



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Dulcie Isabelle Birt**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO(s): 2012/1780

DELIVERED ON: 21 March 2014

DELIVERED AT: Brisbane

HEARING DATE(s): 16 January, 24-27 February, 7,13 & 17 March 2014

FINDINGS OF: John Lock, Deputy State Coroner

CATCHWORDS: Coroners: missing person, body not found, conviction on plea of guilty for manslaughter, circumstances of death uncertain.

REPRESENTATION:

Counsel Assisting: Miss Emily Cooper, Office of the State Coroner

Counsel for Alwyn Gwilliams: Mr S Lewis i/b Ide Lawyers

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Introduction

1. Dulcie Isabelle Birt was 31 years of age when she was last seen on the night of 21 October 2009. She lived at Old Ipswich Road, Riverview along with her son, Shaun and a boarder, Damien Gill. Although her real name was Dulcie it is apparent many people referred to her by the name of 'Darcy'. In this decision I will adopt her real name of Dulcie.
2. Dulcie had a history of illicit drug abuse including heroin and it is apparent she was on the methadone program. The evidence suggests she may have been still using illicit drugs at the time of her death.
3. In the 2-3 months leading up to her disappearance, Dulcie had been in a sexual relationship with Alwyn Gwilliams (Gwilliams), 40 years of age. Mr Gwilliams lived in Bundamba with his de facto partner, Vivian King.
4. Ms Birt was initially listed as a missing person. On 25 October 2009, Mr Gwilliams provided an initial statement to police denying any knowledge of Ms Birt's whereabouts. The investigation turned into a murder investigation.
5. On 8 December 2009, Mr Gwilliams provided a further statement to police and also participated in a field interview. Mr Gwilliams admitted to unlawfully killing Ms Birt (in the context of a car accident in bushland at Riverview) and then disposing of her body at Jacobs Well. Her body has never been found.
6. Mr Gwilliams was charged with murder (with manslaughter charged in the alternative) and interfering with a corpse. The Crown engaged multiple forensic crash experts to analyse the damage done to Mr Gwilliams' car, a dark green Mitsubishi Triton utility. DNA evidence was also obtained. On the morning of day one of the trial in the Supreme Court, the Crown accepted pleas of guilty to manslaughter and interfering with a corpse and the murder charge was discontinued. On 22 February 2013, Mr Gwilliams was sentenced by His Honour Justice Byrne to 10 years imprisonment. He was declared a serious violent offender.
7. It is apparent from the transcript of the hearing before Justice Byrne that the ultimate Crown submission was that the defence explanation, namely that Mr Gwilliams was a drunken man, known to the police and who panicked and disposed of the body, was not to be accepted. However, the Crown submitted it could not establish by any reliable evidence how in fact Dulcie came to meet her death. All the Crown Prosecutor could say was that Mr Gwilliams' account was demonstrably false.
8. In his judgement dated 22 February 2013, Justice Byrne addressed the contest between the Crown and defence with respect to why Mr Gwilliams had lied. It was noted that Mr Gwilliams had been expressly afforded the opportunity to adduce evidence explaining the lies, but he had chosen not to do so.
9. His Honour did not accept that the instructions provided by Mr Gwilliams to his legal counsel were a truthful explanation for the lies. His Honour accepted that after Mr Gwilliams admitted that his conduct brought about Dulcie's death, the lies he related (in particular, about how Dulcie died and

where he had disposed of her body) were told because he perceived that the truth would reveal he had assaulted Dulcie and thereby killed her.

10. His Honour was persuaded that Mr Gwilliams assaulted Dulcie. He held that Mr Gwilliams' lies and concealment of the body meant that the true nature of the assault was to remain unknown. He could not conclude that there existed an intention to kill or cause grievous bodily harm. Nor could he conclude that the killing occurred in a brutal, protracted or degrading way.
11. Dulcie Birt's missing person/death status was first reported to the Office of the State Coroner on 23 May 2012.

Issues for inquest

12. A coroner has jurisdiction to inquire into the cause and the circumstances of a reportable death. If possible I am required to find:-
 - a. whether a death in fact happened;
 - b. the identity of the deceased;
 - c. when, where and how the death occurred; and
 - d. what caused the person to die.
13. Importantly in this case there appear to be a number of missing pieces of evidence, which makes problematic my ability to make the findings referred to above. Other than that I can be satisfied Ms Birt is deceased, I could not be satisfied as to how she died and what caused her death. It was for this reason that I decided to hold an inquest.

The scope of the coroner's inquiry and findings

14. Apart from the trial/sentencing hearing in the Supreme Court there were a number of other proceedings within the criminal justice system. This included committal proceedings in the Magistrates Court at Ipswich where a number of witnesses were cross-examined. This court has the benefit of the whole of the investigation material consisting of numerous exhibits, photographs, CCTV footage, expert reports, recorded interviews, over 200 statements of witnesses and court transcripts from both the committal hearing and in the Supreme Court. It is evident from the contents of a number of statements that some witnesses had been the subject of coercive hearings before the Crime and Misconduct Commission. I do not have transcripts or other details of those proceedings (with exception to the evidence of Elaine Hopper for reasons that will become evident), and would not expect to.
15. It would be an exercise in futility to exclude all reference to the fact that this matter has already been dealt within the criminal justice jurisdiction. However it is important to recognise there is a distinction between coronial inquests and criminal trials. An inquest is not a trial between opposing parties but an inquiry into the death.
16. The focus is on discovering what happened, not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred. To make clear the distinction in roles the *Coroners Act 2003* specifically states that a coroner must not include in the findings or any comments or recommendations,

statements that a person is or maybe guilty of an offence or is or maybe civilly liable for something.

The admissibility of evidence and the standard of proof

17. Proceedings in a coroner's court are not bound by the rules of evidence because the Act provides that the court '*may inform itself in any way it considers appropriate*'. That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information.
18. This flexibility has been explained as a consequence of an inquest being a fact-finding exercise rather than a means of apportioning guilt. As already stated, it is an inquiry rather than a trial. If a witness refuses to give oral evidence at an inquest because the evidence would tend to incriminate the person, the coroner may require the witness to give evidence that would tend to incriminate the witness if satisfied it is in the public interest to do so. The evidence, when given, and any derivative evidence is not admissible against the witness in any other proceeding, other than a proceeding for perjury.
19. A coroner should apply the civil standard of proof, namely the balance of probabilities but the approach referred to as the *Briginshaw* sliding scale is applicable. This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, then clearer and more persuasive the evidence needs to be for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.
20. It is also clear that a coroner 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. In this regard Mr Lewis made submissions at the conclusion of his involvement regarding his client Alwyn Gwilliams. It should be noted that for funding reasons Mr Lewis was only present for the evidence of his client and Vivian King.

Police investigation

21. The Queensland Police Service (QPS) investigation commenced as a missing person investigation, and then proceeded into a murder investigation.

Detective Sergeant McQueen

22. Detective Sergeant (DS) McQueen was the lead investigator. He provided a written statement as well as giving evidence at the committal and inquest. Alwyn Gwilliams was not the only person of interest in the case but this changed in the early stages of the investigation.
23. DS McQueen was involved in the engaging of all the experts and gave evidence concerning the evidence gathered and the extensive searches

made. The decision about the manner in which the criminal proceedings were concluded was not his and was taken out of his hands.

Evidence of Alwyn Gwilliams given to police

24. Mr Alwyn Gwilliams provided his first statement on 25 October 2009. At the time this was still a missing person investigation. He admitted he was with Dulcie until between 9.30 and 10pm on 22 October 2009 when he dropped her off at her residence at Riverview. He said he did not know where she was but details the conversations he said he had with Dulcie's son, Shaun with concerns about his mother and that she was missing.

25. Mr Gwilliams provided a second sworn statement about six weeks after Dulcie died. The statement was prepared by his lawyer and sworn on 8 December 2009 and provided to police. The matters raised in his second statement can be summarised as follows:
 - a. He and Dulcie had been drinking together;
 - b. They decided to go for a drive and a swim;
 - c. With Dulcie seated in the passenger seat, he drove his 4WD into the bushland across the road from her house;
 - d. Neither of them wore a seatbelt;
 - e. They were going pretty fast when he hit a dip, lost control of the vehicle and it hit a tree;
 - f. He felt something hit the left hand side of the car;
 - g. He came to a sharp stop into another tree;
 - h. He saw Dulcie slumped forward in her seat;
 - i. Blood was coming from a bad cut on the left hand side of her head;
 - j. There was blood on the dashboard;
 - k. He got her out of the car and performed CPR until he heard a gurgling noise coming from her;
 - l. She was not breathing, had no pulse and could not be resuscitated;
 - m. He put her body on the tray of the utility;
 - n. His vehicle was stuck, and he had no jack;
 - o. He went to his mother's house and borrowed her car to tow his ute out;
 - p. He told his mother what had happened and she said they had to call the police but he did not want to on the basis the police would not think it was an accident and he had been drinking.

