



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: Inquest into the death of Phillip Glenn SPICER

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

FILE NO(s): COR 2009/37

DELIVERED ON: 9 February 2011

DELIVERED AT: Brisbane

HEARING DATE(s): 4 November 2010 and 8 February 2011

FINDINGS OF: Mr Michael Barnes, State Coroner

CATCHWORDS: CORONERS: death in police custody; use of force; mental health incident response

REPRESENTATION:

Counsel Assisting:	Mr Peter Johns
Senior Constable Christopher Schmidt; and Constable Stephen Keep:	Mr Calvin Gnech (Office of the Solicitor to the Queensland Police Union of Employees)
Queensland Police Service Commissioner:	Ms Christina Heffner (QPS Solicitors Office)

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The *Coroners Act 2003* ('the Act') provides in s45 that when an inquest is held into a death in custody, a copy of the findings must be given to the family of the person who died, each of the persons or organisations granted leave to appear at the inquest and to various officials with responsibility for the justice system, including the Attorney-General and the Minister for Police, Corrective Services and Emergency Services. These are my findings in relation to the death of Phillip Glenn Spicer. They will be distributed in accordance with the requirements of the Act and posted on the website of the Office of the State Coroner.

Introduction

In mid January 2009 Phillip Spicer took up residence with his son and daughter-in-law in Ferny Hills. It soon became apparent he was suffering from occasional delusional thoughts. On the evening of 21 January 2009 Mr Spicer's behaviour became increasingly aggressive, culminating in his threatening to harm himself, or anyone who approached, with a straight razor.¹ Police were called and the officers who responded were unable to convince Mr Spicer to hand over the razor. The confrontation ended with Mr Spicer inflicting severe cuts to his neck. The injuries led to his death a short time later.

There is sufficient evidence allowing me to find that at the time he began to harm himself, Mr Spicer was aware he was likely to be taken into custody by the police officers with whom he came into contact. The Act provides that in such circumstances an inquest into the death must be held.

This report:-

- Contains my findings as to the identity of the deceased person and when, where, and how he died and the medical cause of his death;
- Considers whether the police officers involved acted in accordance with the Queensland Police Service (QPS) policies and procedures then in force; and
- Examines the adequacy of the investigation into circumstances surrounding the death.

The investigation

As can be readily appreciated, whenever a death is connected with police action it is essential the matter be thoroughly investigated to allay any suspicions that inappropriate action by the officers may have contributed to the death. The family and friends of the deceased person are entitled to

¹ Also known as a cut throat razor but in view of the circumstances of this case the alternative term straight razor seems more appropriate. Mr Spicer apparently used the razor to shave his head on a regular basis

expect a thorough investigation and an account of how the death occurred. It is also desirable that the general public be fully apprised of the circumstances of the death so they can be assured the actions of the officers have been appropriately scrutinised. The police officers involved also have a right to have an independent assessment made of their actions so there can in future be no suggestion there has been any “cover up” of inappropriate action.

The investigation of this matter was conducted by the QPS Ethical Standards Command (ESC) and a detailed report was prepared by Inspector Stephen Dabinett.

Initial management of the scene at Ferny Hills was overseen by the regional duty officer Acting Inspector Andrew Graham. He arrived at the scene while first aid was being conducted on Mr Spicer by Queensland Ambulance Service (QAS) officers with the assistance of Senior Constable Schmidt and Constable Keep. Shortly after his arrival Acting Inspector Graham was advised by Senior Constable Schmidt that an audio recording of the incident had been made. The recording device and tape were handed to the Inspector. These items were later passed to an ESC officer. The scene was secured and placed under the control of Inspector Darren Sargood.

The scene was forensically examined and photographs taken of all relevant areas as the body of Mr Spicer lay in situ. A number of items were seized and transported to the John Tonge Centre for further forensic analysis.

The two police officers involved in the incident were required to undertake a breath test although this did not occur until more than three hours after the death. The results of these tests and further testing of urine samples required of the two officers showed that at the time of the incident neither was affected by drugs or alcohol.

