



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Luke Brian Gilbert**

TITLE OF COURT: Coroners Court

JURISDICTION: CAIRNS

FILE NO(s): 2022/4975

DELIVERED ON: 11 October 2024

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FINDINGS OF: Stephanie Gallagher, Deputy State Coroner

CATCHWORDS: Coroners: Inquest, death in police operations, police shooting, safe night precinct, category M weapon, knife, antisocial personality disorder, alcohol use disorder, major depressive disorder, mental health, victim precipitated homicide, subject precipitated homicide, Jack's Law.

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Introduction

1. Luke Brian Gilbert was 24 years old as at the date of his death, 1 October 2022. Throughout the Inquest, he was referred to as Luke, in accordance with his parents' wishes.
2. As part of the Queensland Police Service ('QPS') Internal Investigations Group ('IIG'), Ethical Standards Command ('ESC') Investigation into Luke's death, information was obtained from Luke's parents, Nicola and Darren Gilbert, his friends, his former and current girlfriend, to provide insight into what Luke was like as a person.¹ This information formed part of the brief of evidence tendered at the Inquest. Also contained in the brief were the concerns of Luke's father, Mr Gilbert in relation to his son's death.²
3. Luke was the first-born child and son of Mr and Mrs Gilbert, and an older brother to two siblings (a brother and a sister). He was the first grandchild of the family. Born in Manchester, United Kingdom, Luke emigrated to Australia as a child, where his parents hoped to give their children a better, safer life with more opportunities.
4. Luke enjoyed travelling, camping, fishing and four-wheel driving and remained in close contact with his family while he was travelling in Queensland. Those close to Luke, remembered him as a loving son, brother, and friend.³
5. Luke's friend Romi described Luke's dedication to his family, they said, *'The people Luke cherished the most would be his family; he gave his whole heart to his family he loved dearly'*.⁴
6. Elizabeth Mellor, Luke's girlfriend at the time of his death, described Luke as a *'caring, pretty quiet, very generous person. He is different with everyone else than he is with me. When I say this, I mean he is just a little bit more stand offish and a lite bit more quieter'*.⁵ Ms Mellor stated that Luke was *'making a really solid effort to do better in his life...he had a new job and worked hard at it'*.⁶ They had fairly recently started attending church together and Luke was baptised in September 2022.⁷ Luke and Ms Mellor had started a business together.⁸
7. In the early hours of 1 October 2022, Luke, was intoxicated. He bumped into the shoulder of QPS officer, Senior Constable David Murray, that

¹ Exhibit B1.42 to B1.45.

² Exhibit G1.

³ Exhibit B1.45.

⁴ Exhibit B1.43.

⁵ Exhibit B1.5, para 13.

⁶ Exhibit B1.5, para 72.

⁷ Exhibit B1.5, para 73.

⁸ Exhibit B1.5, para 6.

was conducting a routine patrol within the Airlie Beach Safe Night Precinct ('SNP'). That interaction and the interaction that followed, was captured on Body Worn Camera ('BWC') footage and Closed-Circuit Television footage ('CCTV'). Luke presented a Category M weapon (folding knife) to the QPS officers, Senior Constable Murray and Constable Liam Forster and said: *'shoot me I dare you'*. Luke quickly became aggressive. Despite QPS officers presenting their service weapons, attempting to tactically withdraw, and giving multiple verbal directions to Luke to stop and drop the knife, Luke did not comply with the directions of the QPS officers. Luke continued to advance towards them yelling: *'shoot me faggot'*. QPS officers fired five rounds. Luke was struck by three rounds. Despite attempts by Police to provide first aid to him, Luke subsequently died of his wounds.

Coronial Jurisdiction

8. Luke's death was a reportable death under s8(3)(h) of the *Coroners Act 2003* (Qld) (the Act) as it happened in the course of, or as a result of police operations. The significance of this category lies in the requirement for the death to be reported to, and investigated by, the State Coroner or the Deputy State Coroner, to ensure an appropriate level of scrutiny of QPS involvement in the circumstances leading to the death. For such deaths, the Act presumes an Inquest will be held unless the coroner is satisfied the circumstances of the death do not warrant an Inquest.⁹ I was satisfied that the circumstances of the death required the holding of an Inquest.
9. *'An Inquest is a fact-finding exercise and not a process for allocating blame. The procedure and rules of evidence used in criminal and civil trials are not adopted. In an Inquest there are no parties, there is no indictment, there is no prosecution, there is no defence, there is no trial, simply an attempt to establish the facts. It is an inquisitorial process, a process of investigation quite unlike a trial.'*¹⁰
10. In accordance with s45(5) of the Act, the coroner must not include in findings, statements that a person is, or may be guilty of an offence, or may be civilly liable for something. The focus of the coronial process is on discovering what happened, not on ascribing guilt, apportioning liability, or attributing blame to any party.
11. In drawing conclusions in relation to the issues for Inquest, I must be mindful of the effect of hindsight bias, and the need to understand *'the circumstances as they appeared at the relevant time to the people who were there'*. Hindsight bias is *'the tendency after the event to assume that events are more predictable or foreseeable than they really were'*. *Hindsight, of course, is a very useful tool for learning lessons from an unfortunate event. It is not useful for understanding how the involved*

⁹ Section 27(1)(a)(iii) *Coroners Act 2003* (Qld).

¹⁰ *R v South London Coroner, ex parte Thompson* (1982) 126 S.J. 625.

people comprehended the situation as it developed. This distinction needs to be understood and rigorously applied'.¹¹

12. In accordance with s37(1) of the Act, the Coroners Court is not bound by the rules of evidence and may inform itself in any way it considers appropriate. However, this does not entirely remove the requirement for the Court to have some regard to the rules of evidence¹² particularly in terms of the receipt and weight to be afforded to evidence during the inquiry.¹³
13. The relevant standard of proof for findings of the Court is the civil standard, namely the balance of probabilities, with reference to the *Briginshaw*¹⁴ standard. Accordingly, the more significant the issue for determination, the clearer and more persuasive the evidence must be for the coroner to be sufficiently satisfied, on the balance of probabilities, that the issue has been proven.¹⁵

Investigation

14. Detective Sergeant ('DS') Adam Spinks from the QPS IIG investigated the circumstances surrounding Luke's death in Airlie Beach on 1 October 2022.
15. DS Spinks provided a comprehensive coronial report with several appendices, including CCTV, witness statements, digitally recorded interviews, and BWC. DS Spinks established a timeline of Luke's movements within the SNP¹⁶ from the time he arrived in the area on 30 September 2022, to the time of his death on 1 October 2022.
16. Following Luke's death, a crime scene was declared. The area was closed to pedestrian and vehicular traffic, pending forensic examination. A crime scene log was established in the early hours of 1 October 2022.¹⁷
17. Constable Forster and Senior Constable Murray were transported to the Whitsunday Police Station and directed to provide a specimen of breath. This testing was recorded on BWC.¹⁸ A download of the Alcometer confirms testing occurred on 1 October 2022 at 0217h (Constable Forster) and 0230h (Senior Constable Murray) with both returning a result of 0.000.¹⁹ Both Constable Forster and Senior Constable Murray

¹¹ The Australasian Coroners Manual. Hugh Dillon and Marie Hadley, Federation Press, 2015 at 10.

¹² *Rodriguez v Telstra Corporation Pty Ltd* (2002) 66 ALD 579, per Kiefel J at 585 [25].

¹³ *Kostas v HIA Insurance Services Pty Ltd* (2010) 241 CLR 390, per French CJ at 396 [17].

¹⁴ *Briginshaw v Briginshaw* [1938] HCA 34 and (1938) 60 CLR 336.

¹⁵ Dixon J (as he then was) in *Briginshaw v Briginshaw* 60 CLR 336.

¹⁶ *Liquor Regulation 2002* (Qld) s 3B(1)(a) and Schedule 2.

¹⁷ Exhibit B1.71. At page 3, the 'log commenced date' was recorded as 31 September 2022, an obvious error, there being no such date. This date is repeated at page 5.

¹⁸ Exhibit B1.74. Exhibit B1.75.

¹⁹ Exhibit B1.47.

were also directed to submit to a targeted urine test. Both tests returned a negative result.²⁰

18. Constable Forster's load bearing vest containing a baton, handcuffs, OC spray and radio along with a utility belt, spare magazines, hip holster and Glock pistol were seized and photographed. These photographs show the magazines and Glock in a loaded and unloaded state.²¹ Constable Forster's body worn camera was seized and docked at the Whitsunday Police Station at 0214h on 1 October 2022.²²
19. Senior Constable Murray's load bearing vest containing a baton, handcuffs, OC spray and radio along with a utility belt, spare magazines, thigh holster and Glock pistol were seized and photographed. These photographs show the magazines and Glock in a loaded and unloaded state.²³ Senior Constable Murray's body worn camera was seized and docked at the Whitsunday Police Station at 0504h on 1 October 2022.²⁴
20. On 1 October 2022, Constable Forster, Senior Constable Murray, Senior Constable Anthony Parkinson, and Constable Daniel Simic participated in directed interviews.
21. DS Spinks summarised the circumstances of Luke's death as follows:
 - a. *'Constable Forster and Senior Constable Murray were conducting foot patrols of the safe night precinct in Shute Harbour Road, Airlie Beach. This area is also known as Main Street. The area covers several blocks of Shute Harbour Road and contains numerous licenced premises and nightclubs'.*
 - b. *'The officers were stationary, close to a crossing area outside the National Australia Bank on Shute Harbour Road facing 'Mama Africa' nightclub, across the street'.*
 - c. *'Mr Gilbert approached the QPS officers from an easterly direction on Shute Harbour Road and walked passed [sic] them, knocking the arm of Murray. The QPS officers made comment regarding Mr Gilbert's actions and he turned to face them, appearing to hold onto something concealed under the jumper he was wearing. Mr Gilbert was challenged regarding his actions and asked what he was hanging onto. Mr Gilbert produced a knife from under his jumper saying, "shoot me, I dare you".*
 - d. *'Murray and Forster drew their service issues firearms, announced they were armed police and called on Mr Gilbert to drop the knife. The officers used tactical repositioning, moving*

²⁰ Exhibit B1.48. Exhibit B1.49.

