



OFFICE OF THE STATE CORONER

FINDING OF INQUEST

CITATION: **Inquest into the deaths of**
Constable Brett Andrew IRWIN and
Craig Anthony SEMYRAHA

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

JURISDICTION: Brisbane

FILE NO(s): COR 3311/07(4) and COR 3338/07(0)

DELIVERED ON: 06 October 2009

DELIVERED AT: Brisbane

HEARING DATE(s): 28 August 2009, 28 September 2009 and
30 September – 02 October 2009

FINDINGS OF: Mr Michael Barnes, State Coroner

CATCHWORDS: **CORONERS: Inquest, shooting of a police
officer, suicide of offender, threat assessment,
coordination of special emergency services**

REPRESENTATION:

Counsel Assisting:	Mr Craig Chowdhury
Family of Constable Irwin:	Mr Mark Guest (Byrne Legal Group)
Sergeant Kylie Dunn & Constable John Edwards:	Mr Adrian Braithwaite (Gilshenan & Luton Legal Group)
QPS Commissioner:	Ms Kate Bradley (QPS Solicitors)

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The *Coroners Act 2003* provides in s45 that when an inquest is held into a death in custody, the coroner's written findings must be given to the family of the person or persons who died, each of the persons or organisations granted leave to appear at the inquest and to various specified officials with responsibility for the justice system. These are my findings in relation to the deaths of Brett Andrew IRWIN and Craig Anthony SEMYRAHA. They will be distributed in accordance with the requirements of the Act and posted on the web site of the Office of the State Coroner.

Introduction

Shortly after 7:20pm on 18 July 2007 Craig Semyraha and an acquaintance robbed the managers of the Kippa-Ring Village Motel. After dividing the proceeds at a friend's place Mr Semyraha and a female associate returned to Semyraha's partner's house in Regan Street Keperra, arriving there at about 9:30pm.

A little over an hour later Constables Brett Irwin and John Edwards attended the Regan Street premises intending to execute a warrant on Mr Semyraha for his failure to appear at the Brisbane Magistrates Court in June 2007. They had no knowledge of the motel robbery.

After Constable Edwards had failed to elicit a response by knocking on the front door, Constable Irwin went to the rear of the premises and entered via the back door. There was a verbal exchange between Constable Irwin and an occupant of the house, a brief struggle and a shot was fired.

Constable Edwards retreated from the front of the house to his patrol car and called for assistance. General duties officers, police negotiators and members of the Special Emergency Response Team (SERT) attended. Negotiators engaged Mr Semyraha in discussion and as a result at approximately 11:45am two women and two children exited the premises.

At 1:16am the sound of a gunshot was heard from within the premises. A couple of minutes later the SERT officers entered the premises and found Mr Semyraha in the kitchen with a gunshot wound to his head. He was transferred to the Royal Brisbane and Women's Hospital where he died later that day.

Soon after the SERT officers entered the house Constable Irwin was found in a dark area of the front yard. He was dead.

These findings

- confirm the identity of the deceased men, the time, place, circumstances and medical cause of their deaths;
- consider whether the actions of the officers involved in attempting to apprehend Mr Semyraha were appropriate;
- assess the efficacy of the response of the authorities to the siege that developed after Constable Irwin was shot; and

- consider whether any change to police procedures would reduce the likelihood of deaths occurring in similar circumstances in future.

The investigation

As can be readily appreciated, whenever a death is connected with police action it is essential the circumstances be thoroughly investigated to allay any suspicions that inappropriate action by the officers may have contributed to the death. 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”.

Because of the siege that developed after Constable Irwin was shot, numerous officers were already present by the time Mr Semyraha’s body was discovered.

The area was immediately declared a crime scene and entry to it restricted. The scene remained secure and under guard until all forensic examinations had been completed.

At approximately 2:05am control of the scene was handed to Detective Inspector Brendan Smith of the Ethical Standards Command who was appointed the primary investigator.

Prior to the SERT officers leaving the scene, all their weapons were inspected. This determined that none of those officers had discharged their weapons during the incident.

Scenes of crime officers and police photographers extensively examined the premises. Those people who had been in the house prior to police arriving were interviewed as were neighbours in the vicinity. All officers involved in responding to the incident were also interviewed.

Later in the day a video re-enactment interview between the investigators and Constable Edwards was undertaken. A video re-enactment was also done with Mr Semyraha’s partner and the officer in charge of the SERT contingent and the officers who participated in entering the premises.

Two pistols found in the premises were examined by ballistics experts as was a firearm projectile located in the yard of the premises. Two nine millimetre bullet casings found in the house and in the yard were also examined.

The clothes worn by both deceased men were examined.

A plan of survey of the scene was completed by officers of the Accident Investigation Squad.

