



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Laval Donovan Zimmer**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO(s): 2014/4239

DELIVERED ON: 3 May 2016

DELIVERED AT: Brisbane

HEARING DATE(s): 22 September 2015; 22 – 26 February 2016, 16 March 2016.

FINDINGS OF: Mr Terry Ryan, State Coroner

CATCHWORDS: CORONERS: Death in custody, police shooting, QPS response to nuisance calls

REPRESENTATION:

Counsel Assisting: Mr Stephen Keim SC and Miss Emily Cooper

Mrs Marie Zimmer (mother): Ms Paula Morreau (instructed by Mackenzie Mitchell Solicitors)

Queensland Police Commissioner: Mr David Kent QC and Mr Michael Nicolson (instructed by Public Safety Business Agency)

A/Sergeant Bradley Grieve, Constable
Corey Lubbock

Mr Troy Schmidt (instructed by Gilshenan
& Luton)

A/Sergeant Krista Owens, Constable
Martin Davey, Constable Jessica Peck,
Constable Felicity Ryan

Mr Adrian Braithwaite (instructed by
QPUE)

Queensland Police Union of Employees:

Mr Calvin Gnech

Queensland Advocacy Incorporated
(s.46 public interest):

Mr Frank Walsh (instructed by
Queensland Advocacy Inc.)

Metropolitan North Hospital & Health
Service:

Mr Aaron Suthers

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Introduction

1. Between August 2013 and November 2014, officers from the Queensland Police Service (QPS), acting in the course of their duties, shot and killed five men in separate incidents.
2. The incidents occurred at the Sunshine Coast (2), Brisbane (2), and the Gold Coast. In particular, three of the deaths occurred over a period of one week, from 18 November 2014 – 24 November 2014.
3. The functions of the Queensland Police Service, as set out in the *Police Service Administration Act 1990*, include:
 - the preservation of peace and good order;
 - the protection of all communities in the State;
 - the prevention of crime;
 - the detection of offenders and bringing of offenders to justice; and
 - upholding of the law generally.
4. The community has high expectations of police, particularly in times of crisis. All operational police are trained in a range of “use of force” options, including equipment such as firearms, to assist in the performance of their functions. However, the community expects that police will act lawfully and professionally in the exercise of their duties, and in accordance with operational policies and training.
5. The use of firearms by police, particularly when that use results in a death has the capacity to affect the trust and confidence that the community has in the police. A death in these circumstances raises many issues, including:
 - public scrutiny and suspicion of the circumstances of the death;
 - emotional trauma for the police officers involved;
 - emotional trauma for the family of the deceased person;
 - the degree to which the use of firearms by police is controlled by appropriate safeguards;
 - decision-making by police officers in critical incidents; including whether other use of force options could have been deployed.
6. The *Coroners Act 2003* recognises the need for public scrutiny and accountability by requiring all deaths in custody to be investigated by the State Coroner. The Act requires that an inquest be held into all such deaths.
7. These findings examine the circumstances of the death of Laval Donovan Zimmer at Kippa Ring on 18 November 2014 after the QPS responded to various “nuisance” 000 calls being made by Mr Zimmer.

8. This was the fourth of five hearings in relation to the shooting deaths that occurred between August 2013 and November 2014. Findings pursuant to s 45 in relation to this death will be made in the first phase of this inquest. In the second phase during 2016 I will hear evidence concerning what recommendations, if any, should be made to help prevent deaths occurring in similar circumstances in future.
9. The full list of issues to be considered as part of the inquest into Mr Zimmer's death is attached to these findings. These findings do not consider all issues. The findings:
 - confirm the identity of the deceased person, how he died, the place and medical cause of his death;
 - clarify the circumstances leading up to the deaths; and
 - consider the appropriateness of the actions of attending police.

The Inquest

10. Laval Zimmer's death was reported as a death in custody under the *Coroners Act 2003*. He died while he was trying to avoid being put into custody. In those circumstances an inquest must be held.¹
11. The hearing of evidence in relation to Mr Zimmer's death took place in Brisbane from 22 – 26 February 2016. All of the statements, records of interview, photographs and materials gathered during the investigation were tendered at the inquest.
12. Senior Counsel Assisting, Mr Keim SC proposed that all evidence be tendered and that oral evidence be heard from the following witnesses:
 - Detective Sergeant Pamela Leech;
 - Constable Martin Davey;
 - A/Sergeant Brad Grieve;
 - Constable Corey Lubbock;
 - Constable Jessica Peck;
 - Constable Felicity Ryan;
 - A/Sergeant Krista Owens;
 - A/Superintendent Denis Fitzpatrick;
 - Stewart Duce; and
 - Adam Sant.
13. I consider that the evidence tendered in addition to the proposed oral evidence was sufficient for me to make the necessary findings under s 45 of the *Coroners Act 2003*. I received helpful submissions from those given leave to appear at the inquest, which have assisted in the preparation of these findings.