- q. Afterwards he returned his mother's car to her;
 - r. He then took the lifeless Dulcie to Jacobs Well and put her body in the water there;
 - s. That he had not been thinking straight because he was intoxicated;
 - t. That he loved Dulcie and did not mean to kill her; and
 - u. That he would cooperate with Police and show them where he placed Dulcie's body.
26. Mr Gwilliams then took part in a lengthy field interview at the bushland area and then at Jacobs Well. He told police he had not argued with Dulcie that night. He said they were both drinking and he was an eight or nine out of 10 intoxicated. He had previously driven to this area to swim a number of times with Dulcie but was having difficulty recalling where they were. He said he had got his mother's car to pull the utility out. He took the utility back and then went and got a green Commodore at his house, took Dulcie to Jacobs Well in it, drove back and jumped on his pushbike to pick up the 4wd utility.
27. He also told police about the route he took to Jacobs Well, but unconvincingly. He showed police where he put her in the water and made reference to this being an area where he fished and had taken Dulcie before. He pointed to some mangrove trees and said he was that close to them he could touch them when he let her go. He had waded out to waist height.
28. He said he told his sister, Vicki the next day but no-one else. He told her to get rid of the Commodore.

Other investigation evidence

29. As a result of Mr Gwilliams' evidence, the police investigation obtained various civilian statements from family members and friends, forensic evidence and expert evidence from forensic crash experts, an engineer and a tidal expert. What can generally be said about the evidence is that witnesses, particularly from the Gwilliams family and their cohorts, have been reluctant to cooperate with the police during the investigation. Most of them gave multiple statements and it was not until they were called before the Crime and Misconduct Commission (CMC) that their statements became more fulsome. I hesitate to suggest that by being more fulsome they were also more accurate and truthful. My distinct impression is they were generally not being totally candid or truthful at the CMC or in this court. I formed a distinct impression some of those witnesses know more than they are prepared to acknowledge.
30. It is also evident the wider Gwilliams family are well known to the police and are well aware of police methods of investigation. There is evidence many of them were speaking to each other about their evidence during the investigation and encouraging some to say nothing to police. Alwyn Gwilliams had been particularly active in the week prior to the inquest and had been in contact with a number of family members giving evidence, some of whom he has not been in contact with for some years. He would be aware of course that any conversations with him in prison would be

recorded so I accept it is unlikely he said anything of particular note. However, a number of witnesses expressed concerns about their fears of possible retribution about giving evidence at the inquest. Understanding the criminal associations of the various family members and their propensity towards violence, I accept those fears are well founded.

31. Of some note is the evidence of a bushwalker who was walking in the Riverview bushland on the Saturday after these events. She came across a small pond which was accessible from a dirt track that began opposite Dulcie Birt's house. There were recent tyre marks in the mud leading into and out of the pond. A small tree nearby had been knocked over into the water.
32. Another witness was driving home from work close to midnight on 22 October 2009. He was travelling along Old Ipswich Road, Dinmore past St Peter Claver College. His attention was taken by lights in the bushland in the area opposite Child Street and saw a vehicle parked with its headlights on high beam. The vehicle was a one tonne utility with a tray back that looked similar to a Hilux or Rodeo shape. It was parked on a 35° angle. He was unable to see the colour. Some days later he saw police vehicles in the area and because what he had seen was at an unusual time of night he approached police.
33. Another witness was driving a truck on either Friday 23 or Saturday, 24 October 2009 to collect water from the Trans-Pacific landfill, which is commonly referred to as the old mines area on New Chum Road. It was about 6:30am when he saw a vehicle heading towards him on the other side of the fence. It came within 100m from him and he had a clear and unobstructed view of a dark green single cab tray back utility. He thought it was odd that it would be there at that early time, which to his mind usually means they were hooning around or there is trouble.
34. The witness continued to drive out onto New Chum Road and as he was approaching Pottery Road the same utility that had been in the mines area was now on Pottery Road and he could see it was definitely a dark green Mitsubishi Triton tray back utility 90's model. The tray had no sides and there was nothing in the back area. On 29 October 2009 he saw an article in the local newspaper indicating that police were looking for information on the same vehicle he had seen that day and he contacted police.
35. On 25 October 2009 a Scenes of Crime officer took photographs of Alwyn Gwilliams particularly showing scratches on the left side of his face as well as scratches and bruising on his right and left arm and bruises to his back. Gwilliams said that he got the scratches at work. However a number of his workers state that they do not recall him having any injuries from his workplace at the time. Furthermore, a number of witnesses, including child safety officers who were present in the park at the contact visit on the afternoon of 22 October 2009 have no recollection of Gwilliams having any scratch marks on his face.

Forensic inspections of various motor vehicles

Motor vehicle belonging to Mr Gwilliams' mother, Elaine Hopper

36. The car belonging to Mr Gwilliams' mother, Elaine Hopper, was examined. It is a white Daewoo Nubira. There was no major damage. The engine exhaust pipe and transaxle oil pan had recently been damaged. A small rock was lodged in the front section of the oil pan. The floor pan and sub-frame showed indications that the vehicle had been driven off-road.
37. The inspector considered that using a snatch strap or like device and under good traction conditions the vehicle may be capable of providing a short jabbing tow which may be enough to nudge or move a stuck 4WD so that it could gain traction for self propulsion. If a long recovery tow was required the vehicle alone would not be able to gain enough traction for self propulsion and four-wheel-drive recovery.
38. The front tyre tread showed no signs of tread scuffing or scarring from wheel spinning. The inspector was unable to give an accurate assessment as to whether the vehicle had been used for towing a stuck 4 WD. Samples taken from the vehicle did not lead to any partial or full DNA profile matches.

Mr Gwilliams' utility

39. Mr Gwilliams' dark green Mitsubishi Triton utility was forensically examined by scientific and other officers. The examination found as follows:
 - a. A partial DNA profile matching Dulcie was found on the front driver's side quarter panel. A full DNA profile matching her was located on the vinyl flooring under the front driver's side edge of the passenger seat and on the passenger side adjustment lever. These small stains tested positive for blood;
 - b. The utility had sustained minor damage – in fact the limited extent of it was not consistent with a fatal car accident. Damage to a steel bullbar was isolated to one area, suggesting impact with some thin, solid, hard object at low speed. The soft wood of a tree would not make such a mark. There was no major damage to the undersections of the vehicle such as would be consistent with a serious impact.
 - c. The front left-hand upper section of the tray had been forced back slightly through impact. The left drop side of the tray was missing. A collision analyst (John Ruller) concluded that the damage to the rear tray support post and tray was consistent with a low speed impact to the left upright support post with an object similar to the end of a piece of timber 6cm wide;
 - d. There was slight scuffing to the left hand side of the bullbar that may have indicated a brush with a tree;
 - e. The broken tree discovered by the bushwalker near the pond was consistent with a glancing blow. Little force would be required to push that tree over to the position where it was found;
 - f. There was damage to the passenger side running board; and a dent in the underside. This was consistent with contact with a solid object on

the ground, such as a tree branch or uneven ground. The damage to the passenger side of the tray uprights was consistent with an overhead projection, such as a tree branch, having been clipped by the moving vehicle when being used off-road;

- g. There was damage to the hinge on the passenger side of the tray, which indicated that the passenger side gate and the rear gate of the tray were in place at the time. The tray upright had struck the top of the passenger side gate, which forced the gate rearwards – the damage was consistent with low speed impact. The damage to the support post on the tray was not present whilst Mr Gwilliams was at work on Tuesday, 20 October 2009. CCTV footage of Mr Gwilliams' Triton motor vehicle being driven around Ipswich on 21 October 2009 also does not appear to show any damage to the tray upright and the tray had rear and left and right sides.
- h. The rear and right side tray sides were later found in Gwilliams' garage. If the left side tray came off in the bushland it would have been located during the extensive searches that were carried out.

Green Holden Commodore

- 40. Mr Gwilliams' second statement is strangely silent as to which car he used to move Dulcie's body to Jacobs Well. He told police during the field interview that he had taken the body to Jacobs Well in the boot of his green Commodore. He claimed that the vehicle had been at his place at Bundamba on the night of the death. He said he used his pushbike to go back afterwards to get the 4WD utility.
- 41. Alwyn's father, John Gwilliams stated to police that the Commodore was in fact at his place at Gales until around about 29-30 October when Mr Gwilliams took it away (to sell to his sister, Vicki and Chris Fulton).
- 42. The Commodore was forensically examined. There were no blood stains in the boot consistent with a body having been transported in it. The absence of blood in the boot is surprising if it was used at all. Vicki Hopper's evidence is that when the car was provided to her and Chris, the carpet in the boot had been cut out and Mr Gwilliams had asked her to put petrol through the boot before the police found it.
- 43. By John and Gwilliams' accounts, the Commodore was either at Bundamba or Gales on the night of 21 October 2009. Bundamba is 6km from the bushland; Gales is 15km from the bushland.
- 44. If Mr Gwilliams' account is to be believed, after returning his mother's car to her house, he then returned to the bushland on foot, after which he walked to get the Commodore. He then drove the Commodore to the scene of the accident, put Dulcie's body in the boot and then drove the 70km to Woongoolba and disposed of the body. He then drove back to his house at Bundamba in time to arrive by about 6am and then went and got the 4WD utility from the bushland. He did all of this whilst heavily intoxicated and presumably, given the crash which occurred earlier, in an impaired state to drive.