I am satisfied that the investigation was thorough and professionally undertaken. I commend Detective Inspector Smith and those who assisted him.

Semyraha's activities earlier in the day

On the afternoon of 18 July 2007 Craig Semyraha met up with Tina Alexanderson, a twenty seven year old woman he had met only once before. She says they met by chance at a suburban shopping centre and drove in Mr Semyraha's girlfriend's car to Margate where they bought some bourbon and cola and went to a house where a friend of Mr Semyraha's, Steven Dewey, and his girlfriend Melissa Hunt, were staying.

According to Mr Dewey, Mr Semyraha suggested they commit a robbery and showed him two pistols he proposed they use to commit the offence. The gun given to Mr Dewey had no ammunition in it.

Mr Dewey said Mr Semyraha selected the Kippa-Ring Village Motel on Elizabeth Street Kippa-Ring. Mr Semyraha parked the car in the Kippa-Ring shopping centre car park and Mr Dewey and Mr Semyraha then walked across the road to the motel leaving Ms Alexanderson and Ms Hunt in the vehicle. It was about 7:20pm.

After concealing their faces behind balaclavas, the pair confronted the elderly couple who were temporarily managing the motel, produced the guns and demanded money. Their demands were met. As they were leaving Mr Semyraha apologised for upsetting the female manager, explaining he had "*a habit*" and said, "*I do this for a living*".

They ran from the scene of the robbery, re-entered the car and drove back to the place where Ms Hunt and Mr Dewey were staying. There they divided the proceeds of the robbery before Mr Semyraha and Ms Alexanderson left the house. Mr Dewey says his share was about \$400.

Mr Semyraha then drove back to the residence of his girlfriend Te-Arohanuia Mudford at 6 Regan Street Keperra. Ms Mudford lived at that address with her two daughters aged eight and nine. He had been staying there on and off since being released from prison in April. They had been partners for about four years.

Ms Mudford said when Mr Semyraha came home she didn't talk to him much as she was angry with him for being out all day. She had not met Ms Alexanderson before and went to bed soon after the pair arrived at the house. The children were already in bed.

Ms Alexanderson says Mr Semyraha was acting rather strangely when they got back to Ms Mudford's house. She said he took out one of the guns that had been used in the robbery and laid it on the kitchen bench. She put it back in the backpack. She says they stayed in the kitchen at the back of the house talking. The rest of the house was in darkness. It is likely they also consumed amphetamines during this period.

At about 10:40pm they heard someone knock on the front door. Ms Alexanderson went to see who it was and saw torches and movement which led her to realise there were police officers at the front of the house. She went back to the kitchen and told Mr Semyraha.

Police interest in the Regan street premises

The officers were not there because of the Kippa-Ring Village Motel robbery: they knew nothing about it. Rather, Mr Semyraha's other criminal activities had led them there. Some history will help explain events.

On 2 December 2006, Mr Semyraha was arrested in Caboolture and charged with possessing house breaking implements and entering premises with intent. These offences related to a break and enter of a liquor store, McLean Cellars, Caboolture. He was brought before the Caboolture Magistrates Court on 4 December 2006 and as he was already on bail for offences allegedly committed in Toowoomba in January 2006, he was remanded in custody. He was initially taken to the Arthur Gorrie Correctional Centre before being moved to the Woodford Correctional Centre.

On 23 January 2007, while still in custody, he was issued with a notice to appear in the Caboolture Magistrates Court for allegedly entering a pharmacy at Wellers Hill with intent to commit an indictable offence on 21 November 2006. The charge was based on a finger print that matched old records relating to Mr Semyraha, being found at the scene.

On 11 April 2007, the McLean Cellars charges were dismissed and he was released. He remained bound by the conditions of his bail for the Toowoomba offences, however from 12 April to 8 May Mr Semyraha failed to report to the Ferny Grove Police Station as required by those conditions. He then commenced reporting.

Soon after he was released from prison, Mr Semyraha again took to using illicit drugs – “speed” and “crack”. His mother and partner describe paranoid behaviour indicative of drug induced psychosis.

On 4 June 2007, the earlier breaches came to attention and he was charged with a breach of the Bail Act and issued a notice to appear in the Brisbane Magistrates Court on 19 June 2007. He didn't attend court as required and so a Police Powers and Responsibilities Act “fail to appear” warrant was issued.

The Wellers Hill pharmacy offence was listed for committal mention in the Caboolture Magistrates Court on 11 July 2007. The investigating officer, Constable Boldeman, attended court intending to issue Mr Semyraha with a Notice for a Forensic Procedure Order to enable the officer to obtain a set of his fingerprints for comparison with the fingerprints located at the Wellers Hill Pharmacy. However, unbeknown to Constable Boldeman, Mr Semyraha had been excused from attending court on that date. Constable Boldeman then made inquiries, discovered the warrant that had been issued on 19 June and

contacted Ferny Grove Station to ask that it be executed so he could get the fingerprints he needed.

