



*Western*

*Australia*

## **RECORD OF INVESTIGATION INTO DEATH**

*Ref No: 6/17*

*I, Evelyn Felicia Vicker, Deputy State Coroner, having investigated the death of **Jemmy Vincent HOUAREAU** with an Inquest held at Perth Coroners Court, Court 93, Central Law Courts, 501 Hay Street, Perth, on 6 & 7 February 2017 find the identity of the deceased was **Jemmy Vincent HOUAREAU** and that death occurred on or about 25 November 2011 at 1 Clayton Street, Midland, as the result of Penetrating Injuries to the Right Arm and Chest in the following circumstances:-*

### **Counsel Appearing:**

Mr T Bishop assisted the Deputy State Coroner

### **Table of Contents**

INTRODUCTION .....	2
BACKGROUND .....	2
<b>The Deceased</b> .....	2
<b>The Loader</b> .....	6
<b>25 November 2011</b> .....	8
<b>Monday 28 November 2011</b> .....	19
POST MORTEM REPORT .....	24
POLICE INVESTIGATION .....	27
<b>Blood Splatter</b> .....	30
<b>Knife</b> .....	33
<b>Boot Print</b> .....	34
<b>Effect of the Forensic Evidence</b> .....	34
CONCLUSION AS TO THE DEATH OF THE DECEASED .....	35
MANNER AND CAUSE OF DEATH .....	37

## INTRODUCTION

On the morning of Monday 28 November 2011 employees of the auctioneers' yard at 1 Clayton Street, Midland, were working on the tynes of a forklift in the armoury when they saw what appeared to be a blood trail. On following the trail they discovered the body of Jemmy Vincent Houareau (the deceased) lying in a pool of blood among a stack of tyres stored towards the back of the armoury. He had last been seen by those employees on the afternoon of Friday 25 November 2011 working on a front end loader located outside the armoury in the yard. They had not been able to find him at the close of business, despite searching for him, and had locked the armoury and premises for the weekend.

The deceased was 53 years of age.

The inquest was held in an attempt to clarify the circumstances surrounding the death of the deceased for the purposes of complying with section 25 (1) of the *Coroners Act 1996* (WA).

## BACKGROUND

### *The Deceased*

The deceased was born on 23 April 1958 in the Seychelles and was part of a large extended family with numerous siblings. They moved to Australia in 1973 when the deceased was 15 years of age.

The deceased lived in Gingin with some of his brothers, although he had a long term defacto partner with whom he had four children, living on Lake Barlee Station out of Sandstone. He spent time with his partner when moving to and from his mining interests in the upper Gascoyne. His partner stated the deceased was a hard worker, although essentially self-employed, and provided for her and the children.<sup>1</sup>

The deceased was a competent mechanic, although not formally qualified, and the owner a mining lease at Mount Augustus. He was hoping to successfully mine for amethyst. Shortly before his death he had entered into a business partnership to expand his amethyst mine with Dario Cotterle, whom he had known for approximately four years. They were in the process of purchasing equipment for the mining venture.<sup>2</sup>

Medically, the deceased suffered gout and cardiac issues for which he was medicated. His drinking had increased in recent times and although he had no diagnosed mental health issues his partner had noticed a change in his behaviour since August 2011, following an arrest for drink driving. She believed he became quite paranoid, believing

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<sup>1</sup> Ex 1, tab 41

<sup>2</sup> t 06.02.17, p18

people were watching him and he expressed concern for her future and the welfare of their children.<sup>3</sup>

The deceased's partner had last seen him on 5 November 2011 when his behaviour on saying goodbye was abnormal and she had been concerned for his general welfare.

His friend of many years, Mark Hatch, confirmed the deceased had appeared to be paranoid about being watched, or people with whom he came into contact being in danger, more recently since the drink driving arrest.<sup>4</sup> This was in contrast to his normal relaxed resilience to life stressors.<sup>5</sup>

Mr Hatch had last seen the deceased on the evening of 23 November 2011 and noticed he did not seem his usual self. On that date Mr Hatch noticed the deceased with a large bundle of money, which he stated was for the purchase of a tractor he was working on in Swan View. Later information indicated this money had been given to the deceased by his aunty for the purchase of items generally related to a mining business. I am satisfied it was not for the loader at Swan View. Mr Hatch saw the deceased place the money into his pocket, not a wallet.