¹ *Coroners Act 2003*, s 27(1)(a)(i)

The evidence

Personal circumstances

14. Mr Zimmer was 33 years of age at the time of his death. He was born on 9 March 1981 to Marie-ange Gulleaume and Arno Zimmer in Perth. He was the younger of two children.
15. Information from his parents indicated that Mr Zimmer had lots of friends during his childhood, and was generally well liked. He did not appear to struggle with anything of significance, or experience any illnesses or injuries during his school years.
16. Just before Mr Zimmer started high school, his parents separated. He remained with his father for a couple of months, before moving in with his mother. His mother later asked a friend, Alan Bealin, to care for Mr Zimmer as she was having difficulties with his behaviour. Mr Bealin lived in Mackay, and Mr Zimmer lived there for about 12 months before they both moved to Brisbane.
17. Mr Bealin assumed primary responsibility for Mr Zimmer during his high school years. He told police that Mr Zimmer did not do very well at school, and often would not attend. Instead, he would meet up with friends and use cannabis.²
18. Mr Bealin said that during Mr Zimmer's teenage years, he suffered from headaches and seizures, but was not medicated with respect to these. At times he would get angry, and Mr Bealin associated this with his use of marijuana. In 2000, there was an incident where Mr Bealin observed Mr Zimmer to appear scared, and he thought people were out to hurt him. It was as a result of this incident that Mr Zimmer was first diagnosed with paranoid schizophrenia. At the time of Mr Zimmer's death Mr Bealin had not heard from him for some five or six years.
19. Mr Zimmer moved to live with his father in Kingaroy after he finished year 10. His father reported that he rarely attended school, and that he grew to not believe in medication. He did not have many friends and expressed a desire to move back to Brisbane. He eventually told his father that he was going to leave school, at which time he was told that he would have to move out.³
20. From about the age of 22, Mr Zimmer began to live in shared accommodation and boarding houses, and initially had limited contact with his parents. However, after he moved to the share house at Kippa Ring several years before his death, he enjoyed increased contact, and a positive relationship with, his mother.

² Exhibit B2

³ Exhibit B7

21. Mr Zimmer had a minor and sporadic criminal history, mostly relating to the possession of cannabis and street offences. He had not been convicted of any significant offences since 2012, when he was dealt with for charges of common assault, and assault or obstruct police.

Medical history

22. Mr Zimmer had a longstanding history of paranoid schizophrenia, which was being managed by various hospitals and agencies under the banner of the Metro North Hospital and Health Service (MNHHS). Medical records from the Royal Brisbane & Women's Hospital (RBWH), Redcliffe Hospital and Caboolture Hospital were tendered at the inquest.

23. The MNHHS undertook a Clinical Death Review once it was notified of Mr Zimmer's death.⁴ A copy of that review was also tendered at the inquest. That review confirmed a medical history of paranoid schizophrenia, epilepsy and hepatitis C. Mr Zimmer was noted to be a habitual user of cannabis. He was a voluntary consumer of mental health care and his mental state had been generally stable between 2013 and his death.

24. Mr Zimmer had first presented to the Mental Health Service in 2000. Since September 2013, he had regular follow up with the Redcliffe Ambulatory Mental Health Team. He also had regular contact with a Mental Health Clinician, Registered Nurse Steven Proctor. Nurse Proctor provided a statement for the purposes of the inquest⁵, which confirmed as of April 2014, Mr Proctor's plan was to have fortnightly contact with Mr Zimmer and weekly phone contact. Mr Zimmer was also reviewed every 8-10 weeks by a psychiatrist. Nurse Proctor described Mr Zimmer's mental state as stable when he was seen on 11 November 2014.

25. As a result of Mr Zimmer having had 7 presentations to various emergency departments in 2014, due to seizures, a referral was made to a neurologist. A CT scan was booked for 11 November 2014 (in the week before his death). Mr Zimmer did not attend. However, on 14 November 2014, Mr Zimmer was reviewed by his psychiatrist and Mental Health Clinician.⁶ The review noted that Mr Zimmer socialised well at his home but felt that he was picked on by other tenants and would prefer to live alone. His compliance with medication was noted as adequate.

26. On 16 November 2014, he presented to the Prince Charles Hospital emergency department with back pain post-seizure. He underwent a CT scan and blood tests. It appears that seizures negatively impacted Mr Zimmer's mental state, resulting in confusion and a decline in his overall presentation.⁷

⁴ Exhibit D6

⁵ Exhibit B74

⁶ Exhibit D5.2 – V3, page 50

⁷ Exhibit B74

27. At autopsy, toxicology testing revealed non-toxic levels of various therapeutic drugs. A constituent of cannabis was also detected in Mr Zimmer's blood and urine.

28. I have been assisted with a report from Dr Jill Reddan, Consultant Psychiatrist, who reviewed Mr Zimmer's mental health care.⁸ I note that oral evidence will not be heard from Dr Reddan until the recommendations phase of the inquest. However, her report confirms that it was relevant that Mr Zimmer was not intoxicated at the time of his death, and that he was clearly taking his prescribed medications. Dr Reddan also noted that Mr Zimmer's self-reports of smoking cannabis were confirmed by the toxicology results.

