



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Jeffrey Lawrence Brooks**

TITLE OF COURT: Coroners Court

JURISDICTION: BRISBANE

FILE NO(s): 2018/4965

DELIVERED ON: 13 June, 2023

DELIVERED AT: Brisbane

HEARING DATE(s): 21 to 29 November 2022

FINDINGS OF: Donald MacKenzie, Coroner

CATCHWORDS: Coroners: Inquest, potential homicide, earlier Inquest reopened at the direction of the Attorney-General (Qld), adequacy of police investigation, Section 48(2)(a) *Coroners Act (Qld)* "reasonable suspicion" an offence has been committed

REPRESENTATION:

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Wendy and
Lawrence Brooks
(next of kin):

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Contents

Executive Summary	4
The Coronial Jurisdiction.....	7
The Original Investigation	9
The Original Inquest.....	18
Further enquiries.....	22
Direction by Attorney-General to re-open.....	29
Enquiries following the Attorney-General's Direction	30
The Re-opened 2022 Inquest	43
Consideration of issues.....	59
Section 48 Coroners Act (Qld) Referral	66
Recommendations and s45 Coroners Act (Qld) Findings	69
Findings required by s. 45.....	69

Executive Summary

1. Between 1.51pm and approximately 3.30pm on Wednesday, 13 March 1996, Mr Jeffrey Brooks (“the deceased” or “Jeffrey”), aged 24, died when he received a shotgun wound to his left upper chest. He was deceased within minutes due to massive blood loss. This incident took place where he was employed as an aquaculturalist at the Beenleigh Crayfish Farm, on Beaudesert-Beenleigh Road, Luscombe. The farm was leased from the South-east Queensland Water Board to a company Sailrite Pty Ltd whose principle director was Mr Gregory Milham. This company employed the deceased and three full-time farm workers to run the crayfish farm: Mr Johannes Wolfgang ‘Hans’ Geiger (farm manager); Ms Regine Kjellerup (wife of Mr Geiger at the time); and Mr Graeme Lloyd (farm worker). Mr Lloyd discovered his body and telephoned emergency services at 3:30 pm. The only people who were known to be at the crayfish farm during the period when the deceased was killed were Mr Lloyd, Ms Kjellerup and Mr Geiger was only a 15-minute drive away.
2. The Queensland Police Service (QPS) investigated and determined that Jeffrey’s death was most likely to have been an accident: Jeffrey had reached into the passenger seat of a utility, grabbed the end of the shotgun muzzle and pulled the shotgun towards him causing the shotgun to discharge. However, Jeffrey’s parents, Lawrence and Wendy Brooks, believe that Jeffrey’s death was the result of foul play. They argue that neither alternative theories of suicide nor an accidental discharge can explain this death. They believe that the three farm workers Mr Geiger, his then wife, Ms Kjellerup and Mr Lloyd were involved in this death.
3. On the day of Jeffrey’s death, an investigation was commenced by police from the Beenleigh Criminal Investigation Bureau (CIB), led by then Detective Sergeant Michael Condon. As a result of those investigations, a report was completed and forwarded to the Office of the State Coroner.
4. On 22 April 1998, following a three-day inquest, Coroner Anders delivered an open finding: an accidental death scenario proffered by the Queensland Police Service was considered most likely; but foul play could not be conclusively ruled out. Coroner Anders rejected the suicide theory primarily on the basis of the deceased’s devout Christian values and safety conscious firearm handling.
5. On 2 November 2018 the Attorney-General directed the State Coroner to appoint a Coroner to re-open the 1998 Inquest.
6. Having considered the vast array of material gathered over the last 26 years there is sufficient information to found a reasonable suspicion that Mr Johannes Wolfgang ‘Hans’ Geiger and Ms Regine Kjellerup were involved in the unlawful killing of Mr Jeffrey Brooks. There is evidence of statements by the deceased of concern for his life, motive, aggressive behaviour 24 hours before the shooting, opportunity, and post-offence behaviour which potentially incriminates both. In accordance with Section 48 (2)(a) of the Coroners Act 2003 (Qld), I have referred the brief of evidence to the Director of Prosecutions on this basis. I do not hold a reasonable suspicion that Mr Lloyd was involved. In particular his behaviour immediately after discovering the deceased’s body is consistent with innocence and he presented as an honest witness.

7. These referrals require some explanation. The Hearing before Magistrate Anders in 1998 was held pursuant to the superseded Coroners Act 1958 (Qld). It was a Coroner's Inquisition (Death Inquest) pursuant to Section 44 of the 1958 Act. Effectively, Section 41 of the 1958 Act required a Coroner, in a homicide matter, to commit a person for trial to the Supreme Court. For that to occur, the Magistrate had to find a "prima facie" case against that person. That legal test requires a much higher standard of proof than a "reasonable suspicion." Magistrate Anders could not "rule out" the reasonable possibility that the deceased accidentally discharged the shotgun causing the fatal wound. He said: "It is possible on the evidence that the deceased met his death by suspicious circumstances. The difficulty I have, however, is that on the evidence before me death by accident cannot be ruled out." Hence, he found that the "prima facie" test was not made out but there was a reasonable suspicion. This Inquest has not thrown much in the way of new evidence which would disturb that finding.
8. I wish to make it perfectly clear that I am not making a finding that Mr Geiger and Ms Kjellerup are or might be guilty of a criminal offence. I am acting in accordance with a mandated direction in Section 48(2)(a).
9. In relation to the Brooks family's assertion that the Queensland Police Service preliminary investigation into this death was flawed, I reject that submission. The investigation was not perfect but it was adequate. I do not accept that investigating police, particularly the lead Detective (now retired), Mr Michael Condon, "closed his mind" to this death being a homicide. Subsequent independent reviews confirmed that the police investigation was thorough and satisfactory.
10. Following the first Inquest in 1998, the shot gun which discharged, killing Jeffrey, was destroyed. It was dangerous, had been tested and there was no further investigation known to police at the time. A Queensland Police Service ballistics expert, Sergeant Robert Graham, had used the firearm to re-construct the fatal discharge primarily to establish the distance between the end of the barrel and the deceased's body and reported the results. A number of further reconstructive tests have been undertaken in an attempt to discredit Sgt. Graham's measurements and opinions. These subsequent tests did not use the original shotgun and variously did not use the same ammunition nor suitable replica human skin targets. Reviews by the highly accredited ballistics experts did not criticise Sgt. Graham's work and determinations.
11. I place little weight on the Alchin Walker and Associates private investigator's report commissioned by the directors of Sailrite. The report was unbalanced and client-focused and almost completely ignored the possibility of a firearm mishandling accident. The directors of Sailrite had everything to gain from this death being a homicide. They were clearly exposed to a work health and safety prosecution, common law suit by the deceased's wife and others or increased WorkCover premiums if it was found that an employee (the deceased) died from the misfire of a known to be clearly dangerous firearm provided by his employer. The attack on Detective Condon's investigation calling for him to be prosecuted criminally was aspersive and unwarranted. I was grateful to a colleague of the author, Mr Walker, who gave evidence in the author's absence and withdrew that allegation.
12. These findings have taken into account all evidence gathered in the original QPS investigation and the more recent coronial investigation, as well as evidence

given by witnesses at both inquests. I have been assisted in making these findings by Counsel Assisting and the legal representatives to interested persons. I have been assisted considerably by written submissions in respect of the issues considered and the findings to be made.

13. I imagine that Mr and Mrs Brooks are disappointed that this Inquest did not uncover any further critical evidence to support their theory behind the loss of their beloved son. The effluxion of time (some 26 years) has dulled memories and in some cases relevant witnesses are no longer available to testify. However, I can assure them that every avenue of enquiry was pursued. I pass on the condolences of this Court for their loss of a fine young man taken too soon.

The Coronial Jurisdiction

14. Before turning to the evidence, I will say something about the nature of the coronial jurisdiction. The basis of this jurisdiction arises here because the Attorney-General (Qld) directed a re-opening of the original 1998 Inquest into this death. Because it is considered to be “a violent or unnatural death” within the terms of s8(3)(b) of the Coroners Act 2003 (Qld), Section 11(2) of the Coroners Act 2003 (Qld) confers jurisdiction on a Coroner to investigate such a death and s28(1) authorises the holding of an inquest into it.

15. Section 45(2) of the Coroners Act (Qld) provides:

A coroner who is investigating a death or suspected death must, if possible, find—

- (a) who the deceased person is; and*
- (b) how the person died; and*
- (c) when the person died; and*
- (d) where the person died, and in particular whether the person died in Queensland; and*
- (e) what caused the person to die.*

16. After considering all of the evidence presented at the inquest, findings must be given in relation to each of those matters to the extent that they are able to be proved. An inquest is not a trial between opposing parties but an inquiry into the death. Lord Lane CJ in *R v South London Coroner; ex parte Thompson* (1982) 126 S.J. 625 described a coronial inquest in this way:

“... an inquest is a fact-finding exercise and not a method of apportioning guilt. The procedure and rules of evidence which are suitable for one are unsuitable for the other. In an inquest it should never be forgotten that there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends,” ... (and) ... “the function of an inquest is to seek out and record as many of the facts concerning the death as [the] public interest requires.”

17. 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 with a view to reducing the likelihood of similar deaths. As a result, the Act authorises a coroner to make preventive recommendations (s46) but prohibits findings being framed in a way that appears to determine questions of civil liability or suggests a person is guilty of any criminal offence (s45(5)).

18. Proceedings in a Coroner’s Court are not bound by the rules of evidence because s37 of the Act provides that “the Coroners Court is not bound by the rules of evidence but may inform itself in any way it considers appropriate”. This flexibility has been explained as a consequence of an inquest being a fact-finding exercise rather than a means of apportioning guilt: an inquiry rather than a trial. However, the rules of evidence and the cornerstone of relevance should not be

disregarded and in all cases the evidence relied upon must be logically or rationally probative of the fact to be determined.¹

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.² This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, the clearer and more persuasive the evidence needed for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.³ It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially.⁴ 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. As the High Court made clear in *Annetts v McCann* (1990) 65 ALJR 167 at 168 this includes being given an opportunity to make submissions against findings that might be damaging to the reputation of any individual or organisation.
20. Further, by s. 46(1) of the Act a Coroner may whenever appropriate comment on anything connected with a death investigated at an inquest that relates to:
 - (i) public health or safety; or
 - (ii) the administration of justice; or
 - (iii) ways to prevent deaths from happening in similar circumstances in the future.
21. For the purposes of s. 46(1) of the Act, the issues to be dealt with at this Inquest were:
 1. The findings required by s 45(2) of the Coroners Act 2003 (Qld); namely the identity of the deceased, when, where and how he died and what caused his death; and
 2. The adequacy of the original Queensland Police Service investigation into this death and the processes relating to the management of exhibits.

¹ See Evatt, J in *R v War Pensions Entitlement Appeal Tribunal; Ex parte Bott* (1933) 50 CLR 228 at 256; Lockhart J in *Pearce v Button* (1986) 65 ALR 83, at 97; *Lillywhite v Chief Executive Liquor Licensing Division* [2008] QCA 88 at [34]; *Priest v West* [2012] VSCA 327 at [14] (Coroners Court matter) and *Epeabaka v MIMA* (1997) 150 ALR 397 at 400.

² *Anderson v Blashki* [1993] 2 VR 89 at 96 (per Gobbo J)

³ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

⁴ *Harmsworth v State Coroner* [1989] VR 989 at 994; Freckelton I., "Inquest Law" in The Inquest Handbook, Selby H., Federation Press, 1998 at p13

The Original Investigation

Initial response

22. On Wednesday 13 March 1996, Graeme Lloyd, an employee of the Beenleigh Crayfish Farm, called the police at 3:30pm to report that Jeffrey had been shot. He requested that an ambulance be called. Mr Lloyd had found Jeffrey lying across the driver and passenger seats of the red farm ute (a Datsun) in between crayfish dams 21 and 22.
23. At 3:40pm Hans Geiger, the farm manager, called the Head Office in NSW to advise the farm's owner, Mr Milham, that Jeffrey had been shot. Mr Milham and Paul Stewart, the Sales Manager of the Farm, left head office straightaway to drive to the farm. During the drive, Mr Milham called the Beenleigh CIB and "told them [he] wanted the situation to be treated as a Homicide."⁵
24. At 3:46pm the Queensland Ambulance Service (QAS) arrived. Mr Lloyd met the ambulance at the gate and directed it towards the shed. Mr Geiger met the ambulance near the shed and drove in front of it down to the scene, arriving there at 3:50pm. QAS Officer Eric Volmer inspected the scene and determined that the red ute was in a dangerous position. Officer Volmer asked Mr Geiger to tie the ute to his vehicle which he did. Officer Volmer examined Jeffrey for vital signs and determined that Jeffrey was already deceased. No treatment was given.
25. At 4:25pm QPS Officers Detective Sergeant Michael Condon, Detective Senior Constable Knowles, and Plain Clothes Constable Craig arrived at scene at the farm. At 4:58pm Scenes of Crime Officer (SOCO) Senior Constable Swan arrived and the scene was cordoned off. Photos were taken of the scene.
26. At 5:25pm DS Condon requested a Police Scientific Officer to attend. Scientific Officer Senior Constable Jason Hansen arrived 6:45pm. He examined the scene and made the following observations:

"There was a vehicle resting on the embankment of one of the dams with its bonnet at an angle facing up the embankment...There was a deceased male, now known to me as Jeffrey Books, in the vehicle on the embankment. Brooks lower body was in the drivers compartment, his torso was lying across the passenger seat and the left side of his head was resting against the passenger door window. Brooks had a wound to the left of his shoulder. His shirt was bloodstained in this area. There was a Harrington and Richardson brand single barrel shotgun lying across the drivers and passenger seats with the barrel pointing out the drivers door opening.

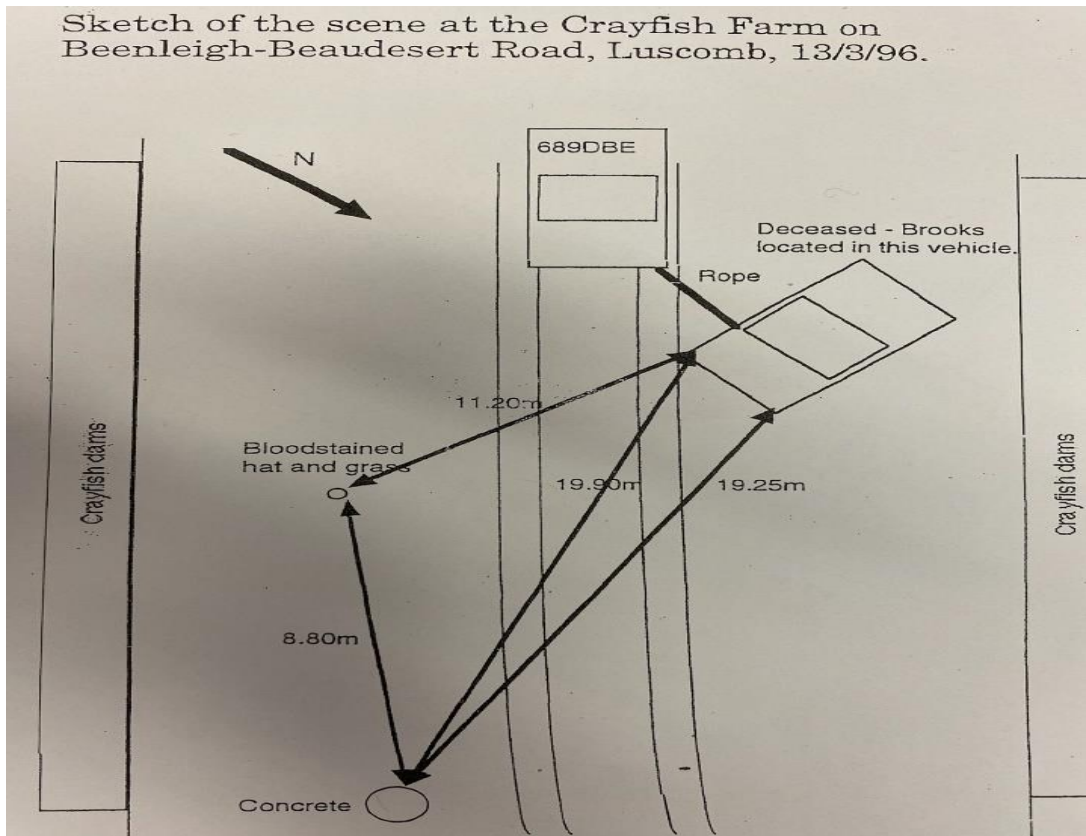
...There was bloodstaining throughout the cabin area of the vehicle. The blood staining the steering wheel was consistent with being caused by direct contact with a blood stained object, this type of blood staining is described as a contact blood pattern. On the rear left of the drivers seat there was a blood stained area which is adjacent to several drops of blood. The staining is well away from Brooks' wound in the position he was found and is consistent with him sitting up in the drivers seat for a period of time after being wounded.

There was a broad brimmed hat in grass adjacent to the access road on the opposite side to the vehicle approximately 11.2m from the drivers headlight. I

⁵ E2.1 – Statement of Gregory Milham, p 13.

found blood staining the grass in the area of the hat. The long grass in this area had been disturbed.

I located two 12 gauge discharged cartridge cases on the access road approximately 10m and 13m from the vehicle.”⁶ (my emphasis)



Photograph 1 - Sketch of scene at the Cray Fish Farm at Luscombe on 13 March 1996

⁶ A22 - Statement of Sgt Hansen, p 1.



Photograph 2 – Red Datsun Utility farm vehicle in situ



Photograph 3 – Shotgun in situ in the crayfish farm utility following removal of Jeffrey's body.

27. There were issues arising from this scene examination: light rain fell during the afternoon of 13 March 1996, potentially washing away blood drip or spray patterns; there was no indication from the scene (then or indeed since) as to the precise time of death between 1:51pm and 3:30pm; the finding of two undischarged rounds on the road; and the integrity of the scene initially was compromised when, for example, Mr Geiger, at the direction of ambulance officers, secured the ute by a rope to his vehicle to prevent it from slipping into the water. There was also no clear and obvious reason for the vehicle to have

travelled some 11.2 metres from the position of the deceased's hat and blood stain.

28. Police searched the shed and opened a locked upright locker in which they found a Remington 12-gauge shotgun which was Jeffrey's personal farm shotgun. It was not loaded, and there was no ammunition in the cupboard. Police searched Jeffrey's Falcon and located a box of Winchester Ranger, Number 2 12-gauge Shotgun Cartridges suitable only for the subject unsafe farm shotgun.
29. QPS reported the death to the Coroner later the same day as follows:

"Deceased person was employed at the Crayfish farm since September 1995. It is common for employees to carry a firearm on the property re shooting of snakes and predatory birds eating the crayfish. It appears that the deceased had gone back to the farm to do some shooting. Appears that while entering the vehicle with the shotgun after shooting, the gun has discharged and fatally wounded him. A workmate of the deceased located him lying on the seat of the vehicle on top of the shotgun.

The deceased's hat and an amount of blood were located outside the vehicle, the vehicle was approximately 10 metres away from the blood and hat.

IT IS UNKNOWN AT THIS STAGE WETHER (sic) THIS WAS A SUSPICIOUS OR NON SUSPICIOUS DEATH (Emphasis in original)."⁷

30. That evening, police interviewed Mr Lloyd, Mr Geiger, Ms Kjellerup (formerly Mrs Geiger), Mr Millham and Mr Stewart at the Beenleigh Police Station.

Autopsy

31. On 14 March 1996 Dr Charles Naylor conducted an autopsy consisting of an internal and external examination of the body, as well as chest x-rays, histology and blood/urine alcohol testing.

32. In respect of the chest x-ray, Dr Naylor noted that it showed:

"...numerous shotgun pellets in the left upper chest region apparently mainly outside the rib cage and a jagged fracture of the left upper humerus."⁸

33. In respect of the gunshot wound, Dr Naylor noted that:

"...the site of the entry wound...is in the front of the left shoulder just above the left anterior axillary fold. Depending on the position of the left upper [arm] and shoulder this entry wound changes shape from circular to oval and measures approximately 3cm in diameter. There appears to be slight blackening of the edges of this wound. However there are no discreet pellet wounds separate from the main wound nor is there any pronounced scalloping of the wound edges.