²¹ Exhibit B1.96.

²² Exhibit B1, para 4.13. Exhibit H1.2, para 30-32.

²³ Exhibit B1.97.

²⁴ Exhibit B1, para 4.14. Exhibit H1.2, para 30-32.

backwards and away from the direct line of patrons and away from Mr Gilbert. Mr Gilbert advanced on the officers, closing distance and yelling "Shoot me faggots, fucking shoot me".

- e. *'Mr Gilbert continued to close distance on the officers, despite directions from them to stop and drop the knife which he appeared to be pointing towards them in a threatening manner. The officers fired, in total, five rounds from their service firearms, incapacitating Mr Gilbert'.*
 - f. *'Senior Constable Parkinson and Constable Simin who were conducting foot patrols in the area arrived on scene at the point Murray and Forster discharged their service firearms. Mr Gilbert was handcuffed and searched for further weapons before tactical first aid was rendered. The Queensland Ambulance Service was notified, arriving at approximately 12:30am and pronounced life extinct at 12:45am'.²⁵*
22. The IIG investigation considered whether Luke's death was preventable and whether Luke's death was Victim Precipitated Homicide ('VPH').
23. The IIG investigation found that there were no suspicious circumstances associated with the death. There was no evidence to support a criminal prosecution against any person and the use of force used by the QPS officers involved was authorised, justified, reasonable, proportionate, appropriate, legally defensible, and tactically sound and effective.²⁶
24. The IIG investigation was overseen by the Crime and Corruption Commission ('CCC'). The CCC report formed part of the brief of evidence tendered at the Inquest. The report found there was no actual or perceived conflict of interest between district staff, CCC personnel, ESC IIG investigators and potential subject QPS officers.²⁷ The report concluded:
- a. *'The CCC overview of this matter has not identified any allegations that give rise to a suspicion of police discipline, police misconduct or corrupt conduct in relation to the attending ESC investigators actions'.*
 - b. *'It has been determined that ESC investigators acted appropriately and professionally within the scope set in place by the MOU between the CCC, QPS and Coroner's Office'.²⁸*

²⁵ Exhibit B1, page 3.

²⁶ Exhibit B1, page 81.

²⁷ Exhibit H1.2.

²⁸ Exhibit H1.2.

Inquest

25. A Pre-Inquest Conference ('PIC') was held in Brisbane on 18 April 2023.
26. The Inquest was held in Cairns from Monday 7 to Thursday 10 August 2023. Mr and Mrs Gilbert attended the Inquest in person and had legal representation throughout the Inquest.
27. The issues for Inquest were as follows:
 1. *Consideration of the circumstances leading up to the shooting of the deceased by Police on 1 October 2022, including his:*
 - a. *mental health, alcohol consumption and associated behaviours; and*
 - b. *consideration of matters such as 'victim precipitated homicide'.*
 2. *Whether the Police Officers involved acted in accordance with the Queensland Police Service ('QPS') policies and procedures then in force, and whether such actions were appropriate.*
 3. *Whether the training provided to Officers in responding to similar incidents is sufficient.*
 4. *Whether any preventative changes to procedures or policies could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.*
 5. *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.*
28. The brief of evidence was tendered at the commencement of the Inquest, without objection. Oral evidence was also taken from the following witnesses:
 - a. DS Spinks;
 - b. Senior Constable Murray;
 - c. Constable Forster;
 - d. Senior Constable Anthony Parkinson;
 - e. Constable Daniel Simic;
 - f. Sergeant Luke Finney;
 - g. Mr Emmett Dunne;
 - h. Associate Professor Amber McKinley;
 - i. Acting Inspector Anthony Buxton; and
 - j. Dr Andrew Aboud.

Evidence

29. Footage from CCTV cameras located in the SNP²⁹ was used by DS Spinks as part of the IIG investigation to create a timeline of Luke's movements in the lead up to his death.³⁰

30 September 2022

30. On 30 September 2022, at 1035h, Luke and Ms Mellor arrived in the Airlie Beach Lagoon carpark in a Toyota Hilux Dual Cab (the vehicle). Luke was wearing a black pullover and long black pants. Ms Mellor recalled that they attended the Deck for breakfast.³¹
31. CCTV from the cameras in the SNP provide a relevant timeline of events.
32. At 1112h, Luke and Ms Mellor attended the Airlie Beach Hotel. At 1116h they purchased drinks. At 1130h, they left the Airlie Beach Hotel.
33. At 1144h, Luke returned to the vehicle in the Lagoon carpark and changed into a pair of boardshorts, leaving the carpark at 1149h.³²
34. At 1152h, Luke and Ms Mellor attended the Airlie Beach BWS where Luke purchased a four pack of UDL cans. Luke was wearing the boardshorts and no shirt. CCTV from the store showed Luke, with a folding green camo knife (the knife) clipped to his right hip (pictured below).³³
35. At 1156h, Luke again returned to the vehicle in the Lagoon carpark. Luke and Ms Mellor remained at the Lagoon until 1245h, leaving the area at 1250h. At 1656h Luke returned to the SNP precinct via Main Street in the vehicle and parked in the Lagoon carpark. Luke was wearing a yellow hi-viz shirt and the boardshorts.
36. At 1658h Luke attended Beaches Bar and Grill. At 1724h Luke exited Beaches Bar and Grill and returned to the vehicle. He put on long black pants.
37. Between 1730h and 1814h Luke attended Magnum's nightclub (Magnum's), he returned to the vehicle at 1815h to change into a long black pullover. Between 1818h and 1838h, Luke attended Magnum's.
38. Between 1839h and 1910h, Luke attended Beaches Bar and Grill. He returned to Magnum's at 1918h. At 1952h, Luke left Magnum's and entered the Nightowl on Main Street at 1959h.

²⁹ Exhibit B1.88.

³⁰ Exhibit B1.101.

³¹ Exhibit B1.5, para 17. Exhibit F1.1 shows a transaction for the Deck Airlie Beach on 30 September 2022. No time is available. Exhibit B1, page 8.

³² Exhibit B1.76.

³³ Exhibit B1.82 Airlie Beach BWS cameras (front entry).

39. Between 2002h and 2051h, Luke attended Hush Nightclub and met Ms Mellor at 2035h. The couple departed Hush at 2051h. Between 2056h and 2119h, they attended Paddy Shenanigan's Nightclub.
40. At 2120h, Luke walked past Senior Constable Murray and Constable Forster. It appeared that Luke noticed the QPS officers, turning to watch them as they passed and spoke to other patrons near him. It does not appear that either QPS officer noticed Luke. At 2148h Luke and Ms Mellor left the Mamma Africa Nightclub.³⁴
41. Between 2150h and 2252h Luke and Ms Mellor attended Boom nightclub (Boom). Luke is seen speaking with a male in a blue shirt. The knife can be seen on the right side of Luke's pants.³⁵ Upon leaving Boom, Luke and Ms Mellor walked across the road to Tropic Kebabs.
42. At 2300h, Luke crossed the road to Hush and appeared to be agitated by a white 4-wheel drive that was driving by. Luke was seen to walk into the middle of Main Street with his hands in the air.
43. Between 2302h and 2316h, Luke and Ms Mellor attended Hush.
44. At 2320h Luke and Ms Mellor lined up outside Magnum's. While in the lineup, Luke had a conversation with two males (Hamish Swain and Jayden Clark).³⁶ At 2325h, Luke entered Magnums and attended the bar to purchase drinks. He continued the conversation with the two males. Luke then moved to the smokers area with Ms Mellor. At 2342h, Luke entered the gaming area of Magnum's with Ms Mellor and had a conversation with three males (Mr Swain, Mr Clark and Harrison Deakes).³⁷
45. Throughout the day Luke consumed alcohol.

1 October 2022

46. At 0009h, Luke and Ms Mellor again moved to the smoker's area at the front of Magnum's.
47. At 0010h, Constable Simic and Senior Constable Parkinson stopped to speak with security staff at Magnum's. Constable Forster and Senior Constable Murray were walking east on Main Street, past Magnum's. There was no interaction between the QPS officers and Luke, or Ms Mellor. At 0013h, Constable Simic and Senior Constable Parkinson left Magnum's.³⁸

³⁴ Exhibit B1.76.

³⁵ Exhibit B1.82.

³⁶ Both persons have provided statements. See Exhibit H13 (B1.15 / B11) and H4 (B1.16 / B12). Exhibit B1.76.

³⁷ Harrison Deakes has provided a statement. See Exhibit B1.13 / B9 and H6. Exhibit B1.76.

³⁸ Exhibit B1.76.