The deceased's business partner, Dario Cotterle, advised the inquest he had known the deceased for approximately four

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<sup>3</sup> Ex 1, tab 41

<sup>4</sup> t 06.02.17, p55 & Ex 1, tab 28

<sup>5</sup> t 06.02.17, p59

years and considered he knew him quite well. He had not observed any paranoid behaviour in the past from the deceased but did consider he seemed more anxious towards the time of his death. They had entered into a business arrangement in mid-2011 related to the deceased's amethyst mine, about which the deceased was very excited as to the prospect of turning it into a productive venture. Mr Cotterle was aware the deceased had other business interests, possibly to do with gold, about which he was very non-committal and Mr Cotterle was not aware of the extent of that venture.

Mr Cotterle was to finance the amethyst mine by the purchase of equipment which would enable the deceased to start operating the mine as a going venture. It was registered as "Purple Reef" with the Department of Commerce on 11 October 2011.<sup>6</sup>

Since registration of the business the deceased and Mr Cotterle set about purchasing appropriate equipment for the mine and had already purchased a truck which was located at the deceased's home in Gingin. The next item requiring purchase was a loader. Purchase of the loader and transporting it to the mining lease in working order would enable the deceased to commence the mining operation properly.

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<sup>6</sup> Ex 1, tab 43

Mr Hatch, Mr Cotterle and another friend of the deceased, Geoffrey Banks, all agreed the deceased was a very resilient character when considering problems related to life. In the event of adversity to do with any of his business interests he would shrug it off and move forward with his next project. Despite Mr Hatch having noted some paranoid behaviours from the deceased, he did not contemplate the deceased would ever consider suicide over a matter to do with a business enterprise.<sup>7</sup>

### ***The Loader***

The deceased began to search for an appropriate loader and found one for sale from Smith Broughton Industrial Auctioneers in Midland (Swan View). It was a Komatsu WA500-1 front end loader and the deceased believed it appropriate for the mining lease. On 24 October 2011 Mr Cotterle placed a cheque on the loader as a deposit for the purchase. He then wrote a cheque for the outstanding amount and sent it to the auctioneers.

The deceased was away at the time Mr Cotterle actually paid the finalising cheque, however, Mr Cotterle had ensured the loader was in working order before he paid the outstanding sum.

On Monday 21 November 2011 the deceased went to the auctioneers' yard to inspect the loader and attempt to move

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<sup>7</sup> t 06.02.17, p59

it from the premises. The deceased was in the process of moving it from where it was stored on the “*house pad*” to the yard when it ceased working outside the armoury.<sup>8</sup> It appeared the hand brake could not be released and he was unable to further move the loader.

The deceased rang Mr Cotterle and asked if he had paid for the loader. Mr Cotterle reassured the deceased that although he had sent the auctioneers a cheque he would still be in a position to cancel the cheque, which he proceeded to do by contacting his bank and then having discussions with the auctioneers.<sup>9</sup>

By the end of those exchanges it would be fair to say there was some level of dispute between the auctioneers and “*Purple Reef*” as to who would be responsible for repairs on getting the loader into full working condition. Brian Poulton, a sales worker with the auctioneers, stated in evidence that by 25 November 2011 he considered Purple Reef had purchased the loader and that was why the deceased was working on the loader.<sup>10</sup>

The deceased returned to the yard in an effort to rectify the problem with the brakes and also minor problems which needed attention prior to moving the loader.<sup>11</sup>

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<sup>8</sup> t 06.02.17, p85

<sup>9</sup> Ex 1, tab 26

<sup>10</sup> t 06.02.17, p76

<sup>11</sup> Ex 1, tab 26-27

Mr Cotterle stated the deceased was quite anxious to purchase that loader following making enquiries at other premises about spare parts and other loaders.<sup>12</sup> Mr Cotterle understood the situation to be that the sale for the loader had not been completed and, as far he was concerned, they would only pay the outstanding amount if the deceased could get the loader working. Mr Cotterle pointed out that without the loader working, especially the hand brake, they were not in a position to move it from the yard. Consequently, the deceased was focused on trying to get the loader working while still in the auctioneers yard. The deceased was attempting to ensure the loader was in working order, ready for transportation to the mine.

