sup>109</sup> Transcript of proceedings, day 5, page 36 from line 7.

<sup>110</sup> Transcript of proceedings, day 5, page 36 from line 16.

<sup>111</sup> Transcript of proceedings, day 5, page 36 from line 31.

<sup>112</sup> Transcript of proceedings, day 5, page 38 from line 1.



MS COOPER: Yes.

DR ROBERTSON: *And I say that because pharmacologically, when I look at both the concentrations found at depth, together with knowledge of the – all of the other drugs, if I can use that general statement, are stimulants. So generally speaking, I would expect someone experiencing acute toxicity to those drugs to experience psychosis, irritation, aggravation, be highly stimulated. The evidence that I understand is we've got someone who is asleep – deep asleep, perhaps in a coma – which is consistent with the sorts of effects that we might expect from GHB. We've got a level of GHB which is consistent with known fatalities. So that would appear to be the most significant contributor to death. Whether or not the others contributed through some sort of cardiac event is possible, but certainly, GHB would appear to be the major contributor.*

MS COOPER: Thank you. Professor Kennedy, did you agree with that?

PROF KENNEDY: *In many ways, it's a difficult question to answer. Looking at the data – the autopsy, the concentrations – you'd report the findings as being death from poly-drug toxicity.*

MS COOPER: Yes.

PROF KENNEDY: *I think Dr Robertson is quite right in that the GHB was the main cause, without doubt, of the deep coma – state of unconsciousness.*

MS COOPER: Yes.

PROF KENNEDY: *Now, as to whether I would say it was a combination of the deep unconsciousness, other factors caused by a person who is deeply unconsciousness – well the other drugs all – and GHB on its own does have quite significant cardiac effects. It can have major effects on pulse rate; it can drop quite significantly. The other drugs, then, do have cardiac stimulant properties, so we would have the possib – the probability of respiration – of deep coma, probably respiratory depression along the way, combined with a lot – a cocktail of cardioactive drugs. Now, whether that precipitated lethal cardiac arrhythmia, we don't know. All we know is that he's dead – many drugs, poly-drug toxicity, most – the cause of the coma – well, I think without doubt is the GHB. And the combination of the whole lot caused the death.”<sup>113</sup>*

121. The evidence from the doctors was the concentrations of the drugs, as they were detected in Charlie's system, were survivable.<sup>114</sup> Dr Robertson was not able to provide an opinion about whether Charlie would have recovered if he had been provided with oxygen therapy at the time police were present in the unit. He did, however, state that it would be a matter of supported care, and in a case of respiratory depression, the addition of oxygen would make it likely that the person would survive.<sup>115</sup> Dr Robertson did not have the requisite clinical experience to answer the question, and deferred to Professor Kennedy.<sup>116</sup>
122. Professor Kennedy's evidence on this point was that when an unconscious person is initially seen, there are a large list of possible causes. In his opinion if Charlie had been moved immediately to a standard hospital his chance of surviving would be “so close to 100 per cent”.<sup>117</sup>

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<sup>113</sup> Transcript of proceedings, day 5, page 38 from line 25.

<sup>114</sup> Transcript of proceedings, day 5, page 39 from line 24.

<sup>115</sup> Transcript of proceedings, day 5, page 40 from line 24.

<sup>116</sup> Transcript of proceedings, day 5, page 47 from line 28.

<sup>117</sup> Transcript of proceedings, day 5, page 40 from line 39.

123. When the Professor was asked how he could be satisfied that the state of respiratory depression Charlie was in, at the time of police attendance at the unit, was in fact reversible, the Professor's evidence was as follows:

*MS COOPER: Yes, thank you. And Professor Kennedy, if I could follow on from that last answer, if you could explain, please, how you can be satisfied that the state of respiratory depression as it was at the time police arrived at the unit*

*PROF KENNEDY: All I – all I can*

*MS COOPER: how that was reversible?*

*PROF KENNEDY: All I can say is that he is – respiratory centre is working and he is breathing and that's basically all I can say. He's deeply unconscious elsewhere which means the accessory muscles of respiration, for example, obviously, aren't working. Presumably, his diaphragm was working as well. The chest was expanding. I don't know how well he was oxygenating. All I know is that he was breathing and not moving*

*MS COOPER: Yes.*

*PROF KENNEDY: in which case*

*MS COOPER: Yes.*

*PROF KENNEDY: the medical assessment after that is a specialised medical assessment. Usually, they come to casualty – the first thing would be done would be blood gases apart from other routine medical assessment*