48. At 0016h, Luke and Ms Mellor were in the smokers area. Following a conversation with Ms Mellor, Luke pushed an ashtray off a table. The statement of Ms Mellor provides:

'We were just chilling having a smoke and I don't remember what I said to him, but I think I said something to him that annoyed him. I know this because he flicked the ash tray off the table with his hand...I got up from the table and I said to Luke, "when you've calmed down come inside and find me. I'm going to the pokies". I do not know if Luke replied because I just walked away'.³⁹

49. At 0017h Ms Mellor went inside Magnum's. Luke stood up and left the nightclub. A security guard at Magnum's recalled seeing a male and female enter Magnum's together (the description of the female matched that of Ms Mellor).⁴⁰ The security guard recalled the male with a tattoo above his right eyebrow,⁴¹ and at some point during the night, seeing that male *'storming out the front door'* while the security guard was on door duties. He *'looked to be staunch and walking fast, like he needed to get away'.⁴²* Luke walked east on Main Street.⁴³
50. About 0020h Senior Constable Murray and Constable Forster were standing outside the NAB Bank on Shute Harbour Road when Luke walked past them. As he did so, Luke bumped the arm of Senior Constable Murray.⁴⁴ The physical contact between Luke and Senior Constable Murray occurred in circumstances where the footpath and road nearby were uninhabited. The BWC of Constable Forster does not suggest Luke was incoherent, slurring or staggering. He certainly had motor control. There appeared to be no reason why contact should occur in this way. It appeared intentional, on Luke's part. Senior Constable Murray agreed at the Inquest that there was minimal contact, and that Luke had said *'excuse me'* to which Senior Constable Murray responded *'no worries'.⁴⁵*
51. This contact was witnessed by Constable Forster in his peripheral vision.⁴⁶ Constable Forster said words to the effect of: *'are you all right there mate?'* Luke walked a few more steps and Constable Forster said words to the effect of: *'all right then, tough guy'*, before looking back towards Senior Constable Murray.⁴⁷ Constable Forster then looked back

³⁹ Exhibit B1.5, para 50-53. Exhibit B1.76.

⁴⁰ Exhibit B1.17 para 8-9.

⁴¹ Exhibit B1.17 para 10. Luke Gilbert had the word 'Damaged' tattooed above his right eyebrow. Exhibit A3, page 1.

⁴² Exhibit B1.17 para 17-18.

⁴³ Exhibit B1.76.

⁴⁴ Transcript Day 1, page 1-32, line 5.

⁴⁵ Transcript Day 1, page 1-32, line 18. Page 1-38.

⁴⁶ Transcript, Day 1, page 1-65, line 15.

⁴⁷ Transcript, Day 1, page 1-65, line 20.

over to see Luke and described him as *'standing and facing me with one hand over his jumper'*.⁴⁸

52. The BWC and CCTV⁴⁹ of the incident provides a very clear view of the interaction between Luke, Constable Forster, and Senior Constable Murray on 1 October 2022.

53. The BWC of Constable Forster⁵⁰ reveals what occurred next:

BWC of Constable Forster	
T14:19:25Z	Constable Forster: <i>'What's that, what are you holding onto there bud?'</i>
T14:19:27Z	Luke used his right hand to produce a knife from the waistband of his pants. Luke held the knife in his right hand, and with the same hand, opened the blade. Luke's arms were down by his sides, slightly away from his body. The knife is clearly visible.
T14:19:29Z	Luke: <i>'Shoot me I dare ya'</i> Luke is standing in the gutter of the road, Constable Forster and Senior Constable Murray are a few metres from him, facing towards him. Luke starts to walk towards them with the knife open, and in his right hand. Constable Forster and Senior Constable Murray begin to back away.
T14:19:31Z	Constable Forster: <i>'Alright mate, armed police, put down the knife'</i> Constable Forster produces his Glock pistol from his holster and holds it out in front of him, pointed towards Luke, the torch on the underside of the barrel illuminates Luke.
T14:19:33Z	Luke starts to walk towards the Police as Police back away. Luke continues to hold the knife in his right hand. He appears angry and begins yelling: <i>'Do it!'</i>
T14:19:34Z	Constable Forster: <i>'Armed Police, put down the knife!'</i> Luke: <i>'Do it!'</i> Luke does not comply with the verbal directions of Constable Forster and Senior Constable Murray and continues to walk faster towards police with the knife in his right hand, reducing the distance between him and Constable Forster and Senior Constable Murray. Constable Forster and Senior Constable Murray continue to back away. Constable Forster: <i>'Put it down mate!'</i> Constable Forster: <i>'Put it down!'</i>
T14:19:40Z	Luke (yells): <i>'Shoot me faggot!'</i> Luke does not comply with the verbal directions of Police and continues walking towards Constable Forster and Senior Constable Murray with the knife in his right hand. Constable Forster and Senior Constable Murray continue to back away.
T14:19:41Z	Constable Forster: <i>'Mate, put it down!'</i>
T14:19:42Z	Luke (yelling louder): <i>'Fucking shoot me faggot!'</i> Luke does not comply with the verbal directions of Police and continues to walk faster towards Constable Forster and Senior Constable Murray, his arms are slightly out from his sides, his upper chest is leaning forward, he is tilted at the waist and is yelling. His posture appears angry. Constable Forster and Senior Constable Murray continue to back away.
	Luke (yelling louder): <i>'Fucking shoot me faggot!'</i>
	Constable Forster (yelling louder): <i>'Stop moving!'</i> Constable Forster (yelling louder): <i>'Stop moving closer!'</i>

⁴⁸ Transcript, Day 1, page 1-65, line 34.

⁴⁹ C192 Fusion Coffee Main Street South.

⁵⁰ Exhibit E1.1. Exhibit E1.1.1.

54. The BWC of Senior Constable Murray captured his verbal commands to Luke to: *'Put the knife down'... 'put the fucking knife down'... 'Put the knife down'*.⁵¹

Witnesses in the SNP

55. The IIG investigation obtained several witness statements from persons that had been attending the nightclubs and drinking within the SNP at the time of the shooting:
- a. One witness recalled hearing Police yelling: *'put it down, put it down'* and saw Police walking backwards with a man walking towards them. The witness recalled looking in the man's hands and seeing what *'looked like a knife of some description'*. The Police continued to tell the man to *'put it down!'* while the man continued to walk towards them yelling at them *'shoot me, shoot me!'*. *'Police had backed towards Boom on the footpath. The man, once he got off the road onto the footpath picked up pace towards the Police. That is when we heard gunshots'*.⁵²
 - b. A further witness described there being *'about 5 to 6 metres distance between the two officers and the male coming towards them'* before hearing *'3-4 gunshots in quick succession with the male continuing to travel forwards a short distance before falling forward onto the footpath'*.⁵³
 - c. Another witness described seeing *'two Police officers, walking backwards. I saw that they had a weapon, or something drawn, but there was a white light shining on a male person who was walking towards them. This male was not running but was walking in a way I would describe between power walking and normal walking, walking strongly'*.⁵⁴

Rounds fired by Police

56. A total of five rounds were fired (one round by Senior Constable Murray and four rounds by Constable Forster). Three rounds struck Luke in the upper right chest. Luke fell to the ground and, dropped the knife. It slid across the footpath. Two rounds caused damage to nearby vehicles.⁵⁵
57. Constable Forster carried a Glock pistol⁵⁶ (loaded with a magazine containing 15 rounds) and two spare magazines, each containing 15 rounds. There was a torch fitted to the underside of the barrel, in front of the trigger guard.

⁵¹ Exhibit E1.2.1.

⁵² Shaun Connor. Exhibit B1.18, para 12-18.

⁵³ Bandon Worner. Exhibit B1.19, para 14-15.

⁵⁴ Joshua See Kee. Exhibit B1.38, page 2.

⁵⁵ Exhibit B1, para 4.19, and para 5.1. Exhibit B1.94. Exhibit B1.95.

⁵⁶ Serial number QP19809.

58. Constable Forster stated that he fired four rounds. This information is consistent with the rounds remaining in the magazine in the Glock pistol at the time it was seized.
59. Senior Constable Murray carried a Glock pistol⁵⁷ (loaded with a magazine containing 13 rounds) and one spare magazine containing 12 rounds. There was a torch fitted to the underside of the barrel, in front of the trigger guard.
60. Senior Constable Murray stated that he fired one round. This information is consistent with the rounds remaining in the magazine in the Glock pistol at the time it was seized.
61. The Police Operational Skills and Tactics report of Sgt Finney describes the interaction between Constable Forster, Senior Constable Murray, and Luke as unplanned, and notes that, at the time Luke produced the knife, he was within the ten metre reactionary gap Police were recommended to maintain when responding to a person in possession of an edged weapon.
62. At the time rounds were fired by the QPS officers, Sgt Finney opined that Luke was 3 to 4⁵⁸ metres away from Constable Forster and Senior Constable Murray, having 'closed the gap' by continuing to walk faster towards the QPS officers, despite their verbal commands, their attempts to tactically withdraw away from Luke, and the presentation of their Glock pistols.

First Aid provided to Luke by QPS officers

63. While Luke was on the ground, Senior Constable Murray holstered his Glock pistol and gave verbal directions to Luke to put his hands out and told him he was under arrest. Luke did not respond. The QPS officers continued to speak to Luke, telling him that they would get QAS on the way and asking if Luke could hear them.⁵⁹ An urgent call for assistance (made by Senior Constable Parkinson using police radio)⁶⁰ can be heard in the BWC confirming a man had been shot in Main Street, Airlie Beach and was unconscious.⁶¹
64. Constable Forster directed Constable Simic to get the Tacmed kit out of the QPS van. Constable Simic sought confirmation of where the Tacmed kit was located, and Constable Forster responded: '*glove box I think*'.⁶²

⁵⁷ QP13735.

⁵⁸ Exhibit B2.7, para 69.

⁵⁹ Exhibit E1.2. Exhibit E1.2.1.

⁶⁰ Exhibit E1.2. Exhibit E1.1. Exhibit B1.29, page 6.

⁶¹ Exhibit E1.2 and Exhibit E1.2.1.

⁶² Exhibit E1.1. Exhibit E1.1.1.