29. Dr Reddan provided a review of the mental health care provided to Mr Zimmer, which will be of assistance in the recommendations phase of the inquest. Dr Reddan generally concluded:

- The longitudinal history of Mr Zimmer's psychosis was a little different to what is often seen with many patients in that he did not have a large number of admissions. The number of his admissions was quite low compared to many patients. He was usually able to be treated on a voluntary basis, as Mr Zimmer would self-present or he would comply with referrals from others and he was generally compliant with his prescribed medication;
- The management of Mr Zimmer's schizophrenic disorder was appropriate and orthodox;
- There was nothing about Mr Zimmer's presentation to the watch-house, after the taser incident of the afternoon preceding Mr Zimmer's death that would have warranted an Emergency Examination Order.

30. I was also provided with a report from the Director of the Clinical Forensic Medicine Unit, Dr Adam Griffin.⁹ That report provides a very helpful summary of Mr Zimmer's medical history. While I also propose to hear from Dr Griffin during the recommendations phase, he concluded that the hospitals involved in Mr Zimmer's care displayed consistent care and he had no concern with the mental health care provided. Dr Griffin also noted that community support appeared to be readily available to Mr Zimmer.

Events leading to the death

31. I agree with the submission of Senior Counsel Assisting that the lead up to Mr Zimmer's death involved a series of unfortunate events. A number of matters coalesced in contributing to the events that followed. However, on their own, these were unlikely to result in tragedy or death. I will deal with each of these events in turn.

⁸ Exhibit B91

⁹ Exhibit B89

32. The first dates back to 27 July 2011. Police took Mr Zimmer to the Redcliffe Hospital Emergency Department for the purpose of an Emergency Examination Order (EEO). The medical records relating to this event were tendered at the inquest.¹⁰ Those records indicate that Mr Zimmer was known to the mental health team, and had been brought in by police after arguments had taken place with other residents in his unit complex.
33. I heard evidence that, for reasons unknown, this event was not flagged on the police database known as QPrime to alert police who might have contact with Mr Zimmer in future that he had a mental health history.
34. The second event occurred on the day before his death. On the afternoon of Monday, 17 November 2014, Mr Zimmer was involved in a public fight at Margate. He was subsequently involved in a confrontation with police and tasered, handcuffed and arrested in the courtyard of the Woolworths petrol station. There is clear video footage of that event from Constable Lucy Gough's body worn camera. That footage was tendered at the inquest.¹¹
35. Mr Zimmer's family submitted that I should find that QPS officers made errors during Mr Zimmer's arrest at this time, including the deployment of two tasers against him and in using excessive force used against him. It is evident from viewing the video footage of this incident that Mr Zimmer was dealt with forcefully at the petrol station, and this contributed to his high level of unhappiness with police that day.
36. However, I am unable to make adverse findings against the officers involved, as they were not called to give evidence at the inquest. Neither was this incident listed among the issues to be dealt with at the inquest. It is sufficient that I note that the officers involved have received further training as the matter was dealt with in the QPS complaint management process.
37. After Mr Zimmer was tasered, the Queensland Ambulance Service (QAS) was called. Paramedics, Peter Mills and Angela Steel, were unable to identify any evidence to support the detention of Mr Zimmer for the purposes of an EEO.¹² The QAS officers described Mr Zimmer as calm and compliant, unlike his demeanour in the video footage.
38. After QAS officers assessed Mr Zimmer he was taken to the watch house to be charged. He arrived at 3:38pm. The watch-house officer, Senior Constable David McKillop, asked a number of 'risk assessment questions' of Mr Zimmer, who disclosed his mental health history. Senior Constable McKillop released Mr Zimmer on bail at 6:25pm. He was satisfied that he was not a flight risk, he was no longer aggressive or combative, and there were no immediate or emerging concerns with respect to his mental health.¹³

¹⁰ Exhibit D5, volume 1

¹¹ Exhibit F3

¹² Exhibit B17

¹³ Exhibit B16

39. Senior Constable Barry Horne had transported Mr Zimmer to the watch-house. He confirmed that Mr Zimmer did not want to hurt himself or anyone else. He was not talking about hearing voices or self-harm.¹⁴ He was talking coherently and was not agitated.
40. Constable Elizabeth Edwards was also a watch-house officer. She confirmed that Mr Zimmer was initially angry and did not answer her questions.¹⁵ However, he eventually did and from that point was cooperative. She did not think Mr Zimmer presented with behaviours that warranted a mental health assessment. He disclosed to her that he suffered from “bipolar, paranoia and schizophrenia”. This was not flagged on QPrime. Constable Edwards said that although he appeared agitated at first, he appeared to know where he was and what was being asked of him.
41. I also note Dr Reddan’s opinion that there was nothing about Mr Zimmer’s presentation to watch-house staff that would have warranted an EEO.
42. A number of officers from the Redcliffe police station had attended at the Woolworths petrol station at Margate. Consequently, information about the event, which was a violent arrest incident, filtered back to the station to other officers who were already on shift, and to those who were starting their shifts at 10:00pm.
43. The next sequence of events was Mr Zimmer’s response to having been tasered and arrested. This prompted his subsequent calls to the 000 line, which ultimately led to the shooting. Although he presented as calm at the watch-house he clearly remained agitated about the circumstances of his arrest that afternoon.¹⁶
44. Mr Zimmer arrived at his share house around dinner time and told Mr Stewart Duce that he had been tasered and arrested earlier that afternoon. Mr Duce had only arrived home that afternoon from a 4-day hospital visit for surgery on his back. As a result, Mr Duce was in a lot of pain and was unable to sleep that night. He was also unable to move around with any freedom.
45. Mr Duce observed that Mr Zimmer was angry about the events of that afternoon, including the nature of his arrest. Mr Duce heard Mr Zimmer continue to yell obscenities about the police for hours. His evidence was that it sounded like Mr Zimmer was on the phone to a 000 operator and “was swearing and carrying on”.
46. Police records confirm that 21 calls from Mr Zimmer’s mobile number were made to police via the 000 line after 11:30pm. I was provided with statements from each of the call takers involved in these calls as well recordings and transcripts of the calls. The responses to Mr Zimmer’s