The underlying wound track appears to run downwards towards the thickness of the left chest wall.

...

Dissection of the left chest and shoulder region shows that the shotgun wound runs mainly downwards within the thickness of the muscles of the left lateral

⁷ A3 – Report Concerning Death by a Member of the Police Service.

⁸ A17 – Post-Mortem Report, p 1.

chest wall. The left subclavian artery contains a number of pellet holes accounting for the severe haemorrhage from this wound. The plastic wadding is found within the superficial part of the wound track. A number of pellets are found within the haemorrhagic musculature.

*A number of pellet wounds entered the left chest cavity over the left lateral aspect and also postero-aspect. There are pellet wounds over the lateral and posterior aspects of the left lung which is extensively haemorrhagic. There appear to be pellet wounds within main pulmonary artery branches. There is haemorrhage within the bronchi of the left lung. The left chest cavity contains approximately one litre of partially clotted blood.*⁹ (my emphasis)

34. The toxicology results showed no alcohol was present in the samples.
35. Dr Naylor concluded that the cause of death was the shotgun wound to the chest.

QPS Investigation

36. The QPS investigation into Jeffrey's death was carried out by police from the Beenleigh Criminal Investigation Bureau (CIB), led by DS Condon. In addition to the investigations carried out at the scene, the interviews and statements taken on the day of the incident and later in the investigation, investigations were carried out on the shotgun, the discharged ammunition and the red ute.

Firearms examination

37. Sergeant Robert Graham, a QPS firearms examiner stationed at the Scientific, Forensic and Technical Services Branch in Brisbane, made a statement outlining his investigation in respect of the shotgun and the ammunition found at the scene. Sgt. Graham found that:
 - The two discharged 12-gauge cartridges found at the scene had been fired from the shotgun found at the scene; and
 - The shotgun discharged when the hammer was allowed to rotate forward without operation of the trigger.
38. Sgt. Graham also conducted tests using the shotgun found at the scene and the same ammunition with which Jeffrey had been shot (which had been taken from Jeffrey's Falcon) to determine the range from muzzle to the wound. In an addendum statement, he outlined his method and findings as follows:

"The means of determining range from muzzle to target of shots fired from a shotgun include the appearance of scalloping to the edges of the wound and the separation of pellets from the main body of pellets. Plastic wads and collars found in rounds of modern shotgun ammunition can cause variation in the appearance of scalloping from shot to shot. Scalloping can be seen inconsistently at ranges as close as 30 centimetres and consistently at ranges of 75 centimetres.

Test shots using the exhibit shotgun...and rounds of ammunition [the same as that involved in the incident] indicated a range from muzzle to target (ie from the muzzle of [the shotgun] to the left shoulder of the deceased) from 30 centimetres to less than 75 centimetres. However, I found that the greatest agreement was

⁹ A17 – Post-Mortem Report, pp 1 – 2.

achieved at a range from muzzle to target of approximately 50 centimetres.”¹⁰
(my emphasis)

Ammunition

39. Later enquiries by DS Condon found that this box of Number 2 12-gauge ammunition which was found in Jeffrey’s Falcon had been purchased from Qld Gun Exchange, Fortitude Valley on an unknown date after it was manufactured on 31 April 1995. The store records did not show who purchased the ammunition or when it was sold. This ammunition was capable of being discharged by the subject shotgun.

Examination for fingerprints

40. SOCOs conducted fingerprint examinations of the shotgun, the cartridge in the shotgun, the box of cartridges found in Jeffrey’s car and cartridges found at the scene, and no fingerprints were located.

Examination of red ute

41. Sergeant Alan Neil of the Police Transport Section in Brisbane conducted an examination of the red ute. He found the vehicle could still be driven but was not in roadworthy condition. It was a classic unregistered “farm ute.” There was no driver’s side door, and the handbrake lever was inoperative. The car was started by way of a jerry-rigged flick switch rather than by using keys. There was no horn, and the headlights did not work.

Clarification of post-mortem findings

42. Dr Naylor clarified his autopsy findings in a signed but undated Statutory Declaration which was later relied on in the 1998 inquest (discussed below). In addition to what was in the Post-Mortem Report, Dr Naylor determined:
- a. *“Slight blackening of the wound edges was confirmed as foreign material on microscopy;*
 - b. *X-rays combined with direct examination showed that the numerous shot gun pellets had travelled downwards as well as towards the back and centre of the body. The plastic wadding was found just within the wound track;*
 - c. *The pellets had broken the left humerus and caused severe bleeding from the artery to the left arm and from arteries within the left lung. There was bleeding within the airways of the lung;*
 - d. *Death would have been predominately due to blood loss, which would have caused weakness, faintness, then unconsciousness and finally death. I would have expected the whole process to have taken some minutes;*
 - e. *I believe he would have been able to get back into the vehicle;*
 - f. *Yes, the angle of the wound in the deceased is compatible with a discharge while reaching into the vehicle to grasp the barrel of the shotgun with his left hand;*
 - g. *If the deceased was upright when shot, an “assailant” would have had to be standing above him. However, if the deceased was leaning forwards, and assailant could have been on the same level as him;*

¹⁰ A18.1 - Addendum statement of Sgt Graham, p 2 and A26 – Photos of pigskin.

- h. *The angles cannot be measured accurately because of the way the cloud of pellets would have been dispersed in the body and because one does not know the position of the left shoulder at the moment of shooting; and*
- i. *I am in agreement with [SSgt Condon's] range estimation...namely that the distance from the muzzle to the deceased's shoulder at the moment of discharge was approximately one metre or less.*¹¹
43. In his investigation report, DS Condon explained his conclusions at length. He considered the three following scenarios, giving detailed reasons for his conclusions in respect of each scenario:
- a. Death by Suspicious Circumstances ie Murder or Manslaughter;
 - b. Death by Suicide; and
 - c. Death by Accident.
44. DS Condon made the following comments and findings as a result of his investigation:
- *"There is no evidence to suggest the involvement of any other person. At this point of the investigation there is no evidence available to the standard of proof required to substantiate a charge of Murder or Manslaughter against any person."*¹²
 - On the basis of statements obtained from family and friends about Jeffrey's religious convictions and outlook on life, as well as firearm examinations and re-creations which suggest he would not have been able to reach the trigger himself, "I am satisfied the deceased did not take his own life."¹³
 - *It is most likely the deceased alighted from the driver's side of the vehicle and whilst facing the driver's compartment bent over and took hold of the barrel of the subject firearm closer to the point end, rather than the trigger end.*¹⁴
 - *As a result of my investigation I am of the opinion that he deceased died as a result of an accidental shooting compounded by the poor condition of the subject firearm and the deceased's action in relation to the use of the firearm.*¹⁵
45. DS Condon proposed the following scenario which, in his view, was consistent with the forensic evidence, as well as the position of Jeffrey's body, the shotgun, Jeffrey's hat and the red ute:
- Jeffrey parked the ute on a flat area to the side of the track between two dams;
 - He got out of the car and then leaned back into the driver's door to grab the shotgun;
 - The shotgun was in the passenger side footwell with the barrel pointing up;
 - Jeffrey grabbed the barrel of the shotgun and pulled it towards him. The shotgun discharged, shooting Jeffrey in the shoulder;

¹¹ A32 – Stat. Dec. of Dr Naylor, paras 5 & 9.

¹² A28 – QPS Coronial Report (Condon), p 29.

¹³ Ibid, p 31.

¹⁴ Ibid, p 31.

¹⁵ Ibid, p 35.

- Jeffrey was pushed onto his back by the force of the blast, his hat fell on the ground and he bled on the grass near the hat;
- The shotgun remained in the car with the trigger part between the passenger and driver's seat, and the barrel lying across the driver's seat;
- Jeffrey was able to get up and sit in the driver's seat – when he did this he sat on the gun;
- He tried to start the car and drive to get help (the car had no lights or horn);
- He moved or bumped the gear stick, and put the car in neutral;
- Without an operational handbrake, the car rolled backwards and down the slope towards the dam and came to rest as it was found, 11.2m from Jeffrey's hat and the bloodstain in the grass;
- Jeffrey lost consciousness and slumped to his left across the passenger seat, which is how he was found.

Family concerns

46. Mr and Mrs Brooks have been critical of the QPS investigation from the beginning. They believe that Mr Geiger, his wife, Ms Kjellerup and Mr Lloyd conspired to kill Jeffrey and make it look like an accident, because Jeffrey represented a threat to their future employment at the farm. They believe that Mr Geiger was the one who fired the shot which killed Jeffrey.
47. The basis of Mr and Mrs Brooks belief that Jeffrey was murdered is that their son:
 - a. was an experienced gun owner and was always extremely careful when he handled weapons;
 - b. would not have used the dangerous shotgun and had previously refused to do so;
 - c. had his own shotgun at the farm (the Remington 12-gauge located in the shed) which he could have used; and
 - d. did not use Number 2 shotgun ammunition – he preferred Number 4.
48. The family are unable to accept that Jeffrey could have died in a firearm accident for the reasons outlined above. Accordingly, they have identified inconsistencies and unexplained parts of the evidence and rely on their own ballistics tests and re-enactments, as well as criticisms made by other investigators and in the media, in order to build what they believe is a very strong case for murder.

Enquiries by private investigator

49. Mr Milham, Jeffrey's employer, also suspected that Jeffrey had been murdered. On 16 August 1996 Mr Milham hired a Private Investigator - Warren Smithers of Statewide Security Consultants & Services "to conduct surveillance on Hans and Regine". Mr Milham had entered into a contract of sale for the farm to an unidentified Asian buyer, but the Geigers had refused to move off the farm. Surveillance commenced on 22 August 1996, with Mr Smithers setting up a surveillance station at the neighbouring property owned by Mr Glass. On 22 and 23 August Mr Smithers took photographs of Regine apparently delivering crayfish to the Travel Lodge in Surfers Paradise and to the Sheraton Hotel (recorded as Sheridan) in Brisbane.

50. On 27 August 1996 Mr Smithers attended the farm with Mr Milham to remove the Geigers and install a caretaker. Mr Graeme Lloyd was also at the farm. Mr Smithers' record of events is as follows:

"Met Mr Milham and colleague at front entrance to farm. Then to Processing Shed where met Hans GEIGER. Spoken to by Mr Milham first. Then advised of takeover situation. Requested to remove all valuables and personal effects from company office from shed, including property eg tools. Became very agitated and somewhat abusive. Calmed down. Took possession of shotgun, airgun and ammunition. Also all company records on hand. Contents of office, workshop and processing area photographed for security reasons...Caravan for caretaker arrived...Caretaker John QUINN...Had dispute with Mrs Regine GEIGER over claim that crayfish sold her own property Located paper showing that she had sold crayfish valued [at 6,758.50] during previous month. Also had 54kilos live crayfish in holding tanks. Produced receipts for this stock only. Advised to remove all crayfish before Friday 30/8. Worker Graham interfered and became aggressive and somewhat abusive. Ordered to remove personal effects and leave farm as services terminated...

Investigations revealed Regine GEIGER, with assistance from her husband and the farm worker, was operating a cray fishing business from the Client's farm for some considerable time..."¹⁶

51. The Geigers were told that they had until 30 August to vacate. The Geigers started court proceedings under the Rental Tenancy Act, and Mr Milham applied for an eviction order. It appears the order was granted, and was served on the Geigers on 29 August, at which time they left the premises.
52. During his retainer, Mr Milham also asked Mr Smithers, who was a former police officer, to conduct an independent investigation into the circumstances of Jeffrey's death. Mr Smithers declined, explaining that this should be left to the police and the Coroner. Mr Smithers did attempt to speak to DS Condon "in order to restore the alleged "break down" in communications between the Police and the deceased's parents." DS Condon was on leave, so Mr Smithers instead spoke to Detective Inspector Chris Furlong, the Officer in charge of Logan City Detectives, who agreed to monitor the case.
53. On 18 November 1997 DS Condon wrote to Mr Smithers as follows:

"I am in receipt of a letter from Mr Lawrence Brooks Snr which indicates that you reported to Detective Inspector FURLONG your concerns of the deficiency in relation to the investigation surrounding the death of Jeffrey Lawrence BROOKS.

Mr BROOKS Snr indicates that you were appalled at the lack of investigation carried out. Mr BROOKS Snr has indicated that you considered the investigation to be 'slipshod.'

I respectfully request that you forward any information, no matter how slight you think it may be, to assist me in this investigation..."¹⁷

¹⁶ B1 - Report of Warren Smithers, p 5.

¹⁷ B1.2 – Letter from DS Condon to Mr Smithers.

The Original Inquest

54. The original Inquest hearing took place over 3 days (4 September, 4 November 1997, and 7 April 1998) before Magistrate Anders in the Beenleigh Magistrates Court. Mr and Mrs Brooks were represented by a solicitor, Mr Bennet, on the first day, and by a barrister, Mr Adrian Gundelach, on the second and third days, and had the opportunity to cross-examine witnesses. There were no other parties to the inquest.
55. At the conclusion of the first day, the family presented a number of statements which they had taken from people who were not on the police witness list. The Coroner advised that he would forward the statements to DS Condon. After the first day of inquest, DS Condon was also provided with a document headed "Our concerns are as follows," with a list of 19 criticisms of the QPS investigation, relating to failures to take certain information into account, delays in obtaining evidence, and failures to take certain statements. DS Condon subsequently answered each of these 19 points in an addendum report, and, where necessary, took additional statements or obtained further evidence. DS Condon advised, in his evidence at inquest, that none of the evidence he obtained in response to the family's concerns altered the conclusions he had come to in his original report.
56. At inquest, the civilian witnesses largely gave evidence consistent with their statements or the transcripts of their electronic records of interview (EROIs) with police.
57. Some of the expert witnesses clarified or expanded on the evidence in their reports during the inquest. Sgt. Graham gave evidence that the shotgun involved in the incident had failed the hammer slip test, meaning that there was no operational rebounding lock which would prevent the hammer from hitting the firing pin if the hammer was pulled back and released. Sgt. Graham said that this would have allowed the hammer of the firearm to catch on something and discharge accidentally. He explained that, had Jeffrey been holding the muzzle when the gun went off, he wouldn't necessarily expect to see powder burns or gunshot residue on Jeffrey's arm and, in any case, Jeffrey's left arm was very bloody, which would have washed away any residue. In cross-examination Sgt Graham was asked to read a report prepared by Lawrence Brooks in relation to the ballistics tests that Lawrence had carried out. Sgt Graham explained that using a different gun to the one in the incident (which Lawrence had done) would mean the comparisons in the test conducted by Lawrence would be unreliable, and that using the same gun, as Sgt. Graham had been able to do, would give the best comparisons. Sgt. Graham confirmed that the results of his tests showed that the muzzle of the shotgun was most likely around 50cm from Jeffrey's body when the gun discharged, and unlikely to have been further than 75cm away.
58. During his evidence, Dr Naylor gave a demonstration in the court parking lot, using a ute which had been supplied and the shotgun involved in the incident. He demonstrated the angles necessary to achieve the shot distribution which he found at post-mortem if Jeffrey had been leaning over and taking the gun out of the ute at the time the shotgun discharged. He confirmed that he agreed with Sgt Graham's view that the shotgun discharged at a close range of one metre or less, and he confirmed that the "slight blackening of the edges of the entry wound" noted in the post-mortem would support that view. Dr Naylor explained that the

slight blackening was due to either “residue from the explosive charge in the cartridge or a slight burning of the tissues around the edges of the entry wound.”¹⁸

59. At the end of the third day of the hearings, Lawrence Brooks was called as a witness by his barrister, Mr Gundelach. Lawrence made a statement to the court as to his expertise with guns, and a folder containing his submission to the court, the results of his own ballistic testing and the 19-point concerns document which had been put to Condon was tendered as an exhibit. Lawrence explained that during his tests, a similar weapon to the old shotgun was used, the shots were fired into paper and pigskin attached to a cardboard box packed with sawdust, and the size of the hole produced was compared with the size of Jeffrey’s wound in order to determine likely range. Lawrence also referred to the textbook ‘Gunshot Wounds: Practical Aspects of Firearms, Ballistics and Forensic Techniques by Vincent JM DiMaio to interpret his test results. His evidence was that his tests “clearly indicated to me that the shotgun was at least one metre from [his son] when it was discharged.”¹⁹ Lawrence also outlined to the court, with reference to various evidence the family’s theory that Mr Geiger had killed Jeffrey (with the co-operation of Ms Kjellerup and Mr Lloyd) because they perceived Jeffrey as a threat to the farm and their livelihoods.
60. Mr Lawrence Brooks was also asked about his contact with Mr Smithers and his letter advising DS Condon that Mr Smithers had criticised the QPS investigation. Lawrence admitted that he had never actually spoken to Mr Smithers himself, and that anything he knew about any opinions of Mr Smithers came from Mr Milham.
61. Mr Gundelach then called Mr Smithers, who gave evidence that he had never criticised DS Condon’s investigation as alleged. At some later stage, Mr Smithers supplied an undated statement intended for the Coroner, in which he put his oral evidence in writing, but this document was not put into evidence at the inquest.
62. Magistrate Anders gave his findings on 22 April 1998, which included the following comments and determinations:

“...There has been much criticism levelled at the police in relation to their investigation of Mr Brooks’ death by the parents of the deceased. The father of the deceased has conducted a thorough and exhaustive investigation himself, and is highly critical of police in relation to some of their conclusion.

Having considered the whole of the evidence before me, the investigating police officer, Detective Sergeant Condon, as in my view conducted a thorough and competent investigation into the cause and circumstances surrounding the death of Mr Jeffrey Brooks.

The deceased died as a result of receiving a shotgun wound to the chest, and that wound was inflicted as a result of a 12 gauge Harrington and Richardson brand single barrel shotgun, serial number 99409, discharging. Death was predominantly due to blood loss.

¹⁸ A40 – Transcript of Inquest – Day 3, T11L52.

¹⁹ A40 – Transcript of Inquest – Day 3, T16 and A37 Submission by Lawrence Brooks and related documents.

In consideration of my findings I have considered the whole of the evidence as to whether the deceased met his death by (1) suicide, (2) accident, (3) suspicious circumstances.

On the evidence before me I am satisfied the death was not by suicide.

...

I turn then to the consideration as to whether death was by accident. There is evidence before me to suggest that the deceased had not or would never use this particular shotgun. Some of that evidence, of course, is merely opinion evidence. Conversely, there is other evidence which indicates the deceased had used this shotgun prior to 13 March 1996. There is further evidence to indicate the deceased had taken the shotgun with him on this day prior to his death.

The argument has been advanced by the deceased's father that amongst the factors which supports his opinion that the death was not by accident is that he, the deceased, did not use this shotgun because he had his own new and safe shotgun. As I understand it, there was no ammunition located by police for the deceased's own shotgun. The fact that according to his father the deceased chased away cormorants the day before using his hands, as he has said in evidence, also supports his opinion.

However, equally so, it is possible because of that very fact and the fact that the deceased did not have ammunition for his own gun, that he may well have decided to take this shotgun and use it on 13 March 1996. Both scenarios are possible.

The conclusion reached by Detective Sergeant Condon of the deceased being out of the vehicle and reaching in and retrieving the shotgun by the end of the barrel cannot be dismissed despite what the deceased's father has said in dismissing that theory because of the size and build of the deceased, the length of the shotgun, and the confined space of the vehicle cabin and the position of the wounds and the direction of the travel of the shot in the deceased's body.

I say that when taking into account Dr Naylor's evidence. Whilst he has said that there may be a number of hypotheses, he has, in fact, in his evidence demonstrated the possible scenarios described by police and certainly has not ruled that out in his evidence. The lack of powder burns on the deceased's arms has also been explained by Dr Naylor in his evidence.

There was no doubt that the shotgun was not in good condition. Sergeant Graham's evidence is that the shotgun was subjected to the strike, hammer, slip and hammer push off tests and was found to discharge when the hammer was allowed to rotate forward without operation of trigger.

Having regard to the condition of the shotgun, in my view it is possible the deceased may have met his death by accident whilst moving the shotgun from the rear of the utility and the shotgun discharged whilst the hammer rotated forward without operation of the trigger. The discharge may have been caused by the hammer catching on exposed seating in the red utility. The deceased's father, as I understand it, in his evidence disagrees with that as a result of this test, but in my view that possibility cannot be excluded. After the shotgun discharged the deceased may have subsequently climbed back into the vehicle in the position he was located in by Mr Lloyd.

