



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of
Brad Maxwell WILSON**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO(s): COR 2013/3229

DELIVERED ON: 12 June 2015

DELIVERED AT: Brisbane

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FINDINGS OF: Mr Terry Ryan, State Coroner

CATCHWORDS: CORONERS: Natural causes, police arrest before death.

REPRESENTATION:

Counsel Assisting:	Mr Peter Johns
Family of Mr Wilson:	Mr Gerard Mullins & Matt Forbes (Instructed by Shine Lawyers)
Senior Constables Adam Carter & Brad Williams:	Mr Stephen Zillman (Instructed by Gilshenan & Luton Legal Practice)
Queensland Police Commissioner:	Ms Belinda Wadley (Public Safety Business Agency)

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Introduction

On 7 September 2013, Brad Wilson attended Mt Gravatt State School with his partner and two children to vote in the Federal Election. There was a lengthy line of people waiting to vote. They were standing in the sun and the conditions were warm. Mr Wilson was annoyed about the delay in voting and went to voice his concerns to electoral officials at the polling booth in a loud and aggressive manner.

This attracted the attention of two plain clothes police officers who arrested Mr Wilson for public nuisance. The arrest involved a brief struggle in which Mr Wilson was taken to the ground. He calmed down quickly and was issued with a notice to appear in court and released at the scene rather than taken to the nearby watch house.

Fifteen minutes later, on a main road nearby, Mr Wilson collapsed. Despite prompt attention from his partner and paramedics he suffered a cardiac arrest and could not be revived.

These findings:-

- confirm the identity of the deceased person, the time, place and medical cause of his death;
- examine the circumstances leading to his arrest and the way in which the arrest was given effect;
- consider whether the police officers involved acted in accordance with the Queensland Police Service policies and procedures then in force; and
- consider the adequacy and appropriateness of the investigation undertaken by police into the circumstances surrounding the death.

The investigation

Detective Inspector Robert Hytch from the Queensland Police Service Ethical Standards Command (ESC) conducted an investigation into the circumstances leading to Mr Wilson's death.

Inspector Hytch became involved after the connection between Mr Wilson and the earlier arrest at Mt Gravatt State School became apparent. After I was consulted on 7 September 2013, I directed that the death be treated as a 'death in police operations' for the purposes of the *Coroner's Act 2003* (the Act).

Prior to that decision, initial investigations at the scene of Mr Wilson's collapse and at the scene of his earlier arrest were overseen by the local QPS command. It is likely that this initial duplication of investigative roles led to a larger number of officers being involved than would otherwise be the case.

Mr Wilson's family were particularly concerned about the large number of police in attendance at the Princess Alexandra Hospital following Mr Wilson's death. This included scenes of crime officers, uniformed officers, officers from the Ethical Standards Command and the hospital's police liaison officer. A hospital social worker helpfully engaged with the family at this time, and also agreed to attend with scenes of crime officers as an independent observer while they photographed Mr Wilson's body.

The number of police in attendance was, regrettably, alarming to Mr Wilson's family, but was done to ensure an appropriate level of oversight when the involvement of police prior to the death became known. The family were understandably concerned about the fact that police were charged with the investigation of a death in which other police officers were potentially involved.

Inspector Hytch conducted directed interviews with the two officers involved in the arrest on 7 September 2013. Both officers then participated in further recorded interviews at the scene of the arrest with officers from Ethical Standards Command.

Local police had already collected the details of various eyewitnesses, including polling officials, and ESC investigators later conducted interviews with each. Inspector Hytch contacted the Principal and the President of the P&C Committee at the Mount Gravatt State School to appeal for any further eyewitnesses to come forward. A media release was issued for the same purpose.

Statements were taken from all police involved in the initial investigations and from ambulance and hospital staff members who treated Mr Wilson. No CCTV footage was available though enquiries were made to canvass this possibility. Mr Wilson's partner was interviewed on several occasions in relation to her recollection of events.

Mr Wilson's family has submitted that the police investigation was inadequate on several grounds:

- they were not adequately informed about the investigation into the circumstances surrounding Mr Wilson's death;
- they were not afforded appropriate courtesy and respect at the scene of Mr Wilson's collapse; and
- Inspector Hytch failed to explore with arresting officer Carter the alternate justifications he had provided for the arrest, and his compliance with the QPS Operational Procedures in relation to the use of force. (The relevance of this is considered later in these findings)

Inspector Hytch's evidence was that he initially met with family members on 9 September 2013. At that time they expressed concerns to him about the independence of the police investigation. He then spoke with the family on 12 September 2013 after Mr Wilson's autopsy had been completed. He was told they were already aware of the results of the autopsy as a result of discussions with coronial counsellors employed by Queensland Health.