65. Constable Forster holstered his Glock pistol and both he and Senior Constable Murray rolled Luke onto his side, applying handcuffs to the rear. Senior Constable Murray directed Constable Forster to put some gloves on before they searched Luke. No further weapons were located.⁶³
66. Constable Simic handed Constable Forster a blue container which he opened and then told Constable Simic: '*no, no, tac first aid*'. Constable Simic then retrieved the Tacmed kit from the QPS vehicle.
67. Senior Constable Parkinson called for assistance from local security guards to secure the location and to preserve the scene. He also directed Constable Forster and Senior Constable Murray not to talk to each other, and pointed out the location of Luke's knife so it could be guarded.⁶⁴
68. Luke's handcuffs were adjusted to the front (and were subsequently removed) and further QPS officers attended to Luke. They searched Luke for entry and exit wounds and applied chest seals before commencing CPR. The evidence of Constable Simic was that there was a '*very faint pulse*'.⁶⁵
69. The QAS arrived on scene at 0028h. On examination Luke had a GCS of 3 (of 15), there were no obvious signs of life, he was not breathing, his pupils were fixed and dilated. With the assistance of QPS officers, Luke was moved to the ambulance and traumatic arrest protocols were commenced. Luke remained in asystole throughout.⁶⁶
70. Senior Constable McFadyen stayed with Luke, assisting QAS officers by using a manual respirator (bag/valve mask), while QAS officers undertook traumatic arrest protocols.⁶⁷
71. Despite resuscitation attempts, QAS officers considered that Luke had internal haemorrhaging that was catastrophic, and any continuation of resuscitation was futile.⁶⁸ Luke was declared deceased at 0045h on 1 October 2022.⁶⁹

Luke's knife

72. The knife carried by Luke on 30 September and 1 October 2022, was a Milwaukee brand FASTBACK Folding Camo Knife⁷⁰ (pictured below). The handle/grip is approximately 115mm in length, and has a belt clip. The stainless-steel blade is approximately 80mm in length, with a drop

⁶³ Exhibit B2.7 para 72-84. Exhibit E1.1. Exhibit E1.2.

⁶⁴ Exhibit B1.80. Exhibit B1.20, page 6.

⁶⁵ Exhibit B1.31, page 10. Exhibit B1.32, page 3.

⁶⁶ Exhibit D1.

⁶⁷ Exhibit B1.32, page 3. Exhibit D5. Exhibit D6.

⁶⁸ Exhibit D5, para 9.

⁶⁹ Exhibit D6. Exhibit D3.

⁷⁰ Exhibit E4.1. Exhibit E4.2.

point. There is a notch in the upper section of the blade. The blade of the knife is extended by using a 'press and flip mechanism providing easy, one-handed opening'.⁷¹ A video demonstrating the opening of the knife with one hand,⁷² and images of the knife were tendered at the Inquest.



Exhibit E4.2 Knife with ruler

73. S7A of *The Weapons Categories Regulation 1997* (Qld) defines a Category M weapon to include:
- a. *any knife so designed or constructed so as to be used as a weapon that while the knife is held in one hand, the blade may be released by that hand.*⁷³
 - b. *a flick knife, or a similar device of any material that has a blade folded or recessed into the handle that opens automatically by gravity or centrifugal force or if pressure is applied to a button, spring or device in or attached to the handle of the device.*⁷⁴
74. The knife carried by Luke was a Category M Weapon. Lawful authority is required to possess a Category M weapon.⁷⁵
75. S51(1) of the *Weapons Act 1900* (Qld) states a person must not physically possess a knife in a public place,⁷⁶ unless a person has a reasonable excuse.⁷⁷

⁷¹ Exhibit B1, para 12.3. Exhibit B1.73.

⁷² Exhibit B1.62.

⁷³ Section 7A(b) *Weapons Categories Regulation 1997* (Qld)

⁷⁴ Section 7A(e) *Weapons Categories Regulation 1997* (Qld)

⁷⁵ See also s 41(e) *Weapons Regulation 2016* (Qld) Weapons for miscellaneous weapons licence.

⁷⁶ Or a school.

⁷⁷ See s 51(2) *Weapons Act 1900* (Qld).

76. S51(3) provides *It is not a reasonable excuse to physically possess a knife in a public place⁷⁸ or a school for self-defence purposes. For the purpose of this section, a knife is defined as 'a sharpened point or blade that is reasonably capable of (a) being held in 1 or both hands; and (b) being used to wound or threaten to wound anyone when held in 1 or both hands.⁷⁹*
77. Ms Mellor provided the following information in her statement to police:
- a. *'Luke carries his knife on his belt, on his pants, it has one of those little clips'.⁸⁰*
 - b. *'Luke had a knife on him while he was in Airlie [30 September 2022 and 1 October 2022]. It is generally that he will wake up, get dressed and put it on. I knew he had the knife on him. This knife was one of those flick out ones about 10cm in length and had a bush camo print. This one has a safety release on it, you just have to push a little button and the blade comes out, you do have to pull the blade out too though'.⁸¹*
 - c. *'I am not aware if Luke has used a knife or threatened another person with a knife'.⁸²*
78. CCTV obtained from the Airlie Beach BWS showed Luke, on 30 September 2022, with the knife clipped to his board shorts at right hip.⁸³



Exhibit B1.82 Airlie Beach BWS

79. During the evening of 30 September 2022 and early hours of 1 October 2022, Luke was seen by at least two members of the public within the

⁷⁸ Includes a vehicle that is in or on a public place.

⁷⁹ Section 51(7) Weapons Act 1900 (Qld).

⁸⁰ Exhibit B1.5, para 78.

⁸¹ Exhibit B1.5, para 79.

⁸² Exhibit B1.5, para 80.

⁸³ Exhibit B1.82.

SNP (each of whom provided a statement to Police) at Magnum's carrying the knife. One witness described *'seeing a knife tucked in the front of his waistband.'*⁸⁴ Another stated: *'I could see a knife clipped to the bloke's belt. The knife was a [sic] either a folding or flick style knife and was either camouflage colour or a brown/green on the handle.'*⁸⁵

80. As noted by DS Spinks in his report, Mr Gilbert returned to his vehicle several times to change clothing and could have easily relieved himself of the knife.⁸⁶ No evidence explained any reasonable excuse for Luke's possession of the knife for any period that he was in the SNP on 30 September or 1 October 2022.

Autopsy results

81. An autopsy was performed by Forensic Pathologist, Dr Rebecca Williams who concluded that Luke's cause of death was due to gunshot wounds to the chest.⁸⁷
82. During Autopsy, three gunshot entry wounds and one exit wound were identified. Gunshot wound one, and gunshot wound three, had only an entry wound. Gunshot wound two, had both an entry and exit wound. Through post-mortem CT, the trajectory of each of the gunshot wounds was identified as *'front to back, slightly downward, very slightly rightward direction'*.⁸⁸ These findings are consistent with the positioning of Luke as depicted in the CCTV and BWC showing that he was facing towards Constable Forster and Senior Constable Murray when they fired their service weapons.
83. Dr Williams described the three entry wounds to the chest, as *'clustered in the right upper anterior chest'*. A single exit wound was located in the right posterior chest. Dr Williams opined that all gunshot entry wounds were of a similar appearance and were consistent with shots fired from a *'distant' range of fire (as opposed to contact)*.⁸⁹
84. Internal examination of Luke's body revealed: *'severe injuries resulting from the gunshot wounds, including fractured ribs, sternum and thoracic vertebra, massive internal haemorrhage into the right chest cavity, penetration of each of the three lobes of the right lung, laceration of the heart and laceration of the oesophagus'*.⁹⁰
85. Dr Williams opined that the resultant injuries caused by the gunshot wounds *'would have rapidly caused death'*.⁹¹

⁸⁴ Exhibit H2, para 15.

⁸⁵ Exhibit H12, para 13.

⁸⁶ Exhibit B1, page 74.

⁸⁷ Exhibit A3, page 10.

⁸⁸ Exhibit A3, page 4.

⁸⁹ Exhibit A3, page 10.

⁹⁰ Exhibit A3, page 10.

⁹¹ Exhibit A3, page 10.

86. Dr Williams did not identify any evidence of natural disease that would have contributed to death, and two other injuries identified (*'very small abrasions, one on the right thigh, one on the left hand'*) were *'inconsequential to the death'*.⁹²
87. Toxicological analysis of post-mortem blood samples identified alcohol at a concentration equivalent to 0.112%. The vitreous alcohol level was slightly higher at 0.163%. No other drugs were detected. Dr Williams opined that the vitreous alcohol level may be a more accurate representation of Luke's blood alcohol level at the time of the incident involving Police.⁹³
88. Several mature scars were identified on the neck and forearms of the deceased, during the autopsy. The relevance of this observation is addressed below.

Consideration of Inquest Issues

Issue 1: Circumstances leading up to the shooting of the deceased by Police on 1 October 2022 including his:

(a) mental health, alcohol consumption and associated behaviours:

89. On 22 September 2022, Luke voluntarily presented to the Townsville Hospital and Health Service ('THHS') Emergency Department ('ED') in the company of friends and self-reported suicidal and homicidal ideation. Luke reported that he had become homicidal at the pub that night, in the context of the death of a close friend and his own relapse into alcohol abuse that week. Luke left the THHS prior to being assessed by a mental health clinician.
90. A Case Review Report ('CRR') compiled by the THHS was tendered at the Inquest.⁹⁴ The CRR concluded: *'there were no missed opportunities to increase the likelihood of the gentleman [Luke] remaining in ED for assessment, thereby increasing the likelihood of accessing mental health treatment thus reducing his clinical risks at the time of the incident one week later'*.⁹⁵
91. As Luke presented voluntarily to the hospital, at the time he left he could not be compelled to stay, nor retrieved from the community and taken back to the hospital involuntarily.
92. Consultant Forensic and Adult Psychiatrist, Dr Andrew Aboud provided an expert report and gave oral evidence at the Inquest. Dr Aboud opined

⁹² Exhibit A3, page 10.