I turn then to the consideration as to whether the death was by suspicious circumstances, either murder or manslaughter. On the evidence before me, there was some animosity between Hans Geiger, Regine Geiger and Mr Lloyd and the deceased. The Geigers and Mr Lloyd were highly suspicious of the deceased and perceived that he was a threat to their employment. Hans Geiger stood to lose the farm which he had tried to keep going as a viable proposition. The Geigers and Lloyd were, in fact, about to lose their employment on the farm. It has also been suggested that they all had a motive and the opportunity, because of the isolation of the farm, for one or all of them in concert to cause the death of the deceased.

However, as to their movements on 13 March 1996, Hans Geiger, Regine Geiger and Mr Lloyd corroborated each other to some extent, although there are a number of inconsistencies in their evidence. Hans Geiger's movements are also corroborated to some extent by Mr Chandler, and employee of Eagle Wrecking, Mr Lee and Mr [Adamko], employees of Max's Mufflers.

The deceased had indicated to some persons that he was concerned about his safety. This is certainly evidence before me, which considered, could form a motive. However, a motive alone without some reliable evidence which could connect one or more persons with the shooting of the deceased is not sufficient for me to conclude that the death was by suspicious circumstances.

There are certainly a number of inconsistencies in the evidence of Hans Geiger, Regine Geiger and Mr Lloyd, but the evidence is not reliable and sufficient to connect one or all of them as being implicated in the death of Jeffrey Brooks.

It is possible on the evidence that the deceased met his death by suspicious circumstances. The difficulty I have, however, is that on the evidence before me death by accident can also not be ruled out. As Dr Naylor said, there are a number of hypotheses, and the conclusion I have reached is that neither death by accident or by suspicious circumstances can be ruled out on the evidence before me.

Therefore, having regard to what I have said, I propose to give an open finding at this inquest.²⁰ (my emphasis)

²⁰ A41 – Transcript of Inquest findings.

Further enquiries

Complaint to CJC and review by Homicide

63. On 30 October 1997, while the inquest was still part-heard, Lawrence made a complaint to the Criminal Justice Commission (CJC) (as it was then) that:

“...the police officer responsible for investigating [Jeffrey’s death] has failed to properly investigate the circumstances of the death, failed to conduct test on the weapon and failed to interview persons who may have knowledge of the matter.”²¹

64. On 30 September 1998, the CJC wrote to the QPS Assistant Commissioner, advising that it was aware of DS Condon’s coronial report, evidence given by Lawrence at inquest and the open inquest finding. The CJC correspondence advises that:

“On the basis of the information made available to the Commission, it formed the view that a further expert examination of the physical evidence, in particular the firearm that discharged the fatal shot, was warranted.

When Superintendent Nolan attempted to make arrangements to take possession of the firearm, he was advised by Inspector Furlong that the weapon had been destroyed in August 1998.

In light of the open finding of the Coroner and the knowledge of the investigator of the allegations, both against the investigators and the integrity of the scientific analysis, the Commission is concerned that a decision would be made to destroy the firearm in the circumstances.

Any further scientific analysis of the firearm, as was proposed by the Commission, may well have allayed the concerns of the complainant and formed a basis for the exoneration of the subject officer and experts of any allegations concerning the integrity of the investigation and the scientific analysis. As a result of the destruction of the firearm, this may no longer be possible.

In light of the serious nature of this matter and the need to fully respond to the concerns of the complainant, the Commission seeks as a matter of urgency, a report as to the circumstances resulting in the decision to destroy the firearm.”²²

65. On 27 October 1998, the Assistant Commissioner replied to the CJC as follows:

“I am satisfied that the death of Jeffrey Brooks was investigated in a thorough and competent manner by Detective Senior Sergeant M Condon of Logan District C I Branch and this has been stated by the Coroner.

Furthermore it appears that exhaustive scientific tests were made in order to obtain the facts and circumstances surrounding his death.

A Remington shot gun which was held as an exhibit was returned to Mr Laurie Brooks by police. The Datsun Utility was released to the owner after being scientifically examined and photographed. Some exhibits which were marked for

²¹ C1 – CJC Report of Complaint.

²² C2 – Fax from CJC to QPS.

destruction, namely a blood stained t-shirt, 13 used shot gun cartridges and a glass containing shot gun pellets were held after advice was received from Superintendent G Nolan of the Criminal Justice Commission.

All photographic evidence is still available. However the shot gun responsible for the death of Jeffrey Brooks was destroyed at Simms Metal on or around 27 August 1998. This shot gun had a faulty trigger mechanism and was destroyed in good faith in accordance with the provisions of Section 4 of the Operational Procedures Manual. Direction for the destruction of that shot gun was given by Detective Inspector C Furlong.

All investigations indicate that this matter was handled professionally and competently by police.”²³

66. The CJC then determined that officers of the Homicide Squad would review the investigation and provide a report to the CJC. The Homicide Squad was to conduct the review in co-operation with Stephen Hardy, a Senior Legal Officer of the CJC and to interview Mr and Mrs Brooks in the course of the review.
67. The review was conducted by Detective Sergeant G.D. Clark of the Homicide Investigation Group. On 9 February 2000, the Assistant Commissioner provided the CJC with DS Clark’s report of his review dated 7 November 1999, and an Addendum Report, dated 27 January 2000, dealing with DS Clark’s interview with Mr Lloyd. In his report and addendum report, DS Clark made the following findings and comments:
 - *“The initial complaint received seemed to cast doubt over two police officers, Detective Senior Sergeant M.J. CONDON, Officer in Charge of Logan Criminal Investigation Branch, and Sergeant RP. GRAHAM of the Scientific, Forensic and Technical Services Branch, Brisbane.”²⁴*
 - *The complaint was made by the parents of the deceased person, Laurie and Wendy BROOKS of Goonellaba, New South Wales. Superintendent George NOLAN, then of the CJC, and Legal Officer Steve HARDY took the complaint by interview conducted and recorded at the home of the complainants.”²⁵*
 - *Even though L.BROOKS constantly criticises Sgt GRAHAM, the Sergeant acted properly and professionally and his evidence was accepted by the Conner. I reiterate, no disciplinary charges should be brought against Sgt GRAHAM.”²⁶*
 - *...During my review of the investigation, I could not find any evidence of misconduct or breach of discipline by Det CONDON. I have found that his actions were consistent with the investigation of suspicious deaths. I believe that his conclusion of an accidental death caused by the deceased has been based on the evaluation of all evidence available to him at the time. I believe Det CONDON has an open mind about the matter and, if new evidence came to light implicating any person in the death of Jeffrey*

²³ C3 – Letter from QPS to ESC (and CJC).

²⁴ C7.1 – Report of DS Clark, para 2.1

²⁵ Ibid, para 2.2.

²⁶ Ibid, para 4.

BROOKS, he would re-open the investigation and conduct it professionally and competently.²⁷

- *The CJC file also "would appreciate advice as to whether your Command intends to reopen the investigation as a suspected murder." In answer to this, I respectfully submit that this investigation NOT be reopened. I submit that the investigation was conducted as a suspicious death and, regardless of L.BROOKS claims, there is insufficient evidence available at this time to implicate any person in his death.²⁸*
- *I have considered the available evidence before me and I have taken into account the issues raised by the BROOKS family. I am of the opinion that the scientific evidence supports the theories suggested by Detective CONDON, Sgt GRAHAM and Dr NAYLOR. In the absence of any new information or evidence, there is insufficient evidence to prefer charges against any person relating to the death of Jeffrey Lawrence BROOKS.²⁹*
- *It is my firm recommendation that the file not be reopened and the BROOKS family advised accordingly.³⁰*
- *Laurie BROOKS is convinced that Graeme LLOYD... is a "weak link" in the chain and knows about the murder. I gave an undertaking to interview LLOYD in the near future.
On the 6th day of January 2000, myself and Detective Senior Constable Karen FRIEDRICHS...spoke to LLOYD in relation to the death of Jeffrey BROOKS. LLOYD appeared to be honest and forthcoming and spoke openly and without hesitation. LLOYD denied any involvement in the death of BROOKS and denied any knowledge of any other person in the death of BROOKS.
No evidence was obtained which would implicate any person in the death of BROOKS or to indicate any offence committed in relation to the matter. I have not changed my recommendation in my report dated 7th November 1999."³¹*

Workcover proceeding

68. Jeffrey's wife, Nicole Brooks, brought WorkCover proceedings against Sailrite Pty Ltd, the owner of the Beenleigh Crayfish Farm, in respect of Jeffrey's death. In early 2001 Sailrite, through its lawyer Mr Graham Traves of Hunt & Hunt Lawyers, commissioned Alchin Walker & Associates, Insurance Loss Assessors and Investigators, to investigate the circumstances of Jeffrey's death:

"...with a view to establishing, "on the balance of probabilities":-

- (1) *the deceased did not meet his death as the result of an "accident during the course of his employment.*
- (2) *Foul play may have been involved.*
- (3) *The subject gun was not owned, maintained or controlled by the insured.*

²⁷ Ibid, para 6.1.

²⁸ Ibid, para 7.

²⁹ Ibid, para 11.

³⁰ Ibid, para 12.

³¹ C7.2 – Report of DS Clark re Lloyd, paras 2 - 4.

(4) *The deceased would not have willingly used or operated the subject gun.*³²

69. The investigation was conducted by Alchin Walker Managing Director, Dennis Walker, and Senior Investigator, Lawrie Newell. I note that, on Alchin Walker's own report, quoted above, the firm was commissioned to make a certain finding, and not to investigate the circumstances in an independent or dispassionate way.

70. Mr Walker interviewed Mr Milham, Mr and Mrs Brooks and a former director of Sailrite, Mr Pick, all of whom were convinced Jeffrey would not have used Mr Geiger's shotgun. Mr Walker also reviewed the police and coronial evidence and made the following comments in a Preliminary Report in Defence of Legal Action:

"At the outcome of our enquiries conducted to date, we are of the belief that extensive information and evidence has been forthcoming which will cast severe doubt over the possibility the deceased died as the result of an accident.

This is a very complex case involving numerous personalities, a long history of antagonism, threats and violence in the workplace, etc and there are well documented instances of the worker flatly refusing to use Hans Geiger's gun, and we have no doubt it will be shown the company did not own the gun responsible for the worker's death.

Additionally it will be shown that the worker was provided with a Remington shotgun, which he had selected himself, and this was provided for his own personal use, and it is completely illogical to imagine the worker using a weapon he so fiercely resisted when clearly he had the access and use of his own company provided gun.

His conversation with his father the night before his death to the effect that he was out of ammunition is also totally inconsistent with the material available to us, and it is a mystery as yet unsolved, as to the source and identity of the person who purchased the No. 2 shot cartridges which were found in the worker's vehicle.

At this stage we do not propose to draw any specific conclusions other than to say that there is a lot more investigative work to be done on this case, and we are confident that at the end of the day, sufficient doubt will be raised in a Judge's mind as to prevent him from categorically accepting the worker's death to be an accident."³³

71. Mr Walker conducted interviews with Mr Stewart and a former employee of the farm and friend of Jeffrey, Chad Goodwin. During his interview, Mr Stewart said that, at the end of the meeting with Mr Geiger and Mr Lloyd at Head Office in New South Wales on 12 March 1996, either Mr Geiger or Mr Lloyd said something to the effect that "Greg better not turn up to the farm the next day as the gate would be locked and he could be met with a gun".³⁴ Mr Stewart had neither previously mentioned this in his interview with QPS nor in his evidence at inquest.

72. Mr Walker reviewed the correspondence provided by the CJC. He asked a 'confidential contact' from the Victorian Homicide Squad to conduct some

³² E1 – Alchin Walker & Assoc – Report in Defence of Legal Action, 6 March 2001, pp 2 – 3.

³³ Ibid, pp 29 – 30.

³⁴ E2.5 – Statement of Paul Stewart, p 5.

unofficial tests with a firearm of the same make and year as the subject shotgun, which was in the Melbourne Forensic Science Firearms Section. He conducted a reconstruction with a ute of the same make and model as the red farm ute, using a similar gun and Mr Newell, who is the same height as Jeffrey, in Mr Jeffrey's place. On the basis of these investigations, Mr Walker made the following comments in a second report dated 5 April 2001:

"A most important issue is the contradiction between the firearm and ballistics evidence provided by Sergeant Graham of Queensland Police Service and by the tests conducted by Lawrence Brooks, father of the deceased.

It is of interest to note that Mr Lawrence Brooks is of the opinion that his son would have required to be shot from between a distance .8m and 1.25m and he has formed this opinion due to the size of the wound, i.e. 3cm diameter.

Mr Brooks is not a firearms expert however he has carried out an extensive amount of research and has attempted to carrying out ballistics tests to gain the maximum amount of authenticity. We feel that his evidence cannot be ignored and some credit and consideration must be given to his findings.

It is also of interest to note that our contact at the Melbourne Forensic Laboratory suggested that shots- fired from a similar firearm and leaving a 3cm entry wound required a firing distance of between 1.25m and 1.5m. This provides considerable variation to the distances given by Sergeant Graham and also gives support to the scenario as suggested by our investigator that Jeffrey Brooks may have been shot while standing on a slope away from the motor vehicle in which his body was found.

*...
Should the preliminary evidence from the Melbourne Forensic Science Laboratory be correct, then a completely different light would be placed upon this investigation, that being that the death of Jeffrey Brooks could not have been an accidental shooting, rather it was an act of premeditated murder by either Hans Geiger, Regine Geiger or Graham Lloyd or other unknown person.*

As such, it is requested that urgent consideration be given for our investigator to travel to Melbourne in order to have these tests conducted, in addition to discussing the matter with Dr David Ranson of the Melbourne Coroner's Court in an attempt to have his reconstruction placed upon the event. It is known to our investigator that Dr Ranson is a highly qualified Pathologist and very experienced in carrying out post mortem examinations as a result of shooting deaths."³⁵

73. In a third report dated 5 July 2001, Mr Walker reported that he had made enquiries with QPS and the John Tong Centre for access to certain evidence from the investigation and inquest, including the post-mortem X-Rays, the crime scene and autopsy photos, a sketch of the crime scene made by Sgt Hansen and the crime scene log of events. Mr Walker says in his report that "as a result of many phone calls to the John Tong Centre, the requested X-rays were received by our investigator on 3 July 2001 and are held at our office".³⁶ The sketch of the crime scene and the crime scene photos were provided to Mr Walker. QPS sought a legal opinion before they could release the autopsy photos, which needed to be printed from the negatives. However, Mr Walker was later advised by QPS that the negatives had gone missing during the period in

³⁵ E2 – Alchin Walker & Assoc – Report in Defence of Legal Action, 5 April 2001, pp 17 – 19.

³⁶ E3 – Alchin Walker & Assoc – Report in Defence of Legal Action, 5 July 2001, p 3.

which QPS was considering Mr Walker's application to be provided with the photos. In his report, Mr Walker was highly critical of this circumstance, as well as the earlier destruction of Hans' shotgun:

"You will also further recall, that the shotgun involved in the death of Jeffrey Brooks has also, for some unknown and unexplained reason apparently been destroyed, even though there has been an open finding recorded at the inquest.

As such, our investigator is of the opinion that no evidence, especially evidence of such an important nature, should ever have been destroyed. The case is, to put it simply, a matter which could be re-opened at any stage should further evidence of an incriminating nature become available.

As an aside to the above comments, our investigator would also state that as a police investigator with some 30 years experience, the oldest trick in the book is to have documents and exhibits "disappear" which could be embarrassing in some ways to parties involved in a particular matter.

In our opinion it is totally unacceptable that evidence of such a crucial nature be lost in the manner as described. We have no doubt that a Supreme Court Justice, if this matter was vented in open Court, would be severely critical of those within the Queensland Police Service involved in this exercise. There is also little doubt that such material will in fact be aired.

Taking all these matters into consideration, we request that urgent consideration be given to lodging a formal complaint against the actions of those involved with both the Commissioner of Police of the Queensland Police Service and the Queensland Criminal Justice Commission so as to ensure that a thorough, complete and competent investigation is carried out by the Internal Investigations Department.

It is fair to say that such gross incompetence by certain unknown persons cannot escape the justice that should be applied to them."³⁷

74. Following subsequent media enquiries regarding the missing autopsy X-Rays, the original John Tong Centre (now Forensic Scientific Services) was interrogated and it was discovered and confirmed in Mr Walker's own report that the X-Rays were given to him in 2001 at his request. Mr Walker advised in evidence before the re-opened 2022 Inquest that he did not recall having possession of the X-rays, but that "the buck stopped with him".³⁸
75. I place little weight on these private investigator's reports commissioned by the directors of Sailrite from Alchin Walker and Associates. The report was unbalanced and client-focused and completely ignores the possibility of a firearm mishandling accident. It is critical that the same weapon, the same ammunition and the same reconstructed target skin be used when attacking the reliability of gunfire testing. This was not done.
76. The directors of Sailrite had everything to gain from this death being a homicide. They were clearly exposed to a work health and safety prosecution, possible common law suit by the deceased's wife and others and increased WorkCover premiums if it was found that an employee (the deceased) died from the misfire

³⁷ Ibid, 5 July 2001, p 5.

³⁸ Transcript of inquest – Day 5, at T33L11.

of a known to be clearly dangerous firearm provided by his employer. The attack on Detective Condon's investigation calling for him to be prosecuted criminally was aspersive and unwarranted. I was grateful to a colleague of the author, Mr Walker, who gave evidence in his absence, and withdrew that allegation. I also note that the Alchin Walker reports were provided to Workcover New South Wales by Sailrite Pty Ltd to defend the Workcover claim by the deceased's wife.

Media

77. The Courier Mail published a number of articles in relation to Jeffrey's death. It reported that "Lawrence and Wendy Brooks came to The Courier-Mail as their last hope in a 22-year quest for justice".³⁹ Reporters from the Courier Mail subsequently broadcast a podcast, entitled 'Dead Wrong' in July and August 2018. Channel 7 subsequently picked up the story and on 5 November 2018 Channel 7 aired 'A case for murder: Investigating the death of Jeffrey Brooks'.

78. During the podcast, Mr Stewart confirmed that he had spoken to Jeffrey on the phone at 1:50pm on the day he died. When asked about the content of that conversation, Mr Stewart said:

"He suggested to me, and I'm not exactly sure of the words, but it was along the lines of he'd found a book and the closing statement he said to me was curiosity killed the cat because he had to get off the phone, because I think someone was listening or he saw someone coming, or heard someone coming. And that was the last I heard of Jeffrey and three hours later we got the call that there had been an accident on the farm."⁴⁰

79. This was the first time Mr Stewart had made any mention of what Jeffrey had said during the phone conversation – he had not given this information to police, the Coroner, or to Mr Walker.

80. Mr Lloyd was also interviewed and vaguely hinted during his interview that, although he initially thought Jeffrey's death was an accident, over time his view may have changed. He gave no specific details of what his new view may be, nor did he say who, if anyone, he thought may have been involved in Jeffrey's death.

81. Miles Yeates and Tarryn Summers, seasonal workers who had not been interviewed by police, told the reporters that they "didn't recall Mr Brooks' ever using a gun while they were working at the farm."

82. In addition the reporters interviewed Dr David Ranson, the Victorian forensic pathologist recommended by Mr Walker, and Dr Judy Melinek, an American forensic pathologist and writer. They also hired Ben Eu, General Manager of Ballistic and Mechanical Testing to conduct some tests to determine how far the shotgun was from Jeffrey when he was shot.

83. The Channel 7 Program effectively televised the contents of the podcast.

³⁹https://www.couriermail.com.au/subscribe/news/1/?sourceCode=CMWEB_WRE170_a_GG&dest=https%3A%2F%2Fwww.couriermail.com.au%2Ftruecrimeaustralia%2Fparents-of-jeffrey-brooks-seeking-an-end-to-22year-quest-for-justice%2Fnews-story%2F9a4da2ec2d6d07e093db48e953dc45b3&memtype=anonymous&mode=premium&V21=dynamic-low-control-score&V21spcbehaviour=append

⁴⁰ F2 – 'Dead Wrong', Episode 2.