*MS COOPER: Yes.*

*PROF KENNEDY: to see it isn't a narcotic, for example, in which case, there'd be a reverse straight with a narcan. So how hypoxic he is is unknown. All I – we – can say is that he was breathing when seen. He's left not moving and the combination of, presumably, the slow development of a hypoxia – presumably – combined with the other agents, presumably, precipitated a lethal cardiac arrhythmia. He may – some likelihood – have had a convulsion. That is possible. That all becomes postulant. What the facts are is we have a deep coma, he's breathing and that's about all. Nothing more's moving.*

*MS COOPER: Yes.*

*PROF KENNEDY: No other muscles are moving and then he's found dead and we have poly drugs so it's a poly drug toxicity caused death – GHB causing the respiratory depression.”<sup>118</sup>*

124. The evidence confirmed that there was a period of four hours between approximately 8:30am, when the young women left the unit, and 12:30pm when Charlie's body was discovered by Mr Kinch and Mr Smith. The evidence of both experts was that the levels of the drugs detected in Charlie's system at autopsy were survivable.

125. I conclude that if Charlie had been provided with supportive oxygen therapy and other critical care measures that could be provided at an emergency department

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<sup>118</sup> Transcript of proceedings, day 5, page 41 from line 4.

during this four hour window, it is most likely that he would have survived. However, I also acknowledge that the precise level of respiratory depression at the time of police attendance at unit A28 is unknown.

126. Senior Sergeant Hayden also gave evidence about whether Charlie's death could have been avoided by the attending police officers. Senior Sergeant Hayden's opinion was that the police officers could have prevented Charlie's death.<sup>119</sup>
127. In his oral evidence to the inquest, Senior Sergeant Hayden gave a detailed response to support his view, which is extracted as follows:

*"I'd expect that they'd be mindful and vigilant of the fact that they've got a person who's unable to be roused and a person who's in an almost comatose state, that they are there for the purpose of executing a drug warrant. They had located some drugs on – on – on the premises, that there would be a strong possibility that if a person was unconscious or in a state of – of very, very deep sleep, unconsciousness or unable to be aroused, that the logic would indicate that that person could be under the influence of drugs or – or in a state of overdose etcetera. So, once again, I think the officers didn't reassess the mission that they were doing and that they're – they're – they were prioritising the warrant as opposed to responding to the cue. I don't think they saw the cue or they couldn't draw the dots with the cue that – the cues that was being exhibited by Charlie's indicia that he was giving off, that he was in a state of collapse."<sup>120</sup>*

128. I also agree with Senior Sergeant Hayden's conclusions in this respect.

## Findings required by s45

129. I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. After considering all the evidence, including the material contained in the exhibits, I am able to make the following findings:

**Identity of the deceased –** The deceased person was Charlie Mark John Robertson.

**How he died -** Mr Robertson died in his home unit after taking a mixture of drugs including cocaine, ecstasy, and gammahydroxybutyric acid (GHB). The combination of these drugs caused his respiratory system to become depressed, depriving his brain of oxygen. This occasion was likely the second time he had used GHB.

Mr Robertson was in the company of a number of friends when he consumed the drugs, and subsequently fell asleep. Over the course of the night Mr Robertson took two 3ml doses of GHB that were witnessed. The first dose was straight GHB followed by

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<sup>119</sup> Exhibit B28, paragraph 49.

<sup>120</sup> Transcript of proceedings, day 5, page 8 from line 28.

orange juice. The second dose was GHB and orange juice mixed together. There is no direct evidence that Mr Robertson consumed an additional amount of the GHB. However, as the second dose was a mixture of GHB and orange juice, it is possible he consumed more of this mixture, mistaking it for orange juice.

Mr Robertson, who was noted to be snoring, was later in the presence of seven police officers for almost 90 minutes while they executed a search warrant at his unit. He could not be woken by police as he was in a deeply unconscious state. A number of attempts to rouse him were made, including the application of water to his face, a sternum rub, and his body being physically moved from the bed.

Police did not seek medical assistance for Mr Robertson and he was left in the company of three young women who were minors. They later left him alone in the unit, believing that he did not need medical assistance. Mr Robertson was found deceased by two friends some four hours later.

**Place of death –**

Mr Robertson died at Unit A28, 1 Great Hall Drive, Nobby Beach, in the State of Queensland.

**Date of death –**

He died on 13 June 2015.

**Cause of death –**

Mr Robertson died as a result of the toxic effects of multiple drugs, primarily gammahydroxybutyric acid.

