
FINDINGS and COMMENTS of Coroner Simon Cooper
following the holding of an inquest under the Coroners Act 1995
into the death of Voula Delios

Record of Investigation into Death (With Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

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

Hearing Dates

19 – 23 August 2019 at Hobart in Tasmania and then adjourned for written submissions

Representation

J Ansell – Counsel Assisting

P Turner SC - State of Tasmania and Tasmanian Prison Service

Introduction

1. On Saturday 23 July 2016, Mrs Voula Delios was stabbed to death by Daryl Royston Wayne Cook in her grocery store in North Hobart. Mr Cook had been released from HMP Risdon (Risdon Prison) the day before.
2. Mrs Delios was born in Greece. She was the mother of four children and a much loved Yia Yia. She was a respected member of the Tasmanian Greek community.
3. The Delios family owned and operated the A&B Foodstore at 396 Elizabeth Street, North Hobart for many years. Mrs Delios was a very well known and highly regarded personality in North Hobart. Her death touched very many people.
4. There is no evidence that Mrs Delios and Mr Cook had ever met.

5. In the evening of 23 July, detectives arrested Mr Cook at an address in Claremont. When arrested, he had in his possession the knife which he used to kill Mrs Delios. Mr Cook was interviewed and made full admissions to the killing of Mrs Delios. He was charged with her murder and detained for court.
6. Eventually, in September 2018, Mr Cook stood trial for the murder of Mrs Delios. He was found not guilty on the basis that, at the time he killed Mrs Delios he was, by reason of insanity, not criminally responsible for his actions.
7. On 13 September 2018, Justice Geason made an order pursuant to section 24 of the *Criminal Justice Mental Impairment Act 1999* requiring Mr Cook to be admitted to, and detained in, the State's secure mental health unit indefinitely. Mr Cook can only be released from the secure mental health unit if the Supreme Court makes an order allowing that to occur.

The function of a Coroner

8. Before looking at the circumstances of Mrs Delios' death in more detail, and what follows from it, it is necessary to say something about what a coroner does. In Tasmania, a coroner has jurisdiction to investigate any 'reportable death'. A 'reportable death' includes a death where the death occurred in Tasmania and was unexpected, unnatural or violent.¹ Mrs Delios' death meets that definition.
9. When investigating any death, a coroner's role is inquisitorial. Their job is to thoroughly investigate a death and answer the questions (if possible) that section 28 of the *Coroners Act 1995* asks. Those questions include who the deceased was, how she or he died, what was the cause of the person's death and where and when it occurred. This process involves the making of various factual findings, but without apportioning legal or moral blame for the death.² A coroner is required to make findings of fact from which others may draw conclusions.³
10. A coroner does not have the power to charge anyone with crimes or offences arising out of the death the subject of investigation. In fact, a coroner may not

¹ Section 3 of the *Coroners Act 1995*.

² *R v Tennent; Ex parte Jager* [2000] TASSC 64 at par 7.

³ *Keown v Kahn* [1999] 1 VR 69 at 75-76.

even say that she or he thinks that someone has committed a crime in relation to the death being investigated.⁴ I have already set out how Mr Cook was dealt with in the Tasmanian Criminal jurisdiction. It is not part of my role to re-visit the course, or outcome, of those proceedings. The *Coroners Act 1995* makes this clear when it provides that if: “*a person has been charged on indictment, the inquest, on its resumption, must not contain any finding which is inconsistent with the determination of the matter by the result of those proceedings.*”⁵

11. As noted above, one matter that the *Coroners Act 1995* requires is that a finding be made about how death occurred. It is well settled that this phrase involves the application of the ordinary concepts of legal causation. Any coronial inquiry necessarily involves a consideration of the particular circumstances surrounding the particular death so as to discharge the obligation imposed by section 28(1)(b) upon the coroner.
12. A coroner may comment on any matter connected with the death into which he or she is enquiring. The power to make comment “arises as a consequence of the [coroner’s] obligation to make findings ... [i]t is not free ranging. It must be comment ‘on any matter connected with the death’ ... [i]t arises as a consequence of the exercise of the coroner’s prime function, that is, to make ‘findings’.”⁶ For a coroner to exercise the power conferred by section 28(2) and (3) to make recommendations and comments, it is necessary that any recommendations or comments are sufficiently connected with the death being investigated.
13. The standard of proof applicable to a coronial investigation 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 investigation reaches a stage where findings may reflect adversely on someone, the law is that the standard applicable is that set out in the well-known High

⁴ Section 28(4).

⁵ Section 25(4).

⁶ *Harmsworth v State Coroner* [1989] VR 989 at 996.

Court case of *Briginshaw v Briginshaw*, that is, that the task of deciding whether a serious allegation is proved must be approached with caution.⁷

Issues at the inquest

14. In addition to the matters which the *Coroners Act 1995* (s28) makes mandatory, a number of other issues were identified in advance of the inquest as additional areas of scrutiny. Those issues were circulated to all interested parties well before evidence was taken. They were:
- a) The management of Mr Cook's mental health whilst he was serving the sentence of imprisonment imposed upon him on 7 October 2015;
 - b) The circumstances of Mr Cook's release from Risdon Prison on Friday, 22 July 2016, in particular whether he was released as a result of any remission granted pursuant to section 86 of the *Corrections Act 1995* or regulations made under section 90 of that Act (noting that at the time of Mr Cook's release, section 90(2)(d) provided regulations could be made for the mitigation or remission, conditional or otherwise, of the sentence of a prisoner as an incentive to, or reward for, good conduct while the prisoner was serving his or her sentence);
 - c) Whether Mr Cook failed to keep an appointment with Community Corrections after his release, and before the death of Mrs Delios, and if so;
 - d) Whether Community Corrections notified Tasmania Police of his failure to keep the appointment; and
 - if not, why not; or
 - if yes, where and how and the contents thereof.

⁷ (1930) 60 CLR 336.