¹⁴ Exhibits B15 and B22

¹⁵ Exhibit B12

¹⁶ The analysis of his calls to 000 is set out at Exhibit C5.

repeated calls differed widely among the call takers, depending on their level of experience and personality. It is clear that their skills in dealing with Mr Zimmer varied considerably. Some responses were less than helpful and appeared to goad Mr Zimmer, escalating his level of agitation.

47. The difficulty for call takers was that Mr Zimmer was not seeking police assistance to deal with an emergency. Therefore, his calls were classified as nuisance calls. The QPS view was that these calls potentially blocked emergency lines, and could delay emergency assistance to another caller who was facing a genuine emergency. The response of call takers was to terminate the calls rather than investigate the reason Mr Zimmer had called in any depth.
48. Senior Constable Carlene Groube eventually provided Mr Zimmer with advice to call the number for PoliceLink – 131 444.
49. It was submitted on behalf of Mr Zimmer’s family that a referral to PoliceLink should have occurred earlier in the course of the calls. I consider that if the call takers were more skilled in eliciting information from Mr Zimmer that may have been an option. The analysis of his calls also suggests that he expressed various reasons for calling, ranging from seeking QPS attendance at the address of the person he had fought with at Margate to wanting to fight police and complain about his treatment when arrested.
50. At the inquest I was assisted by evidence from Superintendent Denis Fitzpatrick, who commands the Brisbane call centre and has, at times, acted as the State Administrator for the communications section of the QPS.
51. Superintendent Fitzpatrick gave evidence concerning the training of call takers and how they are to deal with nuisance calls. His evidence was that there is, and was at the time of Mr Zimmer’s death, the technical capability for 000 calls to be transferred from a call taker on a 000 call to the Police Link service.
52. However, this is not an option which is used and indeed appears not to be widely known including, by Communications Coordinators (COMCO’s) who are in charge of Regional Communications rooms for a particular shift.
53. Mr Zimmer’s calls were eventually assessed as nuisance calls by the Acting Police COMCO for the Redcliffe and Caboolture Districts for that shift, Sergeant Krista Owens. I note that Sergeant Owens had not been provided with training in relation to PoliceLink.
54. Sergeant Owens was operating out of the communications room at Maroochydore. Only seven of Mr Zimmer’s calls had actually reached Sergeant Owens’ communications room, indicating that his other calls were diverted to other centres across Queensland because the Maroochydore room was fully occupied with other calls.

55. Sergeant Owens made the decision to task officers from the Redcliffe Police Station to attend Mr Zimmer's house with the objective of causing the calls to stop. I am satisfied from the evidence that she was authorised to take this action.
56. In her evidence at the inquest Sergeant Owens said that she had also noticed a change in Mr Zimmer's behaviour as the calls progressed. She said he *"was getting increasingly more aggressive and agitated, and I was becoming concerned that if he did not get a reaction that he maybe – may cause – to actually harm someone else."*¹⁷
57. Five police officers from Redcliffe station attended in response to the job. Constables Martin Davey and Cory Lubbock were on the road conducting general duties at the time. The job was technically tasked to them. Constable Davey, knew of the arrest and tasing of Mr Zimmer that afternoon and immediately requested back up.
58. The Shift Supervisor at the time, Sergeant Bradley Grieve, along with another general duties crew, Constables Jessica Peck and Felicity Ryan, were all at the police station. They agreed to attend the job as back up. Those officers were provided with additional information, including Mr Zimmer's QPrime photo and his name and address, before leaving the station. The Redcliffe Station had been specifically alerted to the threatening nature of Mr Zimmer's calls by the Brisbane Communications room.
59. As a consequence, all attending police were aware of the arrest/taser event from the previous afternoon and the nature of some of Mr Zimmer's phone calls to police, including his threats and wish to fight the police.
60. As Sergeant Grieve left the station, he contacted Constables Davey and Lubbock and arranged a meeting with all five officers at a local Hungry Jack's car park, approximately 500m from Mr Zimmer's home on Elizabeth Avenue.
61. The evidence from that briefing was largely consistent among the officers. While no particular plan was made in relation to how to approach the job, the officers anticipated that they would be met with significant aggression towards them.
62. Constable Davey accepted in his evidence that he was prepared for the job to be a physical one, but there was no particular expectation that the officers would be confronted with a knife, or that lethal force might be necessary.
63. Mr Zimmer had provided two different addresses during his many calls to 000. As a result, the attending police were not sure if Mr Zimmer was present at 389 Elizabeth Avenue, the address that they had been tasked to attend.