## **Recommendations and Comments**

130. Section 46 of the *Coroners Act*, as far as it is relevant to this matter, provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.
131. The evidence at the inquest made it clear that the training provided to QPS officers with regard to recognising symptoms of a drug overdose was inadequate. It follows that improvements were required in relation to training police officers to detect a medical emergency.
132. I heard evidence on this issue from Senior Sergeant Hayden and A/Inspector Michael Dwyer, who at the time of providing his statement, was the Inspector reporting to the Assistant Commissioner for the People Capability Command,

QPS. The People Capability Command is responsible for the education and training to all employees of the QPS.

133. Senior Sergeant Hayden assisted the inquest with a proposed recommendation, worded in his statement as “Training for police in identification and management of unconscious persons.”<sup>121</sup> During his evidence at the inquest, he expanded on this by outlining changes being put in place to the current model of first aid training, including recognising or dealing with management of unconscious persons. This would enable officers to perform basic assessment and, where a person is unresponsive, the default position would be to seek medical help.<sup>122</sup>
134. In terms of how that training could be rolled out throughout the QPS, Senior Sergeant Hayden referred in his evidence to other inquests into the deaths of five men who were shot by police, and the work by the QPS already conducted into first aid response training for its officers.<sup>123</sup> His evidence in this respect was that from June 2017, and by the end of next financial year at least 11,000 police will be trained in the use of a patient assessment tool similar to the Glasgow Coma Scale. This will be followed by annual refresher training.<sup>124</sup>
135. A/Inspector Dwyer’s evidence confirmed that the unit of competency delivered to QPS officers did not previously cover training, skills or knowledge regarding drug overdose. There was currently no national standard or requirement for police officers to be trained on drug indicia or overdose.<sup>125</sup> A/Inspector Dwyer also confirmed that snoring is not included as a recognised sign of a drug overdose.<sup>126</sup>
136. I heard evidence of an ongoing review being conducted by the QPS on the issue of first aid training for QPS officers.<sup>127</sup> A/Inspector Dwyer said that a training program had been put together which reflects current knowledge as to the types of situations QPS officers’ experience. This can range from anything including an unconscious person, to somebody who has suffered a stab wound or gunshot wound. A/Inspector Dwyer said the new program has been designed to capture “a number of issues that are of a life-threatening nature and would require a response almost immediately to, in effect, try to save that person’s life.”<sup>128</sup> At the inquest, I heard that the Police Commissioner had given the training program ‘in principle’ support, with a view having the training program in place by 1 July 2017.<sup>129</sup> I have subsequently been advised that all QPS officers are to complete tactical first aid training by 30 June 2018. This will include a simpler tool than the Glasgow coma scale.<sup>130</sup>
137. I am satisfied that the work being done by the QPS in the area of first aid training will go some way to preventing a death in similar circumstances. Senior Sergeant Hayden’s evidence with respect to expectations of police in these circumstances also supports the conclusion that a different group of police officers would have called for medical assistance if placed in a similar situation.

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<sup>121</sup> Exhibit B28 at paragraph 51.

<sup>122</sup> Transcript of proceedings, day 5, page 10 from line 15.

<sup>123</sup> Transcript of proceedings, day 5, page 10 from line 44.

<sup>124</sup> Transcript of proceedings, day 5, page 10 from line 47.

<sup>125</sup> Exhibit B39, paragraphs 13 – 15; Transcript of proceedings, day 5, page 26 from line 16.

<sup>126</sup> Exhibit B39, paragraphs 17 – 18.

<sup>127</sup> Transcript of proceedings, day 5, page 26 from line 40.

<sup>128</sup> Transcript of proceedings, day 5, page 27 from line 15.

<sup>129</sup> Transcript of proceedings, day 5, page 27 from line 8.

<sup>130</sup> Transcript of proceedings, day 5, page 28 from line 6.

138. In the circumstances, I do not consider that there are any recommendations I could reasonably make to prevent similar deaths from occurring in the future.

### **Section 48 Referral**

139. Section 48(2) of the Act provides that a Coroner must give information to the Director of Public Prosecutions if the Coroner reasonably suspects a person has committed an indictable offence. Consistent with the State Coroner's Guidelines I have considered submissions on the question of a referral under s 48.<sup>131</sup> There will be a referral under s 48 in this matter.

140. I close the inquest.

**Terry Ryan  
State Coroner  
Southport  
14 December 2017**

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<sup>131</sup> Version 2, amended September 2014.