
FINDINGS of Coroner Simon Cooper following the holding of an inquest under the *Coroners Act 1995* into the death of:

Phillip Craig Duggan

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Record of Investigation into Death (With Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Simon Cooper, Coroner, having investigated the death of Phillip Craig Duggan with an inquest held at Hobart in Tasmania, make the following findings.

Hearing dates

13 May 2022 in Hobart

Representation

V Dawkins – Counsel Assisting the Coroner

M Miller – Commissioner of Police

Introduction

1. Around 9.20pm on 13 January 2019 Mr Duggan died at his home near St Helens as a result of a self-inflicted gunshot wound to his head. At the time Mr Duggan fired the shot which caused his death, police officers from the St Helens Station were outside his home, endeavouring to speak to him, with a view to taking him into custody, to investigate a serious act of family violence committed by Mr Duggan on his partner earlier in the evening.
2. At the time of his death, Mr Duggan was significantly affected by alcohol. I am very satisfied that the actions of the attending police were lawful and entirely appropriate.

Background

3. Mr Duggan was aged 52 years, having been born on 9 October 1966. He was casually employed as a concreter. He is survived by his mother Mrs Heather Duggan and daughter Ms Kristy Costello.
4. At the time of his death Mr Duggan was in a de facto relationship with Ms Deanne Pamela Costello. The couple lived together at 24669 Tasman Highway, St Helens. The couple had “reconnected” in 2018 after a 30 year hiatus. They shared a 30-year-old daughter Ms Kristy Costello whom Mr Duggan had met only shortly before his death.

Ms Costello moved in with Mr Duggan to the Tasman Highway property towards the end of 2018.

5. On 25 October 2018, police were called to the property to deal with a drunken argument. Both parties were uncooperative with police. Police eventually persuaded Ms Costello to spend the night in a hotel and invited her to attend the police station the following morning to make a report, if she wished, when sober. In fact, Ms Costello did not attend the police station the following morning, or at all and therefore the matter did not proceed any further.

The functions of a coroner

6. When a coroner conducts an inquest, they perform a role very different to other judicial officers. The Australian legal system is, in the main, an adversarial process. The coroner's role on the other hand is inquisitorial. This means that the conduct of parties – and their legal representatives – is expected to be different to 'normal' legal proceedings. An inquest might be described as a quest for the truth, rather than a contest between parties to either prove or disprove a case. The coroner's task is to try to find out what happened, to who and why.
7. A coroner is required to thoroughly investigate the death and answer the questions (if possible) that section 28(1) of the *Coroners Act* 1995 asks. These questions include who the deceased was, how they died, the cause of the person's death and where and when the person died. This process requires the making of various findings, but without apportioning legal or moral blame for the death.¹ The job of the coroner is to make findings of fact about the death from which others may draw conclusions.
8. It is important to recognise that a coroner does not punish or award compensation to anyone. Punishment and compensation are for other proceedings in other courts, if appropriate. Nor does a coroner charge people with crimes or offences arising out of a death that is the subject of investigation. It should be made very clear that I do not consider anyone committed any offence in respect of Mr Duggan's death.
9. As was noted above, one matter that the *Coroners Act* 1995 requires, is a finding (if possible) as to how the death occurred.² 'How' has been determined to mean "by what means and in what circumstances,"³ a phrase which involves the application of the ordinary concepts of legal causation.⁴ Any coronial inquest necessarily involves a

¹ *R v Tennent; Ex Parte Jager* [2000] TASSC 64.

² Section 28(1)(b).

³ See *Atkinson v Morrow* [2005] QCA 353.

⁴ See *March v E. & M.H. Stramare Pty. Limited and Another* [1990 – 1991] 171 CLR 506.

consideration of the particular circumstances surrounding the particular death so as to discharge the obligation imposed by section 28(1)(b) upon the coroner.