Mr Cook's background

15. Mr Cook was born and raised in Tasmania. The evidence is that he was part of a large and dysfunctional family. Apparently, both his parents suffered significant difficulties with alcohol. Mr Cook went into foster care aged about 10 (and remaining in it until 16) and later claimed to have been both physically and sexually abused as he was growing up. There seems no reason to doubt him.
16. There is evidence that he received psychiatric treatment when he was just 10 years of age. Mr Cook was first admitted to an adult psychiatric unit in 2002 in South Australia. Both of these early contacts with psychiatric treatment followed alleged, or apparent, suicide attempts.
17. Mr Cook's sister was murdered in Victoria in 1993 and a brother committed suicide whilst Mr Cook was serving a period of imprisonment. His history as an adult is essentially a cycle of crime, incarceration, drug and alcohol abuse and significant mental health issues.
18. In terms of his history of serious criminal offending, Mr Cook's first conviction leading to a term of imprisonment was in December 2001 for an assault and wounding committed in October 2000. For that crime he was sentenced to 12 months imprisonment with some of it suspended from the day of sentence on various conditions. He had however by then, already amassed a significant number of convictions in South Australia and Victoria for intentionally causing injury, carrying a dangerous article, making a threat to kill, carrying an offensive weapon and damaging property.
19. His next term of imprisonment was in April 2002, when he was sentenced to 3 months imprisonment for offences associated with dishonesty.
20. The following year, he was convicted in South Australia of armed robbery and sentenced to a further term of imprisonment.
21. On 2 August 2007, he was convicted in Victoria of intentionally causing serious injury and sentenced to 6 years imprisonment, with a non-parole period of 3 years and 9 months. While serving that sentence, he was convicted of the same

crime and sentenced to a further 3 months imprisonment, to be served concurrently with the sentence imposed on 2 August 2007.

22. In August 2011, again in Victoria, he was convicted of making a threat to kill and making a threat to inflict serious injury. He was sentenced to 6 months imprisonment.
23. Mr Cook appears to have returned to Tasmania in early 2015 and immediately continued offending. In that year in May, June and July he committed various offences. On 1 July 2015, he was sentenced in the Hobart Magistrates Court to 6 weeks imprisonment for offences of common assault and attempted burglary, committed on 19 May 2015. On 18 September 2015, he was sentenced to a total of 14 months imprisonment, to commence on 14 July 2015, with a non-parole period of 8 months in relation to a number of counts of aggravated burglary, stealing, breach of bail, destroying property and dishonestly acquiring a financial advantage.
24. While serving that sentence, he was sentenced on 7 October 2015 by Justice Porter for the offence of causing grievous bodily harm some 10 years earlier (on 24 February 2005). His Honour sentenced Mr Cook on the basis that while fighting with his victim, Mr Cook stabbed him four times, once to the lower back, twice in the area of the victim's right chest wall and once to his left shoulder. The stab wounds to the victim's chest wall caused him to suffer a pneumothorax. His Honour said in sentencing that Mr Cook had had a "grossly excessive response to the situation" he found himself in.
25. Justice Porter sentenced Mr Cook to 12 months imprisonment from 7 October 2015. In addition to that term of imprisonment, the sentence included a probation order for a period of 12 months following his release. Conditions of that order included that he attend educational or other programs, submit to assessment and treatment for alcohol or drug dependency and submit to medical, psychological or psychiatric assessment or treatment, as and when directed by his probation officer. One condition of the order was that Mr Cook

was required to report to a probation officer, within one clear working day of his release from prison.⁸

Mr Cook's behaviour in prison

26. Mr Cook spent five different periods in Risdon Prison before his release in July 2016. The two periods closest in time were:

- a) 20 May 2015 – 1 July 2015; and
- b) 15 July 2015 – 22 July 2016.

A significant focus of the evidence at the inquest was Mr Cook's behaviour in Risdon Prison before, and during, the sentence of imprisonment imposed upon him on 7 October 2015 (i.e. during the dates set out immediately above). I set out my findings in relation to his conduct below. None of these findings were in the least contentious; they are based entirely upon his prison records which were tendered at the inquest.⁹

27. The evidence at the inquest was that any person taken into custody is assessed using the Tier I Assessment process. The purpose of the assessment is to enable an informed decision to be made as to where that person should be housed, what particular needs they have and assess issues such as the risk of suicide and self-harm, the need for protection, and the like.

28. The Tier I Assessment consists of a custodial assessment and a health assessment. The former is carried out by correctional staff, the latter by staff employed by Correctional Primary Health Service. The health assessment includes an assessment of both mental and physical health.

29. In the case of Mr Cook, a Tier I Assessment was conducted on 20 May 2015. He was assessed as:

- a) having no history of institutional violence;
- b) a moderate record of prior convictions;

⁸ Exhibit C65 - memorandum of sentence.

⁹ Exhibit C77, affidavit of Ian Pugh Thomas, sworn 17 July 2019.

- c) no prior major offence convictions; and
 - d) no history of instability.
30. It is apparent that when the assessment was carried out in relation to Mr Cook, those conducting it did not have reference to his prison record in other jurisdictions, in particular South Australia and Victoria. It also seems apparent that no regard can have been had to his history of prior offending. If the person (or persons) conducting the assessment had had regard to either, or both, of these sources of information then it is, to my mind, inconceivable that Mr Cook could have been assessed as having no history of institutional violence, nor no prior major offence convictions. He had, of course, been convicted and sentenced in Victoria of intentionally causing serious injury for which he was sentenced to 6 years imprisonment. He had been convicted in South Australia in 2003 of armed robbery. In fact, his record of prior offending is replete with very serious matters including assault, wounding, intentionally causing injury, carrying a dangerous article and several instances of making a threat to kill. All this information should have been available to the staff charged with assessing Mr Cook upon his entry to the Tasmanian prison system. It is clear that it was not.
31. Nor was any information about his conduct while serving sentences elsewhere in Australia available when the Tier I Assessment was carried out. Mr Cook had an extensive history of violence within the prison system. That conduct had involved, amongst other things: attempting to head butt a prison officer, stabbing another prisoner with a 'shank', verbally abusing and assaulting several other prisoners, spitting at staff, making threats towards staff, damaging prison property, throwing urine onto a prison officer and attempting to set fire to a cell. All that information (and a good deal more) is recorded in Mr Cook's Victorian and South Australian prison records. The importance of information of that type is self-evident.
32. There is no evidence either that when carrying out the medical aspect of the Tier I Assessment, medical staff had access to Mr Cook's medical history. If they had, they may have been aware (as I have already mentioned) that he first came into contact with psychiatric health services when he was just 10 years of age

after an apparent suicide attempt. They would have been aware that he had numerous admissions to adult psychiatric facilities. They would have known that he had been diagnosed as suffering from schizophrenia and having a borderline personality disorder. However, as I have already indicated, none of this appears to have been known to the medical staff carrying out the Tier I Assessment.