He was advised to send a computer message detailing his request. Accordingly, on 11 July 2007 Constable Boldeman sent a computer message to the officer in charge of the Ferny Grove Station requesting that the "fail to appear" warrant be executed and that fingerprints be taken from Mr Semyraha when he was taken into custody.

When Constable Boldeman had received no response to his message by 17 July he telephoned the Ferny Grove Station at about 11:30pm and spoke to the shift supervisor, Sergeant Kylie Dunn. During this conversation he explained his previous request and while they were talking on the telephone she located reference to the warrant on the police computer system. During the conversation Constable Boldeman drew to her attention the warnings about Mr Semyraha contained on the police computer system which among other things indicated that in March 2006 Mr Semyraha was known to be in possession of a sawn off shot gun.

Constable Boldeman also explained to Sergeant Dunn that he did not expect Mr Semyraha to be at the Keperra address as he understood Mr Semyraha's girlfriend lived at 6 Regan Street but that he spent most of his time in the southern suburbs. He told her he was going on leave the next day and he needed the fingerprints of Mr Semyraha for when the Wellers Hill charge next came before the court.

Sergeant Dunn confirmed that while talking to Constable Boldeman she noticed the warnings he had referred to in relation to Mr Semyraha. When interviewed she confirmed she also found on the police system a warning that Mr Semyraha had on previous occasions been intercepted carrying knives and firearms and that he had a propensity to attempt to evade police. One warning said; "*Previous for armed robbery/assault may assault police to avoid arrest.*" Another read; "*May carry firearm. Previous for sawn off .22 cal rifle.*"

She detailed the job of executing the warrant to the general duties crew of Constable Brett Irwin and Constable John Edwards who had commenced duty at 10:00pm. She says she printed a copy of Mr Semyraha's photograph from the computer system, gave it to the officers after writing the address on the bottom and alerted them to the warnings about his being armed. Constable Edwards confirmed that Sergeant Dunn told them there were eleven warnings about Mr Semyraha on the system and she read them out to the officers as they stood near the counter in the Ferny Grove Police Station. He also looked at the warnings himself.

Constable Edwards was not keen to do the job. He explained he felt taking a person from their home late at night on minor matters was unwarranted and he doubted their powers to take fingerprints and photographs of a person when they were being taken into custody for failing to appear in court rather than being charged with a substantive offence. He asked why a day shift crew could not do it.

Constable Edwards debated with Sergeant Dunn the merits of the tasking. With her concurrence he said he would check with the communications centre as to what other jobs were awaiting attention before deciding what priority would be given to executing the warrant.

At the inquest, Senior Constable Edwards (as he now is) indicated that in addition to his concerns about the impact on the subject and his doubts about his powers to effect the collateral purpose for executing the warrant, he was also apprehensive about the safety of doing so. He explained that having regard to the information about Mr Semyraha's propensity to carry weapons and to evade police, he considered executing the warrant in the day time would have been safer. He agreed he did not advise Sergeant Dunn of his unease as he did not wish to be seen as being overly cautious or fractious. As a junior officer it was important for him to be seen as a cooperative member of the team.

As events transpired, Constable Irwin and Edwards became involved in other jobs and did not get a chance to attend at Regan Street on that shift.

For reasons which were not apparent, the next shift that came on at about 6:00am was not detailed the job and nor was the afternoon shift. So when Sergeant Dunn and Constables Irwin and Edwards resumed duty at 10:00pm on 18 July, it was the first job she suggested they attend to. However, before they could do so they were required to collect a person who had been intercepted by a motorcycle traffic officer and transport that suspect to the Ferny Grove Station. They then attended to the Regan Street job. There was no discussion between the three officers in the station, or the two officers in the car as to how they were to go about executing the warrant. Constable Edwards says he checked on the system to ensure the warrant was still current and again noticed the warnings.

The police attend Regan Street

Regan Street has a north-south alignment; it ends in a cul-de-sac at the southern end. Number 6 is the second last house on the eastern side. The yard slopes away from the street. At the time of this incident an 80cm high hedge ran along some of the front fence. The house is set back five to six metres from the fence line. There are a number of large trees shading the north western side of the yard and at the time there were also small shrubs and garden beds in between the trees.

Constable Irwin drove past the house, went around the cul-de-sac, came back and parked near the boundary between number 6 and number 4, adjacent to the curb on the eastern side. They "booked off the air", i.e. told a police communications radio system operator that they were leaving the car, at 10:43pm.

