



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Russell Winks**

TITLE OF COURT: Coroners Court

JURISDICTION: Toowoomba

FILE NO(s): COR 2016/4827

DELIVERED ON: 12 December 2018

DELIVERED AT: Toowoomba

HEARING DATE(s): 10 – 12 December 2018.

FINDINGS OF: Terry Ryan, State Coroner

CATCHWORDS: CORONERS: Death in custody, police shooting, s46 comments from inquest, use of force model, police training, deployment of service rifles.

REPRESENTATION:

Counsel Assisting: Ms Sarah Lane

Mrs Joy Winks (wife): Mr Benjamin Dighton and Mr Matt Jackson (instructed by Caxton Legal Centre)

Queensland Police Commissioner: Mr Mark O'Brien (Qld Police Service Legal Unit)

Senior Constable Jeremy Lambert,
Constable Laura Zillman,
Senior Constable Joseph Cook,
Senior Constable Steven Gibb,
Senior Constable Shane Ross
Constable Bradley Grassens and
Detective Sergeant Darren Tamblyn: Mr Callan Lloyd (Gilshenan & Luton)

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Introduction

1. These findings examine the circumstances of the death of Russell Winks on a rural property at Freestone on 17 November 2016 after the Queensland Police Service (QPS) responded to a 000 call from Mr Winks' wife seeking assistance. She mistakenly assumed that Mr Winks had shot himself. Mr Winks, who was 65 years of age, died as the result of a gunshot wound from a police rifle after he pointed the rifle at police officers.
2. The functions of the QPS, 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.
3. As I have noted in previous findings, the community has high expectations of police officers, particularly in times of crisis.¹ 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 officers will act lawfully and professionally in the exercise of their duties, and in accordance with operational policies and training.
4. 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.
5. 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.

¹ For example, Inquest into the death of Troy Martin Foster, 3 May 2016

6. An inquest is a fact finding exercise and not a process for allocating blame. The procedure and rules of evidence used in criminal and civil trials are not adopted. “*In an inquest there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish the facts. It is an inquisitorial process, a process of investigation quite unlike a trial.*”²
7. The primary purpose of an inquest is to inform the family and the public about the matters required by s 45 of the *Coroners Act 2003*, including how the person died and what caused the person to die.
8. Mr Winks’ family understandably had many questions about his death. It has been extremely difficult for them to understand how a person they regarded as a loving husband, father and grandfather, a “genuine good man” who was well-respected in the community, came to be killed by police.
9. Similarly, the police officers involved in this incident, and the internal investigation into Mr Winks’ death, have reflected on whether his death could have been avoided.
10. In appropriate cases, a coroner can make recommendations with a view to reducing the likelihood of similar deaths. As a result, a coroner can make preventative recommendations concerning public health or safety or ways to prevent deaths from happening in similar circumstances.
11. A coroner is prohibited from including in the findings or any comments or recommendations any statement that a person is, or may be, guilty of an offence or civilly liable. However, the *Coroners Act 2003* provides that if, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence and, in the case of any other offence, the relevant government Department. Information about a person’s conduct in a profession can be given to the disciplinary body for that profession if the coroner believes the information might cause the body to inquire into or take steps in relation to the conduct.
12. The findings of a coroner must be based on proof of relevant facts on the balance of probabilities. The principles set out in *Briginshaw v Briginshaw*³ are applicable. This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, the clearer and more persuasive the evidence needed for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard. A coroner also is obliged to comply with the rules of natural justice and to act judicially. This means that no findings adverse to the interest of any party may be made without that party first being given a right to be heard in opposition to that finding.

² *R v South London Coroner, ex parte Thompson* (1982) 126 S.J. 625

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361

13. These findings:

- confirm the identity of the deceased person, how he died, and the time, place and medical cause of his death;
- consider whether the police use of lethal force against Mr Winks was in accordance with the QPS 'use of force' policy in the QPS Operational Procedures Manual;
- consider whether there were any 'less than lethal' use of force options open to the officers which they did not take; and
- consider whether the investigation by QPS Ethical Standards Command Internal Investigations Group was appropriate and sufficient.

The Inquest

14. Russell Winks' death was reported as a death in custody and death in the course of a police operation under the *Coroners Act 2003*. In those circumstances an inquest must be held.⁴

15. The hearing of evidence in relation to Mr Winks' death took place in Toowoomba from 10 – 12 December 2018. All of the statements, records of interview, photographs and materials gathered during the investigation were tendered at the inquest.

16. Counsel Assisting, Ms Lane, proposed that all evidence be tendered, and that oral evidence be heard from the following witnesses:

- Mrs Joy Winks;
- Detective Sergeant Jeffrey Gillam;
- Senior Sergeant Damien Hayden;
- Senior Constable Jeremy Lambert;
- Constable Laura Zillman;
- Senior Constable Joseph Cook;
- Senior Constable Steven Gibb;
- Senior Constable Shane Ross;
- Constable Bradley Grassens;
- Detective Sergeant Darren Tamblyn; and
- Inspector Brian Cannon.

17. I consider that the evidence tendered in addition to the 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.

⁴ *Coroners Act 2003*, s 27(1)

The evidence

Personal circumstances

18. Mr Winks and his wife, Joy, resided at a small rural property at 463 Charleys Gully Road, Freestone, about 30kms north east of Warwick. Mr and Mrs Winks had been married close to 45 years. They had four adult children, Amy, Trent, Emma and Travis, and 10 grandchildren. Emma and her daughter had been living with Mr and Mrs Winks for several years at the time of his death.
19. Mr Winks had a very successful career as a certified practicing accountant and financial controller, and had retired in 2006 at the age of 55. Sadly, Mr Winks had experienced a number of very stressful and difficult incidents in the lead up to his death, which were articulated by Mrs Winks in her evidence at the inquest.
20. For a number of years, Mr and Mrs Winks had been involved in litigation with other unit owners in relation to significant building defects, including concrete cancer, which was affecting a new unit they had purchased at Tweed Heads. This case has been very expensive and emotionally draining for Mr Winks. Mr Winks had been prescribed antidepressant medication by his general practitioner in early 2015 to help him deal with the anxiety caused by the ongoing litigation. The legal action had been close to resolution in the weeks prior to Mr Winks' death.
21. In addition, Trent and his wife were going through a difficult marriage breakup, and Trent had attempted to take his own life. Mr and Mrs Winks had also lost contact with their grandchildren from Trent's relationship during this period.
22. In early October 2016, just as Trent's condition appeared to be improving, Mr Winks' daughter, Amy, was remanded in custody following an incident with her partner.
23. Mr Winks had also been physically unwell in the weeks leading up to his death, and had been admitted to the Tweed Heads Hospital on 12 November 2016 experiencing chest pain. Tests undertaken at the hospital determined that Mr Winks had a blood clot in his left lung. Mr Winks was given blood thinning medication to deal with the clot, which he was taking at the time of his death.
24. On 14 November 2016, Mrs Winks and Emma were both admitted to hospital for pre-arranged day surgery. On 16 November 2016, Mr Winks stated that he was not feeling well.

