



CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION: Inquest into the death of Damon Paul William Savage

TITLE OF COURT: Coroners Court

JURISDICTION: BRISBANE

FILE NO(s): 2020/3654

DELIVERED ON: 4 November 2024

DELIVERED AT: Brisbane

HEARING DATE(s): 21 and 22 August 2023

FINDINGS OF: Terry Ryan, State Coroner

CATCHWORDS: Coroners: inquest, death in custody, police shooting, mental health, substance use, domestic violence.

REPRESENTATION:

Counsel Assisting: Ms Sarah Lane

Family: Ms Clare O'Connor, instructed by Caxton Legal Centre

QPS Officers Whitson, Westerweller and Waretini: Ms Claire McGee, Gilshenan and Luton

Commissioner of Police: Ms Susan Donkin, QPS Legal Unit

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Introduction

1. Damon Savage was aged 27 years at the time of his death. He lived in Dakabin with his partner, Kimberley . He was recovering from dependence on ICE¹ and had also been actively trying to stop using cannabis.
2. Police responded to a 000 call made by Damon at 12:05am on 27 August 2020. Damon told the 000 operator he had a knife, that he needed to get the police there, and that his door was open.
3. Senior Constable Hart lived nearby and was off-duty. She called 000 at 12:12am and told the operator she could hear Damon and Kimberley and it sounded like Damon was injured. While SC Hart was on the phone Kimberley came out of her house. SC Hart could see she had a cut on her leg. SC Hart took Kimberley into her home. She told the operator Damon had a knife and Kimberley needed an ambulance.
4. Damon soon came across to SC Hart's house with a large knife in each hand. He was screaming and stabbing the knives at the Crimsafe screen door. Damon then ran back to his house and went inside.
5. A police car arrived at 12:22am, driven by Constable Westerweller with Senior Constable Whitson as passenger. They approached Damon's house. SC Whitson knocked on the front door, saying "*Queensland Police, come out the front Damon*". Damon came out of the house with two knives. He threw one to the ground, but then walked towards police with the other, yelling at police to shoot him. Const Westerweller and SC Whitson backed up towards the road. They both had their handguns drawn and continued to direct Damon to drop the knife.
6. A second police car arrived. It was driven by Acting Sergeant Stephen Waretini with Senior Constable Alan Montgomery as passenger. As A/Sgt Waretini pulled up, Damon advanced towards the police car. A/Sgt Waretini got out of the car and deployed his taser, hitting Damon in the chest and abdomen with the leads.
7. The taser did not stop Damon. He walked directly towards A/Sgt Waretini with the knife. SC Whitson and Const Westerweller fired eight shots between them, and Damon dropped to the ground at the edge of the road. First aid was administered but Damon could not be revived. The time from when police first arrived on Surround Street to the time Damon was shot was only 1 minute and 51 seconds.

¹ Crystal methamphetamine

8. Damon's death was a '*death in custody*' under the *Coroners Act 2003*. An investigation was conducted by Detective Sergeant Schmidt of the Queensland Police Service Ethical Standards Command ('ESC'). She prepared a coronial report with annexures including witness statements and recorded interviews, footage, forensic analysis and photographic exhibits. Records were obtained, and various forensic investigations were carried out.

Inquest

9. The primary purpose of an inquest is to inform the family and the public about the matters required by s 45 of the *Coroners Act 2003*, including when, where and how the person died and what caused the death. A coroner may also comment on anything connected with the death relating to public health or safety, the administration of justice, or ways to prevent deaths from happening in similar circumstances in the future.
10. Following a pre-inquest conference on 16 May 2023, it was agreed that the following issues were to be explored at the inquest:
 - a. whether the police use of lethal force against Damon was in accordance with the QPS 'use of force' policy in the OPM at the time;
 - b. whether there were any 'less than lethal' use of force options open to the officers which they did not take; and
 - c. whether the investigation by ESC was appropriate and sufficient.
11. The inquest was held in Brisbane on 21 and 22 August 2023. Six witnesses were called to give evidence.

Personal circumstances and history

12. Damon was born on 25 February 1993 in Maryborough, to Ms Kathleen Schwarzrock and her then husband. Damon has a brother, Josh, who was four years younger than him and two younger siblings. The family lived in Ipswich until Damon was in Year 1. They then moved to Maryborough.
13. When Damon was in year four or five, his parents separated, and he went to live with his grandparents. His brother remained with one of his parents. When he was in Year 7 his grandparents also separated. Damon then went to live in Melbourne with his grandfather. Damon finished high school after Year 9.
14. Damon's mother provided a family statement to the court. She said Damon was a cheeky child who grew into a spirited young adult. He enjoyed music and learnt to play the guitar from a young age. He was also an animal lover who built an enclosure at the back of his home for his pet cat.