¹⁷ Transcript, day 4, p 76

64. Neither did attending police know the layout of the Elizabeth Avenue house or the number of occupants likely to be in that house. The police also did not receive or know any information about Mr Zimmer's previous mental health history, or that he had previously been detained on an EEO (as previously detailed in these findings, this was not flagged on QPrime).
65. During or before the briefing, Sergeant Grieve phoned Police Communications to query the job and what they were expected to do. The COMCO, Sergeant Owens, did not speak with Sergeant Grieve. The call was received and dealt with by call taker, Mr Todd McKelvey. During the course of the inquest I was provided with a copy of the audio of this call, and it was played in court. Mr McKelvey had spoken directly with Mr Zimmer at 0:11am.
66. The recording indicated that Sergeant Grieve expressed reservations about police officers attending at night to speak to a person who had voiced an intention or desire to fight with police officers. He was concerned that by attending police were "giving him what he wants".
67. On the other hand, it is also clear that when Sergeant Grieve was told that the caller was blocking 000 lines and needed to be stopped for that reason, he accepted that as a valid cause. He made no specific request to speak to the COMCO, and did not challenge the appropriateness of the tasking any further.
68. In her evidence, Sergeant Owens thought at the time that she was told about Sergeant Grieve's call he had already hung up. This was confirmed by the recording.
69. Sergeant Owens said that it was common for police officers to call the COMCO to query jobs. At the time she did not think anything of this, nor did she consider that she should speak to Sergeant Grieve personally. Sergeant Owens was not aware of Mr Zimmer's mental health status.
70. In his evidence, Superintendent Fitzpatrick made it clear that Sergeant Owens' decision was in accord with her training and Communications practice at the time. Sergeant Owens said in her evidence that she was unaware that a call received as a 000 emergency call could be switched through directly to PoliceLink call takers, who have a completely different role.
71. I accept the submission of Counsel Assisting that placing police officers in a situation of unknown but likely significant risk in order to prevent nuisance calls should only happen after less risky and less dangerous options have been exhausted. That submission was made with full acknowledgement of the importance of the 000 service and the communications resources on which it depends.
72. Superintendent Fitzpatrick was frank in his evidence and accepted that various safer options might have been used. These included earlier referral

to PoliceLink; detailing the local station shift supervisor to exercise discretion in dealing with the situation (including by calling the nuisance caller); and possible use of QPS trained negotiators. These options might have been available on the night or made available relatively easily in the future.

73. It was submitted on behalf of Mr Zimmer's family that the alternatives ought to have been considered by Sergeant Owens prior to tasking police to attend his residence, and that in that circumstance, her decision was inappropriate.
74. However, I am unable with the benefit of hindsight to be critical of Sergeant Owens for tasking the officers to attend. I appreciate the series of pressures facing a COMCO during a shift, and the large number of issues demanding attention when balancing resources and making decisions. I accept that her motive for requiring police to attend included wanting to have police check on Mr Zimmer's welfare. I also accept that the COMCO does not have access to the same level of detail in relation to calls as the call taker.
75. I also accept that once Sergeant Owens had tasked officers from Redcliffe to attend at Mr Zimmer's residence, they were equipped with enough information to suggest a risk assessment was required, and could exercise their independent judgement at the scene in relation to strategy prior to entering the residence.
76. I consider that the recommendations phase of this inquest should closely examine ways in which the QPS can deal with threats to the public interest arising from nuisance callers, particularly those experiencing mental illness, without placing the safety of police officers, and members of the public, at risk.

Police attend Mr Zimmer's residence

77. The officers drove in three police vehicles to Elizabeth Avenue, and parked adjacent to Mr Zimmer's residence. The evidence confirmed that no further updates were received from Police Communications. Sergeant Owens confirmed that this was because there was no significant information to provide.
78. The officers, and indeed the COMCO, were not aware that Mr Zimmer had by this time turned his attention away from the 000 line, to the non-urgent PoliceLink line 131 444. He was in the middle of a conversation with an operator that had been continuing for some 5 minutes by the time officers arrived.
79. I agree that, in retrospect, this information might have proved very useful if it had been provided to the police officers, and may have avoided the need to attend the house altogether. However, I accept the submission on behalf of Sergeant Owens that as officers had booked off at Mr Zimmer's address during the call to Senior Constable Groube, it is unlikely they could have

been alerted to his call to PoliceLink, having regard to all the tasks required of a call taker once a call has ended.