25. Mrs Winks described her husband as a funny and caring man who was committed to her and the family. However, he was also stoic and generally dealt with his emotions in a private way. At the conclusion of evidence at the inquest, Emma read a statement setting out the impact that Mr Winks' death has had on the lives of the Winks family. It is clear that he was the foundation upon which the family's life was based and his loss has had a profound impact on his wife, his children and grandchildren. It is also clear that his actions on 17 November 2016 were entirely out of character.
26. In her interview with Detective Sergeant John Lee on the night of Mr Winks' death, Mrs Winks described Mr Winks on that day:

45 years I've been married to him next month. He is the best man I have ever known. But today was the day he wanted to die. Because he could not handle what injustice has been served on our family and he couldn't help.⁵

Events leading to the death

27. On the afternoon of his death Mr Winks was at home with his wife. As was his routine, he collected his six-year-old granddaughter from the school bus stop at around 3:00pm, and brought her home. Shortly after arriving home he received a call from his daughter, Emma, who was at the Brisbane Women's Prison, attempting to resolve problems with a money transfer into Amy's account.
28. Emma reported that Mr Winks' attempt to transfer money earlier that day was unsuccessful, and that she was experiencing further difficulties in trying to sort out the situation. She told Mr Winks that it could take nine days for the transfer to reach Amy's account. It was clear that during the course of the call Mr Winks became increasingly frustrated with the situation, and the conversation became heated.⁶
29. After the telephone conversation ended at around 4:00pm, Mr Winks put on his work boots, grabbed his hat and walked down to the back paddock. Mrs Winks called after him and he called back that he was "going down the back paddock to bash his head against a tree and bleed to death".
30. Mrs Winks waited for about 10 minutes, and then decided to follow Mr Winks to the back paddock to check on his wellbeing. She left her granddaughter in her bedroom doing her homework. Mrs Winks found Mr Winks sitting on a rock in a gully in bushland behind the house. He had a .22 calibre rifle in his hands and he was loading it. Mrs Winks did not know that Mr Winks owned a rifle, and did not know where it came from. Mrs Winks asked her husband what he was doing, and begged him to put the gun down. When he refused, she begged him to shoot her as well as she did not want to live without him. She had slipped on the rocks trying to get down to the gully to

⁵ Exhibit D15 Part 2, 12:32.

⁶ Exhibit D14- ESC Interview with Emma Winks

reach him, and then heard her granddaughter calling for her. As her granddaughter was becoming hysterical, Mrs Winks decided to return to the house to care for her.

31. The QPS investigation revealed that Mr Winks had the rifle for many years. He kept it hidden, wrapped in a tarp under the cover of a water pump of the bore at the back of the house. He had only told his daughter Emma about the existence of the rifle when she was housesitting for her parents in March 2016, when they travelled overseas. He told her about the rifle in case she had any trouble with dingoes while she was minding the house. He also told her that he kept the bullets with the rifle.⁷
32. On her way back to the house, Mrs Winks heard five shots. She thought that Mr Winks had shot himself, and was unable to bring herself to return to the gully. She ran back to the house and called her elderly neighbours, Andrew and Barbara Hardwick, for help. The Hardwicks immediately drove to the Winks' home. Mrs Hardwick stayed with Mrs Winks while Mr Hardwick walked down to the gully. At 4:16pm Mrs Winks called 000. She told the operator that she thought her husband had just shot himself.
33. Mr Hardwick found Mr Winks in the gully alive and sitting with the rifle in his hands. Mr Hardwick tried to talk to Mr Winks, who appeared to be very agitated and angry, and asked Mr Hardwick what he was doing there. Mr Hardwick told him that Mrs Winks was very upset and thought that Mr Winks had shot himself. Mr Winks told Mr Hardwick that that police would shoot him. He then turned and walked off further down the gully. Mr Hardwick decided it was best not to follow and he returned to the house.⁸

Police attend the Winks' residence

34. It was clear from the evidence of each of the police officers who gave evidence at the inquest that the events of 17 November 2016 evolved rapidly in a dynamic situation. Although each officer had a different perspective of the incident and each played a different role, their accounts were generally consistent.
35. In response to the 000 call from Mrs Winks, a number of police crews were tasked by the Toowoomba Police Communications Centre. These crews came from the Warwick, Leyburn and Yangan Divisions. The first crew to arrive was Senior Constable Jeremy Lambert and Constable Laura Zillman of the Warwick Division. When they arrived, they saw Mrs Winks and Mrs Hardwick standing at the side of the house. Mrs Winks directed them to the back of the house, and advised that Mr Winks was in the gully behind the house. At the inquest Senior Constable Lambert said that he had initially assessed the incident as "unknown risk" as he thought Mr Winks would be located deceased.

⁷ Exhibit D14- ESC Interview with Emma Winks

⁸ Exhibit D7 – ESC Interview with Andrew and Barbara Hardwick.