On occasions over that week Mr Cotterle would attend the auctioneers' yard with the deceased in an attempt to rectify the problems with the loader.

On 23 November 2011 a truck attended at the auctioneers yard intending to move the loader, however, the truck was cancelled because the deceased could not move the loader due to the problem with the hand brake. He continued to work on the loader.

### ***25 November 2011***

On Friday 25 November 2011 the loader was located directly in front of the armoury while the deceased worked on the

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<sup>12</sup> † 06.02.17, p24



problems to do with the loader. According to Mr Poulton the loader was parked parallel to the armoury doors with the front of the loader (the bucket) facing north, and Military Road on the right hand side of the loader.<sup>13</sup>

The deceased arrived at the auctioneers' yard in his white Toyota land cruiser utility which he parked in front of the loader's bucket, in front of the armoury shed doors. Various employees of the auctioneers spoke with the deceased as they passed and asked how work on the loader was going.

The deceased had made arrangements for a friend, Geoffrey Banks, to come and assist him, specifically with the problem to do with the loader's hand brake. There was also an issue with the air compressor they discussed.<sup>14</sup> Mr Banks had known the deceased for approximately 5 or 6 years when they were next door neighbours. The deceased had approached Mr Banks for help on the afternoon of Wednesday 23 November 2011 and asked if he could go to the auctioneers to assist with the hand brake. Mr Banks has an associate diploma in electronic engineering and due to his experience in the trucking industry was "*quite handy*" with working on machinery.<sup>15</sup>

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<sup>13</sup> † 06.02.17, p85

<sup>14</sup> † 06.02.17, p45

<sup>15</sup> Ex 1, tab 30

Mr Banks arrived at the auctioneers' yard sometime between 9-10 am and the two of them eventually sorted the problem with the hand brake. When Mr Banks left at approximately 2.15 pm the deceased was in a good frame of mind having sorted the problem with the hand brake which was the major issue. While there were some other minor issues they were fixable and Mr Banks left with the impression the deceased would move on to the issue with the air compressor, which was not of major concern.

Mr Banks noticed nothing abnormal about the deceased's behaviour. He saw the deceased pay for a pizza and use money from his wallet. There was no evidence of a wad of money in the deceased's pockets on that occasion.<sup>16</sup>

Mr Banks recalled that for the entire time he was with the deceased, approximately five hours, the loader was in the same spot in front of the armoury with the deceased's ute parked close by. The deceased's tools were laid out on a palette adjacent to the loader and neither he nor the deceased went into the armoury during that five hours. When they wished to wash or drink water they used a tap outside the armoury. Mr Banks believed the door of the armoury was closed during his attendance. He acknowledged it may have been open from time to time to allow people entry, however, due to his working on the loader he was not taking very much notice. Mr Banks noted

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<sup>16</sup> † 06.02.17, p63

one of the employees, probably Tony Wilson, speak to the deceased during the day. The relationship with the auctioneers' employees seemed to be comfortable. Mr Wilson later recalled Mr Banks as two separate people being the owner (presumably of the loader) and the electrician (Mr Banks).<sup>17</sup> I am satisfied from the times it was Mr Banks on both occasions.

There was an incident at approximately midday which Mr Banks noted as unusual, when an unknown person approached the deceased making enquiries about the loader, specifically the bucket.<sup>18</sup> Mr Banks noted the deceased seemed uneasy about this exchange and in hindsight it may have been because the full purchase price for the loader was still outstanding, and a concern on the deceased's behalf the loader may be on sold due to the lack of payment.<sup>19</sup>

Mr Banks noted it was a hot day and they were both working out in the sunshine and working quite hard. He felt quite exhausted at the end of the day and believed the deceased must have been very resilient to continue working in those conditions. The deceased did not complain and other than thinking the deceased was a little tired Mr Banks was admiring of his tenacity.<sup>20</sup>

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<sup>17</sup> † 06.02.17, p86-87