Evidence of other witnesses

Damien Gill

45. Damien Gill was a boarder at Dulcie's house. He provided three statements to police. He was aged 17 at the time. He said he was a friend of Shaun Birt, and they met in 2008 around the local Riverview area. Eventually he came to live with Dulcie and Shaun at 76 Old Ipswich Road, Riverview. Shaun was living with Dulcie in the six months leading up to her death and they met 'Ally' (Mr Gwilliams) about 2 ½ months before the death.
46. He said Ally would be at the house almost every night and Ally and Dulcie were in a relationship. Ally would often leave early in the morning. Damien thought that Ally was the nicest guy he had seen Dulcie with as he would help him and Shaun with their bikes and paid attention to them.
47. Ally and Dulcie would argue, and there were two serious arguments that Damien could recall. The first fight was serious with a lot of loud voices and resulted in Dulcie being assaulted by Ally giving her a massive black eye.
48. The second fight happened on Wednesday night 21 October 2009. Shaun and Damien got home between 6pm – 7:30pm and he could hear them arguing. It was just firm talking at first and then got worse with them both yelling. The boys went to their rooms and turned the music on but it was not loud enough to fully drown out the yelling.
49. Damien says he could hear Dulcie crying; and from what he could hear the fight was about Dulcie lying to Ally and something about Ally getting a phone call from one of Dulcie's drug dealers. Damien heard Ally say 'Dulcie if you don't answer me I will smash the window'. He then heard smashing glass. Damien left his room and saw Dulcie sitting on her bed crying. She asked to be left alone. Damien looked through Dulcie's front bedroom window and could see out into the yard. He saw Ally sitting in his utility and the light was on in the vehicle.
50. He then heard Ally call out to Dulcie 'come downstairs, we're going for a drive' and Ally repeated it. Dulcie walked out of her room, told Shaun and Damien that she loved them and then he saw her get into the passenger side of Ally's utility and they drove off going towards Redbank. The time was at about 9:30 – 10pm.
51. In his second statement he added further detail about Gwilliams and the argument he was having with Dulcie about ringing her drug dealer. He made reference to him yelling 'don't you understand what I have just done'. He then yelled 'how would you like me to cut your head off and let blood drip all over his doorstep'.

Shaun Birt

52. Shaun Birt was Dulcie's son and he lived with her. He also confirms there was an argument on the night of Wednesday 21 October 2009, which Damien Gill gave detail about. Shaun's evidence was not as clear as that of his friend Damien in respect to his recollection of these events.
53. He said that he had seen her with bruises on her arms and legs but she would not say how she received these. There were incidences where there

was lots of yelling and arguing between the two of them although he had not personally seen any physical violence. The arguments were usually about his mother allegedly lying to Ally about her using drugs and other things.

54. On the night of 21 October 2009 he recalls that Gwilliams left the house at some point and he went to bed and his mother was watching movies. He did hear some glass breaking but any further discussion did not sound heated. The argument was coming from outside. He says he then heard the passenger side of the utility open up (it had a distinctive sound) and presumed his mother had gone out.
55. He said it was not unusual for Ally and Dulcie to go for a drive when they were having a fight so he did not think anything of it when he heard the car start up and drive away. He went back to sleep and was woken up later in the night by the dog barking. He said he saw Dulcie walking into her room and he asked her if she was going to bed to which she said that she was. That was the last time Shaun saw Dulcie. He cannot recall exactly what time it was but it was still Wednesday night.
56. Shaun confirmed that he used his mother's telephone to make a number of telephone calls to his foster sister Katie Hayward between 8:48 and 10:17pm. He says he does not recall making any calls to Gwilliams on his mother's phone that night. Records indicate calls were made from Dulcie's phone to Gwilliams at 9:08:36 (35 seconds) and 9:48:52 (01:34 seconds). He does not recall receiving any telephone calls from Gwilliams at 10:19, 11:23 and 11:44, which appear to have been made to his mobile number.
57. The next morning he woke up just before 10am and he walked into Dulcie's room. The door was shut as usual. He opened the door and Dulcie was not there. The bed was made and her phone was on the dresser. Her purse was on her bed with her little black bag. He said it was unusual for his mother to have left the house without her wallet and her mobile telephone. A number of witnesses (Faulkner, Gill) gave similar evidence.
58. Both Shaun and Damien were riding their motor bikes on 24 October in the bush near the Riverview School when they came across Ally in his utility. Ally said he had come from Redbank Plains and was cutting through.

Vivian King (Gwilliams' de facto partner)

59. Vivian King provided two statements to the police with the second statement being largely more detailed and forthcoming than the first. It was said that in early 2009 (although the details of the date are somewhat unclear) Vivian was involved in a traffic accident, which left her with an acquired brain injury, and she required ongoing medical treatment however she was able to work as a cleaner. She was not called to give evidence at the committal (as she was deemed unreliable by the prosecution because of her brain injury). She was called to give evidence at the inquest and she largely confirms aspects of the statements that she provided. Although her evidence was considerably muddled at times and it may be difficult to place a great deal of reliability on all aspects, in my view there was a ring of truth about what she had to say.
60. A summary of Vivian's evidence as contained in the statements is as follows;

- a. She had been with Gwilliams since 2001; they began contact with each other whilst she was incarcerated at Brisbane Women's Correctional Centre;
- b. She had often suspected Gwilliams of having an affair but could never prove anything;
- c. She also confirms that Gwilliams had been violent towards her in the past. She recalls an incident only weeks before the death when the two of them had a fight and he pulled up behind a building at West Ipswich, pointed to some bushland behind the building and said 'that's where they'll find you dead'.
- d. In her second statement she provides information about Gwilliams' movements after the disappearance of Dulcie and also conversations with Gwilliams.
- e. She said before the police took the utility she saw what she thought was blood in the front passenger area. Ally said it was mud. He later cleaned the car. After the vehicle was taken by police she asked what was going on and he said they must not have found his DNA as he had used a cleaning product.
- f. She learnt about a missing woman and another male. He told her he had killed them. She later saw a story on television about the missing man and Ally said he was the person he had killed.
- g. He also told her he had gone to the missing woman's house and broken her neck and had trouble burying it because the body was hard. He told her that initially Dulcie's body was in bushland near Dinmore.
- h. He then moved it to the Durack area – left early one morning to make sure the body wasn't sticking out or showing – he said it was in a cave (in her evidence she confirms this relates to mines).
- i. Gwilliams had also said that the body was at the Willowcrest Kennels where Vivian used to work and where everyone rides their bikes.
- j. She also said every time Gwilliams had returned from moving the body he told her how his hands had stunk.

Soona Faulkner

61. Soona Faulkner was Dulcie's best friend, and lived down the road. She provided three statements and was cross examined at the committal. She describes what she knew of the history of Dulcie and her relationship with Gwilliams. This suggested a number of incidents of domestic violence and she describes the injuries Dulcie would present with including fingermarks on her arms, bruising around her neck and jaw and bloodied gums. She had personally seen extensive bruises to her chest, back and thighs whilst Dulcie was in the shower. Dulcie told Soona that he hit her when he got angry with her. She could see that Gwilliams was very possessive and controlling of her and she told Dulcie, when showing her a domestic

violence poster, that this was the same pattern of violence and control he was showing.

62. Dulcie told her that she thought he was following her at times and she recalls an occasion when Gwilliams admitted this to her (Soona). He used to abuse her and called her a slut. Soona recalls a conversation Gwilliams had on the phone with her when he was rambling about other men and said something like 'I'm gonna kill the bitch. I had enough'. She recalls that he said this in a very intense manner.
63. She recalls a previous altercation described to her by Dulcie when Gwilliams took her into the bush and tied her up. The Friday before Dulcie went missing, a person she knows as Gary left his car at her house whilst he rode his motorbike in the bush. When he came back he had a rope with him that he found in the bush behind the school. She took it because she wanted to show Dulcie in case it was a rope he had used on her. The rope was analysed by police and a sample of brown coloured hair on the length of rope provided by Soona Faulkner showed a partial DNA profile match to Dulcie.
64. It is also apparent that Dulcie had fallen pregnant and Gwilliams was the likely father. Soona had seen a positive pregnancy test. It appears she was likely to have been present when Gwilliams brought Dulcie to her house whilst she was having a miscarriage. Dulcie had told her that Gwilliams was not happy about her being pregnant and that he kept asking her how she knew it was his and that he didn't trust her.
65. She also details the various phone calls received from Dulcie on 21 October 2009. There had been a number of text messages sent about Faulkner wanting \$15 from Dulcie for the purchase of some rum (in evidence revealed as homebrew). Soona last spoke to Dulcie at about 8pm on Wednesday night 21 October 2009. Telephone records indicate that two calls were made from Dulcie's telephone to her at 10:15 and 10:17, which she did not pick up. She then made a call at 10:17:51 to Dulcie but there was no answer. She then received an unusual and short text message from Dulcie's phone at 10:34:54 saying 'I am not coming home'.