The ESC investigation commenced with interviews of both officers, family members of the deceased and of neighbours who had dealings with Mr Spicer in the hours prior to his death. Subsequent to these interviews Inspector Dabinett inspected the previous residence of the deceased at Beaudesert. Interviews were conducted with a former neighbour of the deceased along with an employee of Yellow Cabs where Mr Spicer had been employed until 13 January 2009.

Records relating to the issue of a capsicum spray canister to Senior Constable Schmidt were seized. The medical records of Mr Spicer held at Logan Hospital were obtained along with records held by the QAS in relation to the treatment provided to Mr Spicer on the evening of 21 January 2009.

I am satisfied this matter has been thoroughly and professionally investigated and all relevant sources of information have been accessed and analysed. I commend Inspector Dabinett on his efforts.

The evidence

I turn now to the evidence. I have not summarised all of the information contained in the exhibits and transcript but I consider it appropriate to record in these reasons the evidence I believe is necessary to understand the findings I have made.

Social history

Phillip Glenn Spicer was 53 years of age when he died, having been born on 15 December 1955. He was the father of four boys and one girl. He separated from his children's mother in 1993. At that time Mr Spicer moved to Brisbane and began working as a taxi driver, a job in which he continued up until the weeks prior to his death.

There is no evidence Mr Spicer was ever treated for a mental health condition. It is clear though he was in fact experiencing serious delusional thoughts intermittently in the 24 hours before his death. No physical condition was identified at autopsy that would have contributed to this. Prior to the 24 hours leading to his death, it seems Mr Spicer's interaction with his family, colleagues and neighbours was sufficiently sporadic that any mental health condition he was suffering did not make itself obvious.

In 2003 after a decade of estrangement from his son Glenn, their relationship was slowly rebuilt to the extent that by January 2009 Mr Spicer moved from his house in Beaudesert and, at least in the short term, took up residence with Glenn and his wife at Ferny Hills. It was only over the subsequent short period (between Mr Spicer's return from a trip to NSW on the evening of 20 January 2009 and the following day) the extent of his mental health problems became apparent to his family.

Glenn Spicer, when interviewed by police, indicated his belief that Mr Spicer had suffered injuries in a motorcycle accident sometime in 2008 and there had been a tendency to attribute some of his more unusual behaviour to the accident. At the inquest he was less inclined to attribute any behaviour to that accident and was of the belief he had not noticed his father acting unusually prior to January 2009. QPS records confirm Mr Spicer was involved in an 'injury traffic accident' on 17 March 2008.

Although the precise nature and origin of Mr Spicer's mental health problems remain unclear, I am satisfied their seriousness and extent only became apparent to his son and daughter-in-law on 20 January 2009. Once his condition became apparent it is clear steps were taken to obtain assistance for him.

The detailed account of Mr Spicer's last weeks contained in the material tendered at the inquest show he was loved by a wide circle of extended family. I extend my sincere condolences to those family members for his sudden loss.

The weeks prior to Mr Spicer's death

Mr Spicer had been residing in Beaudesert for several years prior to his death. He was employed as a taxi driver. Glenn Spicer told police Mr Spicer's living arrangements had been partly subsidised by his employer, Yellow Cabs, so a taxi service would be available locally even though it was perhaps not economically viable. Despite this Mr Spicer apparently felt he was not being adequately supported by his employer and it was with some frustration he completed his last shift with Yellow Cabs on 13 January 2009 having decided to move away from the area.

Mr Spicer had made arrangements with a neighbour to take over the remainder of the lease at the Beaudesert property and had gifted her some of his furniture. That neighbour, Nicole Cliffe, told police she had arranged with Mr Spicer for him to return to the property on 8 February 2009 to collect his motorcycle. Ms Cliffe had helped Mr Spicer clean his property in preparation for his departure but, despite this contact, says she did not notice any change in or unusual aspects to his behaviour in the period leading to his departure.