80. Constable Davey activated his body worn camera upon exiting the car, and Constable Ryan activated a voice recorder. Those recordings were played at the inquest. Constable Ryan's voice recorder was helpful as it captured a particular conversation she had with Mr Duce after the male officers had proceeded through the house to Mr Zimmer's room.
81. Upon arriving at the house, Constable Ryan told the other officers that she knew the house was a "boarding house". In her evidence she said that she did not know this for sure until she arrived at the house and recognised that she had attended the address previously. She explained that police attend many different jobs and it was not until she arrived at the house that she realised it looked familiar.
82. The video footage shows that Constable Davey stood in the open front entrance to the house (at the right of the house) and knocked. He clearly announced that it was the police who were attending. Mr Duce replied with words to the effect of 'I'm crippled'. He confirmed in his evidence that this effectively meant that he was unable to get to the front door, and the police would have to come to him.
83. This is also how the police interpreted the statement from Mr Duce, who confirmed in his evidence that he did not refuse the police entry to the house. In the circumstances it is not necessary to explore further what legal authority might have been available to enter the house if consent had not been given. I am satisfied that Mr Duce gave express or implied consent for the attending officers to enter the residence.
84. When the officers then entered the residence, the order of entry was as follows:
 - Constables Davey and Lubbock;
 - Sergeant Grieve;
 - Constables Ryan and Peck.
85. Constable Davey spoke briefly with Mr Duce who was in the front bedroom. This conversation took place through a window that opened into an enclosed veranda. The footage confirmed that Mr Duce was asked where Mr Zimmer was and he said he was in the lounge room.
86. Sergeant Grieve proceeded along the front of the house and into the lounge room located at the left front of the house. The lounge room was empty. He then proceeded to clear the bathroom, which was the first room on the left of a narrow corridor, which proceeded from the lounge room to a lighted kitchen at the back of the house.
87. While Sergeant Grieve was in the bathroom, Constables Davey and Lubbock were speaking to Adam Sant, another occupant of the house who had been sleeping but was woken by the police as they cleared the house.

Mr Sant's bedroom was the second on the right off the same corridor, between Mr Duce and Mr Zimmer's rooms.

88. While this was happening, Constable Ryan had remained at the entrance to Mr Duce's room, adjacent to the lounge area, and had a further conversation with him. Constable Ryan's recorder depicts Mr Duce saying (with respect to Mr Zimmer) '*he's mental health*'. However, Constable Ryan did not explore this information further.
89. Constable Ryan's evidence was that while she recalled hearing the information from Mr Duce; it made no difference to how the job was going to be handled. On her estimate, 90% of persons dealt with by police at Redcliffe have some sort of mental health history. The fact that Mr Zimmer had a background of mental illness was nothing out of the ordinary. When asked whether knowledge of the information should have changed the approach to the job, Constable Ryan was adamant that it would not.
90. I accept Constable Ryan's evidence in this respect, in relation to this incident. Once tasked to attend upon Mr Zimmer to stop the nuisance calls, the officers were under an obligation to make contact with Mr Zimmer and cause him to desist. His mental health status did not relieve them of that primary obligation. In the absence of a specific understanding of Mr Zimmer's mental health history, the officers would have to respond to Mr Zimmer in accordance with his presentation at the time.
91. However, I consider that if his mental health status had been recorded on QPrime it might have enabled a planned approach to the job to be considered in partnership with his mental health clinicians, which was responsive to Mr Zimmer's particular needs and situation. However, this would either have required access to his mental health history on the night of his death, or for the QPS to delay its intervention until appropriate plans could be developed.
92. I also accept from the evidence of the officers that there was no predetermined intention that Mr Zimmer was to be arrested that night and charged with any offence, including that of misusing a telecommunications device.
93. It is also consistent with Constable Ryan's evidence that any effective response to Mr Zimmer's mental health status was precluded by the speed in which he reacted to police when they went to the door of his room.
94. Had Mr Zimmer presented differently, it is possible that Constable Ryan, and the other police officers, would have used an appreciation that he suffered from a mental illness in shaping their interaction and communication with Mr Zimmer. I consider that Constable Ryan's evidence should be understood in this way.

95. Constable Davey's evidence was that Mr Sant offered to go and get Mr Zimmer. Mr Sant's evidence in this regard was that the police asked him where Mr Zimmer was. This evidence was confirmed on the videorecording in the sense that they asked if Mr Zimmer was in Mr Sant's room with him. Mr Sant said 'Would you like me to go and get him', and Constable Davey said 'yes please'.
96. Mr Sant knocked on Mr Zimmer's door and said '*it's Adam*'. The camera footage confirms that Mr Zimmer then opened the door and Mr Sant told him the police were there for him. Mr Sant did not recall if Mr Zimmer was on the phone at the time. However, the PoliceLink call records clearly capture the events that follow. I am satisfied that Mr Zimmer was on the PoliceLink call at this time.
97. Mr Zimmer looked at the police and is heard on the footage to say loudly '*Get off the property, boys*'.
98. Constable Davey, who had moved into the kitchen, identified that Mr Zimmer was holding a large knife. He produced his OC spray, and proceeded to spray into Mr Zimmer's room. Mr Sant, who was in between Mr Zimmer and the police, received much of the spray and collapsed somewhere near Mr Zimmer's doorway.
99. Before being sprayed, Mr Sant recalled that Mr Zimmer had a knife in his right hand, and was holding that knife up near his head. Mr Sant tried to push Mr Zimmer back into his bedroom and told him to drop the knife. Other officers saw that Mr Zimmer appeared to be pushed back into his room by Mr Sant.
100. Counsel Assisting submitted that Mr Sant's worthy attempt to deal with the threat caused by his friend was also the cause of the OC spray disabling him rather than Mr Zimmer. I accept that submission and accept that Constable Davey might otherwise have effectively used the OC spray. It is possible that prompt action may have sufficiently blinded and disabled Mr Zimmer such as to prevent the situation escalating.
101. Constable Davey also immediately yelled out 'knife', alerting his colleagues, and from that point moved further into the kitchen to get himself out of the line of fire. He can be seen on the video drawing his firearm.
102. The last thing that the footage depicts is Mr Zimmer exiting the bedroom. From this point the footage no longer captured what was happening in the hallway. The recording does, however, capture the sounds of the events.
103. Constable Lubbock's evidence was that Mr Zimmer exited the bedroom and faced him and Sergeant Grieve. Sergeant Grieve described Mr Zimmer to have a focused look on his face. Mr Zimmer was calm and did not say anything. His stance was similar to that described by Mr Sant with the knife being held in a raised position. Constable Lubbock's evidence was that Mr