Vicki Hopper

66. Vicki Hopper was Gwilliams' sister. She provided three statements and was cross examined at the committal. At that time she was in a de facto relationship with Christopher Fulton. In her first statement of 31 October 2009, she details the events of 24 October 2009 when Alwyn Gwilliams arrived at her place in the middle of the day with his green utility and asked if she could look after the motor vehicle for a few days as the taillights were not working. At the same time he requested she send a message to their mother asking her to pick him up. He had never dropped his motor vehicle at her house before. The utility was put in their garage.
67. On the following day around 5:30pm she was walking away from the house when she received a telephone call from Lea Raynor saying that detectives were coming over to the house and for her to move the motor vehicle out of the driveway and onto the road. By the time she got back to the house police were present and the vehicle was being placed on the back of a tow truck. She said she did not know what had happened to Dulcie.

68. In her second statement taken on 5 December 2009, she conveniently now remembered that the messages sent to her to move the motor vehicle included also telling the police that she did not know where it was or why it was there. She says that she had seen a newspaper article with a photograph of the utility and of Dulcie in the motor vehicle. She asked Gwilliams what was going on and he said it was an accident and it wasn't meant to happen. She said she had not spoken to him about the matter again but had her own suspicions that he was involved.
69. In this statement she also talks about arrangements she made with him to buy his green Commodore for \$1000. He said he had left it at Wacol. The next day they drove to Wacol into a small side street, which she thought was strange but she took the car and drove it home even though it had no plates on it. Gwilliams told her that his half sister, Evelyn had owned the motor vehicle. A few days later she noted that the carpet of the boot was gone. The car was seized by police.
70. Her third statement was taken from evidence she gave at a Crime and Misconduct Commission hearing on 12 December 2009. She said she had not lied in her previous statements but had left some things out because she didn't want to get herself or her brother into trouble.
71. In this statement she refers to an occasion when she gave Dulcie a lift and noted she had a big black right eye. Dulcie said that Gwilliams had given this to her. She also recalls a conversation between Gwilliams and their mother about him having punched Dulcie because she had been seen with another man and that Gwilliams had said he was jealous.
72. She also stated that she had not been fully open with police surrounding the events of 24 October 2009. She says that in the early afternoon she heard banging on the garage door and heard her brother yelling out to open the door. She did and he drove his utility in and yelled at her to shut it. She asked why and he said he had an accident and to contact their mother.
73. She saw her de-facto Christopher Fulton talking to Gwilliams about getting rid of the car if he (Gwilliams) rang them later that night to get rid of it. He asked Fulton to burn the car. The car smelt a lot like petrol. Christopher Fulton agreed to burn it. Gwilliams told her that he had an accident and eventually said that Dulcie was with him and he hit a tree and she broke her neck. He said he tried to resuscitate her. He said they were bushbashing in Riverview and were both drunk. She told him she did not want the car left there. He said he would pick it up but police arrived before he did.
74. She asked him where the body was but he did not say. She asked him why he did not take her to hospital or to the police and he said that they wouldn't believe him because of his record and he would go to jail. She thought that the body must still be in the bush. He had dirt scuff marks on him like he had been in the bush. Gwilliams had told her not to go to the police.
75. She then states that Lea Raynor rang her telling her to get the car and push it down the road or out of the way but just get it out of the garage. Raynor said the detectives were following them. Vicki then took off away from the house and was walking across the road when she saw them arriving in her mother's motor vehicle with the police behind them and she kept walking.

76. She then told Gwilliams that she had told the police that she had purchased the green Commodore from him. He said to her that she may as well say goodbye to the car and that she should flush the boot with petrol before the police get hold of it. She said the boot had no carpet in it. It had been cut out. Gwilliams had previously thrown a spray bottle into the boot and it smelt like deodorant. She asked him why she should clean the boot out with petrol and he said because there were 'bloody clothes and shit in there'. She asked him if he had used this vehicle also and he denied this but she was still suspicious. She also states that Gwilliams had not threatened her but he did say not to talk to the police or tell them anything. Gwilliams later telephoned her and had a conversation about her having spoken to the police and he was apparently not happy.
77. In her evidence at the inquest she confirmed the injuries and the black eye that Dulcie said Gwilliams gave to her. She told Dulcie that she should not put up with that and to get out but Dulcie said she loved him.
78. In relation to the events of 24 October 2009 she again gave a slightly different version until her last statement was put to her. She agreed that he arrived at her house banging on the door and yelling to open up the garage. She said her brother looked scruffy and messy and thought he may have been in the bush.
79. In evidence she gave relatively consistent evidence based on her last statement although she also included additional information that he told her the body was at Jacobs Well. She was unable to explain why this had not been included in any of her previous statements. It was suggested to her that she must have believed that Gwilliams was trying to hide the motor vehicle and she believed that was the case.
80. In relation to the green Commodore she said that the arrangement to purchase it was made after the police had taken his utility and she had given police the first statement. Gwilliams told her to give it a good clean and to flush the boot out with petrol. She agreed she was suspicious that there was no carpet and that this vehicle had also been used.
81. She stated she had not been in contact with Gwilliams for years but last week a request had been made for her to be placed on his prison telephone list. She had not spoken to him yet. Her mother told her that he had tried to get in contact with her.

Christopher Fulton

82. Christopher Fulton, Vicki Hopper's defacto, provided two statements and was cross examined at the committal. He also gave evidence at the inquest. At the time he was in prison and gave evidence by video link.
83. He said Alwyn had brought the green Mitsubishi Triton over on 24 October 2009 and Gwilliams asked him to burn it when he told him to. He agreed.
84. Interestingly, in his evidence his agreement to burn the vehicle seems to be based on the fact that although he suspected it had been used in some crime, such as a ram raid on a chemist for drugs (which apparently he was okay with), it was not until he saw news reports that this may have been a

vehicle police were looking for in relation to Dulcie's death. He now takes the view that Ally was trying to set him up for a fall. This vehicle was then seized by the police. Fulton was apparently interested in buying the vehicle from Alwyn also but when it became unavailable Gwilliams sold them the green Holden Commodore around 14 or 15 November 2009. They paid \$1000 a day later. Vicki said that Gwilliams had wanted her to clean the boot out with petrol. Vicki did not want the utility because she had known Dulcie's body had been in it.

Elaine Hopper

85. Elaine Hopper is Gwilliams' mother, and the owner of a white Daewoo Nubira allegedly used by Gwilliams to pull his utility out from where it had bogged. She provided four statements to police and was cross examined at the committal. In her first statement provided on 28 October 2009 she states that it was on Friday, 23 October 2009 early in the night that she received a telephone call on her mobile from Ally telling her that Dulcie was missing. She got a call from him a few hours later to say that Dulcie had just rung although she had not spoken and it was just that her name came up on his screen. He later told her that it was the police ringing her phone. In this statement she makes no reference to Gwilliams coming to her house on the early morning of 23 October to borrow her car.
86. In her second statement given on 5 December 2009 she said Ally told her he had killed Dulcie in a bush bashing accident with a tree and hit her head near the windscreen. She encouraged him to go and tell someone what had happened.
87. In her final statement Elaine Hopper gives effect to the CMC coercive hearings and states that in her previous three statements she was not fully forthcoming to the police. It could therefore be presumed the last statement is the most accurate and all other inconsistent evidence found in earlier statements is false. The alternative scenario is that what she said in her first statement is the most accurate and the following statements are simply building on a story to support her son and his version that it was a car accident.
88. She says she found out something had happened on 21 October 2009 when Ally told her he had an accident and killed Dulcie. He had attended her residence at 12 to 12.30am and asked to borrow her car to tow his vehicle out of the bush. She could smell alcohol on his breath and he admitted he had been drinking. He later returned with her car and told her about the accident. She says she encouraged him to go to the police on the basis it was an accident. She denied that she sat down with her son and worked out a story to show it was an accident.
89. In this final statement she expresses her concerns and worries that Gwilliams intentionally hurt Dulcie and that she isn't sure if Gwilliams is being truthful. She also stated in the statement that she was not sure if Gwilliams was being truthful to her and the fact that he didn't go straight to the police made her curious about what had really happened. When he said he was going to Jacobs Well she knew he had moved her and this also made her suspicious. When those parts of her statement were put to her during evidence at the inquest she stated that those statements were lies and that this was completely untrue. When asked whether or not she had

read her statement, which presumably also met up with evidence she provided to the CMC, she stated she did not read it and although parts of it were true this part was again lies.