Direction by Attorney-General to re-open

84. On 6 September 2018 Mr Boyce wrote to the State Coroner requesting that the inquest be re-opened as, in the family's view, as a result of the podcast and the Channel 7 program:

"There has now been significant evidence produced which would seriously call into question the following:

- a) *The adequacy of the investigations by police to date.*
- b) *The failure of police to properly investigate complaints that have been made to them by Jeffrey's parents which were for the most part ignored.*
- c) *The "open finding" that was delivered on 22 April 1998.*⁴¹

85. Mr Boyce gave this summary of what were, in his view, the significant aspects of the evidence:

- a) Independent forensic reviews by Dr Melinek and Dr Ranson;
- b) Ballistic testing by BMT;
- c) Graeme Lloyd's new statement (this appears to refer to his interview with the Courier Mail reporters for the podcast);
- d) Independent Insurance investigation carried out by Dennis Walker;
- e) Motive highlighted by Private Investigator – Warren Smithers.

86. Mr Boyce forwarded this letter to the Attorney-General, who subsequently advised the State Coroner as follows:

"I have considered the application to you as an application made to me pursuant to section 47 of the Coroners Act 1958 to request reopening of the inquest into Mr Brooks death.

I have considered new evidence contained within the body of material enclosed with Mr Boyce's letter dated 6 September 2018, in particular:

1. *a ballistics report from Ballistic & Mechanical Testing...;*
2. *a transcript of an interview with Dr Ranson, Pathologist...; and*
3. *a transcript of an interview with Dr [Melinek], Forensic Pathologist...*

In light of this new evidence I am satisfied that it is in the public interest to reopen the inquest into the death of Mr Brooks.

*Accordingly, please find **enclosed** my direction to you pursuant to section 47 of the Coroners Act 1958.*⁴²

⁴¹ G1.1 – Letter to State Coroner – application to re-open, p 1.

⁴² Letter from A-G dated 2 November 2018.

Enquiries following the Attorney-General's Direction

QPS review

87. Following the direction from the Attorney-General, the State Coroner requested that QPS conduct the following enquiries:

- *Review of the Courier Mail investigation into the death of Jeffrey Lawrence Brooks; and*
- *Facilitate a peer review of the original QPS firearms/ballistics examination from 1996 and 1997.*⁴³

88. In February 2020, the Coroners Court was provided with a Report, by Detective Sergeant David Moore of the Gold Coast CIB, of his review of the Courier Mail investigation and the ballistics peer review.

89. DS Moore advised that a full ballistics peer review was carried out in 2019 by Sergeant Shane Everist, the Acting Officer in Charge of the QPS Ballistics Unit, Scientific Section, Brisbane. In a report dated 11 March 2019, Senior Sgt. Everist provided a detailed explanation of his review, and the correct methodology of ballistic testing for proximity (with reference to DiMaio and other authorities). Senior Sgt. Everist summarised the findings of his review of Sgt. Graham's firearm and ballistics examinations as follows:

"Given what was available to me for the review of Sgt GRAHAM's evidence, the following is a summary of my relevant findings:

- A. *Firearms Discharge Residue evidence was not observed or recorded in relation to the post mortem examination of Jeffrey BROOKS or during examination of his shirt.*
- B. *An entry wound that lacked any characteristic scalloping or crenation of the wound margins or any pellet separation was reported by Sgt GRAHAM and supported by Dr NAYLOR's post mortem report.*
- C. *Sgt GRAHAM observed that the subject Harrington and Richardson single barrel shotgun...was capable of discharging without operation of the trigger. This could occur if the hammer was drawn back and released prior to it engaging in the cocked position.*
- D. *Sgt Graham performed range of fire or muzzle -to -target testing in a method that meets with the requirement recommended in the literature.*
- E. *Sgt Graham reported that in his opinion the range from the muzzle of the shotgun to the left shoulder of Jeffrey BROOKS was from 30cm to less than 75cm at the time of discharge. Sgt GRAHAM further reported that the greatest agreement was achieved with a range from muzzle to target of approximately 50cm.*
- F. *During my review, I formed the opinion that the data available to me supports that the distance from the muzzle of the Harrington & Richardson shotgun to the left shoulder of Jeffrey BROOKS at the time of discharge did*

⁴³ G1 – QPS Coronial Report (Moore), para 3.

not exceed 75cm. I would not assign a greater level of agreement to a range from muzzle to target of approximately 50cm.

G. *Further contemporary testing may provide data that could be applied in a general sense, but it would not provide more reliable data than the testing performed by Sgt GRAHAM, which best complies with the accepted methods.*⁴⁴

90. As requested, DS Moore had also reviewed the podcast and considered the information obtained by the reporters.

91. As part of his review, DS Moore interviewed Mr Milham about an email he had sent to Lawrence and Mr Stewart on 7 August 2019 about the meeting with Mr Lloyd and Mr Geiger at Head Office on 12 March 1996. Mr Milham said that he had sent the email because he had seen the podcast, and since then had found out he had cancer, and he might be dead in a year. He said he wanted to add this information to see if it would help the Brooks family. He told DS Moore that, at the end of the meeting:

*“...one of the things that that stuck in my mind for a long time was I got up to walk out and ah Hans was behind me and he put his finger in my back like that...
...Right so it looked like a gun...
...He gave that and I turned around and he’s got his hand like this and I said what are you doing and he said I am just warning you to be very very careful and I said...
...mate that’s ridiculous don’t be so stupid you know...
...You’re not going to pull a gun on anyone you know...
...And so that, that was the conversation the day before so I never really told the Brook’s or anyone about this gun thing because I was concerned about my family...”*⁴⁵

92. DS Moore gave the following conclusions in his review of the media investigation:

- *“I have concluded that the points mentioned in these articles were considered by the Coroner at the inquest, either in statements, documents or evidence.*
- *The ‘new’ evidence attempts to place further weight on ‘motive’ and less weight on ‘death by accident.’ The ‘new’ evidence does not provide any new factual evidence and does not provide further avenues of investigation at this time.*
- *The investigation conducted by Detective Sergeant Condon was thorough and of a very high standard.*
- *The investigation considered all possibilities for death being suicide, accident or murder/manslaughter.*
- *The coronial reports address issues raised by the parents of the deceased.*
- *The investigation was subjected to scrutiny by a highly regarded QC (instructed by the parents of the deceased) and the Coroner.*

⁴⁴ G3 – Ballistic Review by SSgt Everist, para 5.1.

⁴⁵ G2 – 2020 QPS Interview with Millham, pp 3 – 4.

- *The concerns raised by the parents at the time are consistent with those raised in the Courier Mail articles and therefore have been considered by the Coroner.*⁴⁶
93. DS Moore recommended that “[a]t this time and based on the articles published in the Courier Mail, I see no justification to re-open the investigation, coronial inquest or conduct any further inquiries at this point.”⁴⁷

Material obtained by Coroners Court

94. A highly accredited NSW forensic firearm examiner, Mr Lucas van der Walt, was briefed to conduct a review of all the ballistics evidence to date (including the report of Mr Eu from Ballistic and Mechanical Testing obtained during the podcast) and also gave evidence at the re-opened inquest.
95. In their submission to the Attorney-General, the deceased’s family proffered the views of Dr Ranson and Dr Melinek as supportive of their theory that the police theory of accidental shoot was flawed in that the angle of the fatal shot proposed in the police scenario was not possible.
96. Accordingly, both Dr Ranson and Dr Melinek were asked to provide formal reports of their opinions to the Coroners Court. Dr Melinek provided a statement which was included in the inquest brief of evidence. Dr Ranson provided a report prior to inquest and gave evidence at the re-opened inquest.
97. In her statement, Dr Melinek confirmed that she is a forensic pathologist currently serving as a coronial and forensic pathologist in Wellington, New Zealand. She advised that she was unable to give evidence at the re-opened inquest as she had prior commitments relating to her position as forensic pathologist. Dr Melinek confirmed that she made comments during the Courier Mail Podcast, but that she did so on the basis of limited information, and that her answers were qualified as “they were not given following a full and proper review of all of the available forensic evidence”.⁴⁸ She advises that, therefore, her comments in the podcast “cannot be relied on in order to make any conclusions as to what may or may not have occurred in Jeffrey’s Brooks’ case”.⁴⁹
98. Dr Melinek also advised in her statement that she had been provided with Dr Ranson’s report, and that while she couldn’t give an opinion without reviewing all relevant material herself, Dr Ranson was most certainly qualified to conduct such a review and to give evidence at inquest.

Report of Dr Ranson

99. Dr Ranson is arguably Australia’s pre-eminent forensic pathologist. A number of specific questions were put to Dr Ranson. He was asked to consider if suicide, accident or third-party involvement was the most likely cause of death. I have outlined this evidence in full because it critically addresses the issues before this Inquest from a scientific perspective. Dr Ranson’s response is as follows:

⁴⁶ C5 – QPS Coronial Report (Moore), p 10.

⁴⁷ Ibid.

⁴⁸ I3 – Statement of Dr Melinek, para 6.

⁴⁹ Ibid.

“The principal question in your letter of instructions refers to the ‘Manner of Death’ the determination of which lies at the heart of the Coroner’s jurisdiction with respect to the findings at Inquest. The question posed was: ‘With reference to Exhibit A3 (the QPS report), there were three theories considered as to the circumstances of Mr Brooks’ death:

1. Death by suspicious circumstances
2. Death by suicide
3. Death by accident

For the purpose of your report we ask that you consider the forensic evidence we have provided, and where possible, give an opinion as to whether any one of those theories is more likely than not.’

- a. *“In a general sense the overall level of information detail in the materials is suboptimal for a full consideration of all the issues and indeed the complexity of the environment and the various circumstantial matters that have been raised in relation to the wider socio-legal factors greatly complicate the evidence that the Coroner may wish to place particular weight on. As a result, I have focused my analysis on the forensic medical and scientific factors that I am most familiar with and have experience of.*
- b. *The autopsy was undertaken by Dr Charles Naylor in 1996 and focuses particularly on the positive findings in relation to the major injury with less detail on the body tissues and structures uninvolved with the gunshot wound. This would have been normal practice for the time and does not diminish the usefulness of the report as a description of the positive and significant negative forensic pathology findings.*
- c. *In relation to the significance of key findings in the autopsy report if have taken particular note of the following.*
 - i. *Body was clothed with clothing in normal place, the watch is present on the left wrist and there is no description of any damage to the watch. The ‘T’- shirt was damaged in the vicinity of the left shoulder region and there was extensive blood staining of the garment in this region.*
 - ii. *Blood was draining from the nose and mouth, a feature commonly seen where there are projectile injuries to the lungs with bleeding into the lower airways of the lungs and resulting active or passive movement of the blood into the upper airways.*
 - iii. *Radiographs were taken of the chest a prudent investigation in a case involving a firearm injury. This showed “numerous shotgun pellets in the upper left chest region apparently mainly outside the rib cage and a jagged fracture of the left upper humerus.” These observations confirm the external and internal findings during the forensic pathology examination and dissection and described in the report. The damage to the upper humerus (upper part of the upper arm) is not unexpected given the nature and location of the entrance wound, the internal spreading of the pellets and the forces produced in body tissues when a mass of shot decelerates rapidly in their primary target.*

- iv. The body was received with bags over the hands a prudent approach to retaining/protecting trace evidence. However, swabbing of the hands for gunshot residues was not undertaken. This was in relation to information from the Police that the deceased had been firing a gun. If this information was correct then the presence of any gunshot residues found on the hands, had they been swabbed, would have been of little evidential value in a consideration of the circumstances of the shooting. While swabs of other areas of the body might have been possible again, given the above circumstantial information provided and the presence of large amounts of blood over some regions of the body the likely value of such an investigation would have been limited.
- v. The defect in the 'T'-shirt is described as being "approximately 5cm in diameter" whereas the skin defect in the underlying skin is described as being "approximately 3 cm in diameter". This difference in size is not unusual since worn clothing may be creased or folded up in the target area in such a way that the fabric defect is larger than the external projected area of original damage when the clothing is smoothed out and the fabric defect then measured.
- vi. The issue in relation to the diameter of the skin wound has been addressed above in 15 and the autopsy report similarly asserts the same features and mechanism of wound outline changes. Given this, Dr Naylor's description of the size is entirely reasonable and given the stretching factors described above any additional precision in the dimensions given would, in effect, introduce an scientific 'inaccuracy.'
- vii. The autopsy report describes "...blackening of the edges..." of the wound but it is unclear from the macroscopic description whether this is the result of drying artefact or of heat or soot material being present. Quite properly Dr Naylor undertook histological examination of the wound edges (these slides or the tissue blocks may be available) and did identify foreign material "...on and just within the skin surface." This could represent various substances coming from the barrel or heat damaged fine fragments of the edges of the clothing defect.
- viii. The edges of the wound are further described in the autopsy report as not showing scalloping and the adjacent skin not showing discrete separate pellet wounds. This goes to the range being close given that, as the range increases the fired shot mass will begin to separate causing scalloping of wound edges and occasional pellets that have begun separating from the main mass will cause their own independent adjacent skin defects.
- ix. There is a description of an area of slight reddish discolouration that "...may be an abrasion" described below the main wound but there are no other injuries described to either arm and the hands are explicitly described as having no injuries. Abrasions in skin adjacent to a close-range shotgun wound could be caused by a number of mechanisms including part of an opening petal of the wad, hot gas moving clothing against the skin surface, the skin surface being

distended and rubbing against clothing as a result of the force pushing the skin outwards against an adjacent object.

- x. There is no description of any blackening of the arms or hands and no description of any powder 'tattooing' either around the main wound or on the adjacent arm or chest wall. It must be remembered that the overlying clothing could have protected the skin surface from such 'powder burns' should burnt/burning/unburnt powder have been projected here and the results of the forensic examination of the 'T'-shirt may assist in determining this. In the absence of signs of burnt/burning/unburnt powder on adjacent skin surface the two possibilities are firstly that the range was longer than the travel of burnt/burning/unburnt powder or secondly that the range was even closer so that any burnt/burning/unburnt powder entered the body through the main wound with the shot and the wad. The absence of wound edge scalloping and the presence of foreign material in the wound histologically suggests the latter may be the more probable of the two.

- xi. *The head and neck are described in a way that indicates these areas of the body are uninjured. While histology of the brain is reported as showing "A little subarachnoid haemorrhage" there is no evidence of any scalp bruising or other sign of external or internal injury to suggest a blow to the head and there are no descriptions of pathological lesions within the head to account for this – it may be an artefact or a consequence of the pressure effects of a nearby shotgun wound affecting the vasculature of the neck.*

- xii. The wound track (which in its superficial part contained the wad) passed downwards and backward. The lateral or medial component of the path is difficult to ascertain and since it is common for shot when encountering resistance from different densities of body tissues to separate rapidly this might be hard to determine with any certainty. It does appear that the main collections of pellets lay outside the chest cavity with a few pellets entering the left side of the chest and entering the lung (shown in H1) causing damage to the blood vessel there, which bled over time to cause "approximately one litre of partially clotted blood." To accumulate in the left side of the chest.

- xiii. *Major blood vessels lie in the vicinity of the axillae (armpits) and a number of pellet holes were found in the left subclavian artery (shown in H1) which Dr Naylor concludes accounted "...for the severe haemorrhage from this wound" a view with which I concur. Wound haemorrhage would also have come from the soft tissue damage to adjacent structures (muscle etc.) and from the fractured upper part of the humerus.*

- xiv. The pallor of the internal organs such as the kidneys and liver is a feature of severe blood loss as indicated by Dr Naylor and it also suggests a period of survival while bleeding during which physiological blood loss control mechanisms came into play reducing the blood flow to internal organs causing them to become visibly pale.

- d. In conclusion in my view on the basis of the forensic medical evidence, and reasonable analysis of it, it would be possible to create scenarios in which, on the available medical evidence, the manners of death of homicide, suicide and accident could all be entertained. As to which is the more probable, that question is unlikely to be resolved solely on the basis of the forensic pathology findings although the pathology findings remain a relevant consideration. As an example, consider the situation where a Coroner might wish to conclude a manner of death of suicide. This might require the Coroner to have evidence of the relevant mental state of the individual and sociomedical circumstantial factors including; past medical history, evidence of recent mental state, the existence of any statements of possible intent to others, the existence of environmental and situational stressors and similar might be of particular relevance. However, if one adds in the forensic pathology experience of the many cases of suicide using a shotgun that forensic pathologists see, one could come to the conclusion that the location of the wound in this case is against the manner of death being suicide. This is because the wound is not in a site of predilection seen in cases of suicide and similarly the wound is not in a location that would generally be thought by the community to necessarily bring about a rapid death.
- e. In considering the possibility of the manner of death being homicide similar issues arise. Evidence of circumstantial socio-legal or criminological factors that might suggest such a manner of death would have to be present with sufficient weight as would the standard considerations of any homicide investigation including the traditional 'situational factors' regarding motive, opportunity and capacity or means and any behavioural factors pertinent to an alleged suspect. Where forensic pathology intersects with the required evidence base related to homicide, the wound and wounding characteristics again become relevant, albeit now there is the interaction between at least two individuals that comes into play rather than the actions of one (as in the case of suicide). The considerable variation as to the physical circumstances and dynamics of a homicidal shooting need to be considered and this in turn may result in a range of possible target areas on the victim's body. The head and central chest/abdomen would generally be considered sites of predilection for a shotgun homicide and here there is an overlap with at least some of the sites of wounding seen commonly in suicide. However, in the homicide scenario the existence of at least two parties and the opportunity for other factors perhaps relating to physical altercations prior to or during the shooting or a complex physical environment restricting the freedom to move at will at the time of the shooting can significantly complicate the picture and result in a more unusual wound pattern.
- f. In consideration of the manner of death being accident a far wider range of possibilities as to the relevant circumstantial factors exist. The forensic pathology evidence here simply points to a close-range shotgun wound in an unusual site. A close-range wound and unusual sites for a fatal shooting could be said to be a feature of an accidental manner of death from a firearm wound. However, here it is the absence of sites of predilection for intentional harm that is the observation requiring interpretation, and the variability of such sites is almost unlimited. In addition, it is perfectly

possible for an accidental manner of death from a firearm injury to involve a site of predilection found in suicide and homicide.⁵⁰ (my emphasis)

100. Dr Ranson also commented on Dr Naylor's findings and evidence as follows:

"In respect of the request to consider other issues in your letter of instructions referring to 'If there is any aspect of the evidence of Dr Naylor that you wish to comment upon, whether with his Post-Mortem Examination Report (A17), or his oral evidence at the original inquest (A40) then you are invited to do so.' I make the following comments:

- a. *"I have addressed the issues relating to the autopsy report above (18).*
- b. *With regard to the oral testimony of Dr Naylor at the original inquest (A40) I generally agree with the range opinion given around lines 40-60 on page 3 and the importance of the test firing data in such determination. At lines 49-50 on page 3 he suggests the possibility of a closer range and I also think that that is possible.*
- c. *The issue of "powder burns" on the left arm is considered around lines 43-57 on page 6 and I have addressed these matters above at 18(c,x). There I have added to the evidence of Dr Naylor considering the possibility that a closer range wound could also explain the absence of "powder burns" on the arm.*
- d. *At the end of page 7 and the beginning of page 8 of the transcript Dr Naylor was asked about the orientation of the wound track and the reason for the pellet spread he saw in the radiographs and at autopsy. This is a little difficult to follow in the transcript alone (I note that Dr Naylor was simultaneously demonstrating with a ruler during this exchange.) but I have no specific disagreement with what he says. I would agree with Dr Naylor that following the wounding that the deceased would have been actively bleeding and could have died in a matter of minutes. The bleeding was occurring both internally into the chest on the left side and externally through the wound. The only addition to this evidence would be my comment above at 14(f) about the capacity for Jeffery Brooks to carry out purposeful actions at least in the early period of him bleeding from his wound.*
- e. *Much of the transcript later after the break in the evidence and demonstration at a vehicle starting on page 10 addresses issues I have largely covered above and my views are largely similar to those expressed by Dr Naylor during his oral testimony." (my emphasis)*

Report of Lucas Van der Walt –ballistics expert

101. Mr Van der Walt is a Scientific Officer and Forensic Firearms Examiner with the NSW Police Force. He was asked to review the original firearms and ballistics examinations by Sgt. Graham, as well as DS Condon's report and the evidence given at inquest. He was asked to review the Ballistic and Mechanical Testing report authored by Mr Eu. Having done this, Mr Van der Walt was asked to respond to a number of questions. In his report, Mr Van der Walt gives a detailed explanation of his review and of the correct scientific methodologies to be applied

⁵⁰ G3 – Report of Dr Ranson, para 18.

during testing and review, and made conclusions and comments which I have included in detail:

“Question 1: Explain the appropriate methodology to determine the likely distance range of the muzzle of the firearm to the gunshot wound – should comparison be made to the wound size, the nature of the wound, or both?”