Glenn Spicer and his wife Anna agreed for Mr Spicer to take up residence with them on modest board in the short term. Glenn assisted with Mr Spicer's final move from Beaudesert on Sunday 18 January 2009 and then lent Mr Spicer a vehicle for him to visit family members in NSW.

Mr Spicer returned to Ferny Hills on the evening of 20 January. As he conversed with his son, it became apparent to Glenn for the first time that his father was suffering difficulty ordering his thoughts and he had a tendency to repeat stories within short periods of time. It was sufficiently worrying to cause Anna Spicer to conduct some research the following day into treatment and care options that might be available.

Evening of 21 January 2009

Discussions with family and neighbours

At around 5:00pm of 21 January 2009 Mr Spicer had a short conversation with a neighbour across the road from his son's residence. That neighbour, Darryl Berndt, was playing cricket with his sons and he recalls Mr Spicer commenting on the cricketing ability of the boys. Mr Spicer's behaviour did not give any cause for alarm at this stage; Mr Berndt recalls Mr Spicer did not appear affected by alcohol or drugs, nor was he agitated.

At around 6:30pm Mr Spicer had a conversation with Mr Berndt's wife Deanne. It soon became apparent to her that something was wrong with Mr Spicer when he began to confidently assert that his son Glenn would play cricket for Australia and, in the context of another story that US President Obama had winked at him earlier in the day. As he related this latter event she noticed Mr Spicer was becoming agitated.

Mrs Berndt observed Glenn and Anna Spicer arrive home from work. Glenn Spicer immediately joined them in her driveway and soon after took his father home.

Once inside, it was immediately apparent to Glenn and Anna Spicer that Mr Spicer was not well. He recounted a story of having saved the life of President Obama that day and made other comments consistent with delusional thoughts. Over a short period of time Mr Spicer became more aggressive and began raising his voice culminating in him going to the bathroom and returning with a straight edged 'cut throat' razor which he threatened to use on himself.

Anna Spicer was naturally alarmed at this point and she made contact with police, initially with a view to determining what help could be obtained for Mr Spicer rather than necessarily seeking any police attendance. Records show that call was made to police communications at 7:37pm and in fact resulted in a job being logged requiring a "*welfare check/possible mental patient*".

Glenn Spicer's attempts to calm his father were, at best, only partially successful and Mr Spicer announced he needed to return to the Berndt residence to tell them something. He was still in an agitated mood and continued to hold the razor as he left the house despite the protests of his son. Mrs Berndt recalls Mr Spicer attending their residence again at that time and, in the course of this conversation becoming very agitated, making reference to having been molested as a child and, as he spoke, flicking the blade of the razor in his hand open and closed.

Glenn Spicer says he decided to call 000 at this point. He was concerned he would be unable to overpower his father if that became necessary and was worried he was outside with the razor. Mr Spicer had already threatened to attack Glenn if he was approached. It appears Anna had also already decided on this course of action. Records show at 7:43pm, approximately one minute after ending her initial call to police, Anna Spicer called 000 and advised them Mr Spicer was now at their neighbours house with a razor. The QPS job log was upgraded to a 'code 2' although, appropriately, the records of the message passed to the attending officers which was made available to the inquest advises against the use of lights and sirens for fear of alarming Mr Spicer.

Mr Spicer voluntarily left the neighbours property and returned to his son's residence, once again taking up position on a couch in the living room and still holding the razor.

Arrival of police

Senior Constable Christopher Schmidt and Constable Stephen Keep were working a general duties shift from the Ferny Grove police station and had responded to the job log initiated by Anna Spicer's initial call to police. On being advised of the changing circumstances they proceeded immediately to the Spicer residence using a siren only as required to negotiate traffic. On arrival Senior Constable Schmidt turned on an audio recording device and the

officers had a brief conversation with Anna Spicer. They then took up with Glenn Spicer who was standing near the side door of the house. The officers initially observed Glenn to be speaking to a male seated on a couch inside the house who was holding a straight blade razor up to his throat.