36. Senior Constable Lambert parked the vehicle behind the house, and as he and Constable Zillman got out of the car, they saw Mr Hardwick walking up towards the house. Constable Zillman approached Mr Hardwick and, as she did so, Senior Constable Lambert saw Mr Winks approach from the gully carrying a rifle. Mr Winks was 30-50 metres from Senior Constable Lambert at this time.
37. Mr Winks was waving the rifle around in the air, and yelling at the police officers to shoot him. Senior Constable Lambert was speaking to police communications at 4:38pm, and was heard to yell "*put the gun down*". Mr Winks then called out to Senior Constable Lambert and told him he did not want to be shot by a pistol and to '*get someone with a rifle*'. Mr Winks turned around and walked back to the gully, out of sight of Senior Constable Lambert.
38. Constable Zillman's evidence was that she went back to the house to speak to Mrs Winks who confirmed that the male with the rifle was Mr Winks. Mrs Winks told Constable Zillman that Mr Winks was going through a hard time, that he had recently been in hospital for a blood clot, that his daughter was in jail, and he was not coping with that situation.
39. Constable Zillman then moved the police vehicle down to where Senior Constable Lambert had been positioned so that they could put on their ballistic vests and take cover behind the vehicle. At the inquest, Senior Constable Lambert said that he now assessed the situation as high risk. While the police vehicle was not in an ideal location, his objective was to protect himself, other officers and other persons at the property. He maintained contact with police communications via his hand held radio (although reception was patchy) and his mobile telephone.
40. Mr Hardwick had left his vehicle parked close by, with the keys still in the ignition. Other police crews had started to arrive, and Senior Constable Lambert directed that a cordon be set up along the fence line so that Mr Winks could not reach the road. His objective was to effect a withdrawal of police officers so that a forward command post could be established at a safe distance.
41. Senior Constable Joseph Cook was assigned to the Warwick Road Policing Unit. At the inquest he said that he was conducting a speedo test when he heard the job allocated to two other crews over the police radio. After hearing Senior Constable Lambert make reference to a gun over the police radio he went back to the station, checked out the police rifle, and advised police communications at 4:41pm that he had a rifle and was available to attend. He said that he collected the rifle because he considered it was an appropriate use of force option to contain the situation that was emerging.

42. Senior Constable Cook was given a 'code two' to proceed. On his way to the Winks' property, at 4:46pm, he contacted police communications to see if any negotiators were available. His evidence was that he thought the use of negotiation was the option most likely to achieve peaceful resolution of the situation.
43. At the inquest, Senior Constable Lambert agreed that he had asked Senior Constable Cook to bring the rifle. He considered that this was an appropriate use of force option as Mr Winks was in possession of a rifle. He said that during the incident he heard that Inspector Cannon of the Warwick Patrol Group had authorised the deployment of the rifle.
44. At 4:51pm, Inspector Brian Cannon, who was in Toowoomba, contacted police communications to obtain details of what was occurring. He was told that Senior Constable Lambert was the senior officer at the scene, and that a police rifle had been dispatched. Inspector Cannon authorised the rifle's deployment at the scene. At the inquest Inspector Cannon indicated that in his opinion, deployment meant the rifle could be removed from its case and readied for use. He was unaware of prior authorisation of the rifle's deployment by the police forward commander, Senior Constable Lambert. Inspector Cannon said that after speaking with the officer in charge of the police communications centre he assessed the situation as high risk, largely as a firearm was involved.
45. When Senior Constable Cook arrived at around 5:00pm, he took the rifle out of his vehicle, and joined Senior Constable Lambert at the police vehicle. Senior Constable Lambert was talking on a mobile phone to police communications and was advised that Inspector Cannon had been notified of the incident, and that a negotiator had been contacted.
46. Senior Constable Lambert pointed out the direction of Mr Winks to Senior Constable Cook, who knelt down behind the engine bay of the police vehicle, covering the direction in which Mr Winks was last seen. When Senior Constable Lambert finished his call he briefed Senior Constable Cook on the situation. The two officers considered it appeared that the presence of police would aggravate Mr Winks. It was agreed that it would be best for police to withdraw from the area near the gully and establish a cordon around the perimeter of the property, from where they could negotiate with Mr Winks.
47. In the meantime, other police crews had arrived. Constable Zillman briefed Senior Constable Shane Ross, Constable Benjamin Lyell, Constable Bradley Grassens and Constable Lisa Hudson of the Warwick Division as they arrived. Constable Hudson and Senior Constable Ross went to the house to speak to Mrs Winks. Constable Emma Jenkins arrived with Detective Sergeant Darren Tamblyn of the Warwick Division.
48. Senior Constable Ross had a conversation with Mrs Winks about the type of firearm Mr Winks was carrying. Mrs Winks described it as a 'pea-shooter'. After speaking to Mrs Winks, Senior Constable Ross went to the

police vehicle behind the house and advised Senior Constable Cook that Mr Winks had only one weapon. He remained at the vehicle until he received a call from a Senior Constable Golding, who relayed instructions from Inspector Cannon for the police at the property to be evacuated and for a cordon to be established around the area. Senior Constable Ross informed Senior Constable Lambert of Inspector Cannon's instructions. The direction was consistent with the strategy already articulated by Senior Constables Lambert and Cook.

49. Senior Constable Steven Gibb was the officer in charge at Leyburn at the time of Mr Winks' death. After being tasked to attend the property he travelled there from Warwick and spoke with Constable Zillman and Senior Constable Nathan Burnett, who was in the driveway. He considered that Senior Constable Burnett was the police forward commander. They also discussed the withdrawal of police officers to defuse the situation, in accordance with Inspector Cannon's instructions, and waiting for Mr Winks to return to the house. They decided to first move the family out of the house and take them to a safe location. They looked at maps for possible locations to withdraw, and considered whether Mr Winks may have access to other weapons and vehicles.
50. At the inquest, Senior Constable Gibb said that he had assessed the situation as high risk because of the presence of the rifle and the fact that police officers were surrounded on three sides by bushland. The daylight was fading and he was concerned that Mr Winks might track through the gully and ambush police.
51. Senior Constable Gibb went to the house and found Senior Constable Ross in the process of asking Mrs Winks and her granddaughter to relocate to the Hardwick property next door, together with the Hardwicks. Senior Constable Gibb spoke to Mrs Winks before she left, and asked her to leave a mobile phone she had with her at the house. He told her they needed to leave a phone at the house to contact Mr Winks if he returned after everyone had gone. He obtained the number of the phone and ensured that Senior Constable Ross had the number as well. Senior Constable Ross also spoke with Mr Hardwick as he was about to leave, and took his name and phone number.
52. Constable Lyell walked down from the house towards the police vehicle, and saw Mrs Winks, her granddaughter and the Hardwicks getting into Mrs Winks' vehicle to leave the property. Constable Lyell then joined the other officers behind the police vehicle.⁹
53. Senior Constable Gibb then approached from the direction of the house and told Senior Constable Cook and Senior Constable Lambert that a mobile phone had been left inside the house for Mr Winks. He advised that he wanted to approach Mr Hardwick's vehicle to remove the keys so that Mr Winks would not be able to drive away from the property while he was

⁹ Exhibit D11 - ESC Interview with Constable Benjamin Lyell.

armed. Senior Constable Gibb asked Senior Constable Cook to cover him as he approached Mr Hardwick's vehicle, which was parked closer to the gully than the police vehicle.