Inspector Hytch again spoke with Mr Wilson's sister, Kim Wilson, on 25 September 2013 and agreed to update her but only if he 'had things he was able to tell her'. Inspector Hytch said at the inquest that he did not make any further contact with the family after this date because he considered that his previous contacts were distressing for the family. He was aware the coronial counsellors and staff within the Office of the State Coroner were updating the family and their lawyers, who were engaged in September 2013. Notwithstanding, I consider that it would have been preferable for him to communicate to the family that he had formed this view.

The family's second concern relates to their treatment by police officers at the scene of Mr Wilson's collapse, and in particular that they were asked questions about Mr Wilson's drug use. The officers whose attitude and demeanour was called into question were not identified at the inquest and not given an opportunity to respond. On that basis, I am not able to reach a conclusion about the conduct of those officers. Questions about whether Mr Wilson had consumed drugs would have been relevant to his treatment at the scene by the Queensland Ambulance Service officers.

It also emerged that no steps were taken to require the officers involved in the arrest to provide a specimen of urine for toxicological analysis. While I have no concern that drugs or alcohol affected either officer, I consider that such testing should be the norm. It serves to detect the rare cases where an officer might be affected, and protects the relevant officers against any unfounded allegations to that effect in future.

Aside from the matters identified above, I am satisfied that the investigation was thorough and that all relevant material was accessed.

The Inquest

A pre-inquest conference was conducted on 12 June 2014. Mr Johns was appointed as counsel assisting and leave to appear was granted to Mr Wilson's family, the two police officers involved in his arrest and to the Commissioner of the QPS.

The inquest was held in Brisbane from 25 to 27 August 2014. All of the statements, records of interview, medical records, photographs and materials gathered during the investigation were tendered at the inquest. Thirteen witnesses gave oral evidence. Further written submissions were received after the inquest hearing.

I am satisfied that all the material necessary to make the requisite findings was placed before me at the inquest.

The evidence

Mr Wilson

Brad Maxwell John Wilson was born on 21 March 1964. His parents, sister, five children and his partner survive him. His wife, the mother of his five children, died in May 2012.

Mr Wilson's sister, Kim Wilson, and his partner, Michelle Clarkson, both gave evidence at the inquest. They had no concerns about Mr Wilson's health prior to his death. They told investigators that Mr Wilson rarely saw a doctor and this was corroborated by Medicare records.

There was no indication that he suffered from any specific symptoms that might be considered warning signs of heart disease; however, as noted at autopsy, he had a history of smoking.

It was evident from the inquest that Brad Wilson was much loved and is very much missed. His sudden death was understandably upsetting for his family and I extend to them my sincere condolences.

At the polling booth

Mr Wilson went to the Mount Gravatt State School with his partner, Ms Clarkson, and his son to vote in the Federal Election being held on 7 September 2013. They arrived shortly before 11:00am and were confronted by a lengthy queue to vote, comprised of approximately 100 people.

This prompted Mr Wilson to proceed to the front of the queue demanding to speak to the official responsible for running the polling booth. It is evident that he was angry at the prospect of having to line up for a lengthy period in the sun and he was intent on expressing his frustration.

Electorate officer, Phoebe Nolan, was located at the top of the stairs near the polling booth entrance. She said that Mr Wilson stormed up to her looking for the polling officials. She pointed out where to go and as he walked down towards the polling booth he called back to her that *'he was going to tear the election official a new one'*.¹

The inquest heard from Ms Kelli Khong, an Australian Electoral Commission worker. She saw Mr Wilson enter the polling room via the exit door holding a drink and a sausage roll. She could see that he was clearly upset. He appeared to be *'venting his anger'* by complaining loudly about the length of the queue. Ms Khong apologised to Mr Wilson and went to get her supervisor, Ms Toni Toohey, only to find Ms Toohey was on her way.

¹ Exhibit B10, page 5

Another polling official, Mr Thomas Tainton, said in his statement to the police² that when Mr Wilson first entered the polling room:

I was pretty worried he was acting, like he was threatening and I was, I sort of wanted to go over there and see if the, the Asian lady was alright ... because I think she was a bit threatened.