⁹³ Exhibit A3, page 10.

⁹⁴ Exhibit C5.1.

⁹⁵ Exhibit C5.1, page 2.

that Luke's most likely diagnosis over the period 2018 to 1 October 2022 was antisocial personality disorder and alcohol use disorder.⁹⁶

93. Dr Aboud further opined that Luke may have experienced major depressive disorder however said:

'It seems likely that this depressive disorder was secondary to, or at least significantly exacerbated by, his alcohol use. He reported a range of depressive symptoms, combined with low self-regard and episodes of suicidal ideation when intoxicated'.

94. Dr Aboud also said that a person's body art may also be relevant to an assessment of a patient, and ordinarily that may be something that he would ask a patient about. Dr Aboud appropriately conceded that a person may choose to get a particular tattoo for a range of reasons that will only be known to that individual. However, as a psychiatrist, he said he looks for an overview and consistency of how information may *'hang together'* – whether what he is observing is congruent with a person's past records, experiences, how they are acting and what they are saying and doing. Dr Aboud was asked at the Inquest to consider the list of Lukes tattoos contained in the Autopsy report and comment.⁹⁷

95. Dr Aboud was of the view that there was a consistency between the tattoo Luke had above his right eyebrow (Damaged), the tattoo on his lower lip mucosal surface (CUNT), the tattoo on the left anterior chest (eagle and swastika) and said *'is probably reflective of staunch oppositional defiance to authority or with other people who are like minded to that'*. The tattoo on the left anterior thigh (swastika) which is *'similarly defiant, possibly an anti-authoritarian type of image'*.⁹⁸

Treatment for alcohol use disorder

96. Dr Aboud opined that, while there may be some benefit from pharmaceuticals in the withdrawal phase, there is a need for longitudinal community-based treatment that may include talk therapies and *'social approaches, which might be the way that one lives one's life, structuring the day and lifestyle choices. And it's really the coming together of all of those things'*.
97. Dr Aboud further stated: *'The other way of looking at the management is temporarily, by thinking of the time and frames and the way the person might present. So if an individual presents with alcohol dependence and perhaps in an intoxicated state, there would be an initial phase of helping them manage that acute presentation. They might need to go on a withdrawal scale of a medication, such as a benzodiazepine, as a substitute medication to offset withdrawal, because one can get physical*

⁹⁶ Exhibit H17, page 16-17. With reference to the DSM-V diagnostic criteria.

⁹⁷ Transcript, Day 4, page 4-14 – 4-15.

⁹⁸ Transcript, Day 4, page 4-16, line 11-32.

withdrawal if one has become alcohol dependent... Withdrawal can be ...a very unpleasant experience. And in the context of alcohol dependence an individual will not only shake, but they will feel unwell. They may feel nauseas. They will be craving alcohol. They might be agitated. Restless. They might also feel irritable and even feel aggressive, because what they're struggling with is a very real physical experience, complicated also by a psychological and emotional experience. The antidote to withdrawal is either to drink more alcohol, which is unfortunately what people who have alcohol dependence often do, or it's to take a substitute medication, such as a benzodiazepine. The other alternative is just to let that experience happen and, over time, over a period of many hours, that phase of withdrawal will basically dissipate by itself'.⁹⁹

98. Dr Aboud acknowledged the challenges in providing treatment and care include: *'Engagement – I think underpinned by trust as well – because the – well, I'll use the term patient. The patient does need to feel confident that the provider service understands what they're experiencing and is willing to help and recognises that there is a significant motivational aspect to this. That is to say that alcohol dependence is effectively an addiction and breaking an addiction is very difficult and a person needs to be sufficiently motivated. They need to appreciate what their goals are and how they're going to achieve those goals through becoming abstinent and they might need help, as I said. They might need help with the initial phase and that might be the biological treatment. They'll certainly need help in the – psychologically that would often be one-to-one work with a psychologist or group therapy. It could also include other things, like Alcoholics Anonymous. That's a form of psychological therapy, as it were. And that is about maintaining motivation and also clarifying for that individual how they might manage higher risk situations. In other words, how to manage temptation. How to understand their triggers for what might lead them to lapse and ultimately relapse. Because if one can manage the antecedent factors that might provoke lapse or relapse it's going to make it a lot easier. The individual needs to be consistent, but so does the service providing care. And ultimately the backbone of the management of an alcohol use disorder is the social approaches because the individual effectively needs to restructure their life in a way that counteracts their vulnerability towards alcohol'.¹⁰⁰*
99. Dr Aboud acknowledged, that despite Luke's efforts to seek assistance in crisis, he tended to disengage after the crisis passed:

'Very sadly that's not an uncommon thing. When an individual is having an acute problem, they can reach out for help and then when they get over the acute phase of the problem they don't, shall we say, back it up with ongoing engagement. And there was

⁹⁹ Transcript Day 4, page 4-6, line 15.

¹⁰⁰ Transcript Day 4, page 4-7, line 2.

a pattern whereby Mr Gilbert did reach out for help on several occasions and then disengaged from that help once he was over an acute phase. I think that might have been because the acute phases very much correlated with social difficulties that he was having. And probably once those social difficulties seemed to be more distant or perhaps were resolved, he no longer felt the need to address what was a very real problem for him, which was his alcohol use'.¹⁰¹

100. Such opinion is consistent with the conclusion of the CCR compiled by THHS.

Luke's prior interactions with police and mental health services

101. On review of Luke's mental health and QPS records, there are several occasions where Luke's dysregulated behaviours (in connection with alcohol use) resulted in engagement with mental health services and Police. Dr Aboud referred to these incidents in his report:¹⁰²

- a. On 14 July 2018, (around 0100h) Luke came to the attention of Victorian Police, when his ex-girlfriend requested he leave the property they were sharing. The notes state: Luke was a recovering alcoholic and would become aggressive when he drank. He had allegedly consumed a bottle of whiskey and became verbally aggressive. He refused to leave the property and produced a Stanley knife and stated that *'if anyone tries to make me leave, I will slash them'*.
- b. Police attended. On arrival, Luke allegedly: *'confronted attending members with a hammer raised in his hand in a threatening manner... highly agitated and aggressive towards members, he screamed 'you want to fucking take me on!' Members have deescalated by retreating back in the vehicle and gaining distance... Resp [Luke] has come around and confronted Fegan on the passenger side window and hit the window several times with the hammer...when transported to Frankston Police station Gilbert was placed in an interview room. Once in there he caused criminal damage to the interview table by ripping the desk apart and throwing it around the room. As a result he had to be removed and placed in a holding cell'*.¹⁰³

102. The medical evidence¹⁰⁴ tendered at the Inquest showed that Luke had a documented history of dysregulated, disinhibited behaviour in the context of significant personal stressors and had engaged in self-harming behaviours (with possible suicidal ideation):

¹⁰¹ Transcript Day 4, page 4-7, line 28.

¹⁰² Exhibit H17, page 4-12.

¹⁰³ Exhibit B1.61.

¹⁰⁴ Exhibit C1.1.

- a. On 19 July 2018, Luke was admitted to The Alfred Hospital, Melbourne as an inpatient for plastic surgery for superficial lacerations to his anterior neck and some deeper lacerations of his left arm. Luke stated that he had gone to a bar after he was released from police custody and got drunk. *'At some point he cut himself on the neck and the arm. He doesn't recall what his intent was, and he doesn't know whether he had suicidal ideas at that time... occurred on the background of a series of events... firstly his girlfriend with whom he moved from Perth about 3 months ago, told him that she didn't love him and asked him to find somewhere else to live. A few days later he came home and progressively drank a bottle of whiskey. His girlfriend asked him to leave the house that night, he had nowhere to go and refused. She then threatened that she would ask her three male friends who were also in the house to kick him out. He then threatened the group with a Stanley knife that he had in his pocket, and she called the police'*.¹⁰⁵
- b. On 22 August 2018, Luke: *'presented himself to PSO's at train station (Carrum, Victoria)¹⁰⁶ with lacerations to neck and right forearm and stated he wants to kill himself in context of situational stressors and alcohol dependence... Luke describes his cuts a result of feeling suicidal. Luke reports his mood has been pretty shit since he broke with his girlfriend of 7 months 1/30 ago in which he describes was his main support. Luke now has an IVO preventing him to see his ex-girlfriend which police have done on behalf of his girlfriend. Luke reports other situational stressors such as upcoming court case on 1/10/18 for charges of assault including police officer, affray, threatening police and damaging property... Luke reports having a daily battle of dealing with withdrawal sx and other problems associated with alcohol dependence. As a result of Lukes situational stressors this has left him feeling hopeless and like a failure in which he describes as messing up every opportunity that was given to him... Luke reports having difficulties regulating his emotions and reports he often expressed his emotions with anger resulting in frequent anger outbursts and impulsive behaviour... Luke expresses he feels anxiety about everything, experiencing some social anxiety, states he feels like he is good with people however often feels he is being judged by others and upon reflection reports this may be a result of his own insecurities'*.¹⁰⁷ Luke was taken to the Alfred Hospital Emergency Department via Ambulance.¹⁰⁸
- c. On 8 November 2020, at the Bridge Family Practice in WA, Luke self-disclosed: *'Broken relations with "his Mrs" about a week ago. Feeling very low and drinking a lot of ETOH (up to 10-13 st/drinks*

¹⁰⁵ Exhibit C1.2, page 95. Exhibit C3.1, page 5.