54. As soon as Senior Constable Gibb moved towards Mr Hardwick's vehicle, Senior Constable Cook saw Mr Winks approaching from the gully, and yelled "*contact*" to alert the other officers. Senior Constable Gibb ran to Mr Hardwick's vehicle and took cover behind the back corner of the vehicle. At this stage, Senior Constables Cook and Lambert, and Constables Zillman and Lyell were taking cover behind the police vehicle. They could not retreat towards the house as they would be exposed to fire from Mr Winks. Senior Constable Burnett was also approaching the police vehicle, but took cover at the side of the house when he saw Mr Winks approaching.¹⁰
55. Senior Constable Lambert advised police communications at 5:15pm that Mr Winks had approached. At the inquest he said that Mr Winks appeared to walk directly towards Senior Constable Cook and directed his comments to him.
56. As Mr Winks approached the officers he was asking why they had not come down to the gully, as he was waiting for them. Senior Constable Cook repeatedly asked Mr Winks to put his gun down. Mr Winks made abusive remarks to the officers, and said "*fucking shoot me*".
57. Senior Constable Cook continued to ask Mr Winks to put the gun down and talk to them. Mr Winks said that if he did, they would put him in handcuffs, and he did not want that. Senior Constable Cook assured him that they would not. At the inquest he said that he considered that he could take Mr Winks to hospital under an Emergency Examination Order to get him some help. Mr Winks said that the police could not help anyone, and that the way they dealt with his daughter was ridiculous. He said the whole system was "*shit*".
58. Senior Constable Cook talked to Mr Winks for just over four minutes while Mr Winks stood around 15 metres from the vehicles. Senior Constable Cook repeatedly asked Mr Winks to put down his gun and talk. Mr Winks refused, and a number of times said "*just fucking shoot me*". While this was happening, Mr Winks remained very agitated. He was continually pacing from side to side, and waving his rifle around, swapping it from hand to hand and sometimes resting it on either shoulder.
59. At the inquest the police officers' evidence was that that Mr Winks was initially holding the rifle with one hand, which was near the trigger. Mr Winks pointed his rifle directly towards police on several occasions during the course of his exchange with Senior Constable Cook. Senior Constable Gibb had moved to the rear driver's side of Mr Hardwick's vehicle and drew his Taser, but then drew his pistol as he considered that as he was 6-7 metres away the Taser would be ineffective, as would OC spray.

¹⁰ Exhibit D2 - ESC Interview with Senior Constable Burnett.

60. Senior Constable Gibb's evidence was that he had formed an intent to fire his weapon 2-3 times during this exchange as he feared for his life and that of Senior Constable Cook. Mr Winks' level of aggression continued to escalate, as demonstrated by his language, tone of voice and mannerisms.

61. Just over 4 minutes after Mr Winks appeared out of the gully, he and Senior Constable Cook had the following exchange:

Winks: *'I'm not putting the gun down, I'll tell you that right now, I'm not putting it down'.*

Cook: *'what will it take you to put it down'.*

Winks: *'hey?'*

Cook: *'What will it take for you to put it down'.*

Winks: *'I'm on a no win mate, I'm on a fucking no win, I fucked up'.*

Cook: *'how did you do that, what happened'.*

Winks: *'you'll charge me for having a rifle, alright for a start, a gun that's never been fired for thirty fucking years, you'll charge me for that'.*

Cook: *'sir don't come any closer'.*

Winks: *'and then I can't go on my fucking holiday'.*

Cook: *'sir put that rifle down'.*

Winks: *'no I won't'.*

Cook: *'put it down'.*

Winks: *'I told you I won't, see you're not even...'¹¹*

62. As he was engaged in this exchange, Mr Winks stopped pacing and looked directly at Senior Constable Cook. Senior Constable Cook thought that he might have convinced Mr Winks to talk. However, Mr Winks looked at Senior Constable Cook, raised the rifle in both hands to centre chest height and aimed it directly at Senior Constable Cook. At this point Mr Winks appeared focused. Believing that Mr Winks was going to shoot him Senior Constable Cook fired at Mr Winks. After hearing this shot Senior Constable Gibb thought that Mr Winks had shot at Senior Constable Cook. He also fired but missed. Senior Constable Cook's shot hit Mr Winks in the upper right chest, and Mr Winks fell to the ground, dropping the rifle. Senior Constable Lambert advised police communications at 5:19pm that shots had been fired, and that the Queensland Ambulance Service (QAS) was required.

63. Officers ran towards Mr Winks yelling at him not to move. Senior Constable Gibb moved Mr Wink's rifle out of his reach, and then started to administer first aid. Senior Constable Cook yelled for a first aid kit. Senior Constable Jenkins went to the back of the police vehicle to get a first aid kit, and then joined Senior Constable Lambert, Senior Constable Cook, Senior Constable Gibb, Constable Lyell and Constable Zillman in first aid efforts. Senior Constable Grassens also ran to help, but there was no room for him to do so. He went to the top of the driveway to direct the ambulance when it arrived, and found Detective Sergeant Tamblyn near the gate.

¹¹ Exhibit D19, Video 2, 04:37 – Body worn camera footage of Senior Constable Cook

64. At the scene, Constable Zillman cut away Mr Winks' shirt to expose the wound, and Senior Constable Cook and Senior Constable Gibb applied pressure to the wound with their hands. Mr Winks was rolled to the recovery position. Senior Constable Burnett had run over to the scene and instructed Senior Constable Cook and Senior Constable Gibb to remove themselves from the scene as they had fired shots. Senior Constable Burnett then took over in helping the first aid efforts.
65. Mr Winks was initially awake, but became unresponsive after he was rolled onto his side. Constable Zillman commenced CPR and police officers took turns administering CPR until an ambulance arrived on the scene around seven minutes after the shots were fired.
66. Senior Constable Grassens had directed the ambulance to the back of the property when it had arrived. Sometime after the ambulance arrived, Mrs Winks walked to the gate of her property from the road. She had heard the shots, and approached Senior Constable Grassens, calling out and asking what had happened. As Senior Constable Grassens was not sure of her relationship to Mr Winks, he did not give her any information. He asked her to wait outside the gate and not come in. Detective Sergeant Tamblyn walked over and spoke to Mrs Winks and told her that, as far as he knew, Mr Winks was still alive. A neighbour, Stephen Turner, drove up in his vehicle, and Detective Sergeant Tamblyn asked him to take Mrs Winks to his house and care for her while police were dealing with the situation.¹²
67. QAS officers took over care of Mr Winks from the police officers, but he was pronounced deceased by QAS paramedic Danielle Almond at 5:50pm.¹³
68. The scene was pronounced a crime scene and secured. All the officers who had been involved handed in their body worn cameras and any weapons used.
69. Inspector Cannon arrived at the house after dark and ensured that all proper procedures were followed with respect to the crime scene and the securing of evidence. He spoke to Trent Winks by phone later that evening, and Trent told Inspector Cannon that his father might have been thinking about being shot by the police as a 'way out', due to the recent stresses he had experienced.¹⁴

¹² Exhibit D20, Video 8 – Body worn camera footage of Senior Constable Grassens.