Zimmer was holding the knife in a throwing motion, starting with smaller movements back and forth, and those movements then became larger.

104. Constable Lubbock drew his firearm, as did Sergeant Grieve. Sergeant Grieve recalled saying 'drop the knife' multiple times. This did not seem to provoke any response from Mr Zimmer or any change in his actions.
105. The evidence from Sergeant Grieve was that he was trying to withdraw by moving backwards, but Mr Zimmer was moving towards them more quickly than they could move backwards. The hallway was narrow and they found themselves prevented from effectively withdrawing from danger.
106. Officers Lubbock and Grieve both discharged their firearms. Three shots were fired – two from Grieve and one from Lubbock. Two of those shots hit Mr Zimmer in the upper torso – one to the right and one to the left. At the time, however, neither officer was aware where Mr Zimmer had been struck.
107. Mr Zimmer fell to the ground. He continued to have the knife in his hand and was making some attempt to crawl forward. Constable Davey was covering Mr Zimmer with his firearm, as was Constable Lubbock. Mr Zimmer ended up releasing his grip on the knife and Sergeant Grieve kicked it out of the way. From the subsequent scenes of crime photos, I am satisfied that the knife ended up in the bathroom.
108. Constable Davey proceeded to handcuff Mr Zimmer and was assisted by Constable Ryan. Mr Zimmer strongly resisted this process and the video shows that it was achieved only with difficulty. In their evidence all officers accepted that Mr Zimmer's level of resistance to handcuffing could have been consistent with his reaction to having been shot.
109. The officers gave consistent evidence that handcuffing is the default course of action in all the use of force training, including in the aftermath of a person of interest have been the subject of lethal force.
110. Counsel Assisting has submitted that the recommendations phase of this inquest should consider whether the training with regard to the imposition of handcuffs after the use of lethal force should be modified in some way. I note that in each of the other inquests conducted in this series, police officers involved reached the conclusion that full handcuffing was not required.
111. The footage depicting the handcuffing was confronting. It appears to have delayed the administration of first aid and exposed officers to blood contamination. However, I accept that the officers acted in accord with their training in the application of handcuffs. I consider that whether a better or different course was available should be examined at the recommendations phase of this inquest.
112. The officers gave evidence that they were monitoring Mr Zimmer in so far as checking whether he was breathing and making sounds. Mr Zimmer's

body then went limp and first aid, initially in the form of reassurance, commenced. After the handcuffs were removed Mr Zimmer was dragged to the lounge room area where Constable Davey was able to commence CPR.

113. The QAS was called at 01:12am and started to arrive at 01:18am. I have been provided with statements from each of the paramedics. Mr Zimmer was pronounced deceased at the scene at 1:43am.
114. The evidence of both Mr Sant and Mr Duce was that they had never seen Mr Zimmer display this level of temper before. Mr Sant, in particular, confirmed that Mr Zimmer seemed to change his temperament very quickly once he realised that the police were inside his residence.

Autopsy results

115. Forensic pathologist, Dr Beng Ong, conducted a full internal autopsy examination on 19 November 2014.
116. Dr Ong explained that there were two gunshot wounds. One was a perforating gunshot wound to the right upper chest region where it was directed to the right, upward and back involving only soft tissue and muscles and not involving any major structures. The bullet that caused this wound was found by Sergeant Bruce, who conducted the ballistics examination, to have most likely been from Constable Lubbock's firearm.
117. The second wound was a gunshot wound to the left chest, directed to the right, downward and to the back. It caused damage to pericardium, heart, stomach, liver and lungs. Dr Ong considered this to be the fatal wound. Sergeant Ian Bruce found that this wound was most likely caused by a bullet from Sergeant Grieve's firearm.
118. Dr Ong concluded that the cause of death was due to the gunshot wound to the chest. On the evidence, I conclude that Mr Zimmer's death was caused by a shot fired by Sergeant Grieve.