“Ideally, when conducting proximity testing examiners should make use of the same shotgun and ammunition that were used during the shooting incident. Multiple test shots should be discharged at different distances on target material relevant to the investigation. The results of the tests should then be compared to the evidence in question.

....
The 3cm measurement is an approximate measurement of the circular diameter of the wound. It is not an absolute measurement that can be solely relied upon during proximity testing as the wound changes in shape from circular to oval depending on the position of the shoulder relative to the muzzle of the shotgun.

...
Shotgun wounds of this nature are caused by the muzzle of the shotgun being in close proximity to the deceased. There was no separation or sign of a single pellet starting to separate from the column of shot as the pellets entered the left shoulder of the deceased. The nature of the wound therefore positions the muzzle of the shotgun close to the deceased during the discharge of the shot.

Comment: When dealing with wounds caused by the discharge of a firearm or shotgun, the wound size should not be relied on solely when estimating features such as the calibre/gauge of the firearm/shotgun used. This is also true when conducting proximity testing. Human skin reacts different to other tissue simulants, even when using accepted skin simulants such as pigskin. This can be explained by the differences in the moisture content, thickness, and elasticity features of both human and pig skin. The absence of scalloping or the penetration of singular pellets tell us the muzzle of the firearm was in very close proximity to the deceased during the discharge of the shot. These features are much more reliable indicators of proximity compared to the changing wound size.

*Dr Naylor also reports “slight blackening of the edges of the wound,” (see Statutory Declaration of Dr. NAYLOR 51003 CPEN:BMW p.2/4 - A32. NAYLOR, Charles - Pathologist - Statutory Declaration.pdf). In this report the blackening is identified as foreign material. During testimony, (see G1.3. Transcript of Inquest - Pathologist Evidence.pdf, p.11/13), Dr Naylor describes the slight blackening as further confirmation of a close-range shot. No further information was made available to me showing analysis results of the blackening. I will not discuss the potential causes of the blackening any further in this report as it is extensively explained by Senior Sergeant Everist, (see paragraphs 3.9 to 3.22 of C5.6. Ballistics Review - Senior Sergeant Everist.pdf).”
(my emphasis)*

Question 2: Whether any determination can be made as to the likely distance of the muzzle of the firearm from Mr Brooks at the time the gunshot wound was inflicted. If so, what is the likely distance range?

“... ”

Comment: After careful consideration of all the available ballistics related evidence and testing using accepted methodology, I am of the opinion that the muzzle of the exhibit shotgun was between approximately 10cm to 80cm from Mr Brooks left shoulder during the discharge of the fatal shot.

Note: As discussed previously, in the absence of the exhibit shotgun and ammunition further proximity tests may produce results that vary to those results obtained during the testing by Sergeant Graham. The proximity test results conducted during my testing should be used as an illustration of expected close proximities using the most appropriate elements. This being the closest firearms, ammunition, and skin simulant used by Sergeant Graham and most appropriate and scientifically accepted methods. The testing was conducted perpendicular to the test targets. The results of my testing showing close proximities (up to approximately 80centimetres), closely mirror those results from testing conducted by Sergeant Graham as the majority of the pellets contained within the charge of shot are still travelling as a single unit upon impact with the target, irrespective of the choke of the shotgun”.

Question 3: The appropriateness of the methodology adopted by the Queensland Police Service Ballistics Unit in assessing the likely distance range (taking into account accepted ballistics practices in 1996).

“I was employed as a Forensic Firearm Examiner at the Forensic Ballistics Section of the South African Police Service, Western Cape during 1996. Shotgun proximity testing there also included the methodology adopted by Sergeant GRAHAM of the Queensland Police Service, i.e., making use of fresh pigskin, the exhibit shotgun and exhibit ammunition used at the shooting incident. The same methodology is currently used by the NSWPF Ballistics Investigation Section.

...

Comment: Sergeant Graham used the actual exhibit shotgun and ammunition during his proximity testing. Although his notes are minimal in comparison to current standards, the practical application of his proximity test results are acceptable and still in use within the industry internationally and are scientifically recognised. By reviewing the test results of Sergeant GRAHAM of: Jeffrey BROOKS, I conducted on pigskin I concluded: The tests conducted at 30cm and 40cm (or perhaps closer) are viable ranges at which the fatal shot could have been discharged. The two tests conducted at 50cms show clear evidence of petal slap. The fatal wound, (see Figure 7), displays an area that could have been caused by the opening of a unitising wad. As neither Sergeant GRAHAM nor Dr NAYLOR made mention of it, its significance remains unknown.

The tests conducted at the greater distances of 75cm and 100cm show clear signs of scalloping. This effectively eliminates these distances as viable proximities between the muzzle of the exhibit shotgun and the left shoulder of the deceased during the discharge of the fatal shot. I am therefore of the opinion, by reviewing the tests conducted by Sergeant Graham, that the distance between the muzzle of the shotgun and the left shoulder of the deceased was closer than 75cm during the discharge of the shot.” (my emphasis)

Question 4: The appropriateness of the methodology adopted by Ben Eu (taking into account accepted ballistics practices in 2018).

“...

The barrel length of one of the shotguns, a 12 gauge HARRINGTON & RICHARDSON Model 1908 single barrel shotgun, serial number A77675 used by Mr Eu is reported as 30 inches (762mm). The barrel length of the second shotgun used by Mr Eu is not reported. Both the shotgun barrels were fitted with a full choke.

a. The ammunition used by Mr Eu is different to the ammunition located during the original shooting incident.

...
In his report BMT Reference: 2018/4965 dated 17 October 2021 Mr Eu discuss the shortcomings of his report testing. 'A shortcoming in this testing was the absence of the actual gun or any description of the barrel configuration with regard to length of barrel and/or choke restriction.' He further adds that, 'It is my view that the work done for the Dead Wrong podcast and the Sunday night program is limited by the absence of the actual gun or detailed description of the same that caused the fatal injury to Mr. Brooks.'

Comment: Mr Eu's concerns regarding the limitations of the shotguns he used are accurate. He neglected to address the limitations of the test ammunition. As mentioned earlier, Mr Michael and Lucien Haag, two world renowned authors in the field of shooting scene reconstruction stipulate; "If the actual ammunition and firearm (shotgun) are not available, as similar as possible could be used, as long as due diligence has been taken to ensure that any differences between the gun and ammunition are not going to affect the result", (Haag, Shooting Incident Reconstruction, 3rd Edition, p.311).

As shown earlier there are clear differences between the exhibit ammunition and ammunition used by Mr Eu. The test results are therefore unsuitable for use as a comparison tool against the facts of the shooting incident.

...
Comment: When conducting proximity testing and collecting data on the external features of gunshot wounds any skin simulant used for comparison purposes should have similar elastic properties to human skin. Simply put, the medium should be able to stretch and return to its original position. The use of pigskin, although not perfect, is a suitable substitute for human skin. This is well documented in reliable, peer reviewed literature accepted in the scientific community. The use of aluminium sheets are normally used when reconstructing shooting incidents involving vehicles. Harder metallic substrates do not have the same elastic properties compared to human skin and can therefore give completely different results compared to elastic mediums mentioned above. Aluminium sheeting is not an industry standard to use as a skin simulant as it has poor elastic properties.

Ballistics gels are commonly used within the industry testing bullet/projectile performance. It is a medium that is designed to simulate the effects of a fired bullet/projectile inside the human body and gives an indication of a bullets ability to transfer its kinetic energy to the target. It also allows for the accurate measurement of internal wound features such as the temporary wound cavitation and the permanent wound track. When a column of shot penetrates the skin, a massive amount of kinetic energy is transferred from the pellets to the skin and the tissue. This forces the skin and tissue to radiate away from the source of energy in the same way that water in a pond would radiate away from a pebble being thrown into it. This phenomenon is called the temporary cavity which returns to its normal position once the energy dissipates (if the energy transferred does not exceed the elastic properties of the skin and tissue). The remaining entry wound and wound track/s seen during the post mortem

examination are called the permanent wound cavity. The permanent wound track cannot be used as indicator to establish either the calibre of a fired bullet or the gauge of a shotgun. Nor should it be used in an attempt to establish the distance between the muzzle of a shotgun and a target (in the absence of the pellets starting to spread). Proximity testing or distance determination deals with the external features of the skin/wound after the discharge of a shot of which the muzzle was in close proximity to the target. It is not industry standard to make use of ballistics gel for proximity testing. Other mediums such as pig skin, blotting paper or relevant target material are more acceptable.

The fact that Mr Eu used aluminium sheet, ballistics gel and different ammunition in his determination of shotgun proximity does not instil any confidence or validity in his results.

The report continues by stating, "Using the described methodology I determined that to achieve a shot spread of approximately 3cm the distance between the muzzle of the firearm and the witness sheet ranged from 80cm to 125cm," (Dead Wrong podcast).

Comment: The test results of Mr Eu indicate that he solely relied on achieving a wound size of 3cm. By following his restricted criteria, he ignored the absence of scalloping to the edges of the wound sustained by the deceased. As explained earlier, the absence of these scalloped edges is a most significant feature that has to take precedence when dealing with the wound facts encountered in this shooting incident. As commented in paragraph 5.4.5, the test results of Mr Eu discharged into aluminium (Image 3 and Image 4) clearly shows scalloping appearing at one metre. This effectively eliminates one metre as a viable distance as this characteristic is completely absent from the wound sustained by the deceased. Based on his own test results, even if we were to ignore the use of inappropriate test ammunition, it is unclear why Mr Eu will still include one metre as a potential distance.

...

Comment: During his testing conducted for the Sunday Night program Mr Eu again attempted to establish the distance required between the muzzle of the gun and the wound in order to create a wound with an approximate diameter of 3cm. His 'findings in this demonstration were that a distance of 1.4m was required between the muzzle of the shotgun and the pigskin to create a wound with a diameter of approximately 3cm'. The reasons for the differences between the test results for the Dead Wrong podcast and the Sunday Night program are not explained. Furthermore, no photos showing the proximity test results into pig skin were made available to me. In its absence I am not able to compare these test results to the wound of the deceased and therefore I am unable to comment.

Question 5: Any other issues you wish to comment on.

In the email dated 8 November 2017 ... sent to Mr Ben Eu indicated that they 'only need to work between a window of 50cm to 150cm'. This creates bias which essentially eliminated the potential that the barrel of the exhibit shotgun was closer than 50cm when it was discharged. The test results I have available from Mr Eu starts at 65cm and finishes 125cm.

Forensic Firearm Examiners in Australia are accredited through the Australasian Forensic Science Accreditation Board (AFSAB) upon successful completion of the National Training Curriculum (NTC) for Forensic Firearm Examiners. The

NTC is a rigorous training program that consists of six modules in the field of firearms and ammunition. A large part of the NTC focusses on the characteristics and interpretation of bullet and shotgun related wounds. It further includes a large volume of theoretical and practical study on the industry requirements when conducting proximity testing. Furthermore, Forensic Firearm Examiners (FFE's) are regularly involved in the attendance of post mortem examinations of shooting victims and the reconstruction of shooting scenarios, using accepted scientific methodology. FFE's are continuously required to maintain and validate their competence by successful completion of annual proficiency testing by international independent bodies.

It is unclear reading the two reports available to me of Mr Ben EU whether he has undergone similar training. I was also unable to gauge his experience in relation to the classification and interpretation of actual bullet and shotgun related wounds sustained by human beings. The testing materials and methodology used by Mr EU does not instil confidence in his reported results.”
...⁵¹ (my emphasis)

⁵¹ G2 – NSW Ballistics Report.

The Re-opened 2022 Inquest

102. Pursuant to s100C of the of the Coroners Act 2003 (Qld) (the 2003 Act), the inquest was re-opened under the 2003 Act. Accordingly, s50(8) of the 2003 Act applies – that is, I may “accept any of the evidence given, or findings made, at the earlier inquest as correct”.

Issues

103. An inquest is intended to provide the public and most importantly, the family of the deceased, with transparency regarding the circumstances of the death, and to answer any questions which may have been raised following the death.
104. It was determined that the issues for investigation at the re-opened inquest were:
- a) the findings required by section 45 of the *Coroner’s Act 2003*; namely, the identity of the deceased person, when, where and how he died and the cause of his death, including how the gunshot wound came to be inflicted; and
 - b) the adequacy of the police investigation and the processes relating to the management of exhibits.

The evidence

105. The brief of evidence was tendered at the start of proceedings. The brief contained witness statements and interviews conducted by QPS in the original investigation and in the QPS reviews, as well as documentary and other evidence gathered in the course of the investigations. The transcripts of the original inquest and the exhibits tendered during the inquest were included in the brief. The recordings and transcripts of the podcast and TV broadcast were included in the brief, as were the reviews, reports and statements obtained following the Attorney-General’s direction that the inquest be re-opened.
106. On the first day of inquest, the court attended a view of the Beenleigh Crayfish Farm. The farm is no longer in operation, but the court was able to see an approximation of the setting in which Jeffrey’s body was found, and to inspect a ute of the same make and model and a replica of the gun.
107. In addition, the following witnesses gave oral evidence during the remaining six days of hearing at the re-opened inquest, in the following order:
- a. “Hans” Geiger – crayfish farm manager;
 - b. Regine Kjellerup (formerly Hans Geiger’s spouse);
 - c. Paul Stewart – Marketing Manager, Sailrite Pty Ltd;
 - d. Paul Adamko – Mac’s Mufflers;
 - e. Terry Chandler – Eagle Wrecking;
 - f. Alan Eggins ;
 - g. Graeme Lloyd;
 - h. Retired Assistant Commissioner Michael Condon;
 - i. Dr Charles Naylor;
 - j. Retired Sergeant Robert Graham;
 - k. Retired Senior Constable Jason Hansen;
 - l. Dennis Walker;
 - m. Ben Eu;

- n. Detective Sergeant David Moore;
- o. Senior Sergeant Shane Everist;
- p. Lucas van der Walt; and
- q. Dr David Ranson.

108. Each witness was examined by Counsel Assisting, cross-examined by Counsel for the family, and available for cross-examination by the QPS Commissioner. The evidence of each witness was given in detail and thoroughly tested during the inquest. I do not propose to traverse the evidence of each witness because it would require a discourse on a number of briefs of evidence over the last 26 years. It is preferable to simply summarise “the facts” which are largely undisputed then deal with the contentious issues.

The Facts

109. The factual scenario is lengthy but it is necessary to set it out in full to properly understand the reasons that Jeffrey’s parents hold suspicions in respect of his death.

Background

110. Jeffrey Lawrence Brooks was born on 1 September 1971 to Wendy and Lawrence Brooks. Jeffrey was the oldest of four siblings who grew up on their parent’s property outside of Lismore. The family were members of the Alstonville Baptist Church.

111. The deceased’s father, Mr Lawrence Brooks came from a farming family in which firearms were used to protect crops and livestock and to hunt food. His family had a history of knowledge of an expertise in the use of firearms and Lawrence was a member of the Sporting Shooters Association of Australia. He trained Jeffrey and his brothers in the safe and competent use of firearms from a young age, as he had been trained by his own father.

112. Mr Lawrence Brooks told the Inquest that the deceased displayed an interest in firearms from an early age and would go shooting with Lawrence. He owned a number of firearms and was an excellent shot. Lawrence says that:

At all stages that I observed Jeffrey using firearms he displayed a constant awareness of safety issues in regard to firearms and to my knowledge he never had any accidents with firearms.⁵²

113. In August 1990, the deceased met Nicole at the Alstonville Baptist Youth Group. They were engaged in January 1992 and married in February 1993. Nicole has described Jeffrey as follows:

“I would describe Jeffrey as a lay back person who was casual. He could be very full on in some areas and lazy in others. He could be a tidy person most times and would help me around the house. In other times he could be very untidy. He could be vague and loose (sic) concentration if he had other things on his mind.”⁵³

114. When Nicole and Jeffrey met he was doing a degree in Applied Science in Coastal Management at the University of New England. He completed that

⁵² E2.7 – Statement of Lawrence Brooks, p 2.

⁵³ A8 - Statement of Nicole Brooks, p 1.

degree in 1992 and then did an honours degree majoring in biology and coastal management.

115. While he was at university, Jeffrey's brother David Brooks introduced him to John Pick, who was then a Director of the Beenleigh Crayfish Farm. Mr Pick arranged for Jeffrey to work part-time at the Crayfish Farm in 1992, while he did his honours thesis in the breeding and management of crayfish.
116. The Crayfish Farm was operated by a company called Sailrite Pty Ltd, whose Managing Directors, initially, were Mr Milham and Mr Pick. In 1991 Sailrite had leased the farm, which was on property owned by the South-East Queensland Water Board and invested \$500,000.00 into developing and running it. Hans and Regine Geiger, who had been involved in setting up and running the farm before Sailrite bought it, were employed as the farm managers and lived in a house on site. Mr Milham and Mr Pick visited the farm infrequently and worked out of the Sailrite Head Office in Billinudgel in NSW. The farm bred Crayfish in dams on the property, cooked the harvested crayfish on site, refrigerated them and sold them to hotels and food outlets. The crayfish were bred in ponds, or dams, which were dug into the ground. Farm workers would travel between the dams on raised tracks, either on foot or in farm vehicles.
117. Mr Pick recalls that Jeffrey was extremely knowledgeable and competent at his work, which included basic investigative surveys, water quality tests, stock level assessments, assessments of feed rates and quantities, and general health and management assessments. Part of Jeffrey's job was to shoot birds that were eating the crayfish. Jeffrey had a NSW Gun Licence. Mr Pick recalled Jeffrey refused to use the farm shotgun, owned by Mr Geiger for a 'predation experiment.' The subject shotgun was a 1901 12-gauge Harrington & Richardson single barrel shotgun (serial number 99409). The experiment was put off for a couple of weeks until Jeffrey could use his own .22 calibre firearm. On this occasion, and at other times when he had gone shooting with Jeffrey, Mr Pick was very impressed by Jeffrey's "safe and regimented"⁵⁴ use of his guns.
118. While Jeffrey worked at the Farm in 1992, his wife, Nicole, briefly met "Hans and Regine". After Mr Jeffrey had graduated from University, Nicole recalled that he had a couple of sales jobs, but that he had always talked about working full-time on the farm once he had graduated.
119. Mr Pick recalled that, sometime after Jeffrey stopped working at the farm:

"[the farm] was undergoing hard times. We could not understand Hans and Regine Geiger's work philosophy. We would have an agreed work program for the week on Friday but before the end of the first day of the new work, the Geiger's (sic) had initiated alternative work program. These would mostly result in increased financial expenditure. This was done without Greg Milham or my input or consultation and had become quite a bone of contention. 'We pay we say' was our position that was continuously ignored by Hans and Regine Geiger. More over there was increasing concern over dwindling stock numbers confirmed by Jeff Brooks in his stock assessments. We also became aware of cash sales not being deposited into the company books. This was not an isolated incident. We confronted, Mr Geiger threatened the sabotage of the farm pump if he were dismissed. This happened on numerous occasions from trying to establish a works manual and pipes work diagram to drainage and water

⁵⁴ A31 – Statement of John Pick, pp 1 – 2.

*augmentation and filtration procedure. Mr Geiger, over a long period, felt and increasing level of job insecurity from Greg Milham and myself.*⁵⁵

120. From around April 1994 Sailrite employed Graham Lloyd as a farm worker, and around July 1994 Sailrite offered Paul Stewart a position as Sales Manager for the farm. Mr Pick gave up his share-holding in the farm in around 1995 because of other commitments on his own farm but kept in touch with Mr Milham on a regular basis. When Mr Pick left, Mr Milham brought William Brownie on as Director.