10. The standard of proof at an inquest is the civil standard. This means that where findings of fact are made, a coroner needs to be satisfied on the balance of probabilities as to the existence of those facts. However, if an inquest reaches a stage where findings being made may reflect adversely upon an individual, it is well-settled that the standard applicable is that expressed in *Briginshaw v Briginshaw*, that is, the task of deciding whether a serious allegation against anyone has been established or proved should be approached with a good deal of caution.⁵
11. Mr Miller, on behalf of the Commissioner of Police, submitted that the circumstances of Mr Duggan's death was such that an inquest was mandated by reason of the fact that those circumstances amounted to Mr Duggan being a person held in custody. "Person held in custody" is defined in the *Coroners Act 1995* as including a person in the control of a police officer.⁶ The question of whether someone is under the control of a police officer is a question of fact, circumstance and degree. In this instance, I am satisfied that in practical terms, Mr Duggan was, at the time he took his own life, under the control of the two attending police officers. As such he was a person held in custody and, by reason of the operation of section 24 of the *Coroners Act 1995*, an inquest was mandatory. Even if I am wrong in that conclusion, I consider that it was appropriate in the exercise of my discretion to hold an inquest.

Issues at the inquest

12. In advance of the inquest, a number of issues, in addition to those mandated by section 28(1) of the *Coroners Act 1995*, were identified as being matters to be particularly considered at the hearing. A draft of the proposed scope was distributed to all interested parties and submissions made as to the proper extent of inquiry at inquest. In the event, I determined that the scope of the inquest would be:
 - a) The sequence of events and circumstances that led to Mr Duggan's death, including:
 - i. The allegation of family violence on the day of his death;
 - ii. His mental health; and
 - iii. The two firearm discharges.

⁵ (1938) 60 CLR 336 (see in particular Dixon J at page 362).

⁶ See section 3.

- b) The actions of the attending police officers, Senior Constable Matthew Lovell and Constable Blake Nolan, when attending Mr Duggan's address on 13 January 2019.
13. The evidence at the inquest necessarily focused on these issues. At the inquest a number of witnesses were called to give evidence. The witnesses who gave evidence were:
- Ms Deanne Costello;
 - Ms Rowena Crocker;
 - Senior Constable Blake Nolan;
 - Sergeant Matthew Lovell;⁷
 - former Sergeant Robert Schiwy; and
 - Sergeant Gerard Dutton.
14. In addition to the evidence from the witnesses outlined above, a considerable amount of documentary evidence was tendered at the inquest. That evidence included the affidavits of a number of witnesses who were not called to answer questions. That material is set out in the annexure attached to this finding.

Circumstances of death

15. The evidence satisfies me that on the day of Mr Duggan's death, Sunday, 13 January 2019, Ms Costello and Mr Duggan spent the morning and afternoon together. Both were drinking alcohol, Mr Duggan perhaps more than Ms Costello. The couple quarrelled, principally about her expressing an intention to leave the relationship the following day. The evidence seems to be that the argument went on for some two or so hours.
16. At one point Ms Costello and Mr Duggan were inside the residence in a ground floor lounge. Ms Costello was on the couch. Mr Duggan left the lounge room and returned with a red plastic petrol Jerry can, containing petrol, which he poured over her. Having done that, he poured some petrol over himself and then began clicking a barbecue lighter saying words to the effect he was "*setting us on fire and the house can go up with us*".⁸ Terrified, Ms Costello fled the property and drove to the home of her

⁷ Both officers have been promoted since the incident. I will refer to them in this finding by the rank they held as at 13 January 2019.

⁸ Exhibit C16.

employer and friend, Ms Rowena Crocker, a short distance away (5 minutes by car). Ms Costello told Ms Crocker what occurred.