33. In light of the absence of crucial information of the type set out above, the utility of the Tier I Assessment must be questioned. The fact that the author (or authors) of the Tier I report did not have access to this information is not their fault. Rather, it seems that it was a result of bureaucratic processes which either did not consider, or did not allow for, the information to be obtained from other jurisdictions. In my respectful view, the need for an author of such a report to be furnished with as much information as possible is so obvious as to go without saying. The more information available means that the assessment is likely to be more accurate. If it is accurate, it is more likely to ensure that the person in custody is properly categorised, appropriately housed and receives the physical and mental health treatment they require. On the other hand, the less information available, the less likely the assessment is to be accurate and the prisoner housed, treated and cared for as appropriate.
34. In any event, as a result of the Tier I Assessment, Mr Cook was deemed to be a security category 'medium'.
35. On 24 May 2015, a Tier 2 Assessment was carried out in relation to Mr Cook. Again, this is standard procedure for any person held in custody in Tasmania. A Tier 2 Assessment was described by the Director of Prisons as: "*a general assessment which covers the immediate needs of the prisoner/detainee, begins the conversation around activities and support in prison, and provides information to develop an initial Foundation Plan. The Assessment is required to be completed during the first five days in custody.*"¹⁰

¹⁰ Affidavit of Ian Pugh Thomas, sworn 17 July 2019, exhibit C77, paragraph 8. I note that the Tier I and Tier 2 process changed in January 2017, but not in any substantial way.

36. The correctional officer completing that assessment added a note at the foot of the form (which Mr Cook had been unwilling to sign). The correctional officer wrote the “inmate appears to not be of sound mind”.¹¹
37. However, a prison psychiatrist reviewed Mr Cook on 28 May 2015. That psychiatrist reached a different conclusion to the prison officer, noting that there was “no evidence of mental illness” on the part of Mr Cook.¹²
38. It is evident from his records that over the next few weeks, Mr Cook’s mental state fluctuated significantly. For example, on 15 June 2015, he reported a significant increase in his mental health symptoms and requested to be urgently prescribed appropriate medication. Two days later, he denied ever having had any mental health problems and claimed never to have suffered from mental illness. In the same conversation, he told staff he would harm anyone he believed to be homosexual.
39. On several occasions during his first period in custody in 2015, Mr Cook articulated suicidal ideation and was placed under varying levels of suicide watch. On 27 May 2015 correctional staff noted that Mr Cook “seem[ed] to be able to see something [they couldn’t], as he stands and stares into space”, ignoring them.¹³ A couple of days later (29 May 2015) correctional staff noted that Mr Cook again displayed ‘strange’ behaviour, and on 3 June Mr Cook was moved to the Prison Crisis Support Unit, because of concerns of a risk of self-harm. Mr Cook reported that he was mentally ill. He was placed on suicide watch and when reviewed, indicated he was feeling suicidal and requested a referral to a psychiatric nurse.
40. During this period, there are other instances of Mr Cook articulating suicidal ideation and, in effect, claiming on one day never to have suffered mental illness and the next indicating he wanted, and needed, access to mental health care. There are also a number of records of him behaving in ways that are, frankly, bizarre, as well as threatening other inmates and threatening and assaulting staff.

¹¹ *Supra*, Annexure B, page 9 of 9.

¹² *Supra*, paragraph 17 (vi).

¹³ *Supra*, paragraph 17 (v).

41. However, there is no evidence that he received anything in the nature of mental health treatment during this time. As has already been noted, Mr Cook's records do show he was seen by a psychiatrist who concluded that "no evidence of mental illness was demonstrated".¹⁴ Presumably as a result of that diagnosis, there is no evidence that he received any treatment for any mental health condition.
42. On 1 July 2015, Mr Cook was granted bail and released from custody. He was not in the community for long, returning to custody on 15 July 2015 because of the commission by him of further offences. Once again, a Tier 1 Assessment was conducted on the day he went back into custody. The assessment this time was significantly different from that arrived at on 20 May 2015. However, it was his behaviour within Risdon Prison between 20 May 2015 and 1 July 2015 which informed that assessment and led to the different conclusion. Relevantly, that assessment had regard to the fact that Mr Cook had during that period, assaulted staff, made verbal threats to staff, assaulted another prisoner, and made general threats towards Muslims and homosexuals. As with the earlier Tier 1 Assessment, it does not appear that the second was informed by any information obtained from any other jurisdiction.
43. Despite the requirement for a Tier 2 Assessment to be conducted within five days of the person entering prison, there is no evidence that a Tier 2 Assessment was conducted within this timeframe, or at all, in relation to Mr Cook after his return to custody on 15 July 2015. Why no Tier 2 Assessment was conducted was not explained at the inquest.
44. Mr Cook's behaviour whilst in custody after 15 July 2015 was, on any view of it, erratic, threatening and deeply problematic. It is necessary to set that out in some detail. What follows is taken from his prison records. There is no reason to doubt the accuracy of those records.
 - a) 15 July 2015 - Mr Cook threatened to assault staff and throw urine and human excrement.

¹⁴ *Supra*, paragraph 17 (vi).