90. DS McQueen was recalled to give evidence about how the statements were prepared. He confirmed the statements were based on the evidence provided at the CMC hearing and she had certainly appeared to have read the statement. In addition, the recording of the CMC hearing in relation to this portion of the evidence was played in court, and clearly supports that this was the evidence she provided to the CMC.

John Gwilliams

91. John Gwilliams is Gwilliams' father. He provided two statements to police and was cross examined on a very specific point at committal. In his final statement he gives effect to the CMC coercive hearings. He admitted in his evidence that the family were no strangers to police. In relation to his son he agreed that Alwyn had been doing a lot of drugs in his younger years as well as drinking a lot. He could also be violent at times if provoked or affected by drugs or alcohol. He was aware he had been violent towards a former girlfriend and was jailed as a result.
92. He then details the admission by Gwilliams that he killed Dulcie by hitting a tree and panicking. He also said he had never heard anything about Gwilliams having any guns but some months prior to Dulcie going missing Gwilliams had told him that Dulcie dobbed him in about having a gun and police searched his place and found some bullets. He was asked some further questions at the committal hearing and he stated that the reference should have been to Gwilliams's partner, Vivian and not Dulcie having dobbed him in.
93. John Gwilliams also stated that he had a conversation with his daughter, Evelyn (who was in jail for armed robbery) about Alwyn Gwilliams wanting to buy her green Commodore that had been sitting in his yard. Alwyn had apparently made a deal with her that he would pay \$800 for it at \$100 a week. The first time Alwyn took the car out of the yard was on Thursday 29 or Friday, 30 October 2009 and he had a conversation with Evelyn about the car on 31 October. This was because the police had seized Alwyn's Green utility that day. In his evidence John Gwilliams confirmed this as his evidence and he certainly recalls that the motor vehicle was collected by his son during the day and certainly not at night or in an early morning situation.

Lea Raynor

94. Lea Raynor is Gwilliams' other sister. She also provided two statements to police. She knew Dulcie through her mother and had become good friends with her over a period of 12 months but they had a falling out three months previously. Nevertheless, she saw Dulcie five times in that period and on two occasions she was with Gwilliams. On 25 October 2009 she went with Gwilliams for a drive in her mother's car. At that time Gwilliams told her that the police wanted his car in relation to Dulcie being missing.
95. In her second statement, again after the CMC hearing, she agreed that she had not disclosed her full knowledge of the incident when she gave her first statement. Gwilliams told her they were bush bashing and driving around when they had an accident and Dulcie died. HE said she had a heart beat

but was not breathing. He said he had not called an ambulance because he was scared and had been drinking.

96. She also agreed she had not given a truthful account in her first statement about certain text messages she sent. In her second statement she agrees she was told by Gwilliams to send a text message to Vicki and Chris Fulton telling them to get rid of the car because the cops were on their way. At the committal hearing she agreed with the suggestion the text was on the lines of getting the car out of the garage and putting it on the road and not about getting rid of it. The purported reason for this was that Chris Fulton was a drug user and her sister's partner and she did not want police going through the house and finding anything that shouldn't be there. I do not place any real reliability on this explanation.
97. In her evidence she also added that he had taken the body to Jacobs Well and he had told her not to tell the police anything. She was asked whether she was suspicious of any of these things and she said only that he had moved the body and not that it was an accident.
98. With respect to the calls and text messages made to Vicki she again put a gloss on this on the basis that he was trying to protect her.
99. She was also another person who spoke to Gwilliams on the telephone from prison the week before the inquest.

Ian O'Halloran

100. Ian O'Halloran was dating Gwilliams' brother Michael at the time. In his first statement made on 20 November 2009 he gives evidence about a heated argument between Tamatha (Gwilliams sister) and Gwilliams one night about three weeks previously. The argument appeared to revolve around a motor vehicle that Gwilliams wanted back because it was his and that Evelyn should not have sold it. In his statement, which he confirms in his evidence, he said Gwilliams said 'I'll make sure what happens to you is what I did to Dulcie' and Gwilliams admission that he had picked her up from her house and took her to Green Lakes and killed her.
101. Tamatha Gwilliams rang Ian last week saying that she hoped he was not going to get involved in the court case.

Tamatha Gwilliams

102. Tamatha Nicole Gwilliams was also a sister of Gwilliams. She also provided two statements, the second one based on her evidence at the CMC hearing. In her first statement she said she had heard from her parents that the police had found Dulcie dead and that her brother was wanted. She had also heard from others on the street that other people had not heard anything about Gwilliams being involved in the disappearance of Dulcie other than what her father had said and this was from police coming to the house to try and find Gwilliams. She also had seen the newspapers and a picture of Gwilliams' green utility. She gave evidence that she spoke to her sister and her partner (who are both in jail) and she told them that police had come to her parent's house and told them they had found Dulcie in bushland with a shot gun wound to the head and that Gwilliams was responsible. She recalls saying to them on this occasion and at other times that she did not think he had done it. She was aware that the police had

searched her parents' house for guns previously but she did not know if Gwilliams had or owned any weapons or had access to them.

103. In her second statement she said she had met Dulcie once in early October 2009. She had read about the missing person in the newspaper. She saw Gwilliams on 26 October 2009 around 7:00am when he came to her house. Gwilliams accused her of something related to money she owed for a car. It is apparent that she was purchasing a silver Holden Gemini from Gwilliams by instalments. She then asked him if he knew anything about Dulcie's disappearance. He told her something about his green utility and that someone had found his tray or something and they kept saying it was missing. Gwilliams said in relation to Dulcie that he loved her and would really miss her and hoped they found her alive. He said he had dropped Dulcie off at home at 10:30pm and had given her \$300 because her boyfriend was sending threatening messages. He said he and Dulcie had never argued.
104. She recalls receiving a call from Gwilliams early in November 2009 where he told her she did not need to provide a statement to police because she didn't know Dulcie.
105. On 22 November 2009 she received a telephone call from Gwilliams saying that he had seen a statement where she had doxed him in. She denied this and said he had the wrong statement.
106. Tamatha Gwilliams was not able to be personally served with a summons to appear at the inquest. I was however, satisfied after hearing evidence from DS McQueen that she was intentionally avoiding service and she knew she was to appear at the inquest on a particular date, time and place. A warrant was issued for her arrest to be brought to court to give evidence.
107. She was brought to court on the warrant and I heard her evidence on 17 March 2014. She was generally uncooperative. In particular she denied any conversation took place between her and Gwilliams as suggested in the evidence of Ian O'Halloran and denied he was ever present on the day alleged.

Evidence of Alwyn Gwilliams given at the inquest

108. Alwyn Gwilliams took an oath and gave evidence. He did not claim any privilege against self-incrimination. This was the first occasion Gwilliams has ever given evidence in court about the events that took place in 2009.
109. He identified the two written statements he had signed. He had known Dulcie Birt for 15 years. She had been a previous lover many years ago and then more recently. They both used drugs such as cannabis, amphetamines, cocaine and ecstasy. She also used heroin. He said he was trying to help her get off this drug. He said the other drugs were not as addictive as heroin. He also described their alcohol habits and that she drank every day including bourbon, beer, and rum. He seemed to suggest the two of them could drink more than a carton of beer together in a normal session.
110. He denied that they ever argued. He said there were some disagreements with helping her get off heroin and referred to a particular disagreement

about him giving her \$250 to pay a gas bill. He denied they argued about her having relationships with other men. He stated he was sleeping with other women.

111. He denied ever having an argument with Dulcie whilst Shaun or Damian were home. He denied having ever hit her.
112. In relation to the allegation of Dulcie telling witnesses that he had hit Dulcie and given her a black eye he stated the witnesses were wrong and Dulcie would never have said that. He was asked if he had ever seen her with a black eye and he stated he had only seen her with a bruised cheek.
113. He denied ever having said to Soona Faulkner words to the effect that he was 'going to kill the bitch and he had enough'.
114. He denied ever taking Dulcie to the bush and tying her up as alleged by Soona Faulkner. He denied ever punching her in the abdomen at a time when she may have been pregnant. He agrees he did take her to Soona Faulkner's house one night when she was bleeding heavily but said this was from her having a menstrual period and soon after Dulcie had been involved in a motor cycle accident.
115. He denied having assaulted Dulcie on the night she died.
116. He was given a description of the assault he had caused to a previous partner as a result of which he was convicted of torture and assault. He had pleaded not guilty and was convicted by a jury. The torture account took place in a lonely place, a quarry, in the night-time where he had stripped her naked and while she was lying naked on the ground in a fetal position he kicked her repeatedly all over the body, face and head causing her severe pain. He then squeezed her throat with his hands until she fainted. He then applied force to her head and pushed her head against the car window injuring her. He then beat her on the back while she lay naked on the ground. He then pulled her by the hair to the car and put her head under the front wheel and threatened to finish her off. The sentencing judge referred to the attacks as being of the utmost brutality. He agreed he was convicted of this offence but in relation to the description of events he stated he did not do those things.
117. He denied making any of the statements referred to in Vivian King's statements.
118. He denied making the threat to Tamatha as set out in the evidence of Ian O'Halloran to the effect that he would make sure what happened to them was the same as what happened to Dulcie. He denied that he was angry with Tamatha about repayments for the motor vehicle or that he banged on their door and told them to get outside.
119. He stated his father was incorrect when he said that the green Commodore was with him on the night when Gwilliams alleges he took it from his own house and took Dulcie's body to Jacobs Well. He seemed to suggest his father was tricked by the police when he said that.