Ms Toohey also gave evidence at the inquest. She said her attention was first drawn to Mr Wilson when she heard him 'yelling and swearing' inside the polling room. She asked him to step outside so she could deal with his complaint. She apologised for his having to wait and identified herself as the person in charge of the booth.

Mr Wilson had, by this time, attracted the attention of two nearby police officers. Plain Clothes Senior Constable Adam Carter and Detective Senior Constable Bradley Williams were based at the nearby Mt Gravatt Police Station. They had attended the school to vote while remaining on duty. Both were within the polling room when Mr Wilson entered. As Mr Wilson remonstrated with Ms Toohey, DSC Williams approached and asked him to calm down.

In her statement³, Ms Toohey noted that this came as a relief to her. At the direction of DSC Williams, Mr Wilson voluntarily moved outside onto the verandah adjoining the polling room. Once outside he continued to voice his complaints loudly and announced to those in the queue '*this is the lady who's responsible for us waiting in the sun for an hour*'. PCSC Carter then joined them. Ms Toohey described Mr Wilson as 'very aggressive', 'very agitated' and 'very loud'.

Several witnesses then heard PCSC Carter say to Mr Wilson '*don't touch me*'. PCSC Carter confirmed when giving evidence that he had said this to Mr Wilson while directing him to calm down and cease his swearing and shouting. PCSC Carter said that Mr Wilson failed to desist despite numerous requests. Mr Wilson then pushed his way through the middle of the two police officers, his shoulder making contact with PCSC Carter.

Ms Toohey told the inquest she recalled Mr Wilson interacting acrimoniously, though briefly, with an elderly man at one point, and her perception was his pushing past the two police officers might have been for the purpose of following this man, who was exiting the polling booth. The man had earlier said to Mr Wilson '*The fine is 20 bucks. Just go home and cop the fine*'. In her statement to police, Ms Toohey stated that Mr Wilson said in reply to the elderly man '*don't talk to me like that ... you f-ing arsehole and it's not twenty bucks its two hundred dollars*'.⁴

² Exhibit B11, page 7

³ Exhibit B12

⁴ Exhibit B12, page 2

Neither of the police officers noticed anything in particular to have caused Mr Wilson to begin walking away but PCSC Carter says he was concerned Mr Wilson would continue to cause a nuisance. There are unsurprisingly differing accounts of exactly how far Mr Wilson moved away from the officers before PCSC Carter decided to take action. None of the witnesses maintained a continuous view of the interaction between Mr Wilson and the officers. I do not consider the precise distance to be relevant to my consideration of whether an appropriate level of force was subsequently used.

The arrest

PCSC Carter told the inquest that he decided to initiate an arrest moments after Mr Wilson pushed his way between both officers. He says that Mr Wilson was continuing to cause a public nuisance by acting aggressively and swearing in front of a large group of people.

PCSC Carter took Mr Wilson by the upper arm, told him he was under arrest, and, on his account, was immediately met with resistance. As a result PCSC Carter felt he did not have control of Mr Wilson and considered it necessary to take him to ground. The two officers say that Mr Wilson continued to swear and resist as he was taken face down onto the concrete floor of the verandah. According to the officers, the process of taking Mr Wilson to ground was undertaken almost exclusively by PCSC Carter, with DSC Williams only assisting once Mr Wilson was on his knees before then being moved into a prone position.

PCSC Carter yelled at Mr Wilson to '*give me your arm*' and, by pulling with some force, was eventually able to secure an arm behind Mr Wilson's back despite resistance. PSCS Carter said that this coincided with Mr Wilson ceasing his resistance. The officers told investigators, and again stated at the inquest, that no object was used to secure Mr Wilson's hands or arms during their involvement with him. Neither officer had handcuffs or any other accoutrements in his possession.

The versions of the officers are corroborated to varying extents by the observations of civilian eyewitnesses. No eyewitness claims to have observed the complete sequence of events constituting the interaction between police and Mr Wilson. Insofar as the eyewitnesses saw and heard the events involving Mr Wilson, their description corresponds with the account of the officers, allowing for minor discrepancies that are to be expected.

Ms Nolan told police that her observations of the scene outside the polling booth were as follows:

Midway through their discussion he yelled back at the line of people are you guys enjoying lining up there it's not acceptable, are you having fun, things to that meaning. No-one responded to him or sort of egged him on or anything like that.