<sup>18</sup> † 06.02.17, p49

<sup>19</sup> † 06.02.17, p67

<sup>20</sup> † 06.02.17, p50

On leaving the auctioneers at approximately 2.15 pm Mr Banks could see no reason why the deceased would have been concerned about progress on the loader. As far as Mr Banks was concerned they had fixed the problem with the hand brake and although there had been a discussion with the deceased about ways to disable the loader, pending his being able to move it at his instigation from the yard, everything was positive.<sup>21</sup> He did not believe the deceased would be the sort of person to become overly distressed about a work issue in any event. He considered the deceased to be very resilient to life's difficulties and recalled problems earlier in the year over the boundaries of a mining tenement. The deceased's attitude was you do what you can and move on.

Mr Banks was able to assist the court with some of the items located in and around the loader, photographed by the police following the deceased's death.<sup>22</sup> Mr Banks believed it likely that once he and the deceased had fixed the hand brake issue, the deceased had moved on to work on the air compressor issue, using a pressure regulator. Mr Banks initially thought it possible a red handle located on the floor of the armoury was the on/off handle of a gauge located next to the pressure regulator, which the deceased could have adapted to assist with his work on the loader's air compressor.<sup>23</sup>

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<sup>21</sup> † 06.02.17, p61

<sup>22</sup> Ex 2, photos 23-34

<sup>23</sup> † 06.02.17, p45, 62, 64

Following the evidence at inquest Mr Banks asked if he could have copies of the relevant photographs of the red handle and loader. He had not seen the red handle on the gauge, and there was no reason for it to be in the armoury if it was from the gauge and it was clearly broken.<sup>24</sup>

After studying the photographs and making enquiries of the relevant manufacturers Mr Banks was satisfied the red handle photographed on the armoury floor did not fit or belong to the gauge on the loader.<sup>25</sup> Consequently there is no evidence the red handle was associated with the events on the afternoon of 25 November 2011. It was not swabbed or tested for fingerprints.

Regardless of remaining issues with the operability of the loader, Mr Banks was adamant a mechanical or hydraulic issue would not cause the deceased particular anxiety, certainly not enough to form an intent to die.<sup>26</sup>

Prior to Mr Banks leaving Mr Poulton had seen the deceased with Mr Banks at approximately 2 o'clock and believed they both looked quite happy with the progress of their work on the loader. He assumed they had managed to fix the

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<sup>24</sup> Ex 1, tab 9/4 & Ex 2, photographs 24, 25, 34

<sup>25</sup> Personal Communication to Mr Bishop, Counsel Assisting the Deputy State Coroner

<sup>26</sup> † 06.02.17, p47/48

problem they were working on. Mr Poulton last saw the deceased at about that time with Mr Banks.<sup>27</sup>

At approximately 2.45 pm, another employee of the auctioneers, James Macer, spoke to the deceased and asked him how things were going. At that stage the deceased replied that things were not going badly and he believed they had just about sorted out the problem with the loader. Mr Macer reminded the deceased they would be closing up at about 5 pm. At the time they had this conversation the loader was idling and Mr Macer continued with his duties.<sup>28</sup>

Mr Cotterle received a phone call from the deceased at 3.08 pm<sup>29</sup> in which the deceased initially indicated he was concerned about progress with the loader. When Mr Cotterle, who says he is quite serious about his business ventures, seemed taken aback the deceased laughed and said he had only been joking and that everything was fine.

Mr Cotterle was relieved and very conscious the deceased had been out in the sun working on the loader all day. He advised the deceased to move the loader into the shade and take the rest of the day off. As far as Mr Cotterle was concerned the major issue with the loader was solved and, in his mind, they would be completing the purchase by him reissuing the cheque and he and the deceased would be

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<sup>27</sup> † 06.02.17, p79

<sup>28</sup> Ex 1, tab 33

<sup>29</sup> Checked with telephone call records, Ex 1, tab 47

able to move the loader to the mine as soon as possible. Although he was somewhat taken back at the form of the deceased's joke, he detected no concern from the deceased as to the loader in that phone call.<sup>30</sup>

Mr Wilson last recalled speaking to the deceased at about 3.30 pm when he asked how work was going with the loader. The deceased responded "*I don't know*" and Mr Wilson believed he may be still be having problems. Again in hindsight it is possible he was concerned the auctioneers would demand he move the loader immediately if they understood it was in working order and he was not prepared to do so immediately. It is possible it is for this reason he asked Mr Banks about disabling the fuse to disable the loader.