120. He suggested one reason why he did not even go to police as suggested by his mother was because he knew he would be going to jail and he wanted to set things up for Vivian before he did so.
121. In relation to the events of 21 October 2009 he largely gave evidence based on the statements he had provided but with some rather interesting and very significant additions.
122. He agreed he picked Dulcie up from the park after her visit with her children. They then went back to Dulcie's house where he suggests in a half-hour period they had sex, took some cocaine and had a couple of cans of alcohol. Damien and Shaun had not come home at this time. He says he then left to see Vivian and do some of her jobs or drive her to her jobs but he could not recall precisely. He said he was gone for a few hours and apart from also taking Vivian to work he saw another woman with whom he was also having a sexual relationship.
123. He then went back to Dulcie's house and at this stage Shaun and Damien were there. He denied he had any argument with her or that he told her to stop lying. He denied that he broke a window or that any glass was broken. When he left she was going to bed. He then realised he had left some clothes and his phone charger and agrees he did a U-turn at some traffic lights. He could have telephoned Dulcie at 10:24pm. He was 5 to 10 min away. She brought his clothes and charger down to the car and they had some drinks in the car. He agreed that if she was usually going out she would have taken her telephone and wallet with her.
124. It was her suggestion that they go for a swim in the bush. He was sure that it was not Green Lake, which is the one the police drained and thinks it is more likely to be a lagoon named Aqua Lake. They are approximately 500m apart. It would normally take 10 min to drive there but was not sure about this night.
125. He denied the evidence of Damien Gill and the reference/threat to cutting Dulcie's head off and letting the blood drip over the drug dealer's doorstep.
126. He said he did not recall making a telephone call to Shaun at 10:19pm but suggested he could have been ringing to apologise to Shaun because of the way his mother was carrying on, as he felt sorry for him. He does not recall other telephone calls to Shaun at 11:23 and 11:34pm but agrees that Dulcie was with him at that time.
127. He confirms that they were both very intoxicated at 7/8 on a scale out of 10. Neither of them was wearing seat belts. He was not travelling very fast and did not get past third gear and his estimated top speed would have been 30 to 35 km/h. He states he slammed the brakes on and the car stopped then skidded. He now says he did not bang front on to any tree but skidded and stopped such that the tree may have hit the left-hand side of the vehicle. He recalls there may have been a tree leaning on top of the vehicle.
128. He originally started laughing about what had happened and then saw Dulcie was leaning forward with her head either under the dashboard or in line with the dash. She did not respond and he pulled her back into the seat and thought she was unconscious. He was shown paragraph 17 of his second statement where he stated he couldn't pull her back and said this

was wrong. He stated the head was forward but the body was upright. He stated that she did not appear to have been breathing at this stage. He took her out of car and on to the ground near the back wheel. He tried to get a pulse on both wrists with no result. He could not hear breathing. He listened to her heart and believed he could hear a heartbeat. He states he performed CPR as well as mouth-to-mouth resuscitation. At no time was her breathing laboured or heavy in any way. He states he did hundreds of CPR compressions.

129. He stated he had not noticed anything about her head or any blood.
130. He had difficulty opening up the side tray of the utility but eventually got it open. He then put Dulcie up onto the tray and it was somewhat of a struggle. He stated that it was dark but the headlights and parking lights were on. He could see she had a graze or cut on her head, which he thinks was on the left top forehead but he was not sure. There was not a lot of blood to be found.
131. He stated he was in shock, which is why he did not get her checked out by a professional or telephone for an ambulance. He was scared of going to jail as he was intoxicated and on drugs and he had clearly caused the accident. He wanted to look after Vivian as no one else was there to do that.
132. He then decided to go and get some help but the wheels of the four-wheel-drive were spinning. He is not sure but he may have locked and unlocked the wrong wheel hubs. The car was not bogged in mud but he could not get it out.
133. His mother's house was closer than his house and he ran to his mother's house. This would have been 500m to a kilometre away. He does not recall how he got in but presumes his mother was in bed. He asked to borrow the motor vehicle and initially she did not wish to give it to him because he had been drinking. He then he told her it was a matter of life and death and then about what had happened and that Dulcie had died in a collision. She told him to ring the ambulance or call the police. He suggests he did not give her the full details of what happened on that occasion. He also says he did not talk to her or see her when he returned with the vehicle later.
134. He had no trouble finding the utility vehicle as it was on the same track. He used a snatch strap from the utility and tried to pull it out but the utility did not move. He then decided to give it a big yank and the vehicle moved a bit. He then got into his own car and was able to move it.
135. He then took his mother's vehicle back to her house but did not speak to her and just left the keys. He then ran back to the bush and found the utility vehicle again quite quickly. He says he then drove around in the bush with Dulcie on the tray in the utility. He was thinking about what to do. He believed she was dead. He had not seen any vomit on her.
136. He then went over to the western side of the bush. In completely new evidence to what was contained in his statement or in the field interview he says he then placed the body down a gully. He says he then went back home and got his Commodore at Bundamba but does not recall how he got there. In relation to why none of this was written in his statement provided by his solicitor he suggested he had given his solicitor this information and

he had not read the statement. He also told his solicitor about having used the Commodore that evening but that also had not made it into the statement.

137. He says that after he returned with the Commodore he took her out of the gully and put her in the boot. He was not sure what he was going to do but ended up driving out to Jacobs Well where they used to camp. He made reference to the fact that he did not just go to the one spot but appears to have been to a few other spots that night before cutting across to Rocky Point. He stated he waded out in the water and carried her out to waist height and let her go. He stated that the police tricked him into saying that where he had placed the body was close enough to some trees that he could touch them.
138. He stated he was under the influence of alcohol at the time he attended the walk-through interview. He had not told his solicitor or the police that he was intoxicated.
139. He said the body did not sink and he decided to just turn back to the shore and did not look back. He stated he said a prayer to God to forgive him and make him strong.
140. He says he then drove back and dumped the car at Wacol at an industrial area and hoped it would get stolen. He stated he then hitched a lift from the highway back to Bundamba near the station and then walked home. He then got his bike and went into the bush and grabbed the 4WD and drove it home.
141. He stated he had received no injuries from the accident other than a sore left hand. He was unsure as to what happened to the passenger side tray side and stated it must have fallen off in the bush. He agreed he saw Damien and Shaun in the bush on the Saturday. He stated he had driven to the house to see Shaun and then heard motorbikes in the bushland and knew they were likely to be there and drove in. He stated he wanted to see Shaun to give him some food and money. He denied he had already been in the bushland and that he had been seen earlier that morning or the previous morning at around 6:30.
142. He denied he had hidden the body. He denied having been in the bush that morning when he took the 4WD to his sister, Vicki's house. He denied having told his sister and Chris that he would ring them that night about the motor vehicle being burnt. He stated he told the police where the motor vehicle was but denied asking Lea to send any messages about getting rid of the motor vehicle.
143. He stated he had cleaned the utility. He noted something on the passenger door and pulled over and saw some skin and blood and sprayed and wiped this down. He suggests he also then took the vehicle to a car wash.

Expert evidence

John Ruller

144. John Ruller is a very experienced road crash investigator and collision analyst. He provided a statement and gave evidence at the inquest. He

based his report on the statements of Gwilliams to the effect that neither Dulcie nor Gwilliams were wearing a seat belt and both had been drinking heavily. He also noted the evidence of Gwilliams that he was travelling at speed down a track in bushland and struck a dip and lost control of the vehicle. He states that they hit one tree and he recalls something hit on the left-hand side of the vehicle and they then came to a sharp stop, into another tree. He also noted that the evidence of Gwilliams was that when the vehicle had stopped, there was a tree lying on the vehicle on the left side.