- b) 16 July 2015 - Mr Cook made threats to staff and is recorded as showing aggression.
- c) 17 July 2015 - Mr Cook abused nursing staff when taken to the health centre and made threats towards correctional staff stating he had “stabbed screws in the past”. He also destroyed his cell mattress, threw urine under his cell door and threatened to throw excrement at staff.
- d) 29 July 2015 - during a search, staff located a blade from a pencil sharpener fashioned between plastic cutlery handles (in other words a ‘shank’ or ‘shiv’) in Mr Cook’s cell.
- e) 6 August 2015 - Mr Cook threatened to smash the camera and television in his cell and start a fire.
- f) 7 September 2015 - Mr Cook made threats towards correctional officers stating words to the effect of “you’re ‘f.....’ rats, I will fix [you]”. He kicked his cell door, brandished a ‘shiv’ made from a sharpened ruler and, as he did so, said to staff “I’ll shank you in the neck. Corrections staff must surrender and agree to my demands.”
- g) 8 September 2015 - Mr Cook is recorded as saying that he was going on ‘hunger strike’.
- h) 11 September 2015 - Mr Cook became aggressive towards staff. He kicked his cell door. He took off his shirt and yelled “This is the day. I’ll never fight for you against the Muslim scum. You have done it now. Let’s do it the hard way, come on, come in.” His behaviour resulted in him being physically restrained and removed from his cell by officers from the prison’s specially trained tactical response group.
- i) 13 September 2015 - Mr Cook was recorded as being hostile and verbally aggressive.
- j) 20 September 2015 - Mr Cook was recorded as talking of cutting people’s throats.
- k) 21 September 2015 - Mr Cook was talking of stabbing people in the throat.
- l) 22 September 2015 - Mr Cook destroyed his television and all of the property in his cell. He then defecated on the floor and lay in his own excrement.
- m) 22 October 2015 - Mr Cook destroyed his cell mattress.

- n) 25 October 2015 - Mr Cook made threats of self-harm.
- o) 26 October 2015 - Mr Cook was recorded as showing aggressive and non-compliant behaviour towards staff. He also destroyed the yard telephone and a boxing bag and made threats towards other prisoners.
- p) 30 October 2015 - Mr Cook threatened to throw urine and excrement on officers.
- q) 7 November 2015 - Mr Cook made what were described as inappropriate comments towards female staff.
- r) 11 November 2015 - Mr Cook made what was described as sexual comments towards female staff and threatened correctional officers.
- s) 12 November 2015 - more inappropriate comments about female staff are recorded as having been made by Mr Cook.
- t) 15 November 2015 – yet more inappropriate behaviour and threats towards staff.
- u) 16 November 2015 - Mr Cook requested medication and suggested he was going to “smash someone”.
- v) 1 December 2015 - Mr Cook asked a correctional officer if he was Muslim saying that he would “hate him” if he was.
- w) By January 2016 Mr Cook was recorded as refusing antipsychotic medication (again) and on 11 January 2016 he is recorded as being “very very elevated”.
- x) 14 January 2016 - Mr Cook indicated that there were some people he wanted to assault.
- y) 19 January 2016 - Mr Cook made more inappropriate comments towards female staff and had stopped taking his medication (again).
- z) 20 – 22 January 2016 - more inappropriate comments towards staff.
- aa) 3 February 2016 - Mr Cook was recorded as appearing to speak to himself.
- bb) 11 February 2016 - Mr Cook was seen apparently arguing with himself in a mirror in his cell.
- cc) 22 February 2016 - Mr Cook was seen talking to himself for many hours before damaging his cell television and being verbally aggressive towards other prisoners in his unit.

- dd) 28 February 2016 - Mr Cook told staff he was having a “mental breakdown”.
- ee) 29 February 2016 - Mr Cook discussed concerns relating to his mental health during a review with therapeutic services staff.
- ff) 11 April 2016 - Mr Cook made sexualised comments towards female staff (again).
- gg) 26 April 2016 - Mr Cook is recorded as being verbally aggressive towards staff.
- hh) 4 May 2016 - Mr Cook spat at his cell window and screamed at a prison officer.
- ii) 5 May 2016 - Mr Cook was transferred for assessment by the High Risk Assessment Team due to threats and abuse towards staff. The High Risk Assessment Team apparently noted that Mr Cook had been assessed by the Wilfred Lopes Centre and did not fit the criteria for admission to that facility.¹⁵
- jj) 9 May 2016 - Mr Cook stated that he was a “Jedi”.¹⁶
- kk) 15 May 2016 - Mr Cook verbally abused officers and spat at the window of his cell.
- ll) 17 May 2016 - Mr Cook spat on or at staff.
- mm) 18 – 20 May 2016 - records show Mr Cook remaining verbally aggressive and abusive towards staff.
- nn) 27 May 2016 - Mr Cook reportedly licked the window of his cell door when offered lunch and was heard by staff talking to himself.
- oo) 28 May 2016 - Mr Cook ranted and screamed abuse for some 2 hours.
- pp) 31 May 2016 - Mr Cook recorded as articulating paranoid and grandiose ideas including that he was “part of a secret society to exterminate all Nazis”.
- qq) 30 June 2016 - yet more abuse to staff including a threat to stab a staff member.

¹⁵ The High Risk Assessment Team is designed to attempt to manage prisoners displaying high levels of aggression and hostility.

¹⁶ Presumably a reference to ‘Jedi Knights’, characters in the well-known Star Wars movie series (or ‘franchise’ as such series are now apparently known).

- rr) 1 July 2016 - Mr Cook was abusive to staff and threatened to smash his cell television and to commit suicide.
- ss) 13 July 2016 - recorded as being “disruptive toward other prisoners”.
45. It is apparent from the records tendered at the inquest, that because of his conduct, at no stage was Mr Cook ever housed in what might be described as the ‘more general’ areas of the prison, that is to say, beyond special behaviour management areas. He had lengthy periods in segregation because of his threats of violence against officers and other prisoners. He also had lengthy periods in the Crisis Support Unit after expressing suicidal and/or self-harm ideation.
46. As I said earlier, it is obvious that, mental health issues notwithstanding, Mr Cook’s behaviour whilst in prison was consistently very poor for essentially the whole of his period of imprisonment in 2015 - 2016.

Remission of sentence

47. The evidence was that Mr Cook was released on 22 July 2016, not having served the full sentence imposed upon him by Justice Porter (and not having been granted parole) because he was granted a remission of 10 weeks of his sentence. He was granted that remission against the background of his behaviour in prison set out above.
48. The power to grant remission of a sentence was, at the relevant time, to be found in the *Corrections Act 1997*.¹⁷ Relevantly section 86 of that Act provides: “the Director may grant to a prisoner a remission of the whole or any part of the prisoner’s sentence pursuant to regulations made under section 90(2)(d)”.
49. Section 90(2)(d) of that Act provides: “without affecting the generality of subsection (1), the regulations may make provision for all with respect to – (d) the mitigation remission, conditional or otherwise of the sentence of a prisoner **as an incentive to, or reward for, good conduct while the prisoner is serving his or her sentence**”. [Emphasis added].
50. The regulations in force at the time of Mr Cook’s release provided:

¹⁷ I note the relevant regulations were rescinded in July 2018, after Mrs Delios was killed.