A short while later Mr Macer received a phone call which required he go to the armoury to assist with fuelling the tanker. He noticed the deceased's ute was still parked near the bucket of the loader and due to its position they had some difficulty fuelling the truck. Mr Macer called out for the deceased and received no response. In order for them to be able to fuel the truck, they moved the deceased's ute from its position alongside the bucket of the loader to directly opposite the loader, on the gravel area out of the access way to the armoury.

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<sup>30</sup> † 06.02.17, p35

The armoury doors were closed and Mr Macer unlocked the armoury, then opened the armoury doors to check on the whereabouts of the fuel tanker. The fuel tanker was in its usual position, in the right front section of the armoury, and Mr Macer and the truck driver refuelled the tanker while in the armoury, but facing the open doors. Mr Macer then cleared the hoses and the two men left the armoury, with Mr Macer walking out and shutting the doors to the armoury. For most of his time in the armoury Mr Macer had his back to the rear of the armoury and the only time he was faced inward was when he was closing the doors following refuelling the tanker. He did not notice anything untoward while in the armoury.<sup>31</sup>

On Mr Macer leaving the armoury he noticed the loader was still idling, but the deceased was still nowhere to be seen. The next event occurred sometime between 4-4.30 pm, when Mr Macer was driving to the rear of the yard and noticed the loader was still idling outside the closed doors to the armoury shed. Knowing they would be locking up shortly, Mr Macer and the other employee stopped and looked around the outside of the armoury and the vicinity of the deceased's ute to see if they could find him. They were calling out to him and trying to locate him.

They opened the doors of the armoury, which was still not locked, and called out for the deceased. The other employee

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<sup>31</sup> Ex 1, tab 33



walked into the shed a few metres while calling for the deceased. Mr Macer followed that employee in, but only went about 2 or 3 metres into the shed. They were expecting the deceased to respond or see movement, and when that had not occurred they returned outside and shut the doors to the armoury. Again they were not locked. Mr Macer walked over to the loader and turned off the fuel pump to stop the engine. He placed the loader keys in his pocket to return to the deceased at a later time and called Mr Poulton to ask him to telephone the deceased.

When Mr Macer returned to the office he asked Mr Poulton if he had been able to reach the deceased on his mobile and he said he had not. They had not heard the telephone ringing when they were in the vicinity of the armoury. It was then they made a decision to call Mr Cotterle to ask if he knew where the deceased was. Telephone records confirm Mr Cotterle received a call from Mr Poulton asking if he knew where the deceased was because they could not locate him. Mr Cotterle was advised they would wait awhile to see if the deceased appeared while they were having a few beers, but otherwise they would lock up and leave the premises.

Mr Cotterle confirmed he received a call from Mr Poulton at about 4.00 pm enquiring as to whether he knew of the deceased's whereabouts.<sup>32</sup>

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<sup>32</sup> Ex 1, tab 26

Mr Macer then had to leave the yard. He advised Mr Poulton that if they had not located the deceased they should go ahead and arm up (set the alarms) and leave for the weekend.

Mr Wilson confirmed he walked into the armoury at approximately 4.45 pm on Friday just prior to lock up. The lights were out and he said it was difficult to see inside although he called out to the deceased again as part of looking for him. In evidence Mr Wilson stated the employees of the auctioneers spent approximately half an hour conducting quite a thorough search for the deceased before they locked up.<sup>33</sup>

Mr Poulton said he kept trying to ring the deceased without any response and waited until approximately 5.30 pm in case the deceased returned to the yard. At 5.30 pm Mr Poulton set the alarm system for the entire premises from the front office. The alarm system covered the entire premises and when activated included the sensors which monitored movement in the vicinity of the doors to the armoury shed. Mr Poulton left the premises at about 5.35 pm on 25 February 2011. At that stage no one from the auctioneers had seen the deceased for approximately two hours.