.....

He was clearly quite agitated by it. ..They continued to have a discussion for a little while when I saw one and then a second um gentleman approach him. ...The election official was a lady and he, he was obviously quite a lot bigger than her and it looked like it was quite an intimidating situation for her. So these two men came forward, we had no idea who they were or anything and appeared to be trying to calm him down and got between him and the election official. ..That seemed to aggravate him further and he was obviously not backing down or was not interested in being calmed down. At which point we saw that the two of them more or less arrest him and got him onto the ground. He sort of struggled a little bit but it, it didn't seem to be too violent or anything like that. And not long after that they escorted him around to the side of the building where we couldn't see round there and that was the last we saw of him or the other two gentlemen.

The only major departure from the account of the officers lies in the versions given by two eyewitnesses, Benita Maxwell, and her daughter, Brittany Chalkley. Their accounts match those of the police with respect to Mr Wilson's behaviour prior to arrest and the general sequence of events. They differ, significantly, in that they allege one, or both, of the officers, punched Mr Wilson.

Ms Maxwell gave evidence at inquest in relation to what she saw after the arrest was initiated. Ms Maxwell said that one of the police officers grabbed him and started punching him in the upper part of his body, near his rib cage. She said that the other officer punched him as well, but she did not see how many times. Ms Maxwell was 30-40 metres away from the officers and Mr Wilson. She saw Mr Wilson fall to the ground and the police officers tied his arms behind his back – *'They didn't have handcuffs or anything. It was something else they used. And they kept on saying, get down, get down.'*

Ms Chalkley provided an account that one of the police officers, likely PCSC Carter, punched Mr Wilson about six times with his right fist before Mr Wilson was arrested and led away in handcuffs. She considered the police actions to have been *'....way over the top'*.

The police officers agree that Mr Wilson was led away after he had stopped resisting (without the use of handcuffs or any other equipment) so that he could be dealt with out of sight of the large crowd waiting to vote.

Processing and release

The police officers gave evidence that Mr Wilson was cooperative, polite and apologetic by the time they moved him away from the point of arrest. DSC Williams retrieved a police vehicle and brought it onto the school grounds. Mr Wilson was placed in the back seat and the ignition started to provide air conditioning. PCSC Carter wrote out a notice to appear and spoke with Mr Wilson. Both officers say that they had no concerns for Mr Wilson's health. He exhibited no injuries and made no complaints.

Ms Clarkson understandably began searching for her partner. In doing so she came across Benita Maxwell who had finished voting. The two women are acquaintances due to having lived for many years in the same area and having had children in the same school at various times.

Benita Maxwell had not met Brad Wilson but it soon became apparent when talking to Ms Clarkson that he was the person she had seen being arrested. When she gave her initial statement to police two weeks after the event Ms Maxwell recalled telling Ms Clarkson that Mr Wilson was ‘...*having problems down there*’ or words to that effect.

At the inquest Ms Maxwell again recalled telling Ms Clarkson that there had been a confrontation with police. It was only when prompted, as per the following passage, that she also claimed, for the first time, to have told Ms Clarkson that Mr Wilson had been punched:

Ms Maxwell: *And I said, oh, what does he look like again? And she said, oh, he's got dreadlocks, and she was describing what he was wearing, and I said, oh, well, you'd better get down there. I said, he's having a confrontation with the police, so - and she said, oh, yeah, I'll go down. So she said, could you look after the kids. So I looked after the kids and she went down to see Brad.*

Counsel Assisting: *All right. Can I just get you to think carefully about what you did tell her at the time? At that stage, had you formed the view that these were police officers?*

Ms Maxwell: *Yeah.*

Counsel Assisting: *Okay. And is that your recollection, that you told her that he was having a confrontation with police?*

Ms Maxwell: *Yes.*

Counsel Assisting: *All right. Did you tell her anything else about what you'd seen?*

Ms Maxwell: *I can't recall.*

Counsel Assisting: *Did you tell her that you'd seen him being punched?*

Ms Maxwell: *Yes.*

- Counsel Assisting:** *And just to be clear, that's something you told her then before she went looking for Brad?*
- Ms Maxwell:** *Yes.*
- Counsel Assisting:** *Well, do you recall what you actually said about that?*
- Ms Maxwell:** *I just remember he's having confrontation with police down there. The only thing I possibly could have said, that he probably didn't want to wait in line. It looked like he didn't want to wait in line.*
- Counsel Assisting:** *Right. But specifically about being punched, did you say anything about that?*
- Ms Maxwell:** *I said he was being punched, yes.*
- Counsel Assisting:** *Okay. Did you say anything more about the punching?*
- Ms Maxwell:** *No.*
- Counsel Assisting:** *Do you remember what she said, or how she reacted to that news?*
- Ms Maxwell:** *Oh, she said, oh, I'd better get down there.*