121. Mr Stewart says that he encountered some problems when he began working at the farm because Mr Geiger considered him to be a “spy” for Mr Milham. Mr Stewart also recalls that:

“...in the early days when I was calling I called into a ...place where I... was trying to get as a customer and they revealed to me the people on the farm, Hans and Regine, had been there prior and done a trade off with them.

...

*Which didn't sit very well with me and I had a lot of trouble coming to terms and...knowing what to do. I ended up telling Greg and the shit supposedly hit the fan. I don't know what actually went down but it was...known that there was some underhanded stuff that was been done wrong.*⁵⁶

122. Mr Pick came across Jeffrey in Lismore when Jeffrey was working for Carpet Call. They had a long talk, and Mr Pick encouraged Jeffrey to contact Mr Milham about getting further work on the farm. Nicole says that in late August 1995 Jeffrey contacted Mr Milham. Mr Milham recalls that there were subsequent conversations with Mr Geiger about employing Jeffrey “to use his aquacultural experience to try and, if not steer the farm in the right direction, to give us an indication of where we were going wrong.”⁵⁷

123. At the end of August 1996 Jeffrey was offered a full-time job at the Crayfish farm. He started a temporary 6-month contract in early September. Jeffrey was employed to evaluate the stock and do feasibility study of the farm as it had lost money every year of its operation. He was also to help out with the farm duties to make his hours up to full-time. Mr Milham says that Hans Geiger was advised of Jeffrey's employment about a week before Jeffrey started work.

124. Shortly after Jeffrey started Regine was advised that the farm could not support her full-time, and she was put on casual hours. Mr Milham recalls that Regine threatened to take Sailrite to court with unfair dismissal proceedings.

125. Mr Pick recalls that:

*“...Again during this renewed association, the Geigers suffered increasing job insecurity and threatened varying forms of sabotage and employee blackmail. During this period of assessment toward his new brief, Jeff again expressed strong concerns about dwindling stock numbers and his suspicion that the Geiger's and their assistant Mr Lloyd, were selling all the farms breeding and market stock.*⁵⁸

⁵⁵ Ibid, p 3.

⁵⁶ A11 – Transcript of EROI with Paul Stewart, p 6.

⁵⁷ A38 – Inquest, Day 1 T20L4.

⁵⁸ A31 – Statement of John Pick, p 4.

126. Jeffrey contacted a friend of his, Chad Goodwin, to ask if he wanted a job at the farm. A couple of months before Christmas, Jeffrey took Mr Goodwin and another new worker, Taryn Summers, to the farm soon after he started and Mr Goodwin attended a meeting of all farm staff. Mr Goodwin recalled that Hans Geiger used the meeting to “totally demoralise everything that Jeffrey had said, or done previous to our arrival.”⁵⁹ Jeffrey had a conversation with Mr Goodwin after the meeting in which he said that he felt Hans Geiger was against him working there, and that “Hans didn’t like change.” Jeffrey told Chad Goodwin “to always do what Hans said, and not to tell Hans he was a friend.” Mr Goodwin recalled observing verbal abuse and negative body language from Mr Geiger towards the deceased in the time he worked at the farm until the first week in January, 1996.

127. When Jeffrey first started the job he was living in Alstonville, NSW, with Nicole. Lawrence recalls that Jeffrey would work at the farm on Mondays, Thursdays and Fridays, and work at head office on Wednesdays. He would often stay overnight at the farm on Thursday nights, at a caravan on the farm. Nicole says that, over time, he began to stay more often – sometimes twice a week.

128. Early in his employment, Nicole recalls that Jeffrey told her that:

...he thought that Hans and Regine were making things difficult for him. He informed me that he thought that Hans thought that Jeffrey didn’t know what he was doing. As time progressed things got progressively worse. I can’t put my finger on any particular incident but things like, Hans would write to Milham complaining about Jeffrey, Jeffrey had a couple of arguments with Hans and Regine. Jeffrey told me that the arguments were about Regine working on the farm. Apparently Regine was not supposed to be working on the farm and she was making decisions. Jeffrey told me he put her in her place and Hans didn’t like it at all. I don’t recall any particular comments made by Jeffrey which indicated to me that anyone on the farm was going to or wanted to cause physical harm. Although I had told Jeffrey to be careful because Regine was being nasty.⁶⁰

129. Nicole Brooks said that Jeffrey “didn’t have any problems with” the farmhand, Mr Lloyd. Jeffrey told Nicole that he “was a good worker and an ok guy.”⁶¹

130. In around November 1995 Jeffrey told Nicole that he didn’t like using Hans’s farm gun. Jeffrey said that the gun was old and unsafe, and when Nicole said she didn’t want him using it, he said he wouldn’t. He borrowed a gun from his brother, David, and told Nicole he would try to get another gun at the farm. Nicole says that Jeffrey “*borrowed his brother’s firearm for a couple of reasons. The fact that he thought the firearm on the farm was unsafe and that he would have something to defend himself if he was threatened by Hans.*”⁶²

131. When Jeffrey approached David about borrowing his gun, David recalls that Jeffrey:

⁵⁹ A19 – Transcript of EROI with Chad Goodwin, p 2.

⁶⁰ A8 - Statement of Nicole Brooks, pp 3 - 4 and A12 - Transcript of EROI with Gregory Milham, p 3.

⁶¹ A8 - Statement of Nicole Brooks, p .5

⁶² Ibid, p 3.

“...came to my home quite distressed and asked me if he could borrow my 12-gauge pump action 7 shot shotgun. I asked him why he wanted it and Jeffrey said that he honestly feared for his life. He thought Hans might try “something on the weekend,” I think that was Friday night. Jeffrey said that my shotgun was best suited for self- protection. I asked a few questions and Jeffrey said he had been threatened by Hans and had had a rough time at the farm with Hans.”⁶³

132. Nicole says that Jeffrey then approached Mr Milham to buy him another gun for use on the farm. Mr Milham recalls that the company bought Jeffrey a pump action shotgun and told him to “tell Hans, Regine and Graham that it was his so that no one else would use it.” ‘Jeffrey’s gun’ was a Remington 12-gauge single barrel, model 870 shotgun (serial number W778227M). Jeffrey bought the shotgun from Southport Firearms on 8 November 1995.

133. On 6 November 1995 Mr Milham sent a fax to Mr Geiger marked ‘Confidential’, in which he referred to a conversation between himself, Mr Geiger, Mr Stewart and Jeffrey in which Hans Geiger had discussed Regine’s private plans for making and marketing ‘crayfish mouse’ in association with the Department of Primary Industries. Mr Milham advised that the Directors objected to this plan and would not allow Ms Kjellerup to use farm resources in order to carry it out. He advised that, if she did, she would be dismissed as a farm employee, and that she was already on a warning for previous misconduct. He went on to advise that:

“...Nevertheless, after listening to you, Graham and Jeffrey on how much of an asset she is to the farm, we have decided to keep her as a casual employee, until further notice, based on the following points:

- (i) You and Regine are only to speak English in our work place.*
- (ii) [Details about Regine’s hours and duties].*

...

Hans, we are trying to go forward with regard to long term profitability, this is why Jeffrey, (the young biologist), has a six month contract to show the directors that the farm is, or at least has the potential, to be a profitable investment.

His views and ideas on things may be a little different to both yours and ours, but all ideas must be given a fair hearing, not dismissed immediately....”⁶⁴

134. On 20 November 1995 Mr Millham sent a handwritten letter to Mr Geiger, which said on page 2 (page one not in evidence):

“Any comments about staff or their work is to be directed to Hans not individual staff.

Your staff is to co-operated (sic) with Jeff when asked a question. If they would like to know the reason for the question simply ask him.

A meeting between Hans & Jeff must take place at least once a week to discuss all aspects of the farm and also any problems that may be developing.”

Hans, again I ask you for the continued future of the farm, please work with Jeff not against him.”⁶⁵

⁶³ A30 – Statement of David Brooks, p 1.

⁶⁴ E1.8 – Copy of QIRC file, pp 8 – 10.

⁶⁵ Ibid, p 11.

135. Nicole Brooks stated that there came a point when she “wasn’t happy” about Jeffrey staying in the caravan at the farm. She thought the living conditions were ‘gross’ and was concerned about Jeffrey being at the farm “Hans and Regine...behaving in the manner in which they did.”⁶⁶ Jeffrey spoke to Mr Milham about this and said that he was worried about what might happen at night-time because “Hans and Regine were giving him such a hard time.” Mr Milham and Mr Brown agreed that Jeffrey could move to the Riverhills Caravan Park, where Chad and the other casual workers stayed, and paid his rent. Nicole recalls that Jeffrey moved sometime in January 1996, but both Mr Milham and Lawrence say that it was a month or so into his employment, which means likely sometime in November. This would appear to be consistent with Mr Pick’s recollections in the following paragraph.

136. Mr Pick recalls that he caught up with Jeffrey around 14 December 1995 when Jeffrey delivered some crayfish to him:

“...and over a cup of tea told me again of the continued decline in relations between Greg Milham and the Geigers and Lloyd. Jeff expressed concerns for his own safety. Jeff confirmed that he no longer stayed on the farm due to increased threats and hostility suffered handed out by the Geigers and Lloyd. This amounted to not speaking to Jeff “as though he wasn’t there,” only speaking in German when Jeff was about, destroying his work or task notes as well as out right verbal hostility. The Geigers always referred to Jeff as “that young biologist” in a derogative tone.

...Jeff further told me that he felt that he would wear a bullet directed at him by Hans Geiger or Lloyd during bird [predation].”⁶⁷

137. In a letter that Mr Pick sent to the Coroner after he gave evidence, Mr Pick said that, during this conversation:

“Jeffrey stated that he was afraid for his life. That he was scared of being shot while under bird predation control by Hans Geiger or Graham Lloyd AND THAT THEY WOULD TRY TO MAKE IT LOOK LIKE AN ACCIDENT.” (Emphasis in original)⁶⁸

138. Three pages of handwritten notes by Jeffrey have been provided to the court, which appear to have been notes Jeffrey was taking on events and interactions at the farm. The first entry is dated 3 January 1996:

“Hans and Regine have leased their house for 12 months @\$180 per week.

Hans is going to fence the sheep out of Night time camping area and hosed the sheep manure away from the house Regine hates being on the farm and said that she was close to tears when she had to lease the House over.

⁶⁶ A28 – QPS Coronial Report, p 3, A8 - Statement of Nicole Brooks, p 5, A38 – Inquest, Day 1 T29L13, E2.7 – Statement of Lawrence Brooks, p 3 and A12 - Transcript of EROI with Gregory Milham, p 5.

⁶⁷ A31 – Statement of John Pick, pp 4 – 5 and A35 – Letter from John Pick to Coroner Anders, p 1.

⁶⁸ A35 – Letter from John Pick to Coroner Anders, p 1.

Tarren and Regine were talking and she said that she wanted to move into her new house when it was built but Greg asked if I could move in and she said that I was not ever going to move in.

I was talking to Regine whilst we were fishing for silver Perch to take to [indecipherable] @ travel lodge, and she said that she hates it in the stinky Rat house but Hans doesn't understand."⁶⁹

139. The second entry is dated 8 January 1996:

"Regine has taken over the Role of Manager for this week. She has been taught Backwashing, Pump servicing and has been assigning the work for the boys, stack assessment and forward work planning.

Regine gave me \$40 from a cash deal and asked that I organise and invoice for Taipan aquaculture for this may be evidence for cash deals as only the three of four of the latest transactions have been recorded.

A guy came into the office today at around 1pm he said that he had been in before and was setting up a wholesaling company and he wanted out price list. Regine took control and found him a price list. He hadn't introduced himself So I asked him what he was going to do with the crayfish he said that he wanted to know who our customers were and he was going to target the other possibles That we didn't service. I said that head office deals with the customers at this point Regine had copied him the price list through the fax and started to say that this was our new price list. I asked if head offices phone number was on the letterhead and suggested that Regine write them on there I also said that he should contact Paul Stewart. Regine cut me short and said Brooksey I will handle this thankyou. She informed the man that hans was the Manager and that he should call the farm first as head office didn't know anything. I allowed her to continue as I didn't want to further damage our credibility in front of a customer. However because Regine handled the situation

- (i) We still don't know the customers name.*
- (ii) Our professionalism was smeared with the behaviour in the office.*
- (iii) Our customer was able to Arrogantly dictate terms taking the control of the sale out of our hands.*
- (iv) We have lost a good opportunity to pursue a lead when we need to sell our surpluss (sic) to maintain sales turnover*

After going away to cool off I came back and spoke to Hans He disagreed with my viewpoint and clearly enjoyed regines behaviour. He explained that he felt that

- (i) The only reason that Head office has taken over sales is that they suspect that money was being taken underhandedly. I explained that it is purely a cost cutting measure.*
- (ii) He said that Paul doesn't know what was going on with the stock and therefore all new business should be first contacted with the farm so that he could decide what was the best option and he could then call Paul. I argued that the system was well set up, Paul knows how many kgs he has sold and what is on surpluss (sic) and that it was up to him to decide as that was why he was sales manager, Hans strongly disagreed. I also explained that we had lost the advantage in the sale and because of Regines Action we don't even know who he is or even if his purchasing*

⁶⁹ E2.2 – Notes by Jeffrey Brooks, p 1.

of our crayfish was beneficial for the company. He also disagreed with this and said he will come crawling back and he will be in the position of a beggar.

However I said with our new prices (\$17) per kg we may never see his again Hans just laughed. I left more frustrated than when I started.”⁷⁰

140. In mid-January Jeffrey visited a school friend, Mr Paul Martin, at his parents’ home in NSW. They chatted and caught up on what they had been doing since school. Jeffrey told Mr Martin about his problems at work, and he recalls that:

“...He told me that some of the employees had been stealing from the company and he was most concerned about the situation. He said persons had been selling produce behind the owners back and had been keeping the takings without the knowledge of the owner. He said he was going to inform the owners about their defrauding of the company. Jeffrey said the employees involved had warned him against saying anything to the owner or any other person about their activities, as they stood to lose ‘everything.’ Whilst Jeffrey was talking to me about his concerns, I observed that he was not himself and by the way he spoke and his expressions, he was most perturbed and agitated.”⁷¹

141. On 19 January Mr Milham sent a fax to Mr Geiger in which he advised that he and Mr Brownie had decided that, as of 1 February 1996, all casual workers would be laid off, which included Regine. Only Jeffrey, Mr Lloyd and Mr Geiger remained working on the farm and Mr Stewart would continue with the sales work. Mr Milham advised that the Directors could not afford to put any more funds into the farm, and outlined the following options for the future:

- (1) *“Close the farm/freeze and sell all stock and re-negotiate a deal with the Water Board.*
- (2) *Sell the farm as a going concern.*
- (3) *Go into liquidation.*
- (4) *Re-negotiate an understanding with the Directors to continue funding based on very accurate stock prediction, sales and expenditure budgeting.”⁷²*

142. Mr Milham expressed a preference for option 4, saying:

“I understand currently your relationship with Jeff is not as good as it could be, however I believe you both need to work extremely closely now if we are going to action point (4) as above”.⁷³

143. Mr Milham wrote the following fax to Mr Geiger on 30 January 1996:

“Dear Hans,

After careful evaluation and reading of your report and proposal, and also giving consideration to our latest Viability Report from Jeff Brooks, the Directors would like to reinforce our letter of 19 January 1996.

⁷⁰ E2.2 – Notes by Jeffrey Brooks, pp 1 - 3.

⁷¹ A29 – Statement of Paul Martin, pp 1 – 2.

⁷² E1.8 – Copy of QIRC file, p 13.

⁷³ Ibid.

I would like you to prepare a Work Schedule for Graham, Jeff and yourself (as outlined 19 January 1996). Jeff will also be responsible for stock management and movement over the entire Farm. He will directly report to the Directors on the total stock situation on a weekly basis.

We will need to proceed to the next stage of the Beenleigh Crayfish Farm very, very carefully and again ask for your support.”⁷⁴

144. Mr Geiger hand wrote the following fax to Mr Milham on the same day. The copy is not very good, so it is not possible to determine what time it was sent. It is assumed it was sent in reply to Mr Milham’s fax on the basis of the contents:

“Hello Greg,

Please can you clear up following discrepancies for me:

1. *In your confidential letter from the 03.11.95 under 3aiii) you outlined that I’m responsible for reducing costs. How can costs be reduced when [Head Office] increase costs against my advice.*
 - a) *Affairs with the onion bags made through a workshop. They costed in the end more and more important, they aren’t in time in place to save appr 100000 juv at this time. 100000 Juv by 20c makes @20000 – not produced, or if we didn’t need those juv, we could sell the F & E.*
 - b) *In the same letter page 3 second paragraph it is mentioned Regine’s conduct, viewed from a neutral ground I can’t see any misbehaviour or wrong doing. Of course the directors may feel different but does it predominate what Regine did good for this company?*
 - c) *How can the company save money and/or make money by not optimising the sales?*
 - d) *“Hans, again I ask you for the continued future of the farm, please work with Jeff not against him.” Greg how can I do this with all the created problems and difficulties?*
 - e) *Why is the employee Regine finally layed off? Firstly from permanent to casual then from casual to layed off? We always had enough work for her, work done by her to keep our back free to do work out on the farm. I can’t complain about her work performance, neither can you I suppose. Did she approached you or the company negative since you asked me in the confidential letter “fix” it?
It was said, that no permanent personnel will be taken on until we are in full production. Are we now in full production, because Jeff is permanent, as he said? If it is so, why didn’t Regine get the first option to come back on permanent? She is by far more useful to this company.”⁷⁵*

145. Mr Pick recalls that:

“As Jeff’s investigative brief was nearing its completion, social conditions and work relations between staff (Geigers and Lloyd) and management (Milham and Brownie) were again further declining. It had been confirmed to all employees (Geigers and Lloyd) that the 27th March or thereabouts, their employment would be terminated.

⁷⁴ Ibid, p 14.

⁷⁵ E1.8 – Copy of QIRC file, pp 15 - 16.

*Unconfirmed to the Geigers and Lloyd, Jeff Brooks was to continue the farm's operations and would be appointed manager. Jeff and Nicky were in the process of moving to Brisbane. Jeff talked to me by phone and expressed to me how happy and excited he and Nicky were over their future in Brisbane. Jeff felt that he was coming to a point where the futile threats and hostility on the crayfish farm would end and he could continue work.*⁷⁶

146. In his evidence at the first Inquest, Mr Milham said this in relation to the ongoing problems between Jeffrey and the Geigers:

*"Look, I think they would have had periods where [the relationship] cooled. I don't think they were entirely at each other's throats all the time. I think it would have been too hard if that was the case. I think Jeff in some of his correspondence said, you know, at one stage, that "Hans and I seem to be getting on all right at this stage," and things like that. Yeah, look, there would be times whereby they would be getting along alright. I believe most of the problems may have developed after situation – Jeff did us a report end of January, early February which indicated that the crayfish on the farm weren't growing, that due to poor animal husbandry techniques we'd successfully taken all the big ones out and left the breeders to be the small ones and slow growers. Mr Brownie and I then made a decision to get out of the farm while we could, try to get back any money we could because it would have basically put us back another year. I remember Jess telling me that when he sent the report through Hans jumped up and down and screamed and said, "Don't send that report through. That'll finish us. That means that we won't be here anymore," but Jeff still sent the report through and then we gave everyone termination notice, I think, five or six weeks in advance of when we were going to close. I think that last – from that termination notice to the time of death – Jeff's death – I think that's when the problems started to get worse for Jeff."*⁷⁷

147. In anticipation of his continued work on the farm, Jeffrey and Nicole had been planning to move to Brisbane. Nicole recalls that, around the beginning of February, they decided to make the move regardless of the uncertainty around Jeffrey's work at the farm. Around 10 February they found a house in Carina.⁷⁸

148. On 21 February 1996 Hans Geiger sent a fax to Head Office which he called his "Proposal", as follows:

"Referring to my telephone conversation with Mr Bill Brownie on the 21.02.96, please take note from following:

Based on my proposal from the 20.01.96 addressed to the directors of the BCF and faxed to Greg, the situation will be:

1. *Full trust and honesty between the Directors and the personnel.*
2. *The outstanding accounts and bills have to be balanced.*
3. *A 2 weeks headstart is needed to pay the wages, can be covered with outstanding payments from the customers.*
4. *No further money input from the Directors.*
5. *We are fully autonomous and autarucial (sic).*
6. *A weekly or fortnightly report/statement will be made to the Directors.*

⁷⁶ A31 – Statement of John Pick, pp 5 - 6.