15. Damon went to culinary school in Hervey Bay and commenced an apprenticeship as a chef. Ms Schwarzrock had planned to travel to Brisbane on the day following Damon's death to help him get some assistance with his struggles
16. Ms Schwarzrock said Damon was not his usual self on the night of his death, and his family had lost a loved and loving son, brother and uncle.
17. Damon had a brief adult criminal history which began in 2012, when he was 19. He was convicted of using a carriage service to menace, harass or offend. Between 2014 and 2019 he had four further appearances for drug and property related offences. He received fines in each case.
18. Damon's father died by suicide in around 2016. This event appears to have had a significant impact on Damon's life.
19. Kimberley and Damon met in Hervey Bay in November 2016 through a dating app. At first, Kimberley was unaware of Damon's ICE addiction. She later became aware Damon's work supervisor gave him drugs at the start of each shift.
20. In February 2017, Damon deliberately drove his car into another car. Damon was taken to the Hervey Bay Hospital and treated for serious injuries to his right leg. He told Kimberley that he had wanted to kill himself because he 'wanted to be with his dad'.
21. Records from Damon's 2017 hospital admission show that he was referred to Mental Health Services (MHS) and had a mental health assessment on 16 February 2017. The following notes of the assessment were recorded:

...Describes becoming frustrated easily and usually this leads to anger. Has had thoughts of suicide in past and when he felt relationship over and felt rejected he said he felt that he may as well die.

...Currently the patient is very regretful of the suicide attempt and feels he is at a stage he needs to turn life around and willing to accept support.

...Patient states he has been out on his own for several years after parents separated and he felt he was rejected. Has used various substances from early teens and more recently uses cannabis and amphetamines and describes using them to change his world for a short time.

RISK: Low at present but any use of substance this could increase.

INSIGHT: Showing some insight and willing to accept help.²

² F10 – WBHHS- CIMHA records, pp 12 – 13.

22. Damon was reviewed again before he was discharged on 18 February 2017. He was assessed as a low risk as he had family support and no further suicidal ideation. He was referred to the MHS Acute Care Team (ACT) on discharge with a plan to seek counselling and substance abuse support. Damon declined ongoing assistance from ACT. He said he would instead see his GP for a referral to a counsellor. On 9 March 2017, ACT closed Damon's referral and advised his GP of his interactions with ACT.
23. Damon went to drug rehabilitation in Hervey Bay at some stage in 2018 but checked himself out after about two weeks as he objected to the religious content of the program. However, for the remainder of that year he was employed and appeared to be doing well.
24. Kimberley and Damon moved to Brisbane together in about February 2019. They rented a house in Surround Street in Dakabin. Initially things went well. Damon was away from his associates and dealers in Hervey Bay and was not taking ICE most of the time. After a few months Damon secured a concreting job in Ipswich.
25. In July 2019, Damon went to a new GP, Dr Somashekar, at the Brewer Street Medical Centre in Kallangur. Initially Dr Somashekar appeared to have been treating Damon for gastric reflux and gout. At an appointment on 16 August 2019, Damon advised Dr Somashekar that he was struggling with long term depression and had lost his job. Dr Somashekar prescribed Damon an anti-depressant.
26. In March 2020, Damon overdosed while Kimberley was away interstate for work. He called an ambulance and was taken to The Prince Charles Hospital (TPCH). The notes taken by medical staff at TPCH indicate that Damon said the overdose was accidental, and that he had no suicidal ideation. He was not referred for any mental health assessment on this occasion.
27. On 21 May 2020, Dr Somashekar referred Damon to the Alcohol and Drug Service (ADS) and, during an appointment the following day, made a GP Mental Health Care Plan.
28. On 27 May 2020, Damon presented voluntarily to the Redcliffe Hospital Emergency Department at nearly 1:00am as he had self-harmed. During his mental health assessment, the following information was recorded:

Damon had contact with MHS in Maryborough following OD of Valium. Was referred to case management, but did not engage.

2017 – suicide attempt via deliberate MVA. It was reported that Damon and his girlfriend had an argument, he deliberately drove his car head on into another vehicle. Resulted in broken pelvis, leg.

Nil admissions to MHU.

Long history of using THC, speed, amphetamines, LSD magic mushrooms, Valium.

Damon is currently in a relationship with Kim, together for 3 years. Stated they have been making a life together, have pets, planning to have children.

Damon's parents separated...His father suicide 4 years ago.

Usually works as a cook, currently unemployed due to COVID 19. Has a younger brother.

Previous charges for possession of drug utensils.

...
GP has completed mental health care plan, referral to psychologist, psychiatrist.

...
Damon reported that he has a long history of amphetamine use. He has not used for 2 months, had been planning to go to Ipswich to score drugs today to use. Lied to his girlfriend about where he was going, she found out, and Damon acknowledged he'd been lying to her.

He became very upset, stated that he hears these voices when he craves meth, described it as multiple voices whispering, he does not know what they are saying, but they only way to get these voices to stop is to use drugs. Damon stated that he recognises that he is sabotaging his relationship and the future they have been planning. According to Damon he knows he did not take enough medication to kill himself, denied cutting his arm was a suicide attempt. He does have a history of previous suicide attempts. Reported having suicidal thoughts, but denied current plan or intention to act on thoughts.

...
His partner, when contacted, was willing to have Damon home. Stated that he had been lying to her, she had found messages on his phone, and that he needs to engage in treatment.³

29. Damon told staff that although he had been referred to a psychologist/psychiatrist, he had not been to see one. He was assessed as being a high risk of harm to self or others, and requiring an urgent mental health response within 24 hours. As Damon declined a voluntary admission to the Mental Health Unit (MHU) he was discharged to Kimberley's care, advised to make an appointment with the psychologist, and was to follow-up with the ACT at TPCH that day.
30. An ACT follow-up support call was made to Damon by a mental health nurse that afternoon. He was advised to contact a Community Health Care Clinic about drug use and support, but it is not clear he did this. On 29 May 2020, Damon advised the ACT that he did not need further support and his ACT referral was closed.