However, Ms Clarkson has not claimed at any time that Ms Maxwell told her during this initial conversation that Mr Wilson had been punched. In her statement to the police and in evidence at the inquest she agreed that she had asked Ms Maxwell at that time: *'What? Did they have a punch up or something?'* Her evidence was that Ms Maxwell had replied: *'No. It wasn't but I think he's okay.'*

Having heard this news from Ms Maxwell, Ms Clarkson found the police vehicle and spoke to both Mr Wilson and PCSC Carter. Ms Clarkson said that when she asked Mr Wilson if he was all right he pointed to a graze or a similar type of injury on his arm. She described him as sprawled on the back seat of the police vehicle but he did not complain of any other injury or illness.

Mr Wilson was issued with a notice to appear at approximately 11:25am and then, at the suggestion of police (according to them) and the direction of police (according to Ms Clarkson) he exited via a side gate of the school onto Cremin Street.

This required him to walk further to his ultimate destination but had the benefit, in the minds of the police, of ensuring that he was not required to walk back through the polling area on his way to the main gate. Ms Clarkson says she was directed to exit via the main gate rather than walk with Mr Wilson.

It is not necessary in my view to examine whether a direction was given, rather than a request made. There is no suggestion that Mr Wilson objected to using the Cremin Street exit. I consider it would have been appropriate to direct Mr Wilson to take this course for the reasons noted. There is no evidence that the requirement to walk further than would otherwise have been the case contributed in any way to Mr Wilson's subsequent collapse and death.

Ms Clarkson returned to speak to Ms Maxwell. She told Ms Maxwell that Mr Wilson had complained of an injury to his arm. Nothing was said at this point about his being punched or about any other concerns for Mr Wilson's health.

Collapse and medical treatment

When Ms Clarkson next sighted Mr Wilson it was near their arranged meeting point on Logan Road. He was seated and when she asked how he was Mr Wilson made it clear he did not feel well. Moments later Ms Clarkson saw Mr Wilson foaming at the mouth.

He was not breathing and she commenced resuscitation attempts and sought help from passers-by. An ambulance happened to be passing on Logan Road and the paramedics came to assist. QAS records show that paramedics Jodie Murphy and Gregory Lavis were waved down at 11:46am. They found that the initial resuscitation attempts had been effective and Mr Wilson was initially conscious and responsive. They began monitoring his vital signs but at 11:55am Mr Wilson went into cardiac arrest and the QAS officers initiated more resuscitation attempts.

Another paramedic, Drew Allen, arrived and took over the Mr Wilson's care. A heart rhythm was returned and some consciousness restored though this led to difficulties due to Mr Wilson becoming combative. Mr Wilson was provided intravenous adrenaline, magnesium and Amiodarone while in cardiac arrest and was defibrillated. None of the QAS officers noted any injuries while treating Mr Wilson at the scene.

After loading Mr Wilson into the Ambulance it departed at 12:25pm and arrived at Princess Alexandra Hospital at 12:40pm. Despite ongoing treatment Mr Wilson was in cardiac arrest when he arrived at hospital. He was intubated and then ventilated by hand while being provided with external cardiac compression, adrenaline boluses and sodium bicarbonate for a further 30 minutes. Sadly Mr Wilson could not be resuscitated and life extinct was declared at 1:15pm.

Autopsy results

Forensic pathologist, Dr Rohan Samarasinghe, carried out a full autopsy examination on 10 September 2013.

Post mortem CT and x-ray scanning was conducted. Samples of blood and vitreous humor were taken and subjected to toxicological analysis. These revealed the presence of small amounts of the psychoactive and inactive metabolites of cannabis.

The only sign of injury noted during the external examination was a 0.8 x 0.5cm abrasion on the back of the left elbow. Internal examination revealed an area of bruising of 1cm diameter under the chin to the left of the midline. The only other notable physical injuries were consistent with the known resuscitation attempts.