The investigation

119. Sergeant Pamela Leech from the Queensland Police Service Ethical Standards Command conducted an investigation into the circumstances leading to the death of Mr Zimmer. I heard comprehensive evidence from her.
120. I am satisfied that upon being notified of the deaths, the ESC attended and an investigation ensued. The investigation was informed by statements and recorded interviews with:
 - All police officers involved;
 - attending QAS staff;
 - persons who were inside the residence in the lead up to the death;

- neighbours of the residence;
- other people who knew and had contact with Mr Zimmer; and
- next of kin.

121. The ESC investigation also relevantly addressed the taser event from earlier in the afternoon.
122. Forensic analysis was conducted and photographs were taken. All of the police investigation material was tendered to me at the inquest.
123. The ESC investigation concluded that there was no misconduct displayed by any of the officers involved and further concluded that no disciplinary proceedings were required. I accept the conclusions of Sergeant Leech in this regard.

Conclusions

124. Following on from the conclusions reached in the ESC investigation, I accept the submissions by Counsel Assisting that Constable Lubbock and Sergeant Grieve acted lawfully and appropriately in firing their guns and, in the application of lethal force to Mr Zimmer. Mr Zimmer had presented a knife and advanced in a threatening manner. He ignored directions to drop the knife and this made no other use of force either available or appropriate.
125. Both officers gave evidence that they were in fear of their own lives, and the lives of each other, and that, in accordance with their training, they used lethal force as the appropriate response to an edged weapon.
126. I accept that evidence as truthful and as a reasonable interpretation of the circumstances as they existed at the relevant time.
127. Counsel Assisting raised in detail with a number of the attending officers issues as to whether other alternatives such as taking more time to obtain further intelligence from Mr Sant and Mr Duce, and evacuating the house of civilians should have been attempted. For present purposes, I am satisfied that there is no evidence available to me to find that such steps would have produced a more favourable result.
128. It is also clear, most graphically from Constable Davey's evidence, that the officers were tasked to attend a situation where they could expect a violent confrontation and their minds were focussed on being prepared for that event. I accept the submission from Counsel Assisting in this regard, and find that the five attending police officers acted reasonably in the circumstances.
129. However, I agree that the sequence of events that night does raise questions in relation to the deployment of police to nuisance callers, and whether different tactics and actions from the time the officers arrived at 389 Elizabeth Avenue could be employed in a comparable scenario in the future.

Those matters will be further explored at the recommendations phase of this inquest.

130. The five police officers were separated promptly after they were stood down from duty. Each was moved to a footpath across the street and directed to separate and not discuss the incident. The officers were required to wait in public view for approximately an hour before they were required to drive themselves the Redcliffe Police Station for interview.
131. The audio recording of Sergeant Grieve, which was activated after the shooting occurred, confirms that the officers were separated and there are repeated reminders from Sergeant Grieve for them all to remain separated and not to discuss what happened.
132. ESC investigators interviewed the officers on the same day. These directed interviews took place between 6 to 12 hours after the incident. The QPUE has indicated that it is concerned with the requirement for officers to participate in such an interview immediately following such an incident. It is also concerned that that Constable Davey and Sergeant Grieve were not permitted to remove blood from their hands and arms as gun shot residue testing was required. These matters will be the subject of further consideration at the next phase of these inquests.
133. For present purposes, I am satisfied that the integrity of the evidence of the officers was suitably preserved.

Findings required by s. 45

134. 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 the material contained in the exhibits, I am able to make the following findings:

Identity of the deceased – The deceased person was Laval Donovan Zimmer.

How he died -

Mr Zimmer had a number of health issues, including schizophrenia and epilepsy. He had been a longstanding voluntary consumer of mental health services. This fact was not flagged on QPrime and thus was not known to police who attended at his home at the time of his death.

The events that led to Mr Zimmer's death followed an earlier incident on the afternoon of 17 November 2014 where he was aggressive towards police and was subsequently tasered, arrested and released on bail.

Mr Zimmer was understandably unhappy about his treatment during this event and proceeded to make a series of phone calls to the 000 emergency line after 11:30pm on 17 November 2014. During those phone calls he made threats towards police. He said he wanted to fight police and generally complained about how he had been treated.

The number of phone calls to the 000 emergency line prompted the dispatch of a crew of police to Mr Zimmer's address at 389 Elizabeth Avenue, Kippa Ring at around 00:30am. The police arrived at the residence shortly after 1:00am on 18 November 2014.

After police entered the residence, officers were directed to Mr Zimmer's bedroom door. Although Mr. Zimmer was by that time engaged in a call to PoliceLink, he was also armed with a knife. After he saw the police, he failed to follow directions to drop that knife and advanced threateningly towards police.

While he was advancing with the knife Mr Zimmer was shot by police officers acting in the course of their duties.

Place of death – He died at Kippa Ring in the State of Queensland.

Date of death – He died on 18 November 2014.

Cause of death – Mr Zimmer died from a gunshot wound to the chest.

Comments and recommendations

135. I close the inquest into this death with respect to the findings required by s 45 of the *Coroners Act 2003*. I extend my condolences to Mr Zimmer's family.

136. Any comments and recommendations under s. 46 of the *Coroners Act 2003* will be considered in the second phase of this inquest.

Terry Ryan
State Coroner
Brisbane
3 May 2016