³ F4 – Redcliffe Hospital medical records, pp 34 – 40.

31. Damon last saw Dr Somashekar on 3 June 2020. He told the doctor he was “still struggling with anger issues” and “trying hard to cope”.⁴ At some stage on this same day Damon was involved in an incident for which he was later charged with wilful damage. Damon and Kimberley were going to see his marijuana dealer. Damon was driving when another driver pulled out in front of him. Damon became angry, and police described what happened as follows:

...The driver of another vehicle and SAVAGE had pulled over to the side of the road. SAVAGE emerged from his vehicle and approached the other driver, signalling for her to get out of the car. When she refused to do so and locked her doors, SAVAGE punched the driver's side mirror with his right-hand causing damage, prior to fleeing the scene.⁵

32. On 11 June 2020, Damon had an initial appointment with the Chermside Psychosocial Team, Metro North Mental Health Alcohol and Drug Service (ADS). The program included group education and support sessions, individual sessions with a psychologist, and medical support during a detox period.
33. On 23 June 2020, Damon attended ADS to start his ‘detox’. He had a consultation with a doctor and was given Valium and a multivitamin to take over the next seven days.
34. It is clear from the notes taken during the ADS program, and from evidence given by Kimberley to police, that Damon struggled with detox. On 24 June 2020, Damon dropped Kimberley at work at Westfield Shopping Centre, North Lakes. He was driving Kimberley’s Echo.
35. Damon drove off screeching the tyres. He lost control of the vehicle, did a 360-degree spin and hit yellow metal parking bollards. This was captured on Westfield CCTV footage. He was then seen trying to enter the complex on foot, and shoulder charged the glass sliding doors, breaking the glass and damaging the rollers. Damon was later charged with wilful damage for this incident.⁶
36. On the way home from another ADS appointment Kimberley was driving the Echo and Damon became angry about not being given enough Valium. He yelled at her and told her he was doing the detox for her. He blamed her for making him ‘give it all up’. While she was still driving, he started pulling apart the interior of the car. He tore out the glove box and the air-conditioning and hazard light wiring. He unbuckled his seatbelt and smashed the passenger window with the buckle.
37. ADS staff contacted Kimberley to check on her well-being and provided her with DV Connect and Women's Infolink numbers.

⁴ F5 – Brewer Street Medical Centre records, p 4.

⁵ C23 – QPS SDFVVPU Review, pp 3- 4.

⁶ B59 – ESC interview with Kimberley and C23 – QPS SDFVVPU Review, p 3.

38. On 3 July 2020, Damon attended his final cannabis withdrawal management review with an ADS nurse, who noted that Damon admitted smoking cannabis that day. On 8 July 2020, Damon failed to attend his ADS Group Therapy session.
39. On 16 July 2020 Damon attended ADS for a consultation with the psychologist, who noted that:

...Reported continued suicidal ideation - noted thoughts emerging most frequently whilst driving past trucks with desire to swerve onto their path. Reported currently avoiding public places and driving alone, where possible to minimise risk - noting later confirmation that Damon drove to appointment at Chermiside ADS. Reported engagement in "safe activities" include playing with his cats and playing video games. Future orientation - plans to go for a hike with his partner in coming days. Identified partner as protective. Minimal insight as evidenced by inability to articulate what may be helpful at this time.

Damon reported no methamphetamine use since previous appointment. Reported attempt and intent to obtain methamphetamine approximately 2 weeks ago when he reached 64 days clean "as a reward" - purchased substance that he reported was not methamphetamine, realised only after injecting. Reported that he was unsure of what the substance was - stated he was angry at "being ripped off". Explored strategies previously used to manage cravings and abstain from methamphetamines - noted strategy to minimise use was to ask dealers to "block" his phone number. Query avoidance of responsibility - implied most recent attempt to use methamphetamines was facilitated by dealer who did not "block" his number. Damon stated he was now blocked from contacting dealer following significant attempts made by Damon to contact him following his anger and frustration at purchasing an unknown substance.

Damon reported IV use of cocaine (1 gram) approximately one week ago - stated he was "testing" whether this would meet cravings for methamphetamines or not. Reported use made him feel "numb" and was very expensive - noted no desire to use again.

Damon stated that he completed his cannabis detox with the Melaleuca Clinic - reported the withdrawal process was unexpectedly difficult. Noted Valium prescribed was not helpful. Shortly after completing detox (exact timeframe unknown), reported that his partner "put him back on it". Stated this was due to incidents that occurred during detox - reported being issued with two wilful damage charges due to road rage incidents. Stated he was due to attend court on 06/08/2020 - noted he was scared what the consequences may be for this. Reflected on anger response and belief this was conditioned - noted father encouraged use of aggression and violence as a child. Reported he was currently smoking ½ ounce per week noting reduced use comparative to prior to detox.