Internal examination also revealed significant pre-existing triple vessel coronary artery atherosclerotic occlusion and histological examination revealed evidence of acute thrombosis.

In his report Dr Samarasinghe stated:

He was at high risk for sudden cardiac death and it appeared that this condition would have been aggravated by presumed increased heart rate and hypertension associated with anxiety and agitation prior to being collapse.

At the inquest Dr Samarasinghe noted the presence of the active metabolite of cannabis as a further risk factor for sudden cardiac death.

Dr Samarasinghe issued a certificate listing the cause of death as:

- 1(a) *Coronary artery thrombosis* due to, or as a consequence of
- 1(b) *Coronary atherosclerosis*

Other significant conditions:

- 2. *Smoking*

Further medical opinion

Two further medical reports were tendered; the first from Dr Kenneth Hossack and the second from Dr David Richards, both cardiologists.

Both specialists agreed with the ultimate findings of Dr Samarasinghe and neither doctor suggested that any other physical injuries were present or likely to have been attributable to the process of cardiac arrest. Insofar as there was disagreement between any of the medical witnesses it related to the relative weighting they attached to the risk factors that contributed to Mr Wilson's fatal cardiac event.

Even if I was to conclude that one or both of the officers had thrown punches, it was established that the punches would not have added to the likelihood of death in the context of Mr Wilson already being highly agitated and the other physical aspects of the arrest.

Conclusions

I am satisfied that Mr Wilson died as a result of the cardiac event described by Dr Samarasinghe and that a number of factors left Mr Wilson vulnerable to such an event at the time he collapsed.

Among these was a history of smoking and severe coronary atherosclerosis. More proximate causes were the likely hypertension associated with his earlier agitation and then arrest at the polling booth and the apparent recent use of cannabis. I do not consider it necessary for the purpose of section 45(2) to attribute specific weightings to these factors even if such an exercise were possible.

Arrest

While there is some doubt over exactly what triggered the decision to initiate the arrest, I accept that the arrest of Mr Wilson by police was justified under section 365(1) of the PPRA which provides that it is lawful for a police officer to arrest an adult the police officer reasonably suspects has committed or is committing an offence if it is reasonably necessary for range of reasons, including to prevent the continuation or repetition of an offence or the commission of another offence; and to preserve the safety or welfare of any person, including the person arrested.

Mr Wilson's family submitted that the reason for the arrest was not public nuisance but that PCSC Carter lost his temper when Mr Wilson brushed past him as he went to leave the polling booth. On the day of Mr Wilson's death Detective Sergeant Maddock of the Acacia Ridge CIB reported that PCSC Carter had said words to the effect that "*we had to take him to ground for the arrest as he assaulted us when we were trying to calm him down*". The family submit this is inconsistent with PCSC Carter's assertion that the arrest was for a public nuisance offence.

In evidence at the inquest PCSC Carter conceded that his initial decision to make the arrest was influenced by the fact that, in addition to the public nuisance, he considered that Mr Wilson had assaulted him when he pushed past him:

The decision to take hold of the deceased was certainly because of his action towards me, the – like the physical touching. However, in saying that, in my mind he had already committed a public nuisance offence which I observed, so, yes.⁵

⁵ Transcript, 3-29

Ultimately, I do not need to reach a conclusion in relation to this issue. In my view, Mr Wilson's conduct inside the polling booth and on the adjacent veranda area laid the basis for a reasonable suspicion that an offence had been committed before the arrest occurred. A suspicion is a low threshold. It is more than an 'idle wondering' and less than belief and knowledge. It is an apprehension of something without sufficient evidence to prove the fact suspected.⁶

It was put to the officers that they might have issued Mr Wilson with a notice to appear during the initial confrontation rather than exercise their power of arrest. Even if I could be persuaded that this was the better course it was not established that an arrest was not necessary. In fact, the evidence indicates an arrest was likely to be the only practicable option to address what remained a dynamic situation.

There is no reason to doubt the evidence of PCSC Carter and DSC Williams that Mr Wilson displayed some resistance in the moments after being told he was under arrest.

Use of force

The remaining question to be resolved is whether the subsequent use of force was appropriate. In addressing this question I have considered the QPS Operational Procedures Manual which draws on the requirements and powers in s.615 of the Police Powers and Responsibilities Act 2000. Section 615(1) provides

It is lawful for a police officer exercising or attempting to exercise a power under this or any other Act against an individual, and anyone helping the police officer, to use reasonably necessary force to exercise the power.