⁷⁷ A38 – Inquest, Day 1 T30L26.

⁷⁸ A8 - Statement of Nicole Brooks, p 6.

7. *A surplus will be used for establishing moneysaving improvements e.g. reducing power costs and feed costs.*
8. *An emergency fund from \$2000 – will be established.*
9. *The load repayment to the Directors will commence latest in 6 months time, when the savings program is completed, the repayments will increase. When the farm running costs are on average, the surplus goes to the Directors.*
10. *The personnel is committed to their part of this agreement.*

To achieve the autarucal (sic) managing of the farm is by:

- a) *Establishing moneysaving improvements now, even if it is bit by bit as we generate the funds for it.*
 - b) *Concentrate on better stack material.*
 - c) *Provide optimum condition for the stock.*
 - d) *To extend the production situation, even into the colder season.*
 - e) *Increase sales.*
 - f) *New harvest prospectives.*
 - g) *Put into effect improvements proposed since 1991”.*⁷⁹
149. On 22 February 1996 Mr Geiger, Mr Lloyd and Jeffrey received their redundancy letters from Sailrite. They were advised that they would be finishing work on 29 March, and the Geigers had until 1 April, 1996 to vacate the house. Mr Milham told police that Mr Geiger had said words to the effect “*you can’t sack us, we’ll take you to the Courts*”. Mr Milham explained during his evidence at inquest that:
- “[so] basically what we were trying to do – the farm was on the market for sale. If we had nobody to take the farm over we were interested in Jeffrey stepping in to run it on a shareholder basis and we were going to offer him some shares in the company. I think he actually even spoke to his grandfather or something about it and that’s sort of where we were heading.”*⁸⁰
150. On 27 February 1996 Mr Geiger sent a fax to Mr Browne, advising of certain maintenance work which would need to be done to keep the pump running, and that the crayfish would die if the pump was switched off. Mr Geiger suggested to Mr Browne that the farm should be kept running to offer an ongoing concern to potential buyers, and suggested that “*to pass [Hans], who knows the farm inside outside, on to a buyer might be an advantage and gives [him] a prospect of employment.*”⁸¹
151. Around this time Jeffrey arrived at work one day to find that the lock on the gate had been changed and he was locked out. There was also a suggestion that the pin code to the alarm system in the shed had been changed. Jeffrey called Mr Milham and reported the situation. In his evidence at the original inquest, Mr Milham said that he rang Mr Geiger who said “*Well, we play a little trick on Jeffrey.*”⁸² Mr Milham told him to stop being petty and to let Jeffrey back into the farm. In her interview with police Regine said that this incident occurred after the termination letters had been received, and that Mr Geiger had changed the pin code on the alarm because his personal tools were in the shed. He wanted to be

⁷⁹ E1.8 – Copy of QIRC file, p 13.

⁸⁰ A12 - Transcript of EROI with Gregory Milham, p 2, A38 – Inquest, Day 1 T22L7 and A15 – Transcript of EROI with Hans Geiger, p 9.

⁸¹ E1.8 – Copy of QIRC file, pp 21 - 22.

⁸² A38 – Transcript of Inquest – Day 1, T27L7.

sure they were safe. Ms Kjellerup also said that Jeffrey had misplaced his key to the gate a couple of days beforehand.⁸³

152. On 4 March 1996 Jeffrey and his wife, Nicole, moved into the house in Carina. Around the same time Mr Geiger took two weeks holidays that he was owed. He stayed at the farm but was not working as usual.
153. On 12 March 1996, Mr Geiger and Mr Lloyd drove to Billinudgel to meet with Mr Milham at 2:00pm. Mr Geiger had prepared talking points for the meeting in a handwritten document, in which he effectively said that the conclusions Jeffrey had come to were the same as his conclusions, but he had not been allowed to implement these ideas. Mr Geiger made an offer to the Directors that he buy the farm from them for \$50,000 outright or \$100,000 over 5 years (following a 12 month re-building period). Mr Milham made the following statement about this meeting:

“Hans and Graham arrived where a very heated argument took place about overtime. Hans served with a list of questions he had compiled in an attempt to proceed to the courts for unfair dismissal. My diary notes that Hans admits to Regine selling \$2500 worth of crayfish. Graham handed me a statement for overtime claimed and demanded to be paid he became extremely hostile and banged his hand on the desk several times yelling and screaming about his termination and possibility of losing (sic) his house. He stormed out of the office yelling “that we had not heard the last of this. I am going to the Department of Labour and Industry. You can stick your farm and your Job” or words to that effect. This was witnessed by Paul Stewart who was present during the meeting, with other staff members Bill Lane and Darren Cornale. Graham refused to shake my hand, Hans shook my hand and they departed after about 1 hour.

It was both my impression and Paul Stewarts (who was in the meeting as per Hans request) that Graham would not be working again.⁸⁴”

154. At about 9:45pm on 12 March, 1998 Wendy rang Jeffrey on his home phone number in Brisbane. When Lawrence got home at about 10:00pm Wendy and Jeffrey were still talking, so Lawrence also had a chat with Jeffrey. Jeffrey mentioned that that afternoon he'd been scaring the birds away by running around and clapping, because he had run out of shotgun cartridges.
155. At about 11:00pm that night, a neighbour of the Crayfish Farm, Lance Glass, heard the alarm in the shed going off. He looked and saw the lights on in the shed but didn't see any movement on the farm. The shed lights were not usually on at night.

Wednesday 13 March 1996

156. At 7:00am Jeffrey called Sailrite Head Office from the Crayfish farm office phone, which was in the shed. Jeffrey had previously told Mr Milham and Mr Stewart that *“he would only call them when no one else was around, as he didn't like Hans or Lloyd listening in.”* Mr Milham's note of this phone call was as follows:

⁸³ A16 – Transcript of EROI with Regine Geiger, pp 13 & 16.

⁸⁴ B9 – Unsigned statement of Greg Milham and A15 – Transcript of EROI with Hans Geiger, p 9.

“Jeff Brooks rang at 8 am (NSW time) to enquire about how the meeting had gone the day before with Hans and Graham. I explained what had happened and told him that Graham would not be working. Jeff stated he was not there..”⁸⁵

157. Mr Lloyd told police that he arrived at work a couple of minutes after 7am. He says he had a coffee with Jeffrey and talked about a flat tire on the red ute. The white ute also had a flat tire, and Jeffrey and he decided to swap the flat tire on the red ute with an undamaged tire on the white ute, so one of the vehicles could be used. Around 8:30 am, Mr Lloyd had a conversation with Jeffrey about a pump Jeffrey couldn't get going.⁸⁶

158. 10:09am Jeffrey called Mr Milham and spoke to him in a phone call that lasted 9 minutes and 46 seconds. Mr Milham's note of this phone call was as follows:

Jeff rang again at 11:09 (NSW time) and spoke to me and said to the effect: “Graham has turned up and went straight to the house, he has been there for an hour or more.” I remember asking Jeff to make a note of what time if at all Graham starts as I am not paying him to be at the house. We then talked about who was going to cook etc without Graham and that I may have to send Paul to the farm for Fridays deliveries. I said Paul will fax the orders through anyway.⁸⁷

159. At 11:34am Mr Geiger used the shed phone to call the SEQ Water Board. Police obtained information from the Property Services Manager at the Water Board that he had been ringing the Board making enquiries about whether he could purchase the farm property from them. Mr Geiger had been told that while Sailrite held the lease, the Board could not make any arrangements with Hans.⁸⁸

160. At 11:36am, a fax arrived at Head Office from the Boonjie Crayfish Farm advising that 9 boxes of Crayfish would arrive in Brisbane on a 4:00pm Ansett flight. Mr Stewart subsequently sent a fax to the farm advising that the consignment would arrive at 3:00pm “your time.”⁸⁹ This was a mistake, as generally arrival times are given in the time zone of the city the flight arrives in – meaning the time of 4:00pm was Brisbane time. Jeffrey apparently understood that he was to go to the airport at 4:00 pm.

161. At 11:38am Mr Lloyd used the shed phone to call Brisbane Ice Sales to order more ice which was needed after the crayfish were cooked.⁹⁰

162. At 11:40am Mr Geiger called the Industrial Relations Commission from the shed phone. He later told police that after this, they were all in the shed having a coffee and a chat – Mr Geiger, Jeffrey, Mr Lloyd and Ms Kellerup. He recalled that there were some cookies there and everyone was joking about the cookie monster from Sesame Street. Jeffrey then went out of the shed to spray some weeds. Around 12:00pm Mr Geiger and Ms Kellerup decided to wash their dogs.⁹¹

⁸⁵ B9 – Unsigned statement of Greg Milham.

⁸⁶ A14.1 – Statement of Graeme Lloyd, pp 3 – 4.

⁸⁷ B9 – Unsigned statement of Greg Milham.

⁸⁸ A15 – Transcript of EROI with Hans Geiger, pp 1 – 2, A25 – Statement of Gregory Steel, p 1 and A28 – QPS Coronial Report, p 12.

⁸⁹ B12 – Fax from Paul to Hans and Jeff.

⁹⁰ A14.1 – Statement of Graeme Lloyd, p 4 and A28 – QPS Coronial Report, p 9.

⁹¹ A15 – Transcript of EROI with Hans Geiger, pp 1 - 3 and A28 – QPS Coronial Report, p 12.

163. Around 12:20 or 12:25pm Nicole phoned Jeffrey on the shed phone. She recalls that Mr Lloyd answered the phone and then put Jeffrey on. Mr Lloyd said that he and the Geigers were all in the shed and could hear this telephone conversation. Nicole Brooks was calling from a payphone in the Queen Street Mall in Brisbane and told Jeffrey that she had just registered at the employment agency and discussed her job prospects. Jeffrey told her that he was going to the airport that afternoon to pick up some crayfish, and he could pick her up at their house at 4:00pm and they could drive to the airport together.
164. In his police statement, Mr Lloyd said that after Jeffrey finished spraying the weeds, he saw him get the old gun from the white ute and put it into the red ute. Mr Lloyd corrected himself and said: “maybe he did this earlier in the morning.” He added that usually Jeffrey would not use the old gun as he thought it was unsafe. Mr Lloyd said that Jeffrey then drove off in the red ute and Mr Lloyd stayed talking to the Geigers. He recalled hearing two gunshots: the first 5 – 10 mins after Jeffrey drove off; and the second 20 – 30 minutes after that. Mr Lloyd asked: “What’s that silly bugger up to now?” to Ms Kjellerup when he heard the second shot, “because usually after the first shot the birds all disappear.”⁹²
165. Mr Geiger called the SEQ Water Board again from the shed phone at 1:31 and 1:32pm. At around 1:45pm, he was carrying some things from the shed to the house, and recalled seeing Jeffrey spraying the hatchery. He then had a talk to him about whether he found any crayfish when he drained pond 5 before he continued to the house. After going back down to the shed, Mr Geiger told police that he went out to get some groceries for Ms Kjellerup and try to get a new headlight for his HiLux ute. Ms Kjellerup thinks that Mr Geiger left the farm at around 2:00pm.
166. At 1:51pm Jeffrey called Head Office from the shed phone. He spoke to Mr Stewart, and the call lasted for 59 seconds. Mr Milham’s note as follows:
- “Jeff rang later at 2:50pm (NSW time and spoke to Paul briefly. He relayed the message that Graham did finally start work after 3 hours being at the house. He also told Paul that he was really happy as Nicky had got a job.”*⁹³
167. The owner and mechanic at Max’s Mufflers, in Beenleigh, recalled Mr Geiger coming into the workshop in his blue Hilux in the early afternoon. Paul Adamko, the mechanic, thought that “Hans came in around 2 or 2:30pm”. He knew it was no later than 3:00pm because “that’s when things usually start tapering off, and he was still busy working when Hans came in.” The owner, Mr Jerry Lee, told police that Mr Geiger was there between 2:30 and 3:00pm, and was there for about a quarter of an hour. Mr Geiger was known to both Mr Adamko and Mr Lee as he had had his ute repaired there previously.
168. Mr Lloyd told police that, after Mr Geiger went out, he got ready to feed the crayfish. This was done by loading pellets into an automated feeder inside a van, and then he would drive the van between the dams, and the pellets would be distributed into the damns by the feeder. When the feeder was loaded and ready to go, Mr Lloyd recalled that he looked at the clock and it was about 2:55pm. He thought he would probably see Jeffrey while he was out feeding and would remind him to go pick his wife up.

⁹² A14.1 – Statement of Graeme Lloyd, pp 5 - 6.

⁹³ B9 – Unsigned statement of Greg Milham.

169. At 3:10pm a neighbour of the farm, Noel Reubeck, heard a gunshot. He was familiar with guns and was able to tell that it was a shotgun shot. He told police that he knew it was 3:10pm because his wife had gone to pick up the kids from school at 2:30pm, and his friend had arrived to visit at around 3:00pm. Just before hearing the shot he had looked at his watch and said to his friend that his wife would be back around 3:20pm. This evidence was corroborated by his friend, Mark Dreyer.
170. Mr Lloyd said that if this gunshot happened when he was driving the feeder, he wouldn't have heard the shot because of the sound of the car motor and the feeder motor in the back of the van.
171. A salesperson at Eagle Wrecking in Staplyton, Mr Terry Chandler, recalled that Mr Geiger came into the wreckers in his blue HiLux. He was looking for a replacement headlight for the vehicle. Mr Chandler thought that this was between 3:00pm and 4:00pm. He knew Mr Geiger from previous occasions that he had been to the yard.
172. Mr Lloyd recalled that just before 3:30, he had fed 'ponds' A, B, C 1, 2, 3, E 4 and 12. He was driving past 12 towards 11 when he saw the red ute in between dams 21 and 22. He could see that the bonnet of the ute was sticking up at a funny angle. Mr Lloyd drove the feeder between dams 17 and 18 and then got out and ran to the red ute. He saw Jeffrey slumped in the ute across the seats and saw the barrel of the shotgun poking out of the ute and blood on Jeffrey's arm and chest. He panicked and got back into the feeder. He drove the wrong way initially. Then he stopped and went back to the red ute and put his hand on the left side of Jeffrey's chest to try to find a heartbeat. He thought Jeffrey was dead. He drove back to the shed and called the police. Mr Lloyd then called Ms Kjellerup at her house just after the 3:30pm call to police.
173. There was some confusion regarding when Mr Geiger returned to the farm. He told police that he arrived and seemingly was present for the telephone call from Mr Lloyd to Ms Kjellerup. Ms Kjellerup was vague, was not asked and did not directly answer questions about whether or not Mr Geiger arrived before or after the telephone call. The tenor of her evidence was that he arrived after that telephone call and she confirmed that at the second Inquest.

Consideration of issues

Issue 1 – How the gunshot wound came to be inflicted

174. The evidence before the court is sufficient for me to be able to make the following findings pursuant to s45(2) of the Act without further consideration:
- (a) The deceased person is Jeffrey Lawrence Brooks, born 1 September 1971;
 - (b) Jeffrey died at the Beenleigh Crayfish Farm;
 - (c) He died at a time unknown between 1:52pm and 3:30pm on 13 March 1996; and
 - (d) The cause of death was a shotgun wound to the chest.
175. How Jeffrey died is the first issue which was investigated during the re-opened inquest, and on which submissions have been made by the parties.
176. None of the legal representatives submitted that Jeffrey's death was a suicide. This was the conclusion of DS Condon in his report to the Coroner, and the finding made by Coroner Anders at the first inquest. There is no new evidence before this court which would disturb that finding, and accordingly, I accept that finding as correct.
177. The two remaining possibilities are that the gun discharged accidentally or that a second person fired the shot at Jeffrey. The submission by the QPS Commissioner and Counsel Assisting is that on the available evidence neither accident nor suspicious circumstances can be ruled out.
178. Jeffrey's parents, in their submissions, confirm that they have always believed that Jeffrey's death was a homicide, and that a finding should be made that, on the balance of probabilities, Jeffrey was deliberately shot by Hans Geiger or Graeme Lloyd. They seem to accept that there is insufficient evidence to establish the involvement of Mr Geiger or Mr Lloyd in Jeffrey death to any higher standard, and that, "based on the available evidence at the inquest, death by accident cannot be excluded as a reasonable possibility."⁹⁴

Accident

179. However, Jeffrey's parents also submit that I would be satisfied, "on the balance of probabilities, that the death was not by accident."⁹⁵ Their view is based on the following factors, which I will discuss with reference to the submissions made in respect of each factor.

Jeffrey was an experienced, competent and safe user of firearms

180. There is evidence from all who knew Jeffrey that he was a responsible gun owner who handled guns in a safe manner. I accept that he was an experienced gun user, that he handled guns competently, and that safety was important to him. On this basis, Jeffrey's parents do not concede that Jeffrey would have used the dangerous subject farm gun, as it was known to be unsafe and he had refused to use it in the past, or that if he did use it, he would have handled it in a way which led to an accidental discharge.

⁹⁴ Submissions by Counsel for the family, para 34.

⁹⁵ Submissions by Counsel for the family, para 34.

181. The following bodies of evidence support a scenario that this death was the result of a firearm mishandling accident:
- (i) Ms Nicole Brooks in her statement to police confirmed that Jeffrey had used the dangerous subject shot gun in the past;
 - (ii) Jeffrey told a number of witnesses that it was a dangerous old firearm and he was reluctant to use it which confirms its per se lethality;
 - (iii) Sgt. Graham established that the subject firearm would discharge when the hammer was allowed to rotate forward without the operation of the trigger;
 - (iv) DS Condon dragged the shotgun across the passenger seat of the ute in a simulated reconstruction and the firing mechanism activated easily without trigger operation;
 - (v) Jeffrey was regularly shooting at snakes and birds feeding on the crayfish stock and would often take a firearm in the ute to spontaneously discharge shot at the birds;
 - (vi) Jeffrey told his father that he was out of ammunition for his personal firearm;
 - (vii) There is no scientific evidence to rebut the police theory that Jeffrey reached into the ute, dragged the shot gun forward by the barrel as it was pointing at his chest and it discharged.
182. There is, accordingly, no evidence which could definitively rule out accident. I accept the submissions of Counsel Assisting on this issue. That is, that ordinary human experience would suggest people are not perfect and that accidents do happen. While the evidence supports Jeffrey being safe in his firearm usage, it does not necessarily follow that an accident can be excluded because of his previous responsible behaviour. The central contradiction of this argument is that the deceased was an experienced and safety conscious firearm user but with firearms, a moments inattention can be disastrous.

The forensic science evidence

183. Jeffrey's parents do not concede that Jeffrey's death could have occurred in the manner suggested by DS Condon, as "no person has been able to re-enact such a possibility to the family's satisfaction".⁹⁶ The family are unable to accept that the particular wound trajectory into the deceased's chest could have resulted from the position the gun was said to be in in the ute, and the way in which Jeffrey is said to have grasped the gun.
184. It must be remembered that DS Condon's theory as to the way in which the gun accidentally discharged and how it was positioned in the ute and handled by Jeffrey to produce the wound and wound track is just that – a theory. There are a number of other scenarios that could be imagined consistent with an accidental death. If accident is to be considered a possibility, it must be accepted that no one else was present to see what actually happened. Accordingly, if it was an accident, no one can ever be absolutely certain about the exact positioning of

⁹⁶ Submissions by Counsel for the family, para 15.

Jeffrey, the gun, and the ute. However, there is support for an accident being *possible*, if not *likely*, based on the available forensic evidence.