Damon reported recent purchase of Xanax (not prescribed) - reported previous use had peaked at 6 tablets per day, no intention to return to this amount. Denied concern regarding dependence. Identified purpose of use is to avoid negative emotions and methamphetamine cravings - expects that this, in combination with cannabis use, will be sufficient to manage.⁷

40. At his next consultation with the ADS psychologist on 27 July 2020 Damon reported continued suicidal ideation. It was recommended he attend an anger management program. He refused because he believed he would have to do the program with perpetrators of domestic violence. He noted stress concerning his upcoming court case.
41. On 30 July 2020, Damon was driving the Echo and was intercepted by police. He was issued notices to appear for driving without a driver licence and drug driving. These offences had not been dealt with at the time of Damon's death.
42. On 6 August 2020, Damon appeared in the Caboolture Magistrates Court and was sentenced for 2 counts of wilful damage, relating to the offences committed on 3 and 26 June 2020, as well as unspecified traffic offences. He was fined \$1000.00 and a conviction was recorded.
43. Kimberley said that sometime that week Damon was given a refund of \$1700.00 by Centrelink. He went through the money in a couple of days. He spent about \$1,000.00 on 'nangs', or nitrous oxide cannisters, and was constantly using them.
44. On 11 August 2020, Damon was taken to the Redcliffe Hospital Emergency Department by the Queensland Ambulance Service (QAS) as he suffered chest palpitations after inhaling 80 nitrous oxide cannisters. He waited for about two hours but left with Kimberley before he was treated, telling staff that he felt back to normal.
45. On 12 August 2020, Damon attended what would be his last consultation with the ADS psychologist, who noted Damon was continuing to use cannabis and Xanax and was pleased with the result of his court appearance.
46. On 19 August 2020, Kimberley arranged for Damon to drop her at work so he could take the car and visit a friend in Ipswich. Damon ended up staying overnight in Ipswich and then texted Kimberley in the morning of the next day to tell her he had no weed and did not know where his wallet was, and that "*Today is a bad fucking day!*". Kimberley texted back at around 5:00pm to tell him there was money in an account, and he sent the following texts to her at 6:47pm:

*Call the cops and let them know they're gonna be needed when you get home
Kimber Ly*

⁷ F9 – CIMHA records, pp 24 - 25.

Again, make. Choice, you or the cops

Someone's getting fucked up⁸

47. On 21 August 2020, Kimberley took Damon to Movie World to try to improve his mood. On 23 August they went to the Botanic Gardens. Kimberley used their last \$6.00 to buy Damon a bottle of port at a bottle shop at Everton Park. While they were there Damon took a bottle of gin.

Events leading up to the death

48. On 24 August 2020, Damon had been drinking. He was speaking to his Aunt on the phone and they had a fight. Kimberley told Damon he needed to calm down. He threw his phone down the hallway and it broke. He wanted to go for a drive and screamed at Kimberley to move the Mini so he could take the Echo out. Kimberley had the car keys in her pocket and refused to give them to him. He hit her with an open palm on the back of the head. He hit the walls and put holes in the walls but did not take the keys. Damon later went to sleep after taking a sleeping pill.
49. On Tuesday 25 August 2020, Damon had a telehealth appointment with Chermiside Alcohol and Drug Service at 11:30am but did not answer his phone.
50. Sometime between 5:30 and 5:40pm that day Damon crashed Kimberley's Toyota Echo into a tree or the gutter near a tree outside a house on Braxlaw Crescent, Dakabin, about three blocks from his house in Surround Street. The resident of the house saw Damon reverse back, and take off down the street with the tyres screeching. As he drove away towards the Shepherdson Street roundabout he yelled "*you fucking dog cunt*".⁹ At around 5:50pm a resident could hear screeching tyres as the Toyota drove repeatedly round the roundabout. He then saw the Toyota heading back towards his house behind a black 4WD. Damon turned left into Surround Street and the resident took his registration number and called police.
51. Kimberley told police that Damon was in a bad mood when she got home from work around 7:30pm. She said that when he is in a bad mood, "*he screams and he yells and he just hates on everyone*".¹⁰
52. Officers from the Petrie Police Station attended Damon's home at around 9:30pm and spoke to Kimberley, who confirmed it was her car and that Damon would have been driving. Kimberley told attending police that Damon was home, but that he was going through "a little bit of mental health" and was not in a good headspace. Kimberley agreed to come to the Petrie Station with Damon at around 4:00pm the following day. Later,

⁸ C10 – Woods m_ph/UFED Samsung/AdvncedLogical/Report_SMSSection entries 3685 - 3687.

⁹ B1 – Statement of Corey Lewis.

¹⁰ B58.1 - QPS hospital interview with Kimberley, Pt 2.

Kimberley called Damon's mother and told her she was worried about Damon.

53. Later that night Damon's mother, Ms Schwarzrock, called Petrie Station and spoke to Senior Constable King. She identified herself as Damon's mother and said that she was becoming increasingly concerned about his mental health. SC King spoke to her in general terms about how and when police can detain a person for a mental health assessment. SC King said Ms Schwarzrock did not say anything which would suggest that he should do a welfare check on Damon at that time.
54. On Wednesday 26 August 2020, Kimberley nearly had a car accident on her way to work because she was stressed and not paying attention. She stopped and called Ms Schwarzrock again. Ms Schwarzrock said that her father had a specialist appointment in Brisbane on Thursday and that she would come down and help Kimberley then. Ms Schwarzrock said that Kimberley should go to the police and tell them that she needed help getting Damon subdued and taken for a mental health check.
55. Later that morning Kimberley attended the Mount Ommaney Police Station with a work colleague to make a report of Domestic Violence. Kimberley's work colleague had convinced her to go to the station after Kimberley had broken down at work about three hours into her shift. The QPrime record of Kimberley's report is as follows:

Initially the aggrieved's main concern was the mental health issues of the respondent and was wanting to know how she can help him. She went on by saying that the respondent is a recovering ICE addict and in the past 2-3 weeks his mental health has declined.