¹⁰⁶ Exhibit C1.2, page 117.

¹⁰⁷ Exhibit C1.1, page 38.

¹⁰⁸ Exhibit C1.2, page 119 to 122.

every night for more than a week). Tried to commit suicide last night when he cut his neck with a knife. When he realised he cut himself too superficially, he tried to call the police as he believed they will come and shoot him if saw a knife in his hands, apparently police didn't come'.¹⁰⁹

103. In addition to information Luke provided to health professionals, Ms Mellor recalled a conversation in 2022, a month or so prior to Luke's death regarding nerve damage inside his left forearm and a prior suicide attempt where he had cut his arm open.¹¹⁰

104. As noted above, Dr Williams identified mature scarring during the autopsy examination:

- a. *Right side of neck: four mature oblique linear scars, measuring between 15mm and 70mm in length.*
- b. *Left side of neck: three mature oblique linear scar, measuring between 10mm and 70mm in length.*
- c. *Right anterior forearm: four mature vertical linear scar, measuring up to 200mm in length.*
- d. *Left anterior forearm: mature 250mm vertical linear scar.¹¹¹*

105. The contemporaneous notes from Luke's medical records and identified scarring on Luke's body, support the determination that Luke had previously self-harmed and that he had experienced suicidal ideation on several occasions, including 22 September 2022, and, possibly on 1 October 2022, noting once again his dysregulated behaviour in the context of alcohol use.

106. As referred to above, Dr Aboud opined that Luke met the diagnostic criteria for alcohol use disorder. In considering what, if any, role alcohol may have had in causing or contributing to impulsive and possible suicidal behaviour of the type exhibited by Luke in July 2018, November 2020, September 2022 and on 1 October 2022, Dr Aboud opined that:

'The contribution of alcohol...in causing or contributing to Mr Gilbert's impulsive and suicidal behaviour would have been to increase or exacerbate the impulsive and suicidal behaviour by acting as a disinhibiting agent and reducing psychological, emotional, and behavioural control of his underlying urge which in his case, were less present or not present in the absence of these substances'.

(b) consideration of matters such as victim precipitated homicide:

¹⁰⁹ Exhibit C2.1, page 7.

¹¹⁰ Exhibit B1.5, para 67-68.

¹¹¹ Exhibit A3.

107. Consultant Clinical and Forensic Victimologist, Associate Professor Amber McKinley provided an expert opinion to the court and gave oral evidence at the Inquest.
108. Victim Precipitated Homicide ('VPH') was defined as *'a term used to describe a situation in which the victim's behaviour or actions provoke or contribute to their own death. In other words, the victim plays a role in the events leading up to their death, either intentionally or unintentionally. For example... if a person knowingly puts themselves in a dangerous situation that leads to their death, such as threatening police officers with a weapon (Hutson, et al, 1998).'*¹¹²
109. VPH occurs when the suicidal subject:
- a. *actually dies;*
 - b. *confronts a law enforcement official to a degree that it compels that officer to act with deadly force;*
 - c. *demonstrates intent to die; and*
 - d. *has a clear understanding of the finality of the act (Lord, 2012, p3).*¹¹³
110. Associate Professor McKinley noted that: *'it is important to note that VPH is a complex phenomenon and anyone who attempts it, will have their own unique reasons for doing so however, in general, it is often seen as a last resort for individuals who are struggling with emotional or psychological pain and see no other way out'*¹¹⁴ and *'A person intentionally provokes a lethal response from law enforcement officers in order to end their own life. The individual may do this by behaving in a threatening or aggressive manner towards the police, such as brandishing a weapon or making statements that suggest they are willing to harm others'*¹¹⁵
111. Associate Professor McKinley was asked whether persons who die by VPH are prospectively identifiable by any common characteristic or comorbidity. In response, Associate Professor McKinley compiled a nomothetic profile across a sample of 68 Australian coronial findings, identifying thirteen commonalities which allowed her to opine that there are *'strong common characteristics and comorbidities exhibited in these cases of VPH'*:
- a. *Critical family issues.*
 - b. *Disruption of primary intimate relationship.*
 - c. *Had engaged and disengaged with medical and mental health services multiple times prior to death.*

¹¹² Exhibit H15, page 4.

¹¹³ Exhibit H15, page 4.

¹¹⁴ Exhibit H15, page 4.

¹¹⁵ Exhibit H15, page 5.

- d. *History of mental illness.*
- e. *Impulsive behaviours.*
- f. *Involvement in a domestic dispute.*
- g. *Majority were male.*
- h. *Past suicide attempts.*
- i. *Refusal to surrender to law enforcement.*
- j. *Self-medicating.*
- k. *Substance abuse/misuse.*
- l. *Suicide ideation.*
- m. *They had experienced acute crisis in months prior.*¹¹⁶

112. Associate Professor McKinley subsequently completed an idiographic profile for Luke¹¹⁷ and gave evidence at Inquest, that 12 of the 13 commonalities listed above applied to Luke:

‘The one that I excluded is critical family issues because that was not in evidence. I’m unable to make comment there. However, of all of the others, Luke was – those all factors are related to him and then extended upon in the idiographic report’.

113. Associate Professor McKinley gave evidence that ‘Mr Gilbert’s death ought to be characterised as one of victim-precipitated homicide’.¹¹⁸

114. During the Inquest, Dr Aboud opined:

- a. *‘So we know that Mr Gilbert had been consuming alcohol and the toxicology reflects that he was somewhere between two to over three times – or perhaps – somewhere between, say, two and four times over the limit. He was not so intoxicated that he was incoherent, slurring or staggering. He certainly had motor control. And perhaps to the naked eye one wouldn’t have known that he was intoxicated, but certainly there was alcohol in his system. I think that when he would drink and start to become intoxicated, he would start to also have some quite dark thoughts. His mood would go down – would become depressed very quickly and he’d become quite upset. Angry. Even aggressive. But largely he would be feeling very bad about himself. I might call it a form of self-loathing, but he seemed to be quite down on himself when he was in those circumstances’.*
- b. *‘Now, to understand it, one needs to understand what alcohol does. So if one drinks regularly, alcohol is a depressogen. It actually causes depression. It forces mood down. So regular drinking of alcohol, especially in larger amounts, is going to be*

¹¹⁶ Exhibit H15 at page 9. Report of Associate Professor Amber McKinley.

¹¹⁷ Exhibit H15 at page 10-15. Report of Associate Professor Amber McKinley.

¹¹⁸ Exhibit H15 at page 19. Report of Associate Professor Amber McKinley.

depressogenic. Also, when one drinks a little bit too much in one go and starts to become intoxicated an individual loses behavioural and emotional control and some of their underlying urges might become more pronounced. Things that they usually are able to control and keep in check, they're less able to. And we call that disinhibition. So it's my view that Mr Gilbert did have a pattern of his underlying feelings and emotions becoming more heightened due to the disinhibiting effects of alcohol. And also the recurrent use of alcohol was causing him to feel very negative about himself. I believe that that would have been his mental state in the time when he was approaching those police officers'.¹¹⁹

- c. *'I've seen the body-worn camera footage of both the officers and I've also seen some other footage that one can see from the side. It was evident that the officers were retreating. Mr Gilbert was advancing. He was holding his knife. He was saying repeatedly, "Shoot me, faggot", to the officers and they were asking him to desist. They were asking him to stop and to put down his knife. He didn't listen to them. He didn't do as they asked and he continued to advance and then they drew their – I'm not sure if both officers drew guns, but... So it's my view that he may have been intoxicated, or at least under the influence of some alcohol. It's my view that his mood state and his mental state would have been similar to that of those previous dates. On all those occasions he was expressing suicidal ideation and urge. His actions at the time, before the two police officers, seemed consistent, in that he was, in fact, asking them to shoot him. And I think that he created a situation that then led to himself being shot'.¹²⁰*

115. I accept the expert opinions of Dr About and Associate Professor Amber McKinley and consider that Luke's death meets the definition of VPH referred to above.

Issue 2: Whether the Police Officers involved acted in accordance with the Queensland Police Service ('QPS') policies and procedures then in force, and whether such actions were appropriate.

116. At the time of Luke's death, Operational Procedures Manual ('OPM') Issue 89.1¹²¹ was in effect. The Australian New Zealand Policing Advisory Agency ('ANZPAA') framework '*provides guidance to jurisdictions in supporting their response to, and management of, high-risk situations with a view to keeping the community, police, offender(s) and property safe*'.¹²²

¹¹⁹ Transcript Day 4, page 4-12, line 2.

¹²⁰ Transcript Day 4, page 4-12, line 35 to page 4-13.

¹²¹ Effective 12 September 2022.

¹²² Exhibit B1.68, page 3.