17. Ms Crocker helped Ms Costello remove her petrol soaked clothing and have a shower. She then called police.⁹
18. At inquest, Ms Crocker confirmed the substance of Ms Costello's evidence. I am quite satisfied that both women told the truth both to initial investigators and at the inquest.
19. Senior Constable Matthew Lovell (call sign F 47) and First Class Constable Blake Nolan (call sign F 48) both responded. They went to Ms Crocker's house where they spoke to Ms Costello and seized her clothing as a potential exhibit. Ms Costello was taken to the nearby St Helen's Police Station where Constable Nolan took a formal statutory declaration from Ms Costello¹⁰ as Senior Constable Lovell prepared the necessary family violence paper work.
20. In addition, tendered at the inquest was an affidavit made by Ms Costello's mother, Mrs Pamela Costello.¹¹ Mrs Costello said that at about 8.00pm on 13 January 2019, she received a telephone call from Mr Duggan. In that call Mr Duggan told her that he had poured petrol on himself and Ms Deanne Costello, but "*it wouldn't light*".¹²
21. Following the taking of details from Ms Costello, Senior Constable Lovell and Constable Nolan went to 24669 Tasman Highway. They were aware that Mr Duggan was the registered owner of a number of firearms and the holder of a firearms licence. Upon arrival at 9.23pm, the officers found the property locked. Notably the back door was padlocked from the outside. Both officers said they noticed the smell of petrol at the home, which obviously supported the allegation made by Ms Costello which they were investigating. Both saw a small storage area with petrol jerry cans.
22. Senior Constable Lovell knew Mr Duggan from the local AFL Club, the East Coast Swans (Senior Constable Lovell was then a current player and Mr Duggan an ex-player). Senior Constable Lovell knocked on the rear door. He heard a voice, which he recognised as Mr Duggan, say something like "*please go away*". Senior Constable Lovell attempted to engage with Mr Duggan but said he found it very difficult to do so.

⁹ Exhibit C20.

¹⁰ Exhibit C16.

¹¹ Exhibit C19.

¹² *Supra*.

23. As Senior Constable Lovell attempted to engage with Mr Duggan, Constable Nolan maintained contact with Police Radio Dispatch Service (RDS), organising for the Duty Police Inspector and Police Negotiators to be notified, and the Fire Service, Ambulance Tasmania and the State Emergency Service to be requested. In my view all those requests were entirely appropriate responses to the situation with which Senior Constable Lovell and Constable Nolan found themselves facing.
24. Meanwhile, Mr Duggan was speaking on the phone. It was subsequently identified that he spoke twice to Mr Shane Collier, an associate who was at the time living in Queensland. In their first conversation, Mr Duggan told Mr Collier he had poured petrol over himself and Ms Costello and that she had left. In this second conversation, which plainly occurred when Senior Constable Lovell and Constable Nolan were at the property, Mr Collier heard Mr Duggan say something like “*please go away Matt, everything is all right, there is no need for you to be here*” or similar. Mr Collier’s evidence, completely independent and removed from the scene, supports significant aspects of the evidence of the attending officers, as well as that of Ms Costello.
25. Although engaging with Mr Duggan, at no stage did either Senior Constable Lovell or Constable Nolan tell him they intended to enter the home or arrest him. Both said their plan was in effect to try and contain the situation and negotiate with Mr Duggan.
26. At one stage Mr Duggan said “*I’m sorry Matt, tell Deanne and [inaudible] that I love them*”. Senior Constable Lovell’s evidence at the inquest was that the second person to whom Mr Duggan referred was his daughter, Kirsty. Immediately after that the officers heard a small calibre firearm discharge apparently in the upstairs level of the property. According to evidence tendered at the inquest, this must have been at about 9.40pm.
27. Approximately 10 minutes after the discharge of the firearm, Constable Nolan described hearing what must have been Mr Duggan working the bolt of the weapon subsequently recovered then fumbling and dropping some ammunition.¹³ At about the same time, Mr Duggan again spoke to Senior Constable Lovell. He said words to the effect again “*I’m sorry Matt*” and both officers again heard the sound of a firearm discharge. This time (which according to RDS records¹⁴ was at 9.48 pm), the discharge was followed by a thud on the floor, obviously the sound of the weapon Mr Duggan had discharged hitting the floor.