The aggrieved continued by saying that during these times the respondent's anger has increased which included an episode of anger where he has smashed his own phone. The aggrieved stated that the arguments between them have also increased. The main topic of the arguments have stemmed over finances. The aggrieved divulged that the respondent is a daily user of cannabis. The respondent is currently unemployed since March 2020. The aggrieved believed he is now currently receiving the job keeper allowance.

As the aggrieved continued to tell of the respondent and his recent behaviour it became clear to the aggrieved that she was extremely unhappy with the relationship which prompted her to say "I've just wasted four years of my life". It was apparent that the aggrieved continued to make excuses for the reason why she should continue the relationship, which included the mental health of the respondent and the two cats that live with them. When it was highlighted to her that possibly she was trying to find reasons to justify the relationship she started to agree and accept that to continue the relationship would be futile.

After the aggrieved's realisation she perked up and started to formulate strategies to move forward. She advised that she would contact her parents to let them know the truth about the relationship and the respondent. The aggrieved decided she will stay with her work colleague for the night and start to plan her next steps forward.'

...

The aggrieved has come to the realisation that the relationship she has been in is toxic and that she doesn't have to accept the behaviour or actions of the respondent.¹¹

56. Kimberley told the officer taking her report Damon had hit her the night before, and that in the past week she had been having trouble sleeping as she was worried about "*what he'll do*". Kimberley told the officer that she was supposed to take Damon to the Petrie Police Station at 4:00pm that afternoon. The officer told her that she did not have to do that, and she could ring the Petrie Station and explain why she would not be attending. She told him she would ring her family when she left the police station and stay with her work colleague that night.
57. Sometime before 4:00pm Kimberley spoke to administrative staff at the Petrie Station and cancelled the appointment because of "*a kind of DV situation*".¹²
58. Kimberley later told police that she went back to her house that night because she was worried that Damon would do something to their cats. She said when she got home that night, Damon was grumpy, but fine. She went to bed at around 11:00pm. She was woken sometime later by a crash and thought he must have knocked something over. She asked what had happened and he got really angry and told her to get away from him. Then he came into the bedroom and demanded Kimberley' phone because he wanted to call the police. Kimberley refused, and he punched her in the ribs. Damon rang 000 and was yelling at the operator.
59. The 000 call occurred at 12:05am on 27 August 2020. The audio of the call records that initially Damon was calm and gave his address, but as soon as the operator tried to stop him talking, he began screaming "*Get cars here cunt*",¹³ repeatedly. He told the operator he had a knife, that he needed to get the police there, and that the door was open. Damon got a knife from the kitchen while he was on the phone. He came back to the bedroom and swiped at Kimberley with the knife, cutting her leg and her foot. He threw the phone on the floor, and then cut his own leg. Kimberley grabbed the phone and tried to call an ambulance.

¹¹ C2 – QPrime DV Occurrence

¹² A5 - ESC Report, pp 6 & 8.

¹³ D17 – Multimedia presentation.

60. At 12:12am Senior Constable Hart called 000 from her mobile phone while she was standing in the front yard of Damon's house. She told the operator that she had never heard Damon and Kimberley fighting before, and had rarely seen them since they moved in. After Kimberley came out SC Hart took her into her house. SC Hart told the operator Damon had a knife and that Kimberley needed an ambulance.
61. Then Damon came across to SC Hart's house with a large knife in each hand. He was screaming and stabbing the knives at the Crimsafe screen door. DS Hart was still on the phone to 000 as this was happening, and Damon was being recorded on her daughter's mobile phone. Damon then ran back to his house and went inside.
62. A police car arrived at 00:22am, driven by Constable Westerweller with passenger Senior Constable Whitson. They approached SC Hart's house and she told them Damon had gone back to his own house. They approached Damon's house. SC Whitson knocked on the front door, saying "*Queensland Police, come out the front Damon*". Damon opened the wooden front door and stood behind the security door. He said, "*Are you ready or what?*" a number of times.
63. The officers could see he was holding two large kitchen knives. The officers told Damon to put down the knives and come out. Damon slammed the screen door open and stepped out, yelling "*Shoot me cunts*". He was told to put his weapons down, so he threw a knife at a wheelie bin near the front door. The knife bounced off the top of the bin and onto the ground. He switched the remaining knife to his right hand and kept yelling at police to shoot him. He yelled "*I wanna die bro*" and started walking towards police waving the knife and yelling "*shoot me*". As Const Westerweller and SC Whitson backed up towards the road, they drew their handguns and both continued to direct Damon to drop the knife.¹⁴
64. A second police car arrived at this point, driven by Acting Sergeant Waretini with Senior Constable Montgomery in the passenger seat. They stopped on the road in front of Damon's house. Damon was standing on the grass at the front of the house. He was holding a knife and bleeding from the left leg. There was an officer either side of him with their gun pointed at him.
65. As A/Sgt Waretini pulled up, Damon advanced towards the police car. A/Sgt Waretini got out of the car and deployed his taser, hitting Damon in the chest and abdomen with the leads. The taser did not stop Damon, and he walked directly towards A/Sgt Waretini with the knife, yelling "*Fuck! You fuckin ATSI cunt!*".¹⁵ SC Whitson and Const Westerweller fired eight shots between them and Damon dropped to the ground at the edge of the road.

¹⁴ All quotes recorded on D5 – Whitson BWC.