185. Four experienced and appropriately qualified ballistics experts, Sgt. Graham, Senior Sgt. Everist, SC Glaser, and Mr Van der Walt, have agreed that the forensic evidence shows that, when the gun discharged, the end of the shotgun muzzle was between 10 and 80cm from the resulting wound. This means that the end of the muzzle would have been within Jeffrey's reach and the possibility that he grasped the gun by the muzzle cannot be excluded. This ballistics evidence with respect to proximity has been accepted by two experienced and properly qualified forensic pathologists, Dr Naylor and Dr Ranson, as consistent with the pathology of the wound. I note that opinion contrary to this agreed position was given by Mr Eu, but it is clear to this court, and Mr Eu appropriately conceded this point during his oral evidence, that he was not an appropriately qualified expert, nor did he conduct tests in accordance with the accepted scientific methods in this field.
186. Likewise, the evidence of both forensic pathologists agrees that the wound path is consistent with the possibility that the gun discharged while Jeffrey was grasping the end of the muzzle while leaning into the ute. Despite Jeffrey's parents' difficulty with imagining such a scenario, the forensic experts say that it cannot be excluded as a possibility.
187. In my view, the finding made by Coroner Anders in respect of accident remains correct – that is, accident cannot be ruled out, and the scenario proposed by DS Condon is not inconsistent with the forensic evidence.

Suspicious circumstances

188. Mr and Mrs Brooks submit that “there is clear and persuasive evidence for [me] to be satisfied, on the balance of probabilities, that Jeffrey was shot by Hans Geiger or Graeme Lloyd.”⁹⁷ Neither Counsel Assisting nor the QPS Commissioner agree, submitting that “there is no reliable or admissible evidence to support...an adverse finding against either or both witnesses”.⁹⁸
189. The family relies on the chronology of events leading up to Jeffrey's death as evidence that there were sufficient tensions over Jeffrey's presence at the farm, and the prospect of the farm being sold, to provide a motive for his murder.

Motive and threats

190. There is clearly a body of evidence before the court which shows that there was suspicion about Jeffrey's role on the farm, animosity directed towards him by Mr Geiger and that Jeffrey himself felt unsafe on the farm. However, there is no mention of this animus in Jeffrey's detailed personal diary and, prior to his death, no action was taken by Sailrite Pty Ltd or the or the deceased's family to protect him. Accordingly, I accept the QPS Commissioner and Counsel Assisting's submissions on this issue, which is a re-statement of Coroner Anders comment that the existence of a motive without reliable evidence connecting a person/s with the shooting is not sufficient to show there was an unlawful killing.

⁹⁷ Submissions by Counsel for the family, para 35.

⁹⁸ Submissions by Counsel for the QPS Commissioner, para 32.

Credibility/Reliability

191. Jeffrey's parents also question the credibility of the farm workers, and say they are "bewildered" by the fact that better attempts have not been made to cast doubt on the versions given by the three workers. For example, the criticism of the Queensland Police Service for taking electronically recorded statements from Mr Geiger and Ms Kjellerup rather than written statements is without substance. An electronically recorded statement is far more reliable evidentially than a written statement.
192. In my view, every legal and reasonable attempt has been made to test the evidence of these three witnesses. Each of these witnesses was interviewed by the police on the evening of Jeffrey's death. These interviews were recorded and transcribed. Mr Lloyd subsequently attended the Beenleigh CIB to make a written statement. The interviews and the statement were used by police to conduct further enquiries – times given were checked against available reference points (including phone records, faxes sent from Head Office etc), information given about Mr Geiger's errands that afternoon were checked with witnesses at the businesses that he visited, and police made enquiries with neighbours about activities on the farm in general and on the day in question. Further, each of these three witnesses gave evidence at the original inquest and their versions were tested by Counsel representing the family in cross-examination.
193. Each of these witnesses came under further scrutiny, Mr Geiger and Mr Lloyd arguably more so than Ms Kjellerup, during the media interest in Jeffrey's death and the various reviews of the QPS investigation and the original inquest. Finally, each of these witnesses again gave evidence and was cross-examined by Counsel for the family in the re-opened inquest.
194. In those circumstances, every attempt to seek inculpatory and exculpatory evidence relating to these witnesses accounts has been exhausted. It is the case that the versions of each witness differ from each other, and also have shown internal inconsistencies over time. This is to be expected in the circumstances, particularly when witnesses give their evidence a number of times over a period of decades. Again, these inconsistencies have been scrutinised and do not amount to serious incriminating evidence.

Alibi witnesses

195. Jeffrey's parents do not consider the witness evidence given by Paul Adamko, Jerry Lee and Terry Chandler, to be reliable for the following reasons:
 - Mr Geiger's recollection was that he attended the businesses in the reverse order as that reported by the alibi witnesses;
 - The QPS transcripts of the witness filed interviews do not have times and dates on them;
 - The times given by the alibi witnesses of Mr Geiger's attendance are vague estimates, and there have been some inconsistencies over time as to what was said or done while Mr Geiger's was present; and
 - Mr Geiger's had spoken to Mr Chandler about the circumstances of the death before police interviewed him.
196. While these points are correct, they do not sufficiently discredit the evidence of Mr Geiger and these three witnesses who, between them, can give a rough

account of his movements that afternoon. I agree with the submissions of Counsel Assisting, that this is not evidence which can be ignored and there is no reason for the court not to accept the evidence of these witnesses at face value. Nevertheless, I do not consider Mr Geiger has a complete alibi especially if the fatal shot was discharged at 3:10 pm.

Issue 2 - The adequacy of the police investigation and the processes relating to the management of exhibits

197. Jeffrey's parents have been dissatisfied with the investigation conducted by DS Condon from a very early stage. It is clear that this dissatisfaction has led to a situation wherein they have lost trust in DS Condon's ability as an investigator. Further, they have made allegations at the previous inquest, to the CJC, to the media and at the re-opened inquest which amount to accusations of dishonest conduct by DS Condon in his carriage of the investigation.
198. I will consider the complaints that Jeffrey's parents made in their submissions to this court in respect of the adequacy of the police investigation below. I will not consider further the allegations of dishonest and incompetent conduct – there is no evidence before me which would support such serious allegations which, in my view, should not have been made in formal written submissions without very strong supporting evidence.

Failing to keep an open mind

199. Jeffrey's parents allege that DS Condon "treated Jeffrey's death as an accident for a very early stage."⁹⁹ They allege that this attitude is clear from DS Condon's conduct during the investigation and that, had he treated the death as a potential homicide, the investigation would have been conducted in a different manner.
200. I accept the submission of the QPS Commissioner that there is no evidence to support these allegations. In addition, Mr Condon (now retired), gave sworn evidence before me that he kept an open mind throughout the investigation, and followed procedures and leads which are appropriate in the case of an investigation where a number of different possibilities, including homicide, were being considered.

Investigation inadequate and perfunctory

201. Mr and Mrs Brooks also criticise DS Condon's investigation as having been "inadequate and perfunctory."¹⁰⁰ The basis of this criticism is that because he had decided at an early stage that Jeffrey's death was an accident, he did not obtain, or did not obtain until prompted to do so, certain evidence identified by the family.
202. In his evidence before me Mr Condon accepted, appropriately, that the investigation was not perfect. He agreed that there were some things that he could have done sooner, or differently, in hindsight.
203. I accept the submissions of the QPS Commissioner in this regard also. DS Condon's investigation has been examined and reviewed on a number of occasions: first by Coroner Anders; then by Detective Sergeant Clark of the

⁹⁹ Submissions by Counsel for the family, para 39.

¹⁰⁰ Submissions by Counsel for the family, para 39.

Homicide Squad, whose report was accepted by the CJC; then by Detective Sergeant Moore.

204. Each of these reviews, by professionals who are familiar with the way in which investigations of deaths are conducted, with the time such enquiries can take, and the resourcing pressures under which investigators must do their jobs, concluded that the investigation was thorough and appropriate enquiries were undertaken.

Management of exhibits

205. A major issue for the Brooks family has been the destruction of the shotgun with which discharged killing Jeffrey. The shotgun was destroyed on 27 August 1998 at the direction of DS Condon's then superior officer, Detective Inspector Furlong in accordance with the provisions of Section 4 of the QPS Operational Procedures Manual. The gun was destroyed as it could not be returned to Hans Geiger as it was unsafe – it had a faulty trigger mechanism.
206. Mr Condon conceded, in his evidence at the re-opened inquest, that “ideally, the weapon should have been kept.”¹⁰¹ The family submit that DS Condon's failure to prevent the shotgun from being destroyed is “inexcusable.”¹⁰²
207. In my view, it may have been preferable for the weapon to have been kept as an open finding had been made in this case. However, I do not agree that such criticism should be levelled at DS Condon, nor the QPS, for its destruction. Tests had been conducted on the weapon by a suitably qualified ballistics expert, Sgt. Graham. The results of those tests, and the evidence of Sgt. Graham, had been put before the Coroners Court and accepted by the Coroner. The QPS cannot reasonably keep every exhibit in every case, particularly exhibits which are unsafe, for unlimited periods of time.
208. The family complain that the shotgun is no longer available as they dispute the ballistics tests (including the trigger test) which were conducted on the shotgun. However, Sgt. Graham's tests have been reviewed by SC Glaser, Senior Sgt. Everist and Mr Van der Walt, and each of these properly qualified ballistics experts agree with Sgt. Graham's methodology and findings.
209. It is also important to note that none of the deceased's family members, their lawyers, the CJC (which was investigating their complaint about DS Condon's inadequacies) and the Brooks family's police “advisors” thought to ask that the gun remain an exhibit after the conclusion of the inquest. Again, while keeping the shotgun may have been preferable, its loss is not of great significance to the furtherance of the investigation of Jeffrey's death because it was properly tested.
210. I also note that issue was taken during the WorkCover enquiry conducted by Mr Walker and during the subsequent media enquiry of the fact that the autopsy X-Rays have gone missing. Enquiries were made into this issue by the court, and it appears that the original John Tong centre file, which included the only copy of the X-Rays is no longer in the possession of what is now Forensic Scientific Services. It was pointed out to Mr Walker in examination that his own report records that the X-Rays were given to him in 2001 at his request. Mr Walker

¹⁰¹ Transcript of inquest – Day 4, at T41L16-21.

¹⁰² Submissions by Counsel for the family, para 64.

advised in evidence before the re-opened inquest that he did not recall having possession of the X-rays, but that “the buck stopped with him.”¹⁰³

211. The loss of this exhibit is an example of poor record keeping by the then John Tong Centre. It would have been preferable to have the X-Rays on hand for the forensic experts who have reviewed this case. However, again I note that Dr Naylor’s findings, which were made on the basis of his examination of Jeffrey’s body and of the X-Rays which he took. Dr Ranson, who was also able to consider photographs of the X-Rays which were evidence in the autopsy photos, supported Dr Naylor’s interpretations. Accordingly, I do not consider that the loss of this exhibit is significant in respect of any ongoing investigation.
212. Accordingly, I find that DS Condon’s investigation was adequate and conducted competently. I note that the findings of DS Condon’s investigation were accepted by Coroner Anders, and have not been disturbed in any significant way by any of the three independent subsequent enquiries which have taken place over the past 25 years.

¹⁰³ Transcript of inquest – Day 5, at T33L11.

Section 48 Coroners Act (Qld) Referral

213. Section 48(2)(a) of the 2003 Act provides that if, from information obtained while investigating a death, a coroner reasonably suspects a person has committed an offence, the coroner must give the information to - for an indictable offence – the Director of Public Prosecutions.
214. Although I do not agree with the family's view that there is sufficient evidence for me to make a finding that Mr Geiger or Mr Lloyd shot Jeffrey on the balance of probabilities, it is my view that there is sufficient evidence on which to support a reasonable suspicion on my part that Hans Geiger and Regine Kjellerup were involved in Jeffrey's death.
215. This suspicion is founded on a number of bases:
- (i) Mr Geiger had a reputation for being quick to lose his temper¹⁰⁴
 - (ii) Inter alia, a letter¹⁰⁵ discovered by the private detectives written shortly before Jeffrey's death in German to relatives in Europe outlining a plan to purchase the Beenleigh Crayfish Farm cheaply by effectively running down its profitability;
 - (iii) the history of serious tension between Mr Geiger and Jeffrey: including the deceased being described by Mr Geiger as "a spy" and accounts from Jeffrey's wife, Jeffrey's family friend, Mr Eggins, Mr Pick and Mr Stewart;
 - (iv) Mr Geiger made telephone calls on the morning of 13 March, 1996 to the South-East Queensland water board and Industrial Relations Commission about his pending redundancy and eviction;
 - (v) the opportunity Mr Geiger had to shoot the deceased between 1:51 pm and 3:30 pm given his incomplete alibi especially around the gunshot heard at 3:10 pm;
 - (vi) Mr Stewart's account of the aggressive behaviour of Mr Geiger and Mr Lloyd the evening before the deceased's death (12 March, 1996) at a meeting over their redundancy as workers at the crayfish farm which included a reference to someone being "shot"¹⁰⁶;
 - (vii) the evidence of a neighbour to the crayfish farm, Mr Rubeck, corroborated by his friend Mr Dreyer, that a shotgun discharged at approximately 3:10 pm on 13 March, 1996 from the direction of the crayfish farm which is arguably about the time Mr Geiger claims to have returned to the farm¹⁰⁷;
 - (viii) Ms Kjellerup's evidence that she was not impressed when she heard that the deceased was the only worker not to be made redundant¹⁰⁸ and her

¹⁰⁴ Statement of Ms Nicole BROOKS and evidence of Ms Regine KJELLERUP 2-120 II20-25

¹⁰⁵ Exhibit E2.3

¹⁰⁶ Statement of Stewart, the Courier Mail "Dead Wrong" Podcast, 2022 Inquest 3-9 pp5-30; C5 – QPS Coronial Report (Moore), p 10

¹⁰⁷ Statements of Rubeck & Dreyer

¹⁰⁸ Inquest page 2-92 II5-10

statement to Mr Pick that the deceased “was nothing” compared with her husband’s retrenchment shortly after he was killed..¹⁰⁹

- (ix) Ms Kjellerup’s evidence that her husband did not return to the crayfish farm until after she was informed of Jeffrey’s death just after 3:30pm which is in conflict with Mr Geiger’s evidence that he was at the house when the call was received.¹¹⁰
 - (x) Mr Geiger gave a curious account to police that his father had died in a very similar manner to the accidental death scenario proffered by police.
216. Having considered the vast array of material gathered over the last 26 years there is sufficient information to found a reasonable suspicion that Mr Johannes Wolfgang ‘Hans’ Geiger and Ms Regine Kjellerup were involved in the unlawful killing of Mr Jeffrey Brooks. There is evidence of statements by the deceased of concern for his life, motive, aggressive behaviour 24 hours before the shooting, opportunity, and post-offence behaviour which potentially incriminates both. In accordance with Section 48 (2)(a) of the Coroners Act 2003 (Qld), I have referred the brief of evidence to the Director of Prosecutions on this basis. I do not hold a reasonable suspicion that Mr Lloyd was involved. In particular his behaviour immediately after discovering the deceased’s body is consistent with innocence and he presented as an honest witness.
217. These referrals require some explanation. The Hearing before Magistrate Anders in 1998 was held pursuant to the superseded *Coroners Act 1958 (Qld)*. It was a Coroner’s Inquisition (Death Inquest) pursuant to Section 44 of the 1958 Act. Effectively, *Section 41* of the 1958 Act required a Coroner, in a homicide matter, to decide whether or not to commit a person for trial to the Supreme Court. For that to occur, the Magistrate had to find a “prima facie” case against that person. That legal test is requires a much higher standard of proof than a “reasonable suspicion.” Consistent with the common law, there must be a factual basis to reasonably ground the suspicion, proof of the fact grounding the suspicion is not required: *George v Rockett* (1990) CLR 104.
218. Magistrate Anders could not “rule out” the reasonable possibility that the deceased accidentally discharged the shotgun causing the fatal wound. He said: *“It is possible on the evidence that the deceased met his death by suspicious circumstances. The difficulty I have , however, is that on the evidence before me death by accident cannot be ruled out.”* Hence, he found that the “prima facie” test was not made out but there was a reasonable suspicion. This Inquest has not uncovered much in the way of new evidence which would disturb that Finding.
219. I wish to make it perfectly clear that I am not making a finding that Mr Hans Geiger and Ms Kjellerup are or might be guilty of a criminal offence. I am acting

¹⁰⁹ Statement of Mr John Pick p5.

¹¹⁰ Exh 15 (First Inquest) Hans Geiger: Interview with police 7.59pm 13 March, 1996 p5 “ .. must have been about 3.30 ..So a short while after this the phone rang and Graham told us what happened.” cf *Kjellerup evidence Inquest Transcript (22/11/2022) 2-102.II 1-35*

in accordance with a mandated direction in Section 48 (2) (a) of the Coroners Act (Qld) 2003.

220. I should note that I have opted to make this decision in open court. Commonly, Coroners do not make such a decision public in fairness to the adversely named person(s) and so as not to prejudice a potential criminal trial. However, it would be an anathema to common sense not to name Mr Geiger and Ms Kjellerup given the extraordinary publicity this matter has received. There were only three people suspected of involvement as a homicide and I do not find that there is sufficient evidence to hold a “reasonable suspicion” that Mr Lloyd was involved in the commission of an indictable offence. He was a credible witness at the Inquest and the evidence of his behaviour on discovering the body is inconsistent with any criminal behaviour.
221. The Coroner has an obligation to ensure that the rules of natural justice are followed if making a referral under this section.¹¹¹ I am satisfied that, in this case, that obligation has been discharged by the following means:
- a. On 10 November 2021, letters were sent by Counsel Assisting to Hans Geiger; Graeme Lloyd and Regine Kjellerup advising that the inquest was to be re-opened and that they would be called as witnesses; offering them a copy of the brief of evidence should they request it; advising them of s48 and advising them that they may wish to seek legal advice about the inquest proceedings; and
 - b. At the Pre-Inquest Conference on 25 November, 2021, Mr Geiger was urged to obtain legal advice and informed of the availability of Legal Aid and the Caxton Street legal Service;
 - c. During the Inquest, Hans Geiger; Graeme Lloyd and Regine Kjellerup:
 - i. were offered the opportunity to claim privilege against self-incrimination pursuant to s39 of the 2003 Act;
 - ii. were asked by Counsel Assisting whether they killed Jeffrey or were involved with his death and/or knew of anyone who had been involved in Jeffrey’s death, and had an opportunity to respond; and
 - iii. were cross-examined by Counsel for the family about whether they shot Jeffrey and/or conspired to make his death appear to be an accident and had an opportunity to respond.

¹¹¹ *Neumann v Hutton* [2020] QSC 17 at [16]; *Annetts v McCann* (1990) 170 CLR 596 at 599-601, per Mason CJ, Deane and McHugh JJ, 608-609, 612, per Brennan J, and 621, per Toohey J.

Recommendations and s45 Coroners Act (Qld) Findings

222. There are no useful recommendations that can be made following this Inquest. In analysing the issues, I have drawn conclusions, made general findings and comments.
223. The evidence at inquest, which includes material over a period of 26 years since Jeffrey's death, is insufficient for the court to make firm findings in respect of how Jeffrey died. This is an unfortunate situation, and certainly a very distressing one for Jeffrey's family, particularly his parents.
224. I also note, however, assurance of the QPS Commissioners that the investigation of Jeffrey death "remains open and if any further admissible evidence is provided to the Queensland Police Service, that evidence will be further investigated."¹¹² I would add that this Inquest could be readily re-opened should significantly probative fresh evidence become available.

Findings required by s. 45

- Who the deceased person is:** Jeffrey Lawrence Brooks
- How the person died:** While working at the Beenleigh Crayfish Farm in Luscombe, Jeffrey Brooks was shot, either by accidental discharge or person/s unknown, in the left chest area by a Harrington and Richardson shotgun. Death was, predominately, due to blood loss, which, over some minutes, caused weakness, faintness, unconsciousness, and finally death.
- When the person died:** Between 1.51pm and 3.30pm on 13 March 1996
- Where the person died:** Beenleigh Crayfish Farm, Beaudesert
Beenleigh Road, Luscombe, Qld 4207
- What caused the person to die:** Shotgun wound to the chest

These findings take into account all evidence gathered in the original QPS investigation and the more recent coronial investigation, as well as evidence given by witnesses at both inquests. I have been assisted in making these findings by Counsel Assisting and the parties, who have made written submissions in respect of the issues considered and the findings to be made.

I close the inquest.

Donald MacKenzie
Coroner
BRISBANE

13 June, 2023

¹¹² Submissions by Counsel for the QPS Commissioner, para 108.