¹³ Live ammunition was subsequently located on the floor of the bedroom in which Mr Duggan’s body was found, see exhibit C24. I note the floor of that room was polished wood.

¹⁴ Exhibit C34.

28. At 10.13pm Sergeant Robert Schiwy (call sign F 52) arrived from St Marys. After assessing the situation, he forced entry and all three police entered the house. They found Mr Duggan deceased, on the bed in the main bedroom on the second floor of the house. A bolt action .22 rifle (registered to Mr Duggan) was on the floor with the barrel pointing to the ceiling found between his legs.

Investigation

29. Immediately after Mr Duggan's death was confirmed by Ambulance Tasmania personnel, the scene was secured and the officers involved returned to the nearby St Helens Police station where all were subject to drug and alcohol testing (which was negative for all three) and then interviewed by independent officers from Tasmania Police Professional Standards. All three officers were completely cooperative with Tasmania Police Professional Standards. All spoke freely and answered all questions put to them.
30. Police ballistic and forensic specialists attended the scene. The firearm used by Mr Duggan to end his own life was seized for subsequent expert ballistic examination. A number of other firearms were located and seized by police, including an unregistered pistol.
31. Not all of the firearms (there were nine) registered to Mr Duggan were able to be accounted for by police.
32. In addition to a comprehensive specialist forensic and ballistic investigation at the scene, phone records and police communications transcripts were obtained for my investigation.
33. Mr Duggan's body was formally identified and then taken by mortuary ambulance to the Royal Hobart Hospital. At the Royal Hobart Hospital, highly experienced Forensic Pathologist Dr Lawrence performed an autopsy. Dr Lawrence's report was tendered at the inquest.¹⁵ In that report Dr Lawrence said:

*“autopsy reveal[ed] a contact range gunshot wound of the mouth and a gunshot wound under the chin. The gunshot wound under the chin would not [have been] immediately fatal but would be extremely painful. The gunshot wound to the roof of the mouth would have been rapidly fatal. There [were] no other traumatic injuries”.*¹⁶

¹⁵ Exhibit C4.

¹⁶ Supra, page 12 of 15.

34. Dr Lawrence recovered two bullets from Mr Duggan's skull at autopsy. Those bullets were provided to Sergeant Dutton of Tasmania Police ballistics for subsequent examination. Following autopsy, Dr Lawrence expressed the opinion in his report that the cause of Mr Duggan's death was a contact range gunshot wound of the mouth. I accept Dr Lawrence's opinion. I note the presence of two gunshot wounds, only one of which was fatal, is entirely consistent with the evidence of Senior Constable Lovell and Constable Nolan as to both having heard the firearm discharged twice.
35. Samples taken at autopsy were subsequently analysed at the laboratory of Forensic Science Service Tasmania. Forensic Science Service Tasmania provided a report which was tendered at the inquest. The report revealed, inter alia, that at the time of his death, Mr Duggan had a blood alcohol content of 0.222 g of alcohol per 100 mL of blood. I note the evidence was that Mr Duggan had a history of heavy drinking, having been disqualified from driving for high range drink-driving on two occasions. In addition, his medical records also reference heavy drinking. Senior Constable Lovell, who knew him, also said at the inquest that he drank too much.
36. I have no doubt Mr Duggan was significantly affected by alcohol during the late afternoon and evening of 13 January 2019.
37. A highly regarded expert in relation to the science of ballistics, Sergeant Dutton, examined the firearm used by Mr Duggan to end his own life. Sergeant Dutton said in his evidence¹⁷ that the rifle, although having a trigger pressure below normal for that type of firearm, was not prone to accidental discharge and fitted with an efficient safety catch.
38. Sergeant Dutton also examined the two bullets recovered during autopsy. He expressed the opinion that both had similar characteristics to other rounds test fired from the rifle recovered with Mr Duggan's body. I accept Sergeant Dutton's evidence.