- “(1) For the purpose of section 86 of the Act, a remission of the whole or any part of a prisoner's sentence is not to –*
- (a) exceed 3 months if the period of imprisonment to which the remission relates is imposed after 1 January 1994; and*
 - (b) exceed one-third of the total period of imprisonment to which a prisoner is sentenced; and*
 - (c) operate so as to reduce the total period of imprisonment served by a prisoner to less than 3 months.*
- (2) Remission of sentence is not to be granted to a prisoner who is –*
- (a) convicted of escape or attempted escape in respect of that part of the prisoner's sentence served up to and including the day on which the escape or attempted escape was made; or*
 - (b) sentenced to a total period of imprisonment of 3 months or less.*
- (3) The Director is not to grant a remission of sentence to a prisoner if that remission would operate to reduce the total period of imprisonment served by the prisoner in respect of that sentence to a period that is shorter than any non-parole period specified in an order made in respect of that prisoner under section 17(2)(b) of the Sentencing Act 1997.”¹⁸*

51. The issue of remission of sentence is also dealt with in an internal prison policy.¹⁹ That policy reflected the position in the *Corrections Act 1997*, namely that the purpose of remission is to provide an incentive or reward to prisoners for demonstrating good behaviour whilst in prison. Part 5.2 of the policy emphasises this fact - indicating that consistent good behaviour and a commitment to rehabilitation and reintegration are some of the matters to be looked upon favourably when a grant of remission is considered.
52. A report was prepared to consider whether Mr Cook should be granted any remission of his sentence. That report was tendered at the inquest.²⁰ The report has a number of questions directed to the issue of a prisoner's conduct throughout the sentence. In every case, Mr Cook was marked as “poor” for all

¹⁸ Regulation 22.

¹⁹ Tasmanian Prison Service Remission Policy, dated 8 June 2009.

²⁰ Exhibit C76, affidavit of Ian Pugh Thomas sworn 17 July 2019, Annexure W.

criteria (including compliance of prison rules and regulations, behaviour, commitment to rehabilitation, reintegration, and performing work to a satisfactory standard). I note there is no lower standard in the report than “poor”.

53. The report also indicates that Mr Cook had:
- been found guilty of one or more prison offences while serving his sentence;
 - demonstrated patterns of non-compliance with prison rules and regulations;
 - committed either a summary or criminal offence during the sentence;
 - refused to participate in work, education or any programs;
 - been removed from either work or educational programs due to misconduct or poor performance; and
 - had demonstrated poor conduct and an unacceptable level of behaviour.
54. Nonetheless, he was granted 10 weeks (of a maximum available to him of 12 weeks) remission of sentence. Given his extremely challenging behaviours in prison, with actual and threatened violence to staff and other inmates, why he was granted any remission at all is far from clear to me. There was no evidence at the inquest which cast any light on the decision to grant Mr Cook remission of sentence.

Community Corrections

55. As has already been noted, Justice Porter made a probation order as part of his sentence of Mr Cook on 7 October 2015. A condition of that order was that Mr Cook was required to report within one clear working day of his release from prison to a probation officer.
56. Accordingly, Community Corrections (the body then responsible for, *inter alia*, the management of persons on probation) made arrangements to deal with Mr Cook upon his release. At the time, Community Corrections had a position at the prison of Prison Probation Officer. The role was filled at the time by Mr

Adrian Beith. It seems that, after Mrs Delios' death, that position was removed and the evidence at the inquest was that it was the subject of 'review'.²¹

57. On 22 June 2016, Mr Beith received an email from Ms Felicity Hamlyn. Ms Hamlyn was then employed as a planning officer within the Tasmanian Prison Service (TPS). That email, outlined concerns about Mr Cook's behaviour.²² In particular, Ms Hamlyn included in the email the fact that Mr Cook had told her, when she advised him that he would be visited in the near future by a probation officer, that if the probation officer was a man, he would "stab him".²³
58. Mr Cook was interviewed by Mr Beith at what was described as a "pre-release meeting" in a secure interview room at Risdon Prison on 1 July 2016. The notes of the meeting indicate that Mr Beith took Mr Cook through the probation conditions and Mr Cook advised Mr Beith he had "lost a fortnight of his remissions". The pair also discussed where Mr Cook was intending to live after his release.
59. Because of the threats articulated by Mr Cook to Ms Hamlyn, Mr Beith recommended that the initial appointment with Mr Cook after his release be held with a female probation officer. Mr Beith also recommended that the appointment be held on the premises of the Magistrates Court, Liverpool Street in Hobart, since that would require Mr Cook to pass through the Court's security including a metal detector. The evidence was, as at July 2016 (and at the date of the inquest) Community Corrections did not have the ability to screen 'clients' for weapons or dangerous articles.
60. Self-evidently, staff at Community Corrections were most concerned about the threat Mr Cook posed. Mr Beith placed a note in the Community Corrections Case Management database headed "Safety Concerns". The note is worth quoting in full:

"Please be aware that this inmate has a long record of non-compliance and violence against both staff and inmates in other jurisdictions."

²¹ See affidavit of Neil Buchanan sworn 21 August 2019 exhibit C87.

²² *Supra*, page 1 of 2.

²³ *Supra*.

While accommodated within the RPC he has assaulted another inmate and has made threats toward staff in recent times.

All staff when dealing with this inmate need to exercise due care as his behaviour has declined in recent days.”²⁴

Not only was the note plain commonsense in light of the information Mr Beith had about Mr Cook, but it also complied with Part 12.8 of the Community Corrections Policy and Procedures document.²⁵ It is also worth noting that Community Corrections, unlike the Prison Service (both parts of the same government department) apparently had access to interstate records relating to Mr Cook.