Both officers walked to the driveway near the southern side of the yard with Constable Edwards leading as he had been there before. He walked up the

stairs on the south western corner of the house.¹ They gave access to a landing or small veranda. The front door was at the far end. Both officers were using torches and could see no lights on in the house.

Constable Edwards turned off his torch and knocked a couple of times on a window on the front landing adjacent to the front door. He believes he heard someone come to the front door; presumably it was Ms Alexanderson, but it was not opened. He could hear dogs barking loudly inside the house.

In the meantime Constable Irwin walked around the house in a clockwise direction and came up the southern side of the house, from the back, below the front veranda. Constable Edwards saw him and said words to the effect; *"They're not going to answer, let's go"*. Constable Irwin encouraged him to try again, saying he had seen a woman in the house. This prompted Constable Edwards to knock on the front door and this time call out; *"Ferny Grove police, open up"*. He believes he did this twice.

Constable Irwin then again went around to the northern side of the house while Constable Edwards remained at the front door. Constable Edwards heard Constable Irwin knock on the back door and so he walked down the stairs and along the southern side of the house intending to meet up with Constable Irwin at the back door. Before he got very far he heard Constable Irwin talking to someone.

Ms Mudford says she got up when no one seemed to be responding to the knock on the front door. She went out into the hallway and then heard a knock on the backdoor. She saw through the coloured glass panel in the top of the door the silhouette of who we now know, was Constable Irwin.

She saw the door open and there was a policeman in uniform standing in the doorway. Mr Semyraha was standing immediately inside the door to the officer's left. She said she could see the officer and Mr Semyraha facing each other. In her interview she said; *"I remember seeing a gun between them but I don't know who was holding it. I then heard a loud bang and I turned sideways into Tyler's room. I then heard the policeman say loudly 'Gun. I think I've been hit' or 'I think I've been shot'".*

In the re-enactment that was video taped, Ms Mudford was more expansive. She said when the door opened, the officer took a step into the kitchen, the two men at the back door faced each other, and she could see Mr Semyraha had a gun in his hand. She saw the officer grab at him a couple of times – she told other officers on the night that she saw them struggling - before the police officer turned and moved out of the house. She said Mr Semyraha followed him and when the officer was just going down the stairs, she heard the gun discharge.

Ms Alexanderson gave a vague account, largely consistent with Ms Mudford's version. She was in the kitchen when the officer entered and she dived for

¹ A plan of the house is annexure "A"

cover, correctly anticipating trouble. She thought the light in the kitchen had been turned out before the officer came into the kitchen and Constable Edwards also thought there were no lights on in the house but Ms Mudford was adamant there was a low level light on in the kitchen. She is probably correct as otherwise Constable Irwin could not have seen the woman he told Constable Edwards he saw and Ms Mudford would not have had such a clear view of the struggle. It is also likely that immediately after the shooting, Mr Semyraha turned off all the lights.

As he was making his way to the back door, Constable Edwards heard Constable Irwin gain entry to the house. He decided to go back to the front door assuming that if Constable Irwin was inside the house with someone, he would bring the person out through the front door. Accordingly, he walked up the front steps and then heard banging or someone wrestling. This caused him to run down the front stairs and head around to the back door in the same direction that Constable Irwin had taken, that is clockwise or to the north of the house. Before he had gone very far, he heard Constable Irwin yell out; "*gun!*" He heard a gun shot. He then heard Constable Irwin yell out; "*I've been shot, I've been shot!*" Constable Edwards dropped to his haunches a metre or two from the north west corner of the house. He heard footsteps coming towards him. He didn't know if it was Constable Irwin or a person from within the house. He therefore ran crouching back out of the gate, stopping there to watch for any sign of Constable Irwin. He didn't see or hear anything further and so he used his hand held radio to call for assistance as he sheltered behind the vehicle. This call was made at 10:47pm.

The siege

Ms Mudford indicated that immediately after the gun was discharged she rushed into the bedroom of her daughter, Tyler ("Bed 3" on annexure "A") at the back of the house adjacent to the kitchen. She scooped up Tyler and carried her quickly back down the hallway into Anieka's bedroom ("Bed 2" on annexure "A").

Ms Mudford said very soon after Mr Semyraha and Ms Alexanderson appeared in the doorway. Both were agitated. She said Mr Semyraha was apologising for what he had done and it seemed he was at a loss as to what to do next.

Sergeant Dunn heard Constable Edwards' broadcast indicating an officer had been shot at the Regan Street location. She understood the broadcast to mean that Constable Edwards had been shot and so telephoned Constable Irwin's mobile phone. When she received no response she telephoned Constable Edwards who told her what had happened.