¹³ Exhibit C9 – QAS electronic Ambulance Report Form.

¹⁴ Exhibit D16 – Recorded phone call with Trent Winks.

Autopsy results

70. Senior Forensic Pathologist Dr Nathan Milne conducted an autopsy consisting of an external and full internal examination of the body on 19 November 2016.
71. Dr Milne concluded that the cause of death was a gunshot wound to the right upper chest.
72. Ballistics analysis on the bullet which was retrieved from Mr Winks' body confirmed that it was from the police rifle fired by Senior Constable Cook.
73. The toxicology results were negative for alcohol and illicit drugs, and showed only therapeutic quantities of the anti-depressant which Mr Winks had been prescribed.¹⁵

The investigation

74. Detective Sergeant Jeffrey Gillam from the Queensland Police Service Ethical Standards Command ('ESC') conducted an investigation into the circumstances leading to the death of Mr Winks. I heard comprehensive evidence from Detective Sergeant Gillam at the inquest.
75. Senior Constable Cook and Senior Constable Gibbs were separated after the shots were fired. Each moved to a different location on the property and were directed to separate and not discuss the incident. The officers each made their weapons safe and handed them to other officers to be placed in evidence bags.
76. Senior Constable Gibb participated in a walkthrough interview at the scene with ESC investigators, who interviewed each of the officers over the next two days.
77. I am satisfied that the integrity of the evidence of the officers was suitably preserved.
78. The ESC investigation was also informed by statements and recorded interviews with other police officers who were involved, and with Mr Winks' next of kin. Body camera footage from the officers involved was examined and transcribed. QAS incident records were obtained, various forensic investigations were carried out, and photographs of the scene were taken. All of the police investigation material was tendered at the inquest.
79. With respect to whether the conduct of the officers involved was appropriate, Detective Sergeant Gillam obtained an expert statement from Sergeant Finney, a Training Officer at the QPS Operational Skills Unit (OSU). As Sergeant Finney was unavailable to give evidence at the inquest, his report

¹⁵ Exhibit A5 – Autopsy Report.

and findings were reviewed and adopted by Senior Sergeant Damien Hayden, the Officer in Charge of the OSU. Both Senior Sergeant Hayden and Sergeant Finney attended the scene shortly after the incident. They assessed the conduct of the officers involved, whether the use of lethal force was in accordance with the relevant legislation, the QPS Operational Procedures Manual, and relevant QPS policy, and whether there were any less than lethal use of force options open to the officers involved.

80. Senior Sergeant Hayden gave evidence at the inquest and explained his assessment and findings. He concluded that there was no misconduct displayed by any of the officers involved and further concluded that no disciplinary proceedings were required.
81. It was submitted on behalf of the Winks family that I should find that Detective Sergeant Gillam's investigation was less than adequate, having regard to the manner in which he dealt with the issue of deployment of the police rifle in his report. Although that issue assumed prominence at the inquest, I do not consider that Detective Sergeant Gillam should have anticipated the competing views with respect to the definition of deployment that emerged at the inquest. I am satisfied that the investigation was thoroughly and professionally conducted and that all relevant material was accessed.

Conclusions on issues

Whether the police use of lethal force against Mr Winks was in accordance with the QPS 'use of force' policy in the QPS Operational Procedures Manual ('OPM') at the time

82. Consistent with the conclusions reached in the ESC investigation, I accept the submissions by Counsel Assisting that Senior Constable Cook and Senior Constable Gibb acted appropriately in firing their weapons. I also agree that Senior Constable Cook's application of lethal force to Mr Winks was appropriate in the circumstances.

Police assessment of risk

83. As noted earlier in these findings, the officers who attended the scene gave evidence in this inquest of their assessment of the circumstances which they faced on arrival and as the events unfolded. It was clear that the officers at the scene engaged in ongoing risk assessments.
84. Senior Constable Lambert and Constable Zillman were the first officers on the scene. Both told the inquest that they were advised by police communications that they were attending a possible suicide, and that there was a firearm involved. While I consider that they might have approached the situation as one involving a 'high level' of risk, I do not consider that their initial assessment of the risk as 'unknown' had any bearing on the outcome.

85. Senior Constable Lambert's evidence was that soon after they arrived and parked behind the Winks' residence, he saw Mr Winks come towards the house from the gully, waving a rifle. Senior Constable Lambert said that he then assessed this as a high threat situation as Mr Winks had a firearm and could have shot him at any time.
86. In his interview with ESC investigators, Senior Constable Lambert said that his first response to the high threat situation was to try to communicate with Mr Winks to get him to drop the rifle and come peacefully.¹⁶ Senior Constable Lambert's body worn camera footage confirms that when Mr Winks did not respond to his directions to put the rifle down, Senior Constable Lambert and Constable Zillman saw Mr Winks walk into the bush, and they retreated to the police car to put on their ballistic vests.¹⁷
87. Senior Constable Cook's evidence was that he heard the radio broadcast by police communications which advised that there was a situation involving a man armed with a gun. It was submitted on behalf of Mr Winks' family that I should find that Senior Constable Cook was in breach of service policy in checking out the rifle without prior authorisation. I am unable to accept that submission. It is premised on the assumption that a rifle is deployed when it is taken out of the police station. As noted below, there were competing views at the inquest about when deployment takes place. Accordingly, I consider that Senior Constable Cook responded appropriately by checking out a service rifle from the station before attending at the scene.
88. In his walk through interview with the ESC Senior Constable Cook said that, once he had arrived at the scene, he had assessed the threat level of the situation as extreme, because he became aware that Mr Winks had expressed his intention of trying to provoke a response from police – Mr Winks had said he wanted police to shoot him.¹⁸
89. Senior Constables Cook and Lambert both gave evidence that they discussed that the best response to Mr Winks would be to withdraw so as not to aggravate Mr Winks, to allow him time to calm down and possibly speak to negotiators. Senior Constable Gibb said that he had assessed the situation as one of extreme risk, and that he had discussed the situation with Senior Constable Burnett and come to the same conclusion – that police needed to withdraw. Inspector Cannon had formed the same view.
90. I agree that a tactical withdrawal was the appropriate response to give police officers distance and time in their efforts to resolve the situation. The importance of such a strategy when dealing with highly distressed individuals cannot be overemphasised. Unfortunately, Mr Winks' actions meant that police had no opportunity to complete that strategy.
91. Although Senior Constable Cook's body worn camera did not capture images of Mr Winks as he emerged from the gully with the rifle in his hand,

¹⁶ Exhibit D9 T29L955.