Conclusion

39. The evidence satisfies me to the requisite legal standard that the actions which caused Mr Duggan's death were undertaken by him voluntarily, alone and with the express intention of ending his own life. Those actions were the discharge by him from the rifle found with his body of two separate shots a matter of 10 or so minutes apart. I am quite satisfied that the second shot proved instantly fatal.

¹⁷ Exhibit C9.

40. The actions of the attending police officers, Senior Constable Matthew Lovell, Constable Blake Nolan and now retired Sergeant Robert Schwiw were all proportionate, lawful and entirely appropriate. I am quite satisfied that they acted in accordance with their training.
41. The allegations made by Ms Costello about Mr Duggan were very serious indeed. I do not consider the police had any option but to act as they did. It certainly was not open to them simply to leave Mr Duggan where he was. Similarly, forcing their way into the premises was obviously fraught with danger. Their response was, in my view, extremely professional. I commend the officers involved.

Formal findings

42. Pursuant to section 28 (1) of the *Coroners Act 1995* I make the following formal findings on the basis of the evidence at the inquest:
- a) The identity of the deceased was Phillip Craig Duggan;
 - b) Mr Duggan died in the circumstances set out earlier in this finding;
 - c) The cause of Mr Duggan's death was a self-inflicted gunshot wound to the head;
and
 - d) Mr Duggan died on 13 January 2019 at 24669 Tasman Highway, St Helens in Tasmania.

Dated 15 June 2022 at Hobart in the State of Tasmania.

Simon Cooper
Coroner

Annexure

C1	Police Report of Death	Constable Harley Castles
C2	Affidavit of Life Extinct	Dr Victoria Trubody
C3A	Affidavit of Identification	Acting Inspector Melinda Horan
C3B	Affidavit of Identification	Steven Walker (Mortuary)
C4	Autopsy Report	Dr Christopher Lawrence
C5	Toxicology Report	Neil McLachlan Troup, FSST
C6	VACIS Electronic Patient Care Report	Ambulance Tasmania
C7	Emergency Department notes	RHH, THS
C8	Medical Records	Ochre Medical Centre, St Helens
C9	Affidavit	Sergeant Gerard Dutton
C10	Affidavit	Senior Constable Matthew Lovell
C10A	Interview Transcript	Senior Constable Matthew Lovell
C11	Affidavit & Notes	Senior Constable Matthew Lovell
C12	Affidavit	Constable Blake Nolan
C12A	Interview Transcript	Constable Blake Nolan
C13	Notebook Entry	Constable Blake Nolan
C14	Affidavit & Transcript	Sergeant Robert Schiwy
C15	Notebook Entry	Sergeant Robert Schiwy
C16	Statutory Declaration (13.01.2019)	Deanne Costello, SNOK
C17	Statutory Declaration (14.01.2019)	Deanne Costello, SNOK
C18	Affidavit	Heather Duggan, mother
C19	Affidavit	Pamela Costello
C20	Statutory Declaration	Rowena Crocker
C21	Affidavit	Shane Collier
C22	Affidavit	Thomas Ryan, Anglicare
C23	Affidavit	Acting Detective Inspector Melinda Horan
C24	Affidavit	Detective Sergeant Matthew Stewart
C25	Affidavit	Detective Constable Harley Castles
C26	Affidavit	Constable Jacqueline Rawlings
C27	Affidavit & Photographs	Senior Constable Rodney Walker
C28	Video Walk-Through Footage	Senior Constable Rodney Walker
C29	Alcohol & Drug Test Report	Relevant Drug Testing Solutions

C29A	Alcohol & Drug Test Results (Schiwy, Lovell & Nolan)	Relevant Drug Testing Solutions
C30	Family Violence Support Package	
C31	Firearms Paperwork	
C32	Phone Related Reports	
C33	AVL Data – St Helens & St Marys Police Vehicles	
C34	Radio Dispatch Recording (RDS) Transcript	
C35	Prior Convictions	
C36	RDS Recordings	
C37	Internal Investigations Report	Acting Inspector Melinda Horan
C38	Affidavit	Richard Weston