As a result of Constable Edwards' broadcast numerous police crews converged on the scene. First to arrive was a dog handler, Senior Constable Paul McNamara, who got there at 10:55pm. After talking to Constable Edwards, he made his way down the boundary between 4 and 6 Regan Street, scanning for Constable Irwin. He then went into the property behind the incident premises and searched the back yard as best he could. He

continued moving around the house by entering the yard of the property to the south of 6 Regan Street but the lack of cover in that yard meant he could only inspect the rear of the southern side of the premises. The two dogs that had come out of the house and followed him as he made his way through the adjoining yards also caused him concern as they relayed his position to anyone watching.

He said in evidence that he was able to search the northern side yard, the eastern or backyard and part of the yard on the southern side of the house. He explained he could not get into the front yard as it was overlooked by large windows, sloped away from the street and was screened by a hedge along the front property line.

Despite the limited nature of this search he reported to VKR:

“Yeah, I’ve been able to do a sweep around the entire house here but the officer’s not in any of the backyard, he’s not in the front yard, front yard, not in the backyard so I dare say he’s in the house so I’m retreating now.”

A forward command post and an inner cordon were set up while permission to deploy Special Emergency Response Team officers was sought and obtained. Police negotiators were brought to the scene. The Inspector in charge of SERT was contacted at 11:30pm and was at the scene at shortly after midnight. All other team members had arrived by 12:44am.

As a result of speaking to Mr Semyraha’s mother, the number of Ms Mudford’s mobile phone was obtained and contact was established with those inside the house. The first call was made by Senior Sergeant Bruce Pearce at about 11:25pm and it was agreed the two woman and the two children should come out. The officer spoke first with Ms Mudford and she then handed the phone to Mr Semyraha who was asked on one occasion if he knew where the missing officer was. He answered in the negative. It appears he was not asked again in the numerous phone calls that followed.

Constable Edwards was asked where he thought Constable Irwin could be and he nominated the back yard. This was apparently searched again without success.

Mr Semyraha also called his mother on a number of occasions. She says she heard a police officer who was talking on another telephone, say words to the effect of; “You’ve killed him” which is puzzling as Constable Irwin had not been located at that stage and Senior Sergeant Peters denies saying this. It would however explain why Mr Semyraha anticipated the incident might end with his death. He said; *“Mum, I’ve already done 14 years and I’m not doing anymore.”* Some time later he called his mother for the last time to say goodbye and to ask that she pass on his love to the rest of his family.

Senior Sergeant Pearce had a further three phone calls with Ms Mudford and Mr Semyraha before the women and children could be persuaded to leave the

house. After a tearful goodbye, this happened at 11:45am. Ms Mudford carried her mobile phone out with her and as a result communications between the police and Mr Semyraha were interrupted while inquiries were made to ascertain the number of the mobile phone still in Mr Semyraha's possession.

Thereafter Senior Sergeant Pearce and Sergeant Chris Peters, a police negotiator, had five telephone conversations with Mr Semyraha between 12:09 and 12:42. On each occasion he indicated he was preparing to surrender but he first wanted to complete writing letters to family members.

In one of the earlier calls Mr Semyraha expressed surprise on being told an officer was missing. Although not asked, he again reiterated that he didn't know where the missing officer was but indicated the officer must be outside and suggested they come and search for him. *"Well come and look for him now; I'll stay inside while you or an ambulance come and get him."* For obvious reasons that offer was not taken up and efforts to persuade Mr Semyraha to surrender continued.

In a later call the negotiator noticed that Mr Semyraha's demeanour had changed and that his excited and rapid speech had become calm and very quiet. When told he was writing a letter to his brother, Sergeant Peters anticipated that Mr Semyraha was becoming suicidal and sought to dissuade him from hurting himself. He was assured he would not be harmed and encouraged to come out.

After the last of those calls Mr Semyraha failed to answer the phone. Further negotiations were then attempted by driving an armoured vehicle adjacent to the house near the driveway and calling to Mr Semyraha through a loud hailer. This also enabled floodlights to be trained on the front of the house.

At about 1.15am Mr Semyraha was heard to say he would come out as soon as he finished a cigarette.

An officer in the yard adjoining 6 Regan Street at the back heard this conversation and then heard the occupant of the house move towards the rear of the premises. He then heard a gun shot and the sound of something falling and glass breaking. An officer beside the carport on the southern side of the house heard something similar. Both agree this occurred a few minutes before the SERT officers threw a number of incendiary distraction devices through a front window of the premises and stormed the stronghold. This happened at 1:20am.

They found Mr Semyraha lying against cupboards at the rear of the kitchen with a gunshot wound to his head. He was seriously injured but still alive. He was placed in the recovery position and paramedics who had been on standby since the siege commenced soon attended to him. The officer who rolled him over noticed a pistol underneath him and moved it away. There was a broken ashtray beside the wounded man.