¹⁷ Exhibit D23 Video 1, 00:00 – 01:20.

¹⁸ Exhibit B3 T15L462 – 481.

it did record the verbal interaction which ensued between Mr Winks and Senior Constable Cook. The body worn camera footage confirms the evidence of officers at the inquest that Senior Constable Cook repeatedly tried to resolve the situation peacefully by asking Mr Winks to put the rifle down. Senior Constable Cook promised Mr Winks that he would not be handcuffed, and that he would be taken to hospital and not to jail.¹⁹

92. Senior Constables Cook, Lambert and Gibb could each see Mr Winks from where they were taking cover. They gave consistent evidence about Mr Winks' demeanour during his 4-5 minute exchange with Senior Constable Cook. It was clear that he was agitated, pacing from side to side, holding the rifle with his finger near the trigger, and waving the rifle around. All also gave consistent evidence in relation to events just before the shots were fired. Mr Winks suddenly stopped pacing and aimed the rifle directly at Senior Constable Cook. Senior Constable Cook gave evidence that, at that point, he was in fear for his life. Senior Constables Lambert and Gibb both gave compelling evidence that they believed that Mr Winks was about to shoot Senior Constable Cook and that they were in fear for Senior Constable Cook's life. I accept that evidence.
93. The evidence of Senior Constable Cook was that he chose to fire on Mr Winks because it was the only way that he could stop the threat which Mr Winks presented while remaining in a position of safety. He also said that he aimed his shot at the 'armpit hold', in accordance with QPS training, in order to "shoot to stop the threat".²⁰

Authorisation to deploy rifle

94. Submissions by Counsel for the Winks family explored whether appropriate authorisation was given for the deployment of the service rifle by Senior Constable Cook. It was suggested that Senior Constable Lambert, who advised over the radio that Senior Constable Cook should bring the rifle to the scene, did not authorise its deployment at the time the rifle was retrieved from the Warwick police station.
95. Under s 14.5.1(i) of the OPM, under the heading 'ORDER', the deployment of a service rifle may, in a tactically dangerous or high risk situation, be authorised by the police forward commander. Senior Constable Lambert's evidence was that, as the senior officer on scene he considered that he was the forward commander, and therefore in the best position to determine that a rifle was required at the scene.
96. The Police Commissioner's representative helpfully referred the court to s 1.12.3 of the OPM,²¹ which deals with the role of the police forward commander, and confirmed that Senior Constable Lambert was correct in his assessment of his role upon arrival at the scene.

¹⁹ Exhibit D19 Video 2 00:30 – 05:19.

²⁰ Exhibit B3 T33L1089 – 1096 and T34 – 35L1135 – 1170.

²¹ Admitted as exhibit C14 and subject to a non-publication order.

97. In addition, Inspector Cannon's evidence that he was subsequently contacted by Senior Constable Burnett and that his authorisation for deployment of the rifle was sought and given. As previously noted, Inspector Cannon's view was that the authorisation of the deployment of the rifle permits its removal from the rifle case so that it could be readied for use.
98. The evidence shows that the situation on the day arose quickly and unexpectedly, and was highly dynamic. The officers who arrived first on the scene expected to be attending a suicide, and were, instead, confronted with an armed man. Radio and telephone communications were patchy given the rural surrounds.
99. It is understandable that there may be questions about whether authority for the deployment of the police rifle was properly sought and given. As noted above, I consider that Senior Constable Cook moved quickly in response to a high risk situation. He appropriately sought authority to attend the scene with the rifle as soon as he could after leaving the Warwick police station. I consider that authority was given by Senior Constable Lambert as forward commander and that authority was confirmed within 10 minutes by Inspector Cannon and prior to Senior Constable Cook's arrival at the scene

Whether the presence of the service rifle 'escalated' the situation

100. At the inquest questions were raised about whether the police officers involved in this incident considered whether it was appropriate to bring a service rifle to the scene, given Mr Winks' specific request that he be shot by a police rifle rather than a pistol.
101. For example, it was suggested to Detective Sergeant Gillam by counsel for the Winks family that it would be best practice for the officers involved to have ensured that Inspector Cannon was advised of Mr Winks' request before his authorisation was given, so that that Inspector Cannon could give fully informed consent to deployment of the service rifle. Detective Sergeant Gillam agreed that it was best practice to get fully informed consent.
102. Senior Sergeant Hayden agreed that it would have been better for Inspector Cannon to have had that information in making his decision to deploy, saying that the more information available to the person making that decision, the better.
103. Senior Sergeant Hayden and Inspector Cannon differed in relation to whether Mr Winks' request to be shot with a police rifle was a relevant factor in making the decision to deploy a rifle. Inspector Cannon said that, in his view, it was not a relevant consideration. Senior Sergeant Hayden said that in his view it was a relevant factor. However, this was only one piece of information among many. His opinion was that piece of information should not minimise the officers' use of force options or prevent police gaining tactical advantage necessary to resolve the situation.

104. When this issue was explored with Senior Constables Lambert and Cook, who were making the decisions on the ground, both agreed that it was possible that, in the circumstances, bringing a rifle to the scene had the potential to inflame the situation. Both agreed that what Mr Winks had said about wanting to be shot by a police rifle was a consideration when determining whether the rifle should be brought to or remain at the scene. Each gave evidence that they considered that there was a balance to be achieved between potentially aggravating Mr Winks, and ensuring that the police had the adequate resources to properly respond to the threat posed by Mr Winks to the police and potentially to other persons on or near the property at the time. Their evidence was that, on balance, the safety afforded to police by the possession of the rifle outweighed the potential for 'escalation' of the situation. Both rejected the proposition that the rifle was not an appropriate use of force option in all the circumstances. Senior Constable Cook gave evidence that, once he had taken the rifle down to where the police car was parked, to withdraw it would have compromised his own safety and the safety of the other officers.
105. On one view of the evidence, it is easy to criticise the police response, with the benefit of hindsight, when it appears that police simply accommodated Mr Winks' demands to be shot with a police rifle. However, I conclude that the deployment of the rifle was unrelated to Mr Wink's request and was appropriately authorised. There is insufficient evidence to conclude that the presence of the rifle was the major factor that escalated the situation. I consider that it was the appropriate use of force option in the circumstances the officers faced on 17 November 2016.