Example—

A police officer may use reasonable force to prevent a person evading arrest.

The OPM in force in September 2013 provided:

POLICY

Police officers and watchhouse officers should only use the minimum amount of force necessary to resolve an incident. Police officers and watchhouse officers are reminded that it is lawful to use such force as may be reasonably necessary to overcome any force used in resisting the execution of any lawful process or arrest. However, it is unlawful to use more force than is justified by law to effect a lawful purpose.

I must first decide what use of force was in fact used. On this issue, I accept the evidence of both officers that open handed contact was used to restrain Mr Wilson and take him to the ground in effecting the arrest. Their versions were corroborated by the majority of eye witnesses and the medical evidence.

⁶ *George v Rocket* [1990] HCA 26

The only two witnesses who give an account of events, which would constitute an unreasonable use of force, are Benita Maxwell and Brittany Chalkley.

I found both of these witnesses to be unimpressive without doubting their honesty. Ms Chalkley's evidence suffered, through no fault of hers, by it having been recounted for the first time more than five months subsequent to the relevant events. During this time it is likely that she was, at least subconsciously, influenced by the version of events recounted by her mother. Detrimental to her reliability was her adamant and specific recollection that she had seen Mr Wilson being handcuffed by the police officers when it is clear handcuffs were not used.

Beyond my impression of her evidence generally I am not inclined to accept the version of Ms Maxwell for the following specific reasons:

- Despite seeing what she agreed was a serious and clearly improper act, she said nothing about it at the time (either by yelling out or to any of the people in the vicinity);
- On her own account, no one around Ms Maxwell made comment about the actions of the police;
- Ms Maxwell's initial statement makes no mention of her recounting the punches she had apparently just seen when speaking to Ms Clarkson;
- I am satisfied Ms Maxwell is mistaken in her account of having seen Mr Wilson restrained with the use of a device or tie of some sort;
- At the inquest Ms Maxwell claimed that both officers had punched Mr Wilson although she had only implicated one officer in her initial statement; and
- As per the following passage from the inquest, Ms Maxwell described punches that to her mind would have resulted in injury, whereas, it is known there was no injury suffered by Mr Wilson consistent with having been assaulted as described:

Counsel Assisting: *Right. And, look, it might be suggested that this is a matter for medical people, but using your life experience with respect to bumps and bruises, were the punches such that you'd expect there to be some sort of mark or bruise on - - -?*

Ms Maxwell: *Definitely.*

As I have concluded that neither officer punched Mr Wilson, I am satisfied that the force used by each of them was reasonable.

Findings required by s. 45

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. As a result of considering all of the material contained in the exhibits, I am able to make the following findings:

Identity of the deceased – The deceased person was Brad Maxwell Wilson.

How he died - Mr Wilson collapsed due to coronary artery thrombosis and was unable to be revived despite prompt medical attention. This occurred approximately 40 minutes after he had been arrested by police and later released for the offence of causing a public nuisance. The arrest was one of a number of factors likely to have triggered the thrombosis.

Place of death – He died at the Princess Alexandra Hospital, Buranda in Queensland.

Date of death – He died on 7 September 2013.

Cause of death – Mr Wilson died from coronary artery thrombosis.

Comments and recommendations

Section 46, insofar 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.

In this case I have concluded that the death of Mr Wilson was causally connected to, among other things, his agitation and arrest at the polling booth. I have also found that the police officers involved were entitled to arrest Mr Wilson and, when they did, appropriate force was used.

There was no basis on which the officers should have predicted the events that occurred shortly after they released Mr Wilson. The evidence indicates that subsequent to his arrest, but before release, Mr Wilson was treated with courtesy and respect. There is nothing arising from the circumstances of the arrest that requires comment or recommendation.

It is regrettable that the nature of this incident meant that it was not immediately clear which area within the QPS should lead the investigation. This led to more police interaction with Mr Wilson's family than would normally be expected. I have no doubt that this was upsetting for the family and contributed to their concerns that the death would not be adequately

investigated. I am confident there was no sinister intent behind the allocation of police resources on the day.

The situation was unusual in terms of not being immediately clear whether it amounted to a 'death in police operations' under the *Coroners Act* and advice was properly sought. The duplication of investigative resources does not, therefore, point to a systemic problem on which I could usefully comment.

I close the inquest.

Terry Ryan
State Coroner
Brisbane
12 June 2015