The officers entered the house and say they took up position in a hallway around 4-5 metres from where Mr Spicer was seated. Glenn Spicer recalls being signalled by the officers to retreat. He took up a position where he was able to see the officers but could no longer observe the movements of his father. He was able, though, to clearly hear the subsequent conversation.

As the police officers moved towards Mr Spicer he continued to hold the razor to his neck and made threats to attack anyone who came near him. Senior Constable Schmidt can be heard on the tape recording of the events of the following minutes attempting to resolve the situation by determining how they could assist Mr Spicer. Mr Spicer can be heard making threats to police at least to the extent of warning they would need to protect themselves against him and would need to shoot him. These threats were made in the context of Mr Spicer continuing to have delusional thoughts associated with the US President. Senior Constable Schmidt assured Mr Spicer the officers had no intention of hurting him although, entirely appropriately, he had removed his canister of capsicum spray as a precaution and was holding it out of view behind his legs.

Senior Constable Schmidt can be clearly heard on the tape continually trying to calm Mr Spicer and to assure him they did not intend him any harm and if he sat down he would not be touched.

After a conversation lasting approximately five minutes both police officers say Mr Spicer advanced on them and challenged them to defend themselves. Senior Constable Schmidt says Mr Spicer came within 3 metres of his position before he deployed capsicum spray, effectively striking Mr Spicer in the face and stopping his advance. Glenn Spicer had a clear view of Senior Constable Schmidt at this point and recalls from his initial position the first movement Senior Constable Schmidt made was to take a sudden step backwards before then moving forward to deploy the spray.

Constable Keep had given consideration to drawing his firearm and decided against it only on the basis that the narrow area in which he and Senior Constable Schmidt stood meant he could not safely do so without endangering the latter. He had also removed his capsicum spray canister such that it was ready to deploy.

The police officers observed Mr Spicer to retreat after being struck by the capsicum spray and at the same time began to quickly and repeatedly cut the right side of his neck with the razor. Senior Constable Schmidt noticed Mr Spicer move the razor away from his neck momentarily and took the opportunity to advance towards him and strike out with his foot, dislodging the razor from Mr Spicer's grasp.

Senior Constable Schmidt then attempted to assist Mr Spicer but he continued to struggle and lash about. It appeared to Constable Keep that Mr Spicer was trying to use the other officer to regain his feet. As a result the officers handcuffed Mr Spicer in an endeavour to immobilise him so they could attempt first aid and begin to stem the blood flowing from the gaping wound in his neck.

Senior Constable Schmidt and Constable Keep used a pillow to try and stem the haemorrhaging while making further urgent calls for QAS officers to attend. Records tendered at the inquest show the first call was made to police communications at 7:52pm. They also requested attendance of the Regional and District Duty Officers.

Another QPS general duties crew, having heard the calls for assistance arrived prior to the QAS. One of those officers, Constable Stephen Edwards entered the house and observed Senior Constable Schmidt and Constable Keep attending to Mr Spicer on the floor of the lounge room and holding a pillow to his neck. He noticed a large amount of blood and a strong smell of capsicum spray. Constable Edwards offered to take over from Constable Keep but was told this was not necessary. Constable Edwards then attended to a request by Senior Constable Schmidt to retrieve the first aid kit from their patrol car.

Constable Edwards says that on asking the officers what had occurred he was given a brief version of events. That contemporaneous version, as later recounted to officers from the ESC by Constable Edwards is consistent with that which has been otherwise provided to investigators and to this inquest.

Medical treatment

QAS records show they received a call from police communications at 7:53pm. The first QAS crew arrived at the Ferny Hills address at 8:08pm and immediately attended to Mr Spicer.

Those ambulance officers attached a cardiac monitor to Mr Spicer and applied further dressings in an attempt to control the bleeding. An airway was inserted and manual ventilation commenced without any immediate effect. The intravenous administration of adrenaline and sodium lactate, followed by intubation, was likewise ineffective.

A second crew which contained the QAS Director of Medicine and very experienced emergency medicine expert, Dr Stephen Rashford, arrived at 8:20pm.