A minute or so after the house was entered, Constable Irwin was found in the front yard adjacent to the north west corner of the house. Resuscitation was attempted but it was soon apparent he was dead.

Mr Semyraha was transported by ambulance to the Royal Brisbane and Women's Hospital. His mother who sat up waiting for news received a text message from Ms Mudford at about 7:30 in the morning advising that he was in hospital. Approximately 12 hours later she agreed that life support should be discontinued and Craig Semyraha died.

Investigation findings

The investigation detailed above commenced almost immediately.

An autopsy examination was performed on the body of both men on the morning of 19 July.

Constable Irwin was found to have died from a single gunshot wound that entered the left upper quadrant of his back and exited the front of his chest. It perforated the left lung and his heart. The bullet lacerated the mitral valve and transected the left anterior descending artery. It was an un-survivable injury that would have caused death in seconds or minutes. Not even immediate surgery would have been successful.

He had no other injuries.

No alcohol or drugs were found in the officer's blood.

Mr Semyraha was found to have a gunshot wound to the head. The bullet had entered from the right and travelled to the left slightly to the back in a horizontal direction perforating the skull, dura and brain. The presence of blackened seared margins to the entry wound indicated the gun was in contact with the head when the bullet was discharged. The wound was un-survivable.

No other injuries were found. Toxicological examination of a sample of blood taken from Mr Semyraha found high levels of amphetamine and methyl amphetamine.

Ballistics examination of all weapons carried by the SERT officers who entered the premises and found Constable Irwin indicated they had not been fired. Ballistics examination of the Luger pistol found under Mr Semyraha indicated it had recently been fired.

A bullet hole was found in the kitchen wall to the north of where Mr Semyraha was found slumped against the cupboard doors. Its size and position were consistent with it having been made by Mr Semyraha standing on the southern side of the kitchen facing east and firing the gun through his right temple. The trajectory of such a shot was consistent with the position and size of the bullet hole found in the wall.

A 9mm bullet casing was found in the kitchen and another in the back yard. A bullet projectile was also found in the backyard. A ballistics expert gave evidence all had been fired by the Luger firearm found with Mr Semyraha.

A note addressed to "Aroha", said to be in Mr Semyraha's handwriting and signed "Craig" indicated the writer's intention to end his life.

Mr Semyraha's body was identified by his mother. Constable Irwin's body was identified by another officer who was a family friend and had known Brett for 12 years.

Findings required by s45

I am required to find, as far as is possible, the medical cause of death, who the deceased persons were, when, where and how they came to die. As a result of considering all of the material contained in the exhibits and the information given in evidence I am able to make the following findings.

Identity of the deceased – The deceased persons were Brett Andrew Irwin and Craig Anthony Semyraha.

Place of death – Mr Irwin died at Keperra, Brisbane Queensland.

Mr Semyraha died at the Royal Brisbane and Women's Hospital at Herston, Queensland.

Date of death – Brett Irwin died on 18 July 2007. Craig Semyraha died on 19 July 2007

Cause of death – Both men died from gunshot wounds.

How they died- Constable Irwin died in the course of his duty as a result of being shot by Craig Semyraha while attempting to execute a warrant for his arrest.

Mr Semyraha intentionally took his own life after shooting Constable Irwin.

Condolences

A clinical summary of the evidence as I have set out above can mask the immense personal loss the families of both men suffered in consequence of the deaths. The magnitude of the grief caused by Mr Semyraha's death does not diminish simply because he caused both deaths; on the contrary that could add to his family's pain and his mother has expressed deep regret that

her son killed a police officer. Further, it is likely the circumstances of Mr Semyraha's death contributed to his partner ending her life.

All lives have the same value; all parents, partners and siblings grieve the loss of their loved ones, especially when they are suddenly ripped away. I extend my sincere sympathy and condolences to the families of both men.

That does not mean the special attributes of either man should not be noted. I acknowledge the significance of Constable Brett Irwin dying while serving the community as a police officer. Police officers confront danger so the rest of us can live more safely. When they die doing so, we are more deeply indebted to them. I sadly admit that debt knowing it can never be repaid.

At the very least, we are obliged to do all we can to reduce the likelihood of deaths occurring in similar circumstances and I turn now to that aspect of the case.

Comments and recommendations

Section 46, 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.

As I have already indicated, Mr Semyraha was directly responsible for both deaths. An investigation of the circumstances that led to him suffering drug induced psychosis in the weeks prior to his death is beyond the scope of this inquest. However, I can't ignore that cumulatively, Mr Semyraha spent 11 of the last 15 years of his life in youth detention or jail. When he was last released from jail three months before his death he was still drug addicted, devoid of any vocational skills and according to his mother, not coping with life. That he would continue to abuse illicit drugs was as predictable as the crimes he would commit to fund their acquisition. A more graphic illustration of the definitive failure of the punitive response to drug abuse would be hard to imagine.