61. Mr Cook was issued with a formal direction to attend the meeting at the Hobart Magistrates Court at 12.00 noon on Friday, 22 July 2016. I am in no doubt Mr Cook received that direction. It was sent to him by internal prison mail. I am quite satisfied that he also understood what it meant, because he told Mr Jared Khu, a prison chaplain, who assisted him on the day of his release, that he had the appointment.²⁶
62. In fact, Mr Cook did not attend the appointment that was made for him to meet with a female probation officer at the Hobart Magistrates Court. The Director of Community Corrections explained in his evidence that the normal procedure for a missed induction appointment is “to telephone the offender to seek their explanation and then reschedule the appointment”.²⁷ However, Community Corrections did not have a telephone number for Mr Cook.²⁸ There seemed to be no policy of notifying police of a failure of an offender to attend an induction appointment. Policy notwithstanding, no-one appears to have given any thought to notifying Tasmania Police of the fact that Mr Cook did not keep his appointment. I acknowledge there was no requirement for that to have been done. Nonetheless, it is very clear that staff at Community Corrections, with very good reason, held serious concerns in relation to the threat that Mr Cook

²⁴ *Supra*, page 2.

²⁵ Annexure 1, exhibit C87.

²⁶ Affidavit of Jared Francis Khu, sworn 25 July 2016, page 3 of 3, exhibit C81.

²⁷ Exhibit C87, page 2.

²⁸ *Supra*. And see also exhibit C86, letter from Mr Beith to Coroner’s Office, dated 7 August 2019.

posed to them (and others). His failure to attend the appointment is something that should, in my respectful view, have been passed on to Tasmania Police.

63. In saying that, I do not wish to be taken as expressing the view that the failure on the part of Community Corrections to notify Tasmania Police of Mr Cook's failure to keep his appointment caused, or contributed to, (in a legal sense) Mrs Delios' death. However, I consider the failure to do so is sufficiently connected with her death to justify this observation.
64. It is also noteworthy, in my view, that notwithstanding the fact that Probation Orders are no longer made (having been replaced by Community Correction Orders) in practical terms there is no meaningful ability to monitor a person's compliance with any conditions made after their release from prison. It is also evident that, because there is no power on the part of Community Corrections and/or Tasmania Police to detain or arrest a person who has failed to comply with the reporting obligation, there is no swift way to deal with non-compliance. In order to deal with a failure to report, it is necessary to make an application to the sentencing court under the *Sentencing Act 1997*. Counsel Assisting submitted, correctly in my view, that this is "not a timely process". The consequences of the lack of timeliness in relation to the ability to react on the part of the authorities is well demonstrated in Mr Cook's case. He was, perhaps, an extreme case, in that he had been released from custody after spending 12 months or more in maximum security, with no support mechanisms in place and no assistance to enable him to attempt to reintegrate into society. The Probation Order, to succeed, required his cooperation. It is evident from his behaviour in prison that that cooperation was unlikely to be forthcoming.

Treatment for mental illness in the Tasmanian prison system

65. Mr Cook was not unusual, being a prisoner or detainee, and suffering from mental illness. Many inmates suffer from some form of mental illness. It is evident that the provision of treatment for those suffering mental illness, whilst the responsibility of the state, is challenging.

66. The Tasmanian Prison Service (part of the Department of Justice) consists of the Risdon Prison Complex, the Ron Barwick Minimum Security Prison, the Mary Hutchinson Women's Prison, the Hobart and Launceston Reception Prisons and the Wilfred Lopes Centre. It is supported by two arms of the Tasmanian Health Service – Correctional Primary Health Services and Forensic Mental Health Services. The Tasmanian Health Service is not part of the Department of Justice.
67. It is clear that during his time in prison, in the immediate lead up to Mrs Delios' death, and leading up to his release, Mr Cook was extremely mentally unwell. There is always an element of hindsight about a coroner making judgements and findings of fact, but even allowing for that, it really could not have been plainer. What then was done to treat Mr Cook's mental illness?
68. In short, the answer seems to be very little, and not because of any failing on the part of any person, but rather because of the pressure on the agency charged with providing that treatment and care. The inquest had the benefit of hearing evidence from Dr Leila Kavanagh, the Head of Department for Statewide Forensic Mental Health Service (FMHS). In her evidence Dr Kavanagh said that, broadly speaking, FMHS provides specialist mental health services to prisoners and detainees. However, that is not all FMHS does. It also has responsibility for the provision of mental health services to juveniles in Ashley, and within the community. In respect of the latter, FMHS provides a court liaison and reporting service as well as a community Forensic Mental Health Service.²⁹ Those services are provided on a statewide basis.
69. At the time of the inquest FMHS consisted of three full time equivalent (FTE) psychiatrists, five FTE psychologists, two FTE intellectual disability workers, three FTE occupational therapists, four FTE social workers and a number of registered nurses, enrolled nurses, and care assistance.
70. Forensic mental health clinics are conducted at Risdon Prison and Ashley. In certain circumstances, prisoners and detainees who need it are able to be transferred to the Wilfred Lopes Centre, a purpose-built secure forensic mental

²⁹ See exhibit C89 generally.

health facility adjacent the main Risdon Prison complex. The Wilfred Lopes Centre opened in 2006. It is the State's only secure mental health unit. The evidence was that it is designed to accommodate up to 35 patients but was, at the time of the inquest, only funded to provide inpatient facilities for 23 people. Thus 12 beds are unable to be used. A consequence of this is that an area known as the Supported Independent Living Unit has been closed and was, at the time of the inquest, vacant. I **comment** that, in my respectful view, it is essential that the appropriate authorities arrange for the Supported Independent Living Unit to be re-opened (if that has not occurred since the inquest), immediately.

71. The evidence is that Mr Cook received ongoing regular, and as thorough as the circumstances allowed, medical reviews, after he entered the Risdon Prison Complex on 21 May 2015. I have already set out earlier many notes dealing with his periods of agitation, actual and threatened violence against staff and inmates as well as threats of self-harm. Although he was, as has been set out above, examined by a psychiatrist in May 2015 and determined as not having suffered from any mental illness, the records kept by the Prison and Correctional Primary Health tell a different story, as they are replete with references to paranoia, hearing voices, threats of violence, threats of self-harm and a mental state that was plainly sub-optimal.
72. Nonetheless, Mr Cook did not find his way into the Wilfred Lopes Centre. He was medicated with an antipsychotic medication – Olanzapine – during at least August 2015. However, he appears to have stopped and/or refused to take the medication after that time and a significant and notable deterioration in his conduct ensued. There was slight improvement in his behaviour during November and December 2015 – which coincides with a period when he appears to have been compliant in relation to taking the antipsychotic medication. However, by early 2016, he was again refusing the medication and his behaviour again deteriorated.
73. The most striking aspect of the medication regime for Mr Cook is that there was no statutory or any other requirement for him to actually take the medication he needed to treat his mental illness. The medication's efficacy depended entirely upon his voluntarily taking it. Medical records and prison

records suggest that when he was compliant with the antipsychotic medication his behaviour improved. On the other hand, when he refused to take the medication – and there were many periods of time during this period of incarceration when this was so – his behaviour deteriorated markedly.