Despite the attempts to save Mr Spicer he was declared deceased at 8:26pm after more than 15 minutes of CPR and other treatment had failed to initiate any circulation. It is now clear from the findings at autopsy that, sadly, no available treatment, however urgent, was likely to have saved Mr Spicer given the severity of his wounds.

Investigation findings

Records from Ferny Grove police station confirmed the capsicum spray canister used by Senior Constable Schmidt had the same serial number as that issued to him on 13 November 2006.

Testing of breath and urine samples taken from the two police officers involved showed no trace of alcohol or drugs.

Forensic testing of various items in the immediate vicinity of Mr Spicer including, importantly, the razor blade he was said to be holding when confronted by police, was positive for the presence of capsicum spray and his DNA.

The audio tape of the incident covertly recorded by Senior Constable Schmidt is consistent with the version of events provided by the two officers and by Glenn Spicer in subsequent interviews.

Mr Spicer's body was formally identified by his son.

The autopsy

Dr Kathy Urankar, an experienced forensic pathologist, performed an external and full internal autopsy on the body of Mr Spicer on 22 January 2009.

The body of Mr Spicer was found to display a large incised wound to the right neck extending from the right lateral neck to the thyroid cartilage and angling downward towards the midline. This resulted in an incised wound to the jugular vein. It is the view of Dr Urankar that this "*would have led to extensive bleeding which would have been non-survivable*". It is certainly consistent with the extensive blood loss evident in photographs taken at the scene.

Although the primary wound showed features of a "*deep, firm cut*" Dr Urankar found evidence of a number of superficial wounds above and below the main wound which had not penetrated the dermis.

Dr Urankar had access to a picture of the razor found at the scene and confirmed the injuries could have been caused by such an instrument.

She did not observe any signs of underlying disease to which she could attribute complications attaching to the effects of the primary injury.

Toxicology analysis of blood and urine samples detected no alcohol or drugs.

Dr Urankar attributed Mr Spicer's death to the massive blood loss suffered as a result of the incision to his jugular vein.

Findings required by s45

I am required to find, as far as is possible, who the deceased person was, how, where and when he died, and the medical cause of the death. As a result of considering all of the material contained in the exhibits and the evidence given at the inquest I am able to make the following findings.

- Identity of the deceased** – The dead man was Phillip Glenn Spicer.
- How he died** – Mr Spicer died as a result of inflicting injuries on himself with a straight razor, shortly after having threatened police with the same instrument and while suffering a psychotic episode.
- Place of death** – He died in Ferny Hills in Queensland.
- Date of death** – He died on 21 January 2009.
- Cause of death** – The medical cause of the death was an incised wound to the neck and consequential exsanguinations.

Concerns, comments and recommendations

Section 46, in so 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.

There are three matters raised by the circumstances of this case which may warrant such a response, namely;

- the degree of force used by the officers in particular their use of capsicum spray and handcuffs;
- the management of the officers involved in the incident in the hours immediately following Mr Spicer's death; and
- the compliance with the QPS policies relating to responding to people suffering mental illness.

Use of force

The QPS procedures for the use of capsicum spray require a warning to be given before deployment if that is practicable. I accept, having heard the tape of the incident and heard the eye witness accounts that Mr Spicer's movements were sufficiently sudden that it was necessary to deploy the capsicum spray in this case without warning. I also accept the use of capsicum spray in the circumstances was entirely appropriate and in accordance with the QPS use of force model. That model also calls on officers to perform ongoing risk assessments. This was done appropriately and effectively in this case by the two officers discussing the situation they

would likely face prior to entering the house and formulating a plan to be applied once inside.

I also accept the handcuffing of Mr Spicer by police, even after he had injured himself, was necessary in order to effectively treat him with the urgency that was, by then, clearly required.

Post incident management

The two officers involved in the incident were not breath tested until several hours after they had left the scene. They were found to have no alcohol in their breath. I have absolutely no doubt the result would have been the same had the test been administered sooner, as it should have been.