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<sup>33</sup> † 06.02.17, p89

Over the weekend both Mr Cotterle and family members tried to ring the deceased without response.

The alarm was disabled on Saturday by the owner of the premises while he returned to the yard with his son. They did not go down to the vicinity of the armoury but remained elsewhere on site. On leaving the premises they rearmed the alarms before they left.<sup>34</sup> I am satisfied that accounts for the evidence of a passer-by she had seen activity at the premises on the Saturday morning, although there is a discrepancy with the times.<sup>35</sup> There is no evidence the alarms were activated while set.

### ***Monday 28 November 2011***

It was the practice of the employees of the auctioneers to have a meeting at 8 am on a Monday morning to discuss their work schedule. On Monday 28 November Mr Poulton arrived at work and, during the course of the usual staff meeting, it was discussed they would sell one of the operating forklifts while they brought another into service. At the conclusion of the staff meeting Mr Poulton went to the armoury to commence work on the forklift. Mr Wilson assisted him and they checked fuel levels before driving the forklift into the armoury to work on it.<sup>36</sup>

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<sup>34</sup> Ex 1, tab 31

<sup>35</sup> Ex 1, tab 42

<sup>36</sup> Ex 1, tab 32

Mr Wilson started working on the tynes on the forklift, positioned towards the rear centre right of the armoury from the doors. As he worked on the tynes he observed a trail of fluid, which he initially believed to be transmission fluid, with what appeared to be smears on a vehicle parked in his peripheral vision. The fluid trail was dry and he believed it looked more like blood. Mr Poulton responded that he thought it was probably transmission fluid from a Mercedes parked nearby. The Mercedes was to the left of a Toyota. Both vehicles were parked nose in towards the rear of the armoury.

Mr Poulton looked under the Mercedes, but could see it wasn't leaking, so he walked back to the trail and followed the trail which went between the two cars. He followed it around the front of the Toyota and saw ahead of him the shoes and legs of a person lying on their side but more face-down, in between the stacked tyres. Mr Poulton was very distressed and ran out of the front of the armoury to call the director of the premises.

Mr Wilson followed the trail of blood, which he saw started just inside the armoury doors for approximately 15 metres towards the right rear side. He noticed, between two large tyres, the body of the deceased lying on the floor in a large pool of blood. Mr Wilson stated the area in which the deceased was located was not visible from the front roller

door of the armoury because it was behind the parked vehicles and among the stacked tyres in a dark location.<sup>37</sup>

In evidence Mr Wilson believed the body of the deceased had been more towards the centre of the armoury, but on observing the forensic photographs<sup>38</sup> agreed the deceased was in the position as depicted in the photographs, which he believed was more towards the centre right of the armoury than the rear right of the armoury. It became clear there was some confusion due to the movement of vehicles and tyres during the course of the later investigation, and a general clean up before the photographs were taken.<sup>39</sup>

Mr Wilson did not see that trail of blood on the armoury floor on the afternoon of the Friday when he had looked inside the armoury, but was not in a position to say whether it had been present at that time.<sup>40</sup> He believed it would have been, but unnoticed due to the lighting and a generally dirty floor.

Mr Poulton had noticed the deceased's tools were still in the position they had been in on the Friday when he had noticed him working on the loader, but other than that was very distressed by the whole incident. After giving his statement to the police Mr Poulton left work at lunchtime due to his distress.

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<sup>37</sup> Ex 1, tab 35

<sup>38</sup> Ex 1, tab 9

<sup>39</sup> t 06.02.17, p93

<sup>40</sup> Ex 1, tab 33 & 35, t 6.2.17, p90-91

The deceased was wearing the same clothing as he had been seen in at the auctioneers on the Friday.

The auctioneers contacted the Midland Police and at approximately 9.24 am Midland Detectives attended at the auctioneers. Uniform police were already in attendance. The detectives initial examination of the scene led them to believe the deceased suffered a work place accident due to their observing a wound in the deceased's right elbow. The wound was jagged and they believed it had been caught on a piece of machinery. It was assumed the blood from that wound comprised the trail that led from just in front of the armoury doors towards the rear of the armoury and the deceased's position.