145. In summary his evidence is as follows:

- a. He inspected the green utility and the alleged crash scene at the bushland at Riverview.
- b. An examination of the vehicle failed to locate any damage consistent with the vehicle having a full on impact with one or more trees. There was slight scuffing to the left side of the bull bar which may have indicated a brush with a tree.
- c. There was a slight indentation in the metal of the front bull bar forming like a wave – the soft wood of a tree would not make such a mark in the metal and was likely due to impact with a sharp object.
- d. The damage to the left side sidestep was of a minor nature and would result in little discomfort to any passenger sitting in the front passenger seat. There was also mud caked under the sidestep when he examined it which had been there for some time suggesting the impact pre-dated further driving which attracted the mud.
- e. Further, the damage to the upright of the tray would have been of a minor nature and again, anyone sitting in the front passenger seat would have felt little effect from such a contact.
- f. The roof showed no contact damage – had a tree been struck and then fallen onto the roof it would be expected there would at least be a scuff.
- g. Inspection of the interior of the vehicle failed to locate any area which showed evidence of occupant contact damage.
- h. No damage or scuff marks were found on the dash in front of the passenger seat.
- i. In such a situation of an unrestrained person involved in a collision as described, a person will very often be found crumpled up under the dash as their whole body would be forced forward, not just the upper portion as described by Gwilliams.
- j. Examination of the scene revealed only one tree (photo 20) consistent with having been involved in a crash with a vehicle. The physical evidence at the site of the tree shows that it was a glancing blow only and would have taken little force to push the small tree over.

- k. The track was rough, the 'y' and 'z' G forces do not appear to be excessive – the occupants of the vehicle would be uncomfortable but not excessively so.

146. Mr Ruller concluded that in his opinion:

- a. There is no damage to the Mitsubishi utility consistent with the vehicle having been involved in a significant impact with one or more trees, which would have resulted in a sudden stop.
- b. There is no evidence seen along the track which would indicate a vehicle had veered off the track and impacted one or more trees in the manner described by Mr Gwilliams.
- c. There is no damage or scuffing within the passenger compartment of the vehicle consistent with occupant contact.

Paul Tutin – Mechanical Engineer

147. Paul Tutin is a mechanical engineer who was engaged by police to examine the Mitsubishi Triton utility on 4 November 2009. He was specifically asked to consider damage on the vehicle and his opinion as to an explanation of how the damage was sustained. His evidence can be summarised as follows:

- a. There is no evidence to suggest that the damage observed was the result of a collision with another vehicle on the open road.
- b. There was significant degradation of the paintwork consistent with its age and that it had been used extensively in an off road capacity such as scratching from foliage with such events occurring on a number of occasions.
- c. Other than wear and tear, the only significant but minor accident or impact damage was confined to the running board and the tray on the passenger side of the vehicle. The passenger-side door lock was missing but given the rust seen this occurred sometime previously.
- d. The damage to the passenger side running board was a dent in the underside and is consistent with contact with a solid object on the ground, such as a tree branch or uneven ground, when the vehicle was being used in an off-road capacity.
- e. The damage to the passenger's side of the tray uprights of the vehicle is consistent with an over heard projection, such as a tree branch, being clipped by the moving vehicle whilst the vehicle was being used in an off-road capacity. He was unable to identify a timeframe for when the damage occurred. The impact would not have been at a fast speed, and the most likely scenario which fits the damage pattern is as follows –
 - 'The vehicle was being driven off-road at a low speed through country where overheard branches or projecting objects were present on the off-, or passenger's side of the vehicle. On travelling under one of these branches/projecting objects, the top left hand corner of the aluminium upright on the

passenger's side of the tray clipped a branch/projecting object that was approximately 1.75m above the ground, leaving a witness mark on the upright. As the vehicle continued to move forward, the branch/projecting object caused the top of the upright to move rearwards as the upright rotated in excess of 12 degrees allowing the branch/projecting object to slide over the top corner of the passenger's side upright. The consequence of this impact was that the passenger's side corner upright rotated about the top retaining bolt in the sub frame of the tray, fracturing the bottom bolt hole in the sub frame rail.'

Sgt Darryl Morrison (Forensic Crash Unit)

148. Darryl Morrison is a sergeant with Queensland Police and a very experienced Forensic Crash Unit (FCU) investigator. He observed the Mitsubishi Triton on 3 November 2009. The vehicle was in a generally poor condition with the painted surfaces dirty, scratched, and faded with a number of minor dents. He reported the left side upright support post on the tray had been pushed rearward and was about 18cm out of alignment on its normal position. There was a crack to the base of the adjacent upright support post. Brackets on the left side attached the drop down sides were bent. There was a rectangular mark or print on the left upright support post commencing about 7cm down and 6cm in length. He was of the opinion this impact is most likely with an object similar to the end of a piece of timber about 6cm wide.
149. This motor vehicle had also allegedly been involved in a motor vehicle collision with a red Mazda sedan and a silver Mazda sedan on 2 September 2009. He also observed an area of damage on the lower portion of the driver's side contained areas of red paint smears. He was also shown a number of photographs of a red Mazda sedan parked so its front panels are adjacent to the driver's door of the Triton utility.
150. Sgt Morrison also assisted other officers to survey an area of track in the bushland off Riverview and prepared a survey map. He also drove the utility on this area of track on three occasions also utilising a Vericom accelerometer which measures acceleration in G forces. Utilising a video camera on the windscreen he drove the Triton utility on the area of track on three occasions at low comfortable speeds and at a higher speed. He also drove the utility to several locations on the section of track and placed various wheels of the vehicle into larger ruts or holes and then drove the vehicle out of these holes.
151. In summary his opinion is as follows:
 - a. He opines that the nature of any damage suffered by a vehicle in an impact is speed dependant.
 - b. He concludes that the damage sustained by the vehicle on the passenger side was consistent with a low speed impact.
 - c. He reviewed the track as well as the side swipe traffic incident involving silver and red Mazda sedans.

- d. The damage to the utility in the area of the lower driver's door and the arrangement of the panels and fixtures on the right rear utility section was consistent with having been caused in the traffic accident as described on 2 September 2009.
- e. The damage was minor in nature and would not be sufficient to inflict life threatening or fatal injuries upon the occupant of the utility.
- f. On each of the two occasions he drove the vehicle at comfortable speeds he experienced no discomfort. On the third occasion he drove he experienced a minor level of discomfort when negotiating rough sections of track.

Anthony Nelson

- 152. Sgt Anthony Nelson is a member of the Gold Coast Water Police and the Search and Rescue Coordinator for the South West Region. He has 10 years experience with the Water Police. He was involved in the potential search and rescue for Dulcie's body in Jacobs Well.
- 153. Sgt Nelson viewed the video footage of the field interview conducted with Gwilliams at the area of Jacobs Well where he stated he disposed of Dulcie's body. He referred to the official Queensland Tide Tables 2009 and was able to establish the high and low tidal heights for that period and was able to perform calculations when the tide height would be of an equivalent level to the heights calculated for 21 and 22 October 2009. Similar tide heights were likely to occur on 15 January 2010 and 27 January 2010. He was able to confirm his measurements within a few centimetres from actual tidal depths recorded at Rocky Point by Maritime Safety Queensland.
- 154. He attended on both those days and during the course of 15 January 2010 a series of experiments was conducted utilising a dummy. On 27 January 2010 a number of other measurements were made. In summary the findings were as follows:
 - a. He was able to establish that at all times relevant to the interview provided by Gwilliams on 8 December 2009 there was dry land at the location nominated by him as where he released the remains of Dulcie into the waterway: In the video field interview Gwilliams was very specific about the location and pointed out a particular mangrove tree he was able to almost touch. For Gwilliams to release the body at chest height as he stated he would had to have been at a distance of 43 metres from the edge of the mangroves.
 - b. Due to the fact that tidal movement is a vertical movement of water and any horizontal movement is determined by local factors including the composition and nature of the sea bed, he reached the conclusion that if the remains of Dulcie had been placed in this location, there would still be evidence of those remains within a short distance: In effect the body when released would have floated back to shore. In his experience the body would have been located the next day given this is a main thoroughfare for marine activity. He considered it unlikely marine predators would have taken the body and has never had an event where a body has been taken by a shark in these shallow waterways.

- c. He opined that it was categorically not possible for Gwilliams to have released the remains of Dulcie at the time and location as he claimed during the interview. He further opined that, based on water movements and tidal heights, there was no likely area at that location to conduct further searches for the remains.
- d. He opined that the version provided by Gwilliams in relation to the disposal of Dulcie at Little Rocky Point on 22 October 2009 is not possible.