74. The *Mental Health Act 2013* is the only legal mechanism by which the taking of medication such as Olanzapine can be compelled. Relevantly, that Act provides that orders can be made by the Mental Health Tribunal (for either assessment or treatment of a person) upon application of a medical practitioner where:
- a person is suffering mental illness; and
 - without treatment that mental illness will (or is likely) to seriously harm;
 - the person or impact upon the safety of other persons.
75. There is no evidence that any medical practitioner associated with Mr Cook's treatment and care whilst he was incarcerated considered making an application for such an order. It seems to me that consideration of whether such an application should be made, if for no other reason than to ensure compliance with a medication regime obviously necessary to treat the worst of Mr Cook's symptoms, was warranted.

Circumstances of death

76. I turn now to consider the circumstances of Mrs Delios' death. On Thursday, 21 July 2016, the day before he was due to be released from prison, Mr Cook was visited by Mr Luke Campton, a prison chaplain. Mr Campton said that on that date Mr Cook appeared "happy but unsettled".³⁰ Mr Campton told Mr Cook he had arranged for a volunteer from Prison Fellowship to meet him at Risdon Prison at 9.30am on the morning of his release (i.e. the next day) and take him into Hobart. Mr Cook told Mr Campton that this suited him and told him he had an appointment with "parole".³¹

³⁰ Exhibit C80 – statement of Luke Campton 26 July 2016.

³¹ *Supra*, contextually this can only mean the scheduled appointment with Community Corrections in relation to his probation order.

77. The next day, Friday, 22 July 2016, Mr Jarrod Khu, a Presbyterian Church Pastor and a volunteer for the Prison Fellowship, collected Mr Cook from the Visitors Centre at Risdon Prison at around 9.45am. Mr Khu took Mr Cook into the city. Together the men visited a bakery, a surf store and a Christian bookshop. Mr Khu confirmed Mr Cook had an appointment at Probation and Parole at 12.00 noon.³² I note that Mr Cook seems to have told Mr Khu that his appointment with Probation and Parole was on the corner of Murray and Bathurst Streets, and not at the Hobart Magistrates Court on Liverpool Street.
78. As I have already noted, Mr Cook did not attend his appointment with Community Corrections. Evidence at the inquest satisfies me that he did not attend either the Magistrates Court or the Community Corrections office on the corner of Murray and Bathurst Streets.³³
79. Mr Cook's movements after he was last seen by Mr Khu, involved a meal at a restaurant in Salamanca Place and a visit to the Society of Christian Doctrine premises in Sandy Bay. He also purchased the knife that he subsequently used to kill Mrs Delios. His movements that evening and early the next morning are not clear, and probably not particularly relevant.
80. In any event, Mr Cook appears to have arrived in the general vicinity of the A&B Grocery Store in Elizabeth Street, North Hobart, at around 10.30am on Saturday, 23 July 2016. It is evident that he spent some time in the area calling in at, *inter alia*, a nail salon and newsagency and being seen by witnesses on several occasions in the general area.
81. At about midday, he entered the A&B Grocery Store and stabbed Mrs Delios. She was found by a member of the public, who knew her, laying on her front on the floor of the shop in a pool of blood. He ran to the Rain Check Lounge, a cafe next door, to seek help. Two staff members from the Rain Check Lounge immediately went to Mrs Delios' assistance and commenced CPR. Meanwhile,

³² C81 – affidavit of Jared Francis Khu sworn 25 July 2016, page 3 of 3.

³³ Exhibit C87, Affidavit of Neale Buchanan.

another member of the public, working nearby, called 000. Other local people also helped to render assistance.

82. Ambulance paramedics arrived on the scene at 12.20pm. They saw a member of the public applying chest compressions to Mrs Delios. A defibrillator was applied by paramedics and Mrs Delios' airway cleared. A decision was made to rush Mrs Delios to the nearby Royal Hobart Hospital (RHH) while continuing resuscitation attempts.
83. Mrs Delios was transferred to a resuscitation room at the RHH as soon as the ambulance arrived. Hospital medical staff took over resuscitation attempts. I am satisfied that the response of emergency services personnel, and in particular Ambulance Tasmania, was extremely timely and commendable.
84. Unfortunately, Mrs Delios was too terribly injured to survive. Shortly after her arrival at the hospital, she was pronounced deceased. I am satisfied that the treatment she received at the RHH was of an appropriate standard.
85. In the meantime, police had commenced an investigation. The scene where Mrs Delios had been attacked was secured and carefully forensically examined and photographed. Those photographs and the evidence obtained as a part of the forensic examination have informed this finding. I observe that the forensic examination was extremely thorough, but at the same time did not disturb, except to a very limited extent indeed, the stock and property within the grocery store.
86. Mr Cook was quickly identified as a person of interest by police as a consequence of viewing CCTV footage. As has already been mentioned, he was arrested later that night at an address in Claremont. It is clear that Police involved in the investigation did not know Mr Cook had been released from prison nor that he had, upon release, failed to keep an appointment with Community Corrections, thus breaching a court order. I do not think though that the lack of either of those pieces of information by Police adversely impacted on the investigation. Mr Cook was quickly identified, located and taken into custody.