The two officers were apparently allowed to spend time together and unsupervised in the period after the incident. The evidence given by both officers at the inquest was candid in that they admitted discussing aspects of the incident with each other. Although there is a suggestion in the material before me that senior officers directed the two officers involved be separated it seems clear they were allowed to drive from the incident scene to Ferny Grove police station together and unsupervised.

There is absolutely no suggestion in this case that the officers colluded with respect to the versions of events they would later give in their interviews. However, the potential ramifications of allowing two or more officers involved to be left together and unsupervised following such an incident could be much more serious in other cases. Even if there is no collusion, family members of the deceased may suspect it has occurred and the coroner is unnecessarily placed in the invidious position of having to make assessments of credit that could otherwise be less complicated.

The QPS Operational Procedure Manual places the responsibility for isolation of officers involved in such incidents from colleagues also involved in the incident on the officers themselves. This is appropriate, but as was the case here, such incidents often leave officers traumatised and not in a position to apply their knowledge of policy and procedure as immediately as might otherwise be the case. There is always a role for senior officers attending the scene to take practical steps to ensure separation.

Both of these apparent lapses could usefully be brought to the attention of the District Duty Officer who attended this incident.

Mental health incident response

The QPS Operations Procedures Manual contains policies detailing how officers should respond to a “*mental health incident*”.

All police officers receive mental health intervention training that seeks to equip them to de-escalate such incidents through enhanced tactical communication skills.

Further, the QPS has entered into a memorandum of understanding with Queensland Health and the Queensland Ambulance Service to enable the sharing of relevant information between those agencies to assist in the safe resolution of mental health incidents.

Arrangements have been put in place to enable first response police officers to request consultation with Queensland Health mental health service personnel to assist the police officers effectively respond to a mental health incident.

If the person involved in the incident is not a mental health service client, mental health service staff can still provide general advice that may assist the police de-escalate the incident. Indeed, where possible, mental health service staff will provide on site assistance at mental health incidents.

Accordingly, the policy provides that police officers responding to a mental health incident should as soon as practicable seek information and/or advice from Queensland Health mental health service officers.

In this case the police officers detailed to attend had little information about the circumstances they would confront. They had however been told that Mr Spicer may be suffering from a mental illness and that he had been out of the house interacting with neighbours while armed with a razor. In those circumstances their first priority was to attend the scene.

On doing so they spoke to his daughter-in-law who reiterated he appeared to be unstable but he had now returned to the house.

The officers then went into the house to investigate the prevailing circumstances. They were almost immediately confronted by Mr Spicer who was clearly deranged and brandishing the razor in a manner which put him and them in imminent risk of serious harm.

Senior Constable Schmidt in particular conducted himself appropriately and in accordance with mental health intervention training. He is to be commended for the manner in which he tried to de-escalate the situation by making it clear to Mr Spicer the officers did not want a confrontation, did not intend him any harm and were not intent on taking him into custody. Regrettably, it seems clear Mr Spicer was suffering a significant psychotic episode and the police officers were unable to effectively communicate with him.

In the circumstances, I do not consider it would have been reasonable for them to withdraw and seek the assistance of mental health service personnel. The whole incident from their arrival at the scene to the infliction of the fatal injuries occurred over two or three minutes. There was no opportunity for external consultation.

In the circumstances I am satisfied the officers complied with QPS policy dealing with such matters.

Recommendation – citation for bravery

I am of the view the officers displayed real courage in seeking to prevent Mr Spicer from further harming himself. After it had become clear to them Mr Spicer was armed and delusional, and after he had made threats to kill them and had administered a serious wound to himself, they nonetheless advanced towards him and Senior Constable Schmidt kicked the straight razor from Mr Spicer's hand so he and his partner could render first aid. This clearly placed Senior Constable Schmidt in very real danger.

I recommend the Commissioner consider officially recognising Senior Constable Schmidt's bravery with an appropriate award.

I close this inquest

Michael Barnes
State Coroner
Brisbane
9 February 2010