Was the use of lethal force in accordance with the OPM?

106. As noted above, the inquest heard evidence from Senior Sergeant Hayden about his assessment of the techniques and tactics used by Senior Constables Cook and Gibb in the circumstances. Senior Sergeant Hayden attended the scene at the request of ESC investigators. He noted that deaths involving the deployment of service rifles were exceptionally rare, and that he was aware of only one other similar death in over 30 years of policing. He agreed with and adopted the analysis of the use of force used by the officers which was completed by Sergeant Lucas Finney.²² Senior Sergeant Hayden also anticipated that rifle use by officers was likely to increase having regard to the enhanced capacity of the Remington R4, and the need for police to respond effectively to threats such as active armed offenders. As the submissions for the Winks family emphasised, this also leads to the need for greater clarity in relation to the process and conditions underpinning the use of service rifles.
107. In his analysis, Sergeant Finney examined the officers' conduct against the QPS Situational Use of Force Model 2009 which is outlined at provision 14.3.2 of the OPM. Sergeant Finney found that the officers' use of lethal force against Mr Winks was, as is required by the OPM, authorised, justified,

²² Exhibit B4 – Statement of Sergeant Finney.

reasonable, proportionate and appropriate, legally defensible and tactically sound and appropriate. Sergeant Finney gave thorough reasons for his conclusions in respect of each of these requirements and I accept Sergeant Finney's conclusions, which have been endorsed by Senior Sergeant Hayden and explained at length in his evidence before the court.

108. I accept that that the police use of lethal force against Mr Winks was in accordance with the QPS 'use of force' policy that was in place at the time of Mr Winks' death.

Whether there were any 'less than lethal' use of force options open to the officers which they did not take

109. Evidence was given at the inquest that throughout the course of the operation, police attempted a range of less than lethal use of force options to peacefully resolve the confrontation with Mr Winks. As noted above, Senior Constables Lambert and Cook used tactical communication with Mr Winks to persuade him to put down the rifle. Senior Constable Cook sought the attendance of negotiators and Inspector Cannon had taken steps to put those arrangements in place. All officers who gave evidence indicated that that they were giving effect to a plan to safely withdraw police from the property.
110. Senior Constable Lambert's evidence was while he was at the police car after Mr Winks had retreated, he made further enquiries about negotiators, evidence which is confirmed by footage from Senior Constable Cook's body worn camera.²³
111. In his evidence, Senior Constable Gibb outlined the plan to remove the car keys from Mr Hardwick's vehicle before police could withdraw, but explained that, once Mr Winks approached again, it was no longer safe for him to try to reach the keys, nor could he and the other officers retreat safely to the house.
112. Senior Constable Gibb also gave evidence that he considered trying to use his Taser and his OC spray, but determined that he was too far away for either the Taser or the OC spray to be deployed unless he moved out of cover and put himself at risk. Senior Sergeant Hayden's evidence was that he had reviewed the 'less than lethal' use of force options open to the officers and agreed with their assessment of the situation.
113. During his interview with the ESC investigators Senior Constable Gibb summarised the difficult position that the officers found themselves in, saying that:

For the sake of thirty seconds or a minute we all would have been gone and we would have safely tactically withdrawn.²⁴

²³ Exhibit D19 Video 1 05:56.

²⁴ Exhibit B5 T75L2522.

Would better communication have enabled an earlier withdrawal?

114. It was submitted by counsel for the Winks family that better communication between the officers on the ground in relation to incident command might have allowed the withdrawal to happen sooner. Detective Sergeant Gillam's evidence was, in effect, that there are always improvements to be made, but that, in his view, the officers did their best in circumstances in which events unfolded very quickly, and in which radio and telephone communication was not always working. Detective Sergeant Gillam pointed out that it appeared that the various officers had formed a common intention to withdraw, and had started that process when Mr Winks reappeared. Detective Sergeant Gillam admitted that a central command post would have allowed more effective communication, but that there was not time to establish one.
115. Senior Constable Lambert's evidence was that he was acting as forward commander and, in this role, was co-ordinating the various officers who arrived as well as keeping up communication over the police radio. Senior Constable Gibb's evidence was that he and Senior Constable Burnett did have a discussion independent of Senior Constable Lambert during which they decided that they should withdraw. That information was then communicated to Senior Constable Lambert and all officers were working together to execute that plan.
116. I conclude that the officers acted appropriately in very difficult circumstances. I accept that each officer was working towards the common goal of de-escalation of the situation and withdrawal, and each officer proceeded as quickly as possible towards that goal while at the same time considering the necessary options to ensure the safety of officers and other persons at the property.

Availability of police negotiators

117. The issue of whether negotiators could have arrived at the scene sooner was also raised by counsel for the Winks family. It was suggested to Detective Sergeant Gillam that it would have been beneficial to have a negotiator on standby. Detective Sergeant Gillam's evidence was that this was not always possible depending on the resourcing of a particular station and police district.
118. Inspector Cannon was able to give evidence about the capacity of the Police District to request and deploy negotiators to any given situation. Inspector Cannon explained that because of the very large geographical area covered by his district (over 30000 square km) and the limited number of personnel available, it was not possible to have negotiators waiting at the station on standby. Inspector Cannon also gave evidence about the Darling Downs District Instruction as to the Deployment of Negotiators,²⁵ which provides

²⁵ Admitted and marked as exhibit C15

that, if a negotiator is needed, the District Negotiator Supervisor is contacted, and that officer will then arrange for the deployment of one of the three negotiators on call (including himself).

Should negotiators have been available to 'phone in' to the scene?