Forensic Pathology Evidence

87. On 25 July 2016, after Mrs Delios had been formally identified by a police officer, Sergeant Adrian Mollon,³⁴ Forensic Pathologist Dr Donald Ritchey performed an autopsy upon her body.
88. Dr Ritchey found that Mrs Delios had suffered 10 stab wounds to the right side of her face and neck including to her jugular vein and carotid artery, three stab wounds to the right side of her chest and one stab wound to her right shoulder. Each of the stab wounds to the chest penetrated deeply into her thorax and caused significant damage to a lung and her pericardium. In addition, Mrs Delios suffered a number of cuts (likely of a defensive nature) to her face, right forearm, wrist and hand.
89. Dr Ritchey expressed the opinion that the cause of Mrs Delios' death was the multiple stab wounds to her neck and chest.³⁵ I accept Dr Ritchey's opinion.
90. Samples taken from Mrs Delios' body at autopsy were subsequently analysed at the laboratory of Forensic Science Service Tasmania. That analysis was unremarkable and found "no apparent significant toxicology".³⁶

Formal findings

91. On the basis of the evidence at the inquest I make the following formal findings pursuant to section 28(1) of the *Coroners Act 1995*:
 - a) The identity of the deceased is Voula Delios;
 - b) Mrs Delios died as a result of being stabbed by Daryl Royston Wayne Cook;
 - c) The cause of Mrs Delios' death was multiple stab wounds; and
 - d) Mrs Delios died on 23 July 2016 at the Royal Hobart Hospital, Hobart in Tasmania.

³⁴ See affidavit of Adrian Mollon, exhibit C2 – Sergeant Mollon knew Mrs Delios from previous employment.

³⁵ Exhibit C4, post-mortem report, page 11 of 14.

³⁶ Exhibit C5, toxicology report, page 1.

Comments and Recommendations

92. The formal findings, set out above, and made under section 28(1) of the *Coroners Act 1995* are in no way contentious. The less easy issue is what flows from Mrs Delios' death (and its circumstances) and whether any recommendations or comments should be made.
93. Ms Ansell, Counsel Assisting, submitted that a number of recommendations should be made; *contra* Mr Turner SC, while not (as I understand it) disputing that the recommendations suggested are fair, reasonable and supported by the evidence adduced at the inquest, submitted that there was not a sufficient legal nexus between the recommendations and comments and the circumstances of Mrs Delios' death. I turn to consider that issue.
94. It should be clear from the finding above that I consider that Mr Cook was released into the community suffering from a serious, but untreated mental illness and while suffering from that illness killed Mrs Delios. He was released early, having been granted a remission for good behaviour, when his behaviour had been the antithesis of 'good'. He was released with, in effect, no support at all. The question is whether, in light of those findings and the particular circumstances of Mrs Delios' death, the making of recommendations and comments are authorised as a matter of law.
95. The relevant provisions in the *Coroners Act 1995* are sections 28(2) and (3). Those sections provide:
 - a) A coroner must, whenever appropriate, make recommendations with respect to ways of preventing further deaths and on any other matter that the coroner considers appropriate.
 - b) A coroner may comment on any other matter connected with the death including public health or safety or the administration of justice.
96. The recommendations Counsel Assisting submitted I should make were as follows:

- a) That there is additional infrastructure and accommodation for prisoners and detainees with mental health needs that do not meet the criteria for transfer to the Wilfred Lopes Centre.
- b) That there is additional infrastructure from which to deliver health services to prisoners and detainees.
- c) That prisoners/detainees with mental illness who exit prison receive a comprehensive mental health discharge plan, and services have the capacity to meet their needs.
- d) An increase in the number of trained psychiatrists and mental health nurses, and the creation of a specialised training stream for mental health nurses.
- e) That all staff within Risdon Prison undertake regular training (and retraining) in respect of mental health.
- f) That all staff within Risdon Prison undertake training in respect of the *Mental Health Act* inclusive of the mechanisms available to the medical staff under the *Mental Health Act*.
- g) That an information sharing system be developed between the states of Australia that allow[s] access to prisoners' records (both punitive and health-related) within each jurisdiction.
- h) [That there be] a review of the remission system within Risdon Prison that provides strict guidelines as opposed to generic terms as to when the person is to be provided with remission. By way of example, if a person does not rate of the highest for 3/4 of the selection criteria, then there is an automatic deduction of half.
- i) That the decision for remission, is reviewed by an independent body.
- j) That there is additional infrastructure for Community Corrections to ensure that prisoners upon release comply with the reporting obligations.
- k) That there is a review of the Community Correction Orders, to allow for Tasmania Police upon direction of Community Corrections to arrest a person for non-compliance.
- l) That there [are the] creation of residential facilit[ies] throughout the various parts of the State for prisoners upon their release. The prisoners who would require attendance upon their release include (but not limited

to) prisoners who are subject to probation, prisoners that have been held in maximum security 3/4 of the sentence, prisoners who have committed serious crime. Guidelines around any residence would include:

- The facility would house prisoners for up to one week following release.
- The facility would be adequately staffed with professionals to assist or refer prisoners to services such as alcohol and drug counselling, social security services, mental health facilities, and long-term accommodation to assist them to transfer into society.
- The ability to contact police immediately upon any breach of orders.

97. It is, I think, very clear that when Mrs Delios was killed by Mr Cook (who had been released early from prison) he was suffering from an obvious untreated mental illness. He was released without support and failed to keep an important appointment with Community Corrections within hours of his early release. All of these factors, seem to me at least, to have been factors which individually, and collectively, contributed to the circumstances which led to Mrs Delios' shocking, tragic and needless death. Whether in a legal sense they caused her death is a different issue. So is whether the circumstances of Mr Cook's imprisonment and early release are sufficiently causally connected with her death, so as to warrant the making of recommendations. However, I do not consider I need to determine that issue.

98. The issues exposed by Mrs Delios' death, and looked at carefully at her inquest, included the provision of mental health services within the TPS, how remissions of sentence are granted and what happens to prisoners upon their release from prison. It is apparent that there is considerable room for improvement, both while prisoners are serving sentences and after their release, especially those released suffering mental illness and without any or adequate support. It is quite apparent that those responsible for managing the Prison Service in this State are well aware of these issues. I **comment** that all Ms Ansell's suggestions, directed as they are to the particulars of these issues, are worthy of careful consideration by those authorities.

99. In conclusion, I wish to express my particular thanks to Ms Ansell, Mr Turner SC and Sergeant Peters for their assistance in the preparation for, and conduct of, the inquest. I also acknowledge the valuable support provided by the Victims Assistance Unit. The co-operative approach to the preparation for, and conduct of, the inquest of the TPS is also appreciated. I also wish to express my appreciation to Mr Shaun Hancl, Graduate Legal Trainee, for his assistance in relation to the conduct of the inquest.
100. Finally, I wish to express my sincere and respectful condolences to the family and loved ones of Mrs Delios.

Dated: 7 August 2020 at Hobart in the State of Tasmania

Simon Cooper
Coroner