¹⁵ D5 – Whitson BWC and D7 – Waretini BWC.

66. Police immediately commenced first aid. The Queensland Ambulance Service arrived at 00:35am. Damon was unresponsive, was not breathing and had no pulse. Despite attempts, he could not be revived, and was declared life extinct at 00:53am.

Autopsy results

67. On 28 August 2020 Dr Rebecca Williams conducted an autopsy consisting of an external and internal examination of the body.

68. Dr Williams' examination:

....showed a man with an array of recent injuries, including gunshot wounds, incised wounds and blunt force injuries (bruises, abrasions and lacerations).¹⁶

69. Dr Williams noted seven gunshot wounds, and reported that each of these had the potential to cause death. Dr Williams noted that death would have occurred very quickly. She also recorded that:

There were multiple incised wounds, not contributory to death. The group of shallow incised wounds on the right thigh had an appearance typical of self-harm.

There were a number of bruises, abrasions and lacerations on the body surface, particularly over bony prominences, also not significant to cause of death. These injuries may be secondary to a fall or collapse. There were injuries on the back of the hands and fingers, consistent with so-called offensive injury that may be incurred after throwing a punch.¹⁷

70. Toxicology results showed that Damon's blood alcohol level was 0.124%, and that he had Alprazolam, an anti-anxiety medication, present in his blood at a concentration in the potentially toxic range, but less than the potentially fatal range. Damon also had the following substances present at low levels or within the usual therapeutic range:

- Etizolam (anti-anxiety);
- Duloxetine (anti-depressant);
- Doxylamine (anti-histamine);
- Ibuprofen (anti-inflammatory);
- Paracetamol (analgesic); and
- Cannabis derivative.

71. Dr Williams concluded that the cause of death was multiple gunshot wounds.

¹⁶ A4 - Autopsy Report, pp 17 – 18.

¹⁷ A4 - Autopsy Report, pp 17 – 18.

The investigation

72. Damon's death was investigated by the Queensland Police Service Ethical Standards Command ('ESC'). Detective Sergeant Christy Schmidt provided her report on 7 November 2021. The ESC investigation was informed by statements and recorded interviews with the relevant police officers and Damon's partner and neighbours. Body camera footage from those officers involved was examined, as was residential CCTV footage. QAS incident records were obtained, and various forensic investigations were carried out.

Conclusions on inquest issues

Findings required by s. 45

73. I am required to find, as far as is possible, who the deceased person was, how he died, when and where he died and what caused his death.
74. As a result of considering all the material contained in the exhibits and the evidence given by the witnesses, the relevant parts of which I have summarised above, I am able to make the following findings.

Identity of the deceased – Damon Paul William Savage

How he died – Mr Savage called police after assaulting his partner. When police attended, he was armed with two knives and advanced towards the officers. He died after he was shot by police who had called on him to drop the knives. He did not comply with that command.

Place of death – 1/54 Surround Street DAKABIN QLD 4503 AUSTRALIA

Date of death– 27 August 2020

Cause of death – Multiple gunshot wounds

Issue 2 – Use of lethal force

75. The ESC investigation led by Detective Sergeant Schmidt examined the response by police to the incident which unfolded at Damon's house late on 26 August 2020 and in the very early hours of 27 August 2020. The investigation centred around the 'use of force' options available to the officers involved in the incident, and an examination of the options which were used, in order to determine if the lethal force used was justified, authorised and excused by law.

76. Detective Sergeant Schmidt obtained an expert opinion as to the actions of the officers involved from Inspector Corey Allen, Chief Operational Skills Instructor and Manager of Operational Training Services.
77. Inspector Allen gave a statement detailing the QPS 'Situational Use of Force Model' pursuant to section 14.3.2 of the QPS Operational Procedures Manual (OPM). Inspector Allen explained at the inquest that there are five conditions which must be satisfied for an application of force to be regarded as appropriate in the circumstances. The use of force must be:
- a. Authorised;
 - b. Justified;
 - c. Reasonable/proportionate/appropriate;
 - d. Legally defensible; and
 - e. Tactically sound and effective.
78. Inspector Allen set out in detail in his statement his analysis of the relevant police actions and the application of the above conditions to those actions. In addition, Inspector Allen explored the 'less than lethal' use of force options available to the officers, including the use of the Taser, and whether using oleoresin capsicum "OC" spray could have been effective.
79. After reviewing all the available material in respect of the circumstances of Damon's death, Inspector Allen concluded:

Police made a decision to locate and engage Mr Savage as they arrived at the premises. This decision to situationally contain Mr Savage once he was located is consistent with training and policy regarding preventing an armed person from leaving the premises and potentially putting other persons at risk of being harmed. Mr Savage had earlier attended another premises armed with knives and damaged the front screen door, indicating his willingness to seek out others including his partner who he had wounded.

Constable Westerweller and Senior Constable Whitson attempted to tactically withdraw and reposition by moving backwards when the knives were produced. The deployment of the Taser/CEW by [Acting Sergeant]¹⁸ Warentini was ineffective and left Constable Westerweller and Senior Constable Whitson with no option other than to use lethal force.

...

Westerweller clearly attempts to engage Mr Savage in a controlled and appropriate manner in an attempt to influence his behaviour. This was ineffective. Constable Westerweller says "Don't, don't do this Damon," and "mate we don't want to shoot you" in a calm and controlled voice in an attempt to de-escalate Mr Savage. Given the aggressive nature of the attack by Mr Savage there was no reasonable opportunity to attempt further de-escalation in the circumstances.