As is so often the case, police officers were left to deal with the failure of juvenile justice and corrective services to address Craig Semyraha's destructive behaviour.

It is trite to observe that policing is inherently dangerous. That it cannot be made completely safe is a truism. However, that must not be used as excuse for not making it safer.

Analysing the actions of the officers involved in this incident may help avoid fatalities in future. This isn't done to blame them for what happened. There is no suggestion that any of them showed callous disregard for the safety of themselves or their colleagues. The evidence indicates they were active young officers keen to do their job. However, it also appears that in some respects they failed to apply their training and/or made errors of judgement.

I also wish to express my admiration for the manner in which the officers who responded to the shooting of Constable Irwin conducted themselves. Although I question two aspects of the response, over all I was very impressed with the bravery and professionalism of the general duties officers who responded initially, and the negotiators and the SERT officers who became involved in what must have been a very traumatic event.

The aspects of the case that warrant consideration from a prevention perspective are:-

- The decision to execute the warrant;
- The manner in which that was done; and
- The adequacy of the response to the shooting of Constable Irwin.

The execution of the warrant

The training given to recruits before they are sworn in and to officers annually thereafter urges them to maintain situational awareness and to identify risks by undertaking continuous threat assessments as they move around the dynamic and frequently volatile environment in which they operate.

The obligation to pursue policing objectives by implementing strategies that reduce risk falls on all officers, including supervisors and first response officers. This requires they balance the law enforcement imperative against the risk responding entails.

On occasions law enforcement objectives may require officers to enter unlit buildings at night to prevent a serious crime from occurring or to apprehend a dangerous offender who will otherwise escape. Accordingly, it would be unreasonable for the Queensland Police Service (QPS) to prohibit the execution of warrants at night in all cases.

However, as Inspector Turner readily agreed, darkness is an environmental factor that makes situational awareness more difficult and therefore increases risk. The danger is exacerbated when the person sought is known to have committed violent offences while armed; to carry concealable firearms; to have on other occasions actively evaded police; it is not known who else is in the house; and the layout of the premises is unknown to the officers. Only a high priority policing objective would justify two junior general duties officers attempting to apprehend such a person in those circumstances.

I don't consider a reasonable officer would conclude the apprehension of a person who has failed to appear in relation to Bail Act offences would justify the exposure to the risks I've described. There was no real urgency and there was no basis to conclude that Mr Semyraha could not have been apprehended in daylight hours.

Senior Constable Boldeman (as he now is) seems to have elevated the urgency of the task because he was going on leave and needed a fresh sample of Mr Semyraha's fingerprints to support a charge he had preferred. He believed the Bail Act warrant provided an opportunity to get those. His

requirement had become urgent because no one at Ferny Grove Station had responded to the computer message he sent a week earlier.

Sergeant Dunn agreed to help him and appears to have failed to make an objective assessment of the risks involved. To her it seemed *“an easy pinch” ... “a walk straight in, straight out job...“you walk in, you pick the person up, he goes in, you process him”... “it’s just a straight up and down walk in.”*

As Mrs Irwin ironically suggested, that might be the case if an officer was coming to arrest her for an unpaid speeding ticket but as the officers in this case well knew, the warrant they were seeking to execute did not relate to a law abiding middle aged woman.

Sergeant Dunn said she considered the warnings on the computer system, however due to their age and as they did not relate specifically to Regan Street she discounted them as indicating there was any likelihood that Mr Semyraha would act violently to police. I don’t consider there was any basis for doing so. Mr Semyraha had been committing offences while armed for 15 years: what reason was there for concluding he had reformed?

Sergeant Dunn also said she did not detail more officers to attempt to execute the warrant because none were available to her. In my view that only reinforced the desirability of waiting till daylight.

It was mentioned during the hearing that warrants are frequently executed at night without any adverse consequences. That doesn’t mean the practice is not dangerous. Rather, it suggests prevalence of a phenomenon referred to as *“risk normalisation”*- a process whereby people habitually undertaking dangerous tasks come to view them as benign - they become complacent. The famous photograph of pre war construction workers eating their lunch while sitting on a girder high above a New York City sidewalk, is a graphic example of the tendency.

Constable Edwards did have concerns about the safety of what was proposed but he did not explicitly articulate them. Rather, he sought to persuade Sergeant Dunn that they did not have a lawful right to take fingerprints and the job should not be given priority over other work. He also suggested the day crew do the job; an indication a sensitive supervisor may have interpreted as a concern about the safety of executing the warrant at night.