117. Sgt Finney, a Training Officer stationed at QPS Frontline Skills Training unit is a qualified Police Operational Skills and tactics ('POST') Instructor, Senior Firearms Instructor for the QPS issued pistol and rifle, Active Armed Offender ('AAO') training instructor, Tactical First Aid ('TFA') instructor, Tactical Arrest Options Training instructor and TASER Master Instructor.¹²³ Sgt Finney provided a review of the use of force, as part of the IIG investigation.¹²⁴
118. The QPS uses the Situational Use of Force Model 2016¹²⁵ to assist QPS in competently, carefully, and continually assessing the circumstances contributing to a confrontational situation, that may require them to use force. Communication (verbal and non-verbal) is central to all available options. The Situational Use of Force Model is not restrictive.
- 'Officers may select other use of force options to escalate or deescalate the use of force, as necessary. When applying any use of force option officers should communicate effectively with all involved people, with the aim of de-escalation of the incident and/or resolution of the incident with minimum amount of force used. De-escalation means decreasing the magnitude, identified risks and/or intensity of a situation, with an aim to avoid or minimise the use of physical force.'*¹²⁶
119. Sgt Finney gave evidence that: the situation faced by Constable Forster and Senior Constable Murray on 1 October 2022, was a *'high-risk and dynamic situation'*.¹²⁷
120. In accordance with s615 of the *Police Powers and Responsibilities Act 2000* ('PPRA'), a QPS officer may use force reasonably necessary to exercise a power under the PPRA.¹²⁸ However, s615 does not authorise a QPS officer to use force likely to cause grievous bodily harm or death.¹²⁹
121. The term **lethal force** is defined in the Service Manual Definitions ('SMD') as: *'a force that is likely to cause death or serious injury or which creates a degree of risk that a reasonable person would consider likely to cause death or serious injury'*.
122. **Less lethal force** is defined in the SMD as: *'a force option that is less likely to cause death or serious injury to a person when properly applied by a police officer. The goals associated with the use of less lethal force are to bring the person under the control of the police officer, expose the police officer to the minimum possible risk of injury by the person and*

¹²³ Exhibit B2.7, para 5.

¹²⁴ Exhibit B2.7.

¹²⁵ Exhibit B3. OPM 14.3.2 Situation Use of Force Model (2016).

¹²⁶ Exhibit B3. OPM 14.3.2 Situation Use of Force Model (2016).

¹²⁷ Transcript Day 2, page 2-20, line 20.

¹²⁸ *Police Powers and Responsibilities Act 2000* (Qld) section 615(1).

¹²⁹ *Police Powers and Responsibilities Act 2000* (Qld) section 615(3).

minimise the likelihood of injury to police, the public or the offender'. Less lethal options available to police include the Conducted Energy Weapon ('CEW') or "TASER", Oleoresin Capsicum ('OC') spray and the Baton.¹³⁰

123. Section 283 of the Criminal Code states: *'In any case in which the use of force by one person to another is lawful the use of more force than is justified by law under the circumstances is unlawful*'.
124. The power to use force against persons in critical situations is found in s616 of the PPRA. A police officer must reasonably suspect that:
- a. *a person is doing, or is about to do, something likely to cause grievous bodily harm to, or the death of, another person;*¹³¹ and
 - b. *the police officer reasonably suspects he or she cannot prevent the grievous bodily harm or death other than in the way authorised under this section.*¹³²
125. S616(3)(d) of the PPRA provides *'it is lawful for the police officer to use the force that is reasonably necessary to prevent the commission of an act mentioned above*'.
126. A QPS officer may use: *'force likely to cause grievous bodily harm to a person or the person's death*'.¹³³ Where the QPS officer reasonably believes it is necessary to use such force, *'the police officer must, if practicable, first call on the person to stop doing the act*'.¹³⁴
127. OPM 14.3.5 entitled 'Use of lethal force' states: *'Police officers...should consider all of the use of force options available to them and all of the circumstances of an incident when determining the most relevant level of force to be used*'.¹³⁵
128. In accordance with OPM 14.7 the *'use of a service firearm*' means *'drawing the firearm out of the holster, pointing the firearm in the direction of a person without discharging; or discharging the firearm*'.¹³⁶
129. OPM 14.7 states: *'In all instances where an officer uses a firearm in the execution of their duty, they are required to be able to articulate their decision making and fully justify the use of the firearm in any subsequent investigations, inquiries, and court proceedings*'.¹³⁷

Constable Forster's evidence

¹³⁰ Exhibit B2.7, para 32 to 33.

¹³¹ *Police Powers and Responsibilities Act 2000* (Qld) section 616(2)(a).

¹³² *Police Powers and Responsibilities Act 2000* (Qld) section 616(2)(b).

¹³³ *Police Powers and Responsibilities Act 2000* (Qld) section 616(4).

¹³⁴ *Police Powers and Responsibilities Act 2000* (Qld) section 616(5).

¹³⁵ OPM Issue 89.1, page 1082.

¹³⁶ Exhibit B3. OPM 14.7.

¹³⁷ Exhibit B3, OPM 14.7.

130. At the Inquest, Constable Forster gave oral evidence subject to a direction under s39(2) of the Act.¹³⁸
131. The evidence of Constable Forster was that in assessing the situation, he considered not only his own safety, but the safety of Senior Constable Murray and other SNP patrons in the vicinity at the time:
- a. *'When the knife was presented... I took it as a threat immediately. I began backing away and withdrew and presented my firearm to Luke whilst instructing him that I'm an armed police officer and to put down the knife.'*¹³⁹
 - b. *'I was trying to move away from the threat of the knife, out-side of our 10-metre zone so we could communicate.'*¹⁴⁰
 - c. *'I then began backing down, so my back was towards the - the busy end of the street, and so we were facing where the firearm was pointed, towards the street which didn't have people.'*¹⁴¹
 - d. *'It was escalating. I believe that the risk of death to myself was becoming imminent.'*¹⁴²
132. In his directed interview, Constable Forster described Luke as *'advancing quicker'...* *'I felt like at the beginning he was more matching our speed as we backed up and then he advanced very quickly... he was holding the knife downward in front of him in his hand'...* *'I thought it was imminent this person was going to try and kill me or do serious harm to myself or my partner or the several, the dozens of members of the community that were stood behind me which I was getting backed down towards'...* *'he refused to stop moving, he refused to drop the knife. He advanced even quicker with the knife still in his hand. I then fired a string of shots'*¹⁴³
133. Constable Forster gave evidence that he fired four shots in total and described the point at which he observed Luke *'was falling'* as the point where no more shots were required.¹⁴⁴
134. Constable Forster was challenged in relation to his evidence at Inquest: *'My training is to meet lethal threats such as edged weapons with my firearm'*. Subsequently Constable Forster further explained: *'I tried to tactically withdraw from the situation, and I tried to communicate with*

¹³⁸ Transcript Day 1, page 1-63, line 11.

¹³⁹ Transcript Day 1, page 1-67, line 16.

¹⁴⁰ Transcript Day 1, page 1-67, line 29.

¹⁴¹ Transcript Day 1, page 1-67, line 34.

¹⁴² Transcript Day 1, page 1-68, line 26.

¹⁴³ Exhibit B1.27, entry 80.

¹⁴⁴ Transcript Day 1, page 1-68, line 35 to 41.

Luke to have him stop moving and - and drop the knife, to avoid the use of a firearm. However, that didn't get to occur'.¹⁴⁵

Senior Constable Murray's evidence

135. Senior Constable Murray gave oral evidence subject to a direction under section 39(2) of the Act.¹⁴⁶

136. The evidence of Senior Constable Murray was that in assessing the situation, he considered not only his own safety, but the safety of Constable Forster:

- a. *'I believed it was necessary to protect myself and Constable Forster from death or GBH'.¹⁴⁷*
- b. *'My training says the only – the minimum use of force and the only appropriate use of force is to draw a firearm against an edged weapon once you have made 10 metres distance, the safe distance, and as the situation changes, you can then consider other uses of force. But from an edged weapon within a few metres, you're to draw your firearm, make distance and then continually reassess'.¹⁴⁸*
- c. *'He [Luke] only stands statically for a fraction of a second'.¹⁴⁹*
- d. *'I don't use the word lunge; I use the word rush. He rushed towards us. He closed the distance'.¹⁵⁰*
- e. *'He had his arm to the side with the blade pointing towards us'.¹⁵¹*
- f. *'He was yelling at me in an angry fashion and closing the distance towards us while we are yelling at him to stop, drop the knife, and we're walking backwards'.¹⁵²*

Senior Constable Parkinson

137. The evidence of Senior Constable Parkinson, and his recollection of what he saw and heard are relevant. He said:

- a. *'I heard them yelling, "Drop the knife. Drop the knife." They may have sworn, but it was very loud and they were really being very*

¹⁴⁵ Transcript Day 1, page 1-68, line 23 to 38.

¹⁴⁶ Transcript Day 1, page 1-29, line 23.

¹⁴⁷ Transcript Day 1, page 1-54, line 1.

¹⁴⁸ Transcript Day 1, page 1-54, line 8.

¹⁴⁹ Transcript Day 1, page 1-54, line 28.

¹⁵⁰ Transcript Day 1, page 1-55, line 24.

¹⁵¹ Transcript Day 1, page 1-55, line 27.

¹⁵² Transcript Day 1, page 1-55, line 30.

forcefully saying, "Drop the knife. Drop the knife." While they were saying that I heard Mr Gilbert saying something. It was very aggressive. I don't know what the words were. He just - yelling something'.¹⁵³

- b. *'I went to draw my firearm. As I drew my firearm, I heard a string of shots.'¹⁵⁴*
- c. *'I was basically trying to assist Senior Constable Murray and Constable Forster. I believed Mr Gilbert was rushing at them with the knife, and I was in fear that he was going to stab them, cause grievous bodily harm, possibly kill them with that knife'.¹⁵⁵*
- d. *'When he had it in his hand, I saw he had it clenched very tightly in his right hand. And he moved towards - as he was moving towards them, he sort of had it by his side. He didn't really make any overt acts with it, but he was moving towards them and started closing the distance between them, like they weren't moving as fast backwards as he was coming forward at them. He closed that distance very quickly'.¹⁵⁶*

138. In considering the appropriateness of the actions of QPS, I am greatly assisted by the BWC and CCTV tendered at the Inquest.¹⁵⁷ I am also assisted by the opinions of Sgt Finney and Mr Emmett Dunne.