...

¹⁸ In his statement, Inspector Allen incorrectly identifies A/Sgt Warentini as 'Senior Constable' Warentini.

Due to the circumstances and the determined violent nature of the attack by Mr Savage, it would have been an inappropriate if not highly risky response to attempt to deploy either a Taser/CEW again or OC spray as the likelihood that either would stop the attack is negligible at best. Had police chose to attempt either Taser/CEW a second time or OC spray they would have exposed themselves to the likely extreme risk of death or serious injury.¹⁹

80. Inspector Allen's evidence was that he was of the view that both officers who discharged their handguns, and the officer who deployed his taser, had acted in accordance with QPS training, policies and legislation.
81. Based on Inspector Allen's expert opinion, which was reviewed and adopted by the ESC investigator, I find that the use of lethal force by Senior Constable Whitson and Constable Westerweller against Damon was in accordance with the QPS 'use of force' policy in the OPM at the time of Damon's death.

Issue 3 – Were there any less than lethal force alternatives?

82. This issue was also addressed by Inspector Allen in his evidence. Inspector Allen's conclusion, which he explained in detail at the inquest, was that the use of the Taser by A/Sgt Waretini was tactically sound. However, the Taser failed to have the desired effect of stopping Damon's advance towards the Officers and the threat he posed.
83. Inspector Allen explained why neither OC Spray nor the baton are considered appropriate responses to a confrontation with a person with an edged weapon such as a knife. Officers must be within close range of a person to use these use of force options. This puts the officers at risk of being in range of the knife.
84. Damon's family did not dispute that once Damon was out of the house, armed and aggressive, police were entitled to use lethal force.
85. Whether there were any earlier opportunities for the attending officers to use different tactics in responding to the 000 call to avoid the use of lethal force was explored by counsel for Damon's family in examination of Inspector Allen and of the three attending officers who gave evidence at this inquest.
86. Inspector Allen observed that his research into policed shootings had indicated that police most commonly use firearms when confronted by men in front yards with bladed weapons.

¹⁹ Paras 131 – 143.

87. The family referred to OPM Chapter 14.3 relating the use of force by police. This requires that police are to use the minimum amount of force necessary to resolve the incident with the preservation of life being a primary focus.
88. Chapter 14.3.1 provides that prior to attending an incident officers should plan an approach that allows for the minimum use of force required in order to resolve the incident. Examples include information gathering, assessing threats, identifying options and contingencies, and engaging appropriate resources. Physical force should only be used when other options have failed or are assessed as being inappropriate for the circumstances.
89. Chapter 14.3.2 sets out the Situational Use of Force Model. Officers are required to communicate with all involved people with the aim of de-escalation of the incident or resolution with the minimum amount of force used. The QPS philosophy “Consider All Options Practice Safety” provides options including situational containment and tactical repositioning.
90. It was submitted for the family that consideration of different tactics was required by section 16 of the *Human Rights Act 2019* which provides:

‘Every person has the right to life and has the right not to be arbitrarily deprived of life’.
91. Section 13 of the *Human Rights Act* provides that a human right may be limited only where it reasonable and demonstrably justifiable to do so. Section 13(2) provides that one consideration about whether a limitation on a human right is reasonable is *‘whether there are any less restrictive and reasonably available ways to achieve the purpose’.*
92. I accept the submission from the family that in addition to the OPM, police approaching a potential use of force situation are required by the *Human Rights Act* to consider and plan an approach using the minimum amount of force necessary and to consider alternative options.
93. Each officer and Inspector Allen were asked to respond to hypothetical questions from the family concerning whether they would have acted differently if they had access to all information known to the 000 call taker and to SC Hart and ought to have been shared with the attending police when they went to the door. This included Damon’s desire to fight police, the fact he was armed, his partner was out of the house and he was alone in the house with his own serious laceration.

94. Each officer was asked whether, in hindsight, there was a different way that Damon could have been approached or contained in preference to the “doorknock approach”. The officers answers were essentially, the same. They said that they were obliged to quickly make contact with Damon inside the house to determine whether he was alone and whether he, or anyone else, was injured or in danger.
95. They said that while having as much information as possible could only be helpful, they still have to deal with unknown and unfolding circumstances as they occur. Once Damon left his house carrying knives, and advanced towards police, the options available to police rapidly diminished, until lethal use of force was the only option left. Inspector Allen confirmed in his evidence that there were no other options open to the officers in the circumstances.
96. Each officer also explained that it was their job to try to preserve life, including Damon’s, and that they were obliged to try to deescalate any situation before using any kind of force. They explained that this is how they are trained. In high-risk situations such as this, where events move very rapidly and officers are responding to circumstances as they arise, they fall back on their training in order to respond quickly and appropriately.
97. Counsel Assisting submitted, and the representatives for the individual officers and the Queensland Police Commissioner agreed, that on the basis of the evidence given by the officers involved and by Inspector Allen, I should find that after the Taser deployed by A/Sgt Waretini failed to have an effect on Damon there were no less than lethal force alternatives available to Senior Constable Whitson and Constable Westerweller.
98. Counsel for Damon’s family urged the court and the Queensland Police Service to consider whether, if this situation was repeated, there was an opportunity to resolve the situation using less confrontational tactics.
99. The thrust of the family’s submission was that, in calling for Damon to come to the front of the house rather than simply containing him, Officers Whitson and Westerweller immediately exposed themselves to a high-risk situation.
100. Counsel for the family also referred to the “Behavioural Influence Stairway Model” of de-escalation and communication, under which negotiators are taught to use as much time as reasonable to de-escalate a matter to obtain behavioural change, rather than rushing to gain compliance by using force.
101. The value of this principle was acknowledged by Constable Westerweller, an officer with 12 weeks service. It did not appear to have been recognised by the other officers.