Prof Anthony Ansford

155. Professor Anthony Ansford is a very experienced forensic pathologist. He was engaged by the lawyers representing Alwyn Gwilliams in the criminal proceedings. He was asked to address a number of specific questions by them, but gave more detail in his evidence. In summary his evidence was as follows:

- a. Professor Ansford opined that if the vehicle had been involved in a crash sufficient to directly cause Dulcie's death he would expect significantly more damage and possibly a large amount of blood.
- b. There were no reports indicating a significant amount of blood was found in either vehicle.
- c. He would also expect a large amount of blood in the utility if Dulcie had been seriously assaulted before or while she was in the vehicle – however other scenarios of killing such as strangulation would not reveal blood.
- d. Other possible scenarios include a low impact collision with a tree or other object (sufficient to damage the side drop tray) could have caused an unrestrained heavily intoxicated person to collide with the interior of the vehicle with sufficient force to cause loss of consciousness rather than death. The minor injury to the head would support this hypothesis. She may have then remained unconscious due to a combination of alcohol and the head blow and aspiration or inhalation of vomit in her unconscious and intoxicated state was also likely to have occurred. Gwilliams may have then mistakenly considered that she was dead and placed her in the water where she subsequently drowned.
- e. Alternatively, she may have died prior to immersion in the water due to the combination of a relatively minor head injury producing unconsciousness and intoxication, leading to death from possible inhalation of vomit.
- f. In his evidence he stated that if she was knocked unconscious her breathing would become noisy rather than simply stopping or becoming inaudible. It would be obvious that she was still alive. If she aspirated vomit into her lungs whilst she was unconscious this would cause her death relatively quickly but he would expect this to be more than a few minutes and more in the order of 20 to 30 min.

- g. If she had been placed in water (whether in a lake or open water) he would have expected the body to sink but it would have come to the surface in a 24 hour to two day period, unless it had been weighed down.
- h. In a situation where there was evidence of minimal blood loss, minimal head injury, minimal damage to the motor vehicle, and the driver experiencing no injury he would consider it highly unlikely for all of those things to have come together to cause her death. He had never seen a case with those similar circumstances where death had occurred.

Used car safety ratings – RACQ

- 156. Mr Steve Spalding, the Executive Manager of Technical and Safety Policy at RACQ has also been approached as part of the inquest to provide information. He was provided with a brief overview of the matter and asked to address the issue of the durability/overall safety of the subject vehicle (a 1998 Mitsubishi Triton utility) when involved in a crash, particularly a crash said to involve a fatality.
- 157. Mr Spalding provided a response which essentially summarises a number of key statistics which the RACQ use in order to assess the overall safety of a vehicle. RACQ recommends the use of the 2013 Used Car Safety Ratings (UCSR) results for a 1998 vehicle. The UCSR are prepared by Monash University under the direction of Associate Professor Stuart Newstead and supported by a steering group comprised of stakeholder representatives from various Australian and New Zealand transport departments and motoring clubs, plus the Transport Accident Commission and the Federal Department Infrastructure and Transport.
- 158. The 2013-2014 UCSR brochure shows the rating for a 1996 to 2006 Mitsubishi Triton MK Model as offering four stars of protection for the driver. The star ratings range from one being 'very poor' through to five being an 'excellent' rating.
- 159. The actual calculated crashworthiness (CWR) for the vehicle is 2.92%, representing an average of 2.92 seriously injured or killed drivers per 100 police-reported crashes. For context, the average CWR in the 2013 results for utilities is 3.44% and for all rated vehicles is 3.85%.
- 160. Essentially, Mr Spalding's evidence confirms that the subject vehicle has a high safety rating.

Conclusions

Lies which can be proven

- 161. With respect to his and Dulcie's drinking on the Wednesday night, Mr Gwilliams maintained that he and Dulcie had consumed the best part of two bottles of spirits and pre-mixed cans of rum – on a drunkenness scale of 1-10 he put his condition at 8 or 9. There is little evidence he and Dulcie were drinking much at all before they left.
- 162. On his account, Mr Gwilliams falsely denied having had an argument with Dulcie on the Wednesday night.

163. In daylight, Mr Gwilliams took police to the bushland opposite Dulcie's house but was unable to locate the area where he claimed the accident had occurred, however, he was able to find it twice in the night time; once after he allegedly borrowed his mother's car, and then again, when he revisited the scene after returning her car.
164. Mr Gwilliams told police that he had definitely knocked a tree over and that there was no water around where it happened. There was one felled tree in the area that was consistent with being knocked over by a vehicle, but the damage to the tree was not consistent with Mr Gwilliams' version. The small tree that had been pushed over near the pond sustained only a glancing blow.
165. Mr Gwilliams' took police to Little Rocky Point, Woongoolba – an area he referred to as Jacobs Well – and told them that this was where he had put Dulcie's body into the water. A consideration of tidal heights at Little Rocky Point indicated that Dulcie's body could not have been released from Little Rocky Point or any other location within 2km to the south or 1 ½ km to the north of that place.
166. Mr Gwilliams described Dulcie as slumped over, with her head on the dashboard. However, the expert evidence is an unrestrained passenger is more likely to be found crumpled under the dash as the whole body is forced forward. Further, Mr Gwilliams did not sustain any injuries that night despite him also not being restrained by a seatbelt.
167. The impact with the tree was not of sufficient force to throw Dulcie forward and break her neck. Indeed the findings in relation to the blood in the utility are also inconsistent with what Mr Gwilliams told police. The blood that was found in and on the utility was located in positions where blood was unlikely to have been deposited in a vehicle accident.
168. Soil samples taken from the four wheel arches of the utility were mineralogically similar, suggesting a common source. Those samples were compared with control samples taken from the track in the Riverview bushland along which Mr Gwilliams said he had driven before the accident, from a lake in that bushland area, and from Woongoolba. None of the wheel arch samples had similar mineralogical features to any of the control samples.
169. Mr Gwilliams knew the area of Jacobs Well, having been there several times when he was young. He told police he and Dulcie had been to the place two or three times. It seems unlikely he would be mistaken as to where he placed Dulcie's body in the water.

How she died

170. Dulcie Birt was in a sexual relationship with Alwyn Gwilliams. Alwyn Gwilliams had a history of relationships with women characterised by domestic violence. Her relationship was no different. There is ample evidence of arguments between the two and resultant violence on her. The connection with these events and the bushland area is chilling given the previous conviction of torture of another woman in bushland. There is some evidence he may have taken Dulcie into the bush and tied her up with a

rope on a previous occasion. He made threats to Vivian and others implicating the bushland as a place he would utilise.

171. Dulcie died in the late evening of 21 October 2009 or early morning of 22 October 2009 in the Riverview bushland. There had earlier been a loud vocal argument between the two and he smashed her bedroom window. Gwilliams then left and Dulcie was seen by her son going to bed. Gwilliams then returns and is seen in CCTV footage doing a u-turn at a set of lights. This appears to correspond with a telephone call he made to her at 10:24pm and it may very well be he was returning to get his phone charger. It is apparent that despite the argument she went somewhat voluntarily down to the vehicle but because she did not take her telephone and purse she was expecting to return. It is unknown if she voluntarily got into the vehicle or was otherwise coerced. It is likely that she left the house around the time she sent the text message to Soona at 10:34pm.
172. There may have been a minor motor vehicle crash and she may have been injured, but those injuries did not kill her. What is most likely is that she suffered some other form of assault by Gwilliams following on from the argument. The nature of the assault cannot be ascertained at this stage but it is likely this caused her death. The recovery of her body may assist in reaching a conclusion on this issue. It may not.
173. It is most likely the body was initially placed in the Riverview bushland. It is a vast and largely inhospitable place. Gwilliams was seen in that area on a number of occasions after 22 October 2009 at night or in the early morning. He may have moved the body from where it was initially placed or made further efforts to hide the body. I suspect the missing left hand side tray has played a part in hiding the body. The story of taking the body to Jacobs Well that night has been shown to be a fabrication, most likely to confuse the investigation and to impede the discovery of the body in case it assisted in revealing the truth.
174. It is most unlikely the 4WD was bogged as alleged by Gwilliams. Gwilliams did not utilise his mother's small sedan to move the vehicle that night and he did not go to his mother's house that night. The subsequent stories about the vehicle accident were concocted by Gwilliams and his family members and particularly his mother have assisted in its perpetuation. Gwilliams did not use the green Commodore that early morning to take the body to Jacobs Well. This again was invented to impede the investigation.
175. I am satisfied Dulcie Isabelle Birt is deceased and has died as a result of the direct actions of Alwyn Gwilliams in some form of undetermined assault.

Findings required by s. 45

Identity of the deceased – Dulcie Isabelle Birt

How she died –

Dulcie Isabelle Birt died in the Riverview Bushland as a result of a form of assault perpetrated by Alwyn Gwilliams. The precise nature of the assault and how it caused her death cannot be determined on the available evidence. It is most unlikely she died as a

result of injuries sustained in a motor vehicle crash. Her body has been disposed of and hidden by Alwyn Gwilliams.

Place of death – Riverview Bushland, Riverview, Queensland
Date of death– Between 21 and 22 October 2009
Cause of death – Consequences of an undetermined assault

I close the inquest.

John Lock
Deputy State Coroner
Brisbane
21 March 2014