139. During cross examination by Mr Trevino KC, Sgt Finney accepted that when considering the ability of police to contain (limit a person's ability to be able to move or gain access to other persons) and negotiate: *'it could be employed without the use of a firearm. But to be clear, when officers are close to a person that's armed, as they're making distance to be able to get into a position where they can safely negotiate, that they may draw a firearm or a taser or accoutrement they think [emphasis added] is reasonable whilst they're tactically repositioning'.¹⁵⁸*

140. However, Sgt Finney said: *'that the use of lethal force was the only appropriate option available to Senior Constable Murray and Constable Forster capable of immediately stopping the threat to their lives and that less extreme measures could not be relied upon for the cessation of the threat'.¹⁵⁹*

141. An independent expert report was obtained from Mr Emmett Dunne, former Assistant Commissioner of the Victorian Police whose credentials

¹⁵³ Transcript Day 2, page 2-6, line 25.

¹⁵⁴ Transcript Day 2, page 2-6, line 40.

¹⁵⁵ Transcript Day 2, page 2-6, line 43.

¹⁵⁶ Transcript Day 2, page 2-7, line 1.

¹⁵⁷ Exhibit 2.1. Exhibit E1.1. Exhibit E1.2. Exhibit B1.78.

¹⁵⁸ Transcript Day 2, page 2-41, line 15 to 26.

¹⁵⁹ Exhibit B2.7, para 224.

are outlined in his statement¹⁶⁰ and were detailed at Inquest.¹⁶¹ Mr Dunne opined that:

'Ultimately the officers were in a situation where despite their continued endeavours to communicate with Mr Gilbert to bring the incident to a safe conclusion and their retreating away from him, their safety was at significant risk from the commencement of the incident. The risks of the officers receiving serious injuries progressively increased as Mr Gilbert's aggressive demeanour and his approach to them accelerated. Unfortunately, there were no feasible options that were open to the officers to bring the incident to a conclusion other than to use their firearms. As best they could in the circumstances, the officers acted in accordance with the Queensland Police Service policies and procedures which were in force at the time and their actions were appropriate'.¹⁶²

142. DS Spinks of IIG opined: *'In relation to the operating procedures manuals, we didn't detect any ... breach of discipline or any breach of the policy or procedure regarding their actions ... their actions were appropriate with their – with the training that is provided to police officers regarding operational skills...tactics and firearms. In my opinion, the police officers were left with very little, if any ... opportunity to take any other action than the action that they did take'.¹⁶³*

143. I accept the opinions of Sgt Finney, DS Spinks, and Mr Emmett Dunne, as detailed in their statements and reports and their oral evidence provided at the Inquest and find that, on 1 October 2022, Senior Constable Murray and Constable Forster acted in accordance with the relevant QPS policies and procedures then in force and that such actions were appropriate.

Issue 3: Whether the training provided to QPS Officers in responding to similar incidents is sufficient.

144. Mr Dunne also provided an independent expert review of the training provided to QPS officers, in respect of the use of force, in so far as it may assist them in responding to similar incidents. At the Inquest, Mr Dunne appropriately conceded that his review of the training was a 'desktop audit' only and that another way to assess training would be to view the training in person.¹⁶⁴

145. He said, the Operational Skills and Tactics ('OST') training provided to members of the QPS, aligns with the ANZPAA framework. Critical incidents such as the incident involving Luke provide an opportunity to

¹⁶⁰ Exhibit H16, page 1-5.

¹⁶¹ Transcript Day 2, Page 2-49, Line 39 to page 2-50, line 28.

¹⁶² Exhibit H16, page 19.

¹⁶³ Transcript Day 1, page 1-17, line 28.

¹⁶⁴ Transcript Day 2, page 2-49, line 22-27.

reflect and build upon the training provided to members of the QPS in order to best equip them to perform their duties in the community.

146. The term **critical incident** is defined as:

- a. *An incident in which an officer on duty discharges a firearm – injuring a person, or in circumstances in which a person could be injured.*
- b. *An incident in which a person dies or suffers grievous bodily harm in the course of, or as a result of, police operations.*¹⁶⁵

147. Mr Dunne opined that:

*‘The training regime is comprehensive and it is progressively monitored and updated by Operational Training Services in endeavouring to ensure that the OST syllabus addresses existing and emerging risks. In the circumstances of the incident, I am of the opinion that the training provided to police officers to this incident and similar incidents was appropriate’.*¹⁶⁶

148. I accept the opinion of Mr Dunne and find the training provided to QPS officers responding to such incidents was appropriate.

Issue 4: Whether any preventative changes to procedures or policies could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.

149. Jack’s Law commenced operation in April 2023. In a SNP, a QPS officer may, without a warrant, require a person to stop and submit to the use of a handheld scanner. A reasonable suspicion or basis for requiring the person to stop and submit is not required. Such scanning must, amongst other things, be done in the least invasive way possible.¹⁶⁷

150. I have been assisted in respect of Jack’s Law by submissions, on behalf of the Commissioner of Police:

- a. *The Police Powers and Responsibilities (Jack’s Law) Amendment Act 2022 (Qld) was passed by the Qld Parliament on 30 March 2023 and with that Part 3A ‘Jack’s Law – Use of handheld scanners without warrant in safe night precincts and public transport stations’ was inserted into the PPRA.*
- b. *The objective of Jack’s Law is to give police the powers to direct persons (relevantly for this case, within a SNP), to be scanned by*

¹⁶⁵ *Police Service Administration Act 1990 (Qld) 5A.2 Definitions for Part 5A.*

¹⁶⁶ Exhibit H16, page 22.

¹⁶⁷ *Police Powers and Responsibilities Act 2000 (Qld) s 39C(1)-(2)(b). s 39E.*

a handheld 'wand'. The aim of such scanning being to detect knives that are unlawfully possessed by any person.

151. QPS officers gave evidence at the Inquest, that since Luke's death, the use of handheld scanners in the SNP has commenced.
152. While it cannot be said with certainty, as submitted by Counsel Assisting, it is possible, that had this procedure been in place at the time of the incident, there may have been an opportunity to detect the knife carried by Luke, and at an earlier point in the evening. Similarly, had a member of the public alerted QPS to the presence of the knife, QPS may have had an opportunity to exercise powers under Jack's Law.
153. However, I accept, as was submitted by Ms Cooper, that *'it is entirely speculative as to what may have ensued from that point onwards (i.e. whether Mr Gilbert would have reacted in a similar manner to how he did with police on the night, or whether the knife would have been seized by police without issue)'*.¹⁶⁸

Findings required by s. 45 Coroners Act 2003

154. I am required to find, as far as possible, the medical cause of the death, who the deceased person was, when, where, and how they died. As a result of considering all the evidence, including the material contained in the exhibits and the oral evidence heard at the Inquest, I make the following findings:

Identity of the deceased – Luke Brian Gilbert.

How he died –

Luke attended the SNP and consumed alcohol from shortly after 1100h on 30 September 2022. moved between nightclubs consuming alcohol throughout that evening. Luke and his girlfriend parted ways after Luke pushed an ashtray off a table in Magnum's. Luke crossed the street from Magnum's and bumped into Senior Constable Murray who was standing outside the NAB teller, with his colleague, Constable Forster. A brief verbal exchange occurred. When asked by QPS officers what Luke had, he presented a category M weapon (a Milwaukee brand FASTBACK Folding Camo Knife) opened the knife with a single hand and said, 'shoot me I dare you, do it'. Despite verbal directions from QPS officers to stop and drop the knife, Luke continued to walk faster towards them twice

¹⁶⁸ Submissions on behalf of the Commissioner of Police, para 47.

yelling at them ‘fucking shoot me faggot’, while QPS Officers attempted to tactically withdraw. Luke did not comply with the verbal directions to stop and drop the knife he was holding. He increased the pace of his advance on the QPS Officers and was shot by them.

Place of death – 346 Shute Harbour Road (main street), Airlie Beach, Queensland, 4800.¹⁶⁹

Date of death– 1 October 2022.¹⁷⁰

Cause of death – Gunshot wounds to the chest.¹⁷¹

Comments and recommendations

155. In accordance with s46 of the Act, a coroner may, whenever appropriate, comment on anything connected with a death investigated at an Inquest that relates to the administration of justice, public health or safety or ways to prevent deaths from happening in similar circumstances in the future.¹⁷²
156. In making such recommendations, I am not limited to recommendations to prevent an identical death, being those with identical injuries, but rather those deaths that occur in similar circumstances or like situations.

Recommendation One:

157. Given the BWC footage and the conduct of the QPS officers after Luke was shot, it is clear that QPS do not mandate (or enforce) where a Tacmed kit is located in QPS vehicles. Whilst I accept that finding the kit more quickly would not have saved Luke, it may save another life.
158. I recommend QPS consider mandating the uniform placement of Tacmed kits in all QPS vehicles.

Recommendation Two:

159. For the reasons outlined by Mr Dunne, I recommend that a submission be made to ANZPAA Board to conduct research into VPH.

¹⁶⁹ Exhibit D3 records the location of examination as: *Main St Airlie Beach 4800*.

¹⁷⁰ Exhibit D3. Exhibit B1.1. Exhibit B1, Attachment A1.

¹⁷¹ Exhibit A3, page 10.

¹⁷² The power to make recommendations should be construed liberally. As Muir J confirmed in *Doomadgee v Clements* [2006] 2 Qd R 352.

Closing remarks

160. I acknowledge the toll that Luke's death has had on the Police and First Responders involved, particularly Constable Forster and Senior Constable Murray.

161. I extend my condolences to Luke's family, Ms Mellor and Luke's friends.

162. I close the Inquest.

Stephanie Gallagher
Deputy State Coroner