102. The family submitted that the officers should have waited before approaching Damon's house and knocking, and that if Damon had had more time, his behaviour may have de-escalated.
103. I do not agree that it would have been reasonable for Officers Whitson and Westerweller to wait before knocking on the door of the house in an attempt to locate Damon.
104. As was submitted by the Commissioner, the officers knew that Damon had knives in his possession, that he had injured his partner and himself, and that he had already left his house once to attack and threaten his neighbour, SC Hart.
105. In those circumstances, the officers had an obligation to locate, isolate and contain Damon quickly so that he could do no further harm to himself or members of the public, and so that he could be provided with medical attention if necessary. The only way to do that in the circumstances was to knock on the door and find out if he was inside his house. Further, the officers had no knowledge of whether there were other possible victims (or assailants) in the house with Damon. The only reasonable thing to do in these circumstances was locate him in a timely manner, and this is what they did.
106. I accept the submission that that Officers Whitson and Westerweller acted appropriately when they arrived at Damon's house. They made every attempt to de-escalate the incident after Damon came to the front door. A/Sgt Waretini placed himself at risk by attempting to use his Taser before he reached for his firearm. I agree with the submission of Counsel Assisting that, after the Taser was deployed, there were no other less than lethal force options open to the Officers.

Issue 4 – Was the investigation by ESC was appropriate and sufficient?

107. Damon's death was investigated by the Queensland Police Service Ethical Standards Command. Detective Sergeant Schmidt provided her investigation report to the Coroners Court on 7 November 2021. DS Schmidt's evidence was that the ESC investigation was informed by statements and recorded interviews with the relevant police officers and Damon's partner and neighbours. Body camera footage from those officers involved was examined, as was residential CCTV footage (from DS Hart's house). QAS incident records were obtained, and various forensic investigations were carried out.
108. The ESC investigation examined the response by police to the incident which unfolded at Damon's home late on 26 August and in the very early hours of 27 August. DS Schmidt gave evidence that she concluded that, on the basis of all the evidence:
 - *There are no suspicious circumstances associated with the death of Mr Savage;*

- *There is no evidence to support a criminal prosecution against any person; and*
- *There is no evidence to support a breach of discipline or misconduct against any police officer regarding Mr Savage's death.²⁰*

109. In addition to the investigations in respect of the actions of police involved in Damon's death, the ESC investigation gathered information about Damon's circumstances and background.

110. On 31 August 2020 ESC investigators interviewed Kimberley with her father present. She gave investigators detailed information about Damon's last four years, and his struggles with addiction and anger management. Investigators also obtained statements and information from police officers involved in recent interactions with Damon, Kimberley and Ms Schwarzrock relating to his recent offending, Kimberley's report of domestic violence, and Ms Schwarzrock's concerns about Damon's declining mental health.

111. I consider that the ESC investigation was thorough and professional and obtained the information relevant to this court in respect of the circumstances of Damon's life and the various factors which led to his final interaction with police on the night he died.

Comments and recommendations

112. In his evidence, Inspector Allen outlined the emphasis on the "Behavioural Influence Stairway Model" of de-escalation that has occurred in police training over the past five years. He considered there has been an improvement in Queensland police responses to violent confrontations as a result. Inspector Allen noted this was a technique used as well as possible in the circumstances by Constable Westerweller during his interaction with Damon but was unfortunately not ultimately effective.

113. In addition to this evidence about changes in police training, the Court obtained further information from the Queensland Police Service about the recent limited rollout of the Taser 10. This new Taser technology is being evaluated as a replacement for the Taser X26P, which was the type of Taser deployed by A/Sgt Waretini and was ineffective in stopping Damon's advance on Police.

²⁰ A5 - ESC Coronial Report, section 16.

114. A statement from Senior Sergeant Simon Lowcock of the QPS Operational Equipment and Armoury section explained that the Taser 10 has a range around 6 metres more than the Taser currently in use and can be discharged 10 times rather than just once. Inspector Allen was also able to describe the new Taser during his evidence. He advised the court he was optimistic this technology would be a significant improvement on the model of Taser currently in use.
115. There is no guarantee that, in the circumstances of Damon's death, use of the Taser 10 as opposed to the Taser X26P would have been outcome changing for Damon. However, this technology may assist police officers in future similar confrontations with members of the public, in that it may provide police officers with a less than lethal use of force option which creates more time and space, and is more reliable than the current model.
116. Other than noting this evidence, there are no recommendations which I usefully make which would prevent similar deaths from occurring in the future.
117. The family submitted that before using lethal or other force where necessary or authorised by law, all officers engaged in high risk confrontations should be able to plan responses, gather all relevant information and consider all available alternatives in accordance with the requirements of the *Human Rights Act*, the OPMs and the broader objective of preserving human life. This is particularly so in the context of increasing frequency in which police officers are called on to attend high risk situations. I agree with that submission.

Terry Ryan
State Coroner
BRISBANE