119. Detective Sergeant Gillam was also asked whether it would have been helpful, in a perfect world, for negotiators to have been in touch with Senior Constables Cook and Gibbs while they were engaged with Mr Winks. While Detective Sergeant Gillam agreed that this may have been helpful, he noted that those officers were required to manage a range of other priorities.
120. The issue was explored further with Senior Sergeant Hayden. His opinion was that it would not have been a particularly practical option, even if the technology was in place. Senior Sergeant Hayden's view was that Senior Constable Cook was already doing a difficult job well. Negotiators would not have wished to distract him by adding another layer for him to deal with. Senior Sergeant Hayden said that even if negotiators had arrived on the scene while the engagement with Mr Winks was ongoing, they would have likely let Senior Constable Cook continue with his exchange with Mr Winks until some sort of pause was reached.
121. Senior Sergeant Hayden assessed Senior Constable Cook's negotiation tactics on the day as very good. He said that he had used known negotiation techniques, made a genuine effort to understand Mr Winks' situation, and did his best to have him put down the rifle. I agree with that assessment. As noted by Mr Lloyd in his submissions Senior Constable Cook urged Mr Winks to drop the rifle on at least 25 occasions during their 4.5 minute exchange. He was respectful and empathic, telling Mr Winks that he had all the time in the world to achieve a peaceful resolution of the situation.
122. I conclude that there was no 'less than lethal' use of force option which was open to the officers involved in the situation which was not considered and attempted by those officers. I concur with Senior Sergeant Hayden's assessment of the situation which he gave in his statement:

I am of the view that [the officers] made a genuine and concerted effort to resolve this incident peacefully.²⁶

Findings required by s.45

123. 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 evidence, including the material contained in the exhibits, I am able to make the following findings:

²⁶ Exhibit B17, para 37.

Identity of the deceased – The deceased person was Russell Winks.

How he died -

Mr Winks had a number of personal, family and health issues which had affected him in the months and weeks before his death.

These issues had been causing Mr Winks significant cumulative stress, and he felt powerless to resolve them. On the day of his death these stressors came to a head when Mr Winks experienced difficulties arranging the transfer of money to his daughter, who was in custody.

Mr Winks left his house and went into a gully at the back of his property. Mr Winks had taken possession of a .22 calibre rifle. He informed his wife that he was going to shoot himself.

When his wife heard shots from the rifle, she thought that Mr Winks had shot himself, and called 000 at 4:16pm seeking ambulance assistance. Police were dispatched to Mr Winks' address at Charleys Gully Road, Freestone, and the first police crew arrived at the property at around 4:30pm on 17 November 2016.

After police arrived, Mr Winks walked towards them from the gully with his rifle. He yelled at police to shoot him. He also asked them to get a rifle as he did not want to be shot with a handgun. He ignored directions from police to drop his rifle, and walked out of sight back into the gully.

Although more police crews arrived, including an officer with a service rifle, officers had decided to effect a withdrawal to avoid provoking Mr Winks. As they were in the process of effecting a withdrawal, he walked from the gully towards police again. He was waving the rifle and walking back and forth erratically.

Mr Winks repeatedly ignored calls from police to drop his rifle, and repeatedly yelled at police to shoot him. When Mr Winks raised his rifle in both hands and pointed it at a police officer

with a service rifle, he was shot by that police officer acting in the course of his duties.

- Place of death –** Freestone in the State of Queensland.
- Date of death –** 17 November 2016.
- Cause of death –** Mr Winks died from a gunshot wound to the chest.

Comments and recommendations

124. Section s 46 of the *Coroners Act* 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.
125. On 20 October 2017, I made a number of recommendations in relation to issues identified in the inquest into the deaths of five men as a result of police shootings. These recommendations addressed a number of issues raised in the inquest into those deaths, and included review of and changes to QPS policy, procedures and training, QPS dissemination of information processes, relevant Queensland legislation, and ESC investigation practices.²⁷ The recommendations arising from those inquests have since been put into effect or are in the process of being implemented by the QPS and other agencies. Those recommendations were made after the circumstances which have been examined in this inquest. Counsel for the Winks family highlighted two of those recommendations as being particularly relevant to the circumstances surrounding Mr Winks' death – recommendations 1 and 11.
126. The first recommendation made in the 2017 inquest findings was that the QPS implement a model of incident command training for all operational police below the rank of sergeant. At the inquest Senior Sergeant Hayden agreed that such training would have been of benefit to the officers on the ground with Mr Winks. Senior Sergeant Hayden noted, however, that in dealing with the situation, most of the officers employed techniques which are now taught by the OSU to officers in annual officer training.
127. Recommendation 11 from the 2017 suite of recommendations was as follows:

The Queensland Government develop appropriate referral pathways, through an agency such as Victim Assist Queensland, to enable the families of those shot by police and witnesses to such events to be provided with counselling and support.

²⁷ Inquest into the deaths of Young, Kumeroa, Logan, Zimmer and Foster.

128. The Queensland Government response to that recommendation is set out on the Coroners Court of Queensland website.²⁸ The response indicates that the implementation of this recommendation is underway. The QPS refers families to a range of agencies including the Queensland Homicide Victims Support Group. The QPS also operates a Police Referrals process to enable officers to provide families with the option of a referral to local service providers. This inquest highlighted the challenges presented to frontline police in managing the scene of a shooting at the same time as providing support to family members who are present. I do not consider it necessary to make a separate recommendation about this issue, but urge those implementing recommendation 11 to consider the need for family members to receive crisis support at the time of the incident.

129. At this inquest, there were competing views in relation to the wording of the OPM and the understanding of the various officers involved of the meaning of the word 'deployment', which is used in section 14.5.1 in respect of service rifles. While I have concluded that the deployment of the rifle was authorised and in accordance with the provision, I accept that there is clearly some ambiguity in relation to the meaning of the word 'deployment'. The Commissioner's representative noted that the Commissioner had no objection to the suggestion that a review of the relevant provisions of the OPM was required. Although counsel for the Winks family submitted that I should redraft those provisions as part of my s 46 recommendations, I consider that the detail of the OPM is best left to the review by the QPS, particularly having regard to the wide range of circumstances presenting to officers in a State as large as Queensland.

I recommend that the QPS review the Operational Procedures Manual in order to clarify the use of the term 'deployment' with respect to service rifles, including the point at which authorisation is required and the criteria necessary to justify such deployment

130. I do not consider that there are any other useful recommendations that I can make connected with Mr Winks' death to prevent deaths from happening in similar circumstances in the future.

131. I extend my condolences to Mr Winks' family and close the inquest.

**Terry Ryan
State Coroner
Toowoomba
12 December 2018**

²⁸ <https://www.courts.qld.gov.au/courts/coroners-court/findings?root=505265>