Regrettably, but understandably, Constable Edwards did not unequivocally raise the issue of safety. In other hazardous industries such as mining, aviation and health care, a tendency for junior team members to be reticent about raising safety concerns for fear of being seen to be overly cautious has been recognised. Some airlines, for example, teach flight crews ways of raising such concerns and make it mandatory for the captain to purposefully engage with a junior flight crew member who uses a certain form of words to do so.

In a macho, results orientated environment, in a hierarchical organisation like a police service, it is easy to envisage a young male police officer not wishing to dwell on issues of safety if a more senior officer has indicated a particular task should be undertaken. I consider the QPS could do more to ensure all officers, even the most junior, understand their obligation to raise concerns about safety whenever they have doubts about what is being proposed and the obligation of supervisors to respond appropriately.

Once the decision was made to execute the warrant, there was no discussion with Sergeant Dunn as to what the risks might be and how best they could be managed. Nor was there any planning or discussion between Constable Irwin and Constable Edwards when they arrived at the premises as to how they should go about the task. One officer went to the front door, the other went around the house twice and then entered via the backdoor without advising the officer at the front that he intended to do so.

Constable Irwin's decision to enter the premises alone when the occupants had manifested an intention not to co-operate and to make that entry via a route where the path of retreat was down a flight of high narrow stairs was an error of judgement. In assessing the officer's performance it is important to remember he had less than one year's service.

In summary, the attempt to execute the warrant was done at the wrong time of day, in the wrong manner, with insufficient officers participating when there was no urgency for it to be done.

The errors I have identified only resulted in Constable Irwin's death because Mr Semyraha had only hours earlier been involved in an armed robbery and was under the influence of amphetamines when confronted by Constable Irwin. None of the officers could have known this but that is a key component of a threat assessment – do not assume what you don't know won't hurt you.

I expect all officers are aware of Constable Irwin's tragic death. I know from casual conversations that some are not aware of the circumstances in which it occurred.

I make the following recommendations in the hope they will contribute to the safety of other officers.

Recommendation 1 – Arrests and the execution of warrants

I recommend the QPS review its policies and training to ensure all officers appreciate the potential danger involved in apprehending suspected offenders and the need for a conscious and explicitly articulated threat assessment and the development of at least a verbal operational plan whenever circumstances permit.

Recommendation 2 – Obligation to consider safety

I recommend the QPS review its policies and training to ensure all officers recognise the paramountcy of safety and their obligation to raise any safety

concerns and the obligation of supervisors to support and encourage junior officers who do so.

Recommendation 3 - Constable Irwin scenario

I recommend the QPS utilise the powerful learning potential of the circumstances of this sad case by creating a training scenario that explicitly recognises the mistakes that were made and their consequences.

The response to the shooting

The first officer who arrived at the scene after the shooting was understandably circumspect about approaching the premises and sought to search the yard by moving through parts of the yards of some surrounding premises. He acknowledged when giving evidence that he was not able to see some parts of the front yard of the incident premises because there was no cover available to enable him to search it thoroughly; he did not know where the offender was; the house was in darkness; and parts of the yard were overlooked by large windows. When he reported on his actions over the police radio, he exaggerated what he had been able to achieve by claiming he had done a sweep of the entire yard including the front yard. I am not critical of that, he was operating in dangerous and difficult circumstances but I question whether those who relied on that information and others who grappled with the unfolding response were unduly accepting of the assertion that the yard all around the house had been searched. It was an error that was repeated and accepted by a number of officers.

I also question whether those communicating with Mr Semyraha, Ms Mudford and Ms Alexanderson did all they could to establish whether Constable Irwin was in the house. This issue was only dealt with in passing.

The SERT officers were definite they would have managed the situation differently had they known the missing officer was in the yard, rather than the house.

I also question the length of time that elapsed between the shooting and the SERT officers entering the house. I accept that all the SERT officers were not on site until 12:44am and that entry was effected by 1:20am. However, Keperra is only 10kms from the CBD and so the 2.5 hours that passed seems to me, unduly lengthy.

Neither of these aspects have had any impact on the outcome of this case: Constable Irwin was dead within a minute of being shot and he could not have been saved even were an ambulance officer standing beside him when he collapsed. It is also very unlikely that Mr Semyraha would have come peacefully had he been alive when the SERT officers entered the house. However, in other circumstances, both of these aspects of the response could have influenced the outcome.

Recommendation 4 – Review of the response

I recommend an officer experienced in managing such operations who was not involved in the response to the shooting of Constable Irwin, review all aspects of it to identify whether it could have been handled more effectively.

I close the Inquest.

Michael Barnes
State Coroner
Brisbane
6 October 2009

Annexure A

Section of Regan Street, Keperra with detail of property at 6 Regan Street.

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