The attending detectives considered the most likely explanation was the deceased had been accidentally locked into the armoury and at some point received a laceration to his elbow area which severed the artery, and due to his being trapped in the armoury was unable to escape and so died due to blood loss. The deceased's mobile phone was located, as was approximately was \$100 worth of cash in his wallet. Apparently the mobile phone was inoperable, although we know it had been used by the deceased at approximately 3.08 pm on the Friday. Due to the Midland detectives' belief it was a work place accident, WorkSafe

were contacted and the file handed to the Coronial Investigation Squad for their completion.<sup>41</sup>

The Inspector for WorkSafe WA commenced his investigation and took a number of photographs on 28 November 2011. These photographs, however, were more from the work place accident aspect, rather than with the thought of a forensic investigation in mind.<sup>42</sup>

There were no close photographs of the blood trail, only an overview to trace the movement of a blood source within the armoury. There was no further forensic investigation of the armoury by police, and on release of the area by WorkSafe, pending the post mortem examination, the area was cleaned by the employees of the auctioneer. Items in the armoury were moved to allow access to the body of the deceased and it is clear the scene was contaminated during the initial process of recovering the deceased's body, as well as the following clean up by staff.

It is usual for a scene of death to be contaminated forensically while locating a deceased and determining whether that person is still alive and the extent of any injuries. However, once it is established a person is dead it is usual for the police to conduct some forensic investigations to assist the coroner with the circumstances of the death.

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<sup>41</sup> Ex 1, tab 8

<sup>42</sup> Ex 1, tab 9

## POST MORTEM REPORT

The post mortem examination of the deceased was undertaken by Dr Clive Cooke, Chief Forensic Pathologist of the PathWest Laboratory of Medicine WA. Dr Cooke was assisted by Dr Hewison and the examination occurred on 30 November 2011.<sup>43</sup>

In evidence Dr Cooke described the steps taken with any body which is received into the State Mortuary to determine the circumstances of the death. All bodies are examined externally, regardless of the suspected circumstances of the death, to ensure the history provided is consistent with the state of the body. Bodies are always examined with the possibility another party may have been involved in the death.<sup>44</sup> Dr Cooke described the deceased's clothing as showing excessive blood staining on the right hand side, consistent with both the lividity (post mortem staining) in the deceased and his position when located in the armoury.<sup>45</sup>

Dr Cooke described the extent of the injury in the deceased's right forearm, on the inside of the elbow, as a deep penetrating stab-like motion, with surrounding hesitation lacerations. Dr Cooke said the main artery had been severed and exsanguination (bleeding) would have been relatively rapid from such a wound and consistent

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<sup>43</sup> Ex 1, tab 4

<sup>44</sup> † 07.02.17, p115

<sup>45</sup> † 07.02.17, p110, Ex 2



with the blood trail starting near the entry of the armoury and moving towards the back of the armoury. Dr Cooke described that wound as a typically self-inflicted wound with the deceased experimenting with a few hesitant cuts before inflicting the main injury. The fact the deceased was left handed was entirely consistent with the wound to the inner right elbow.<sup>46</sup>

Dr Cooke also discovered the deceased had a penetrating injury to his left chest. This had not been noted by police at the scene or prior to the post mortem examination. The stab wound was hidden by the deceased's shirt, although the deceased's shirt did not show signs of a corresponding cut in the fabric. Again Dr Cooke said this was in keeping with normal experience, people who self-inflicted stab wounds to the heart did so via skin contact rather than through clothing. The angle of the stab wound into the deceased's chest was from the bottom left hand side up towards the right through the cartilage in the bottom rib. Again this was a typical injury, when self-inflicted by a left handed person.<sup>47</sup>

Dr Cooke and Dr Hewison could see nothing in the external, or internal examination of the deceased which suggested there had been another person involved in the events which led to the deceased's death. There were no signs the deceased had been involved in a struggle at the time the

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<sup>46</sup> † 07.02.17, p111, Ex 3

<sup>47</sup> † 07.02.17, p111

injuries were inflicted, there were no broken nails, no restraint, defence or other markings which would suggest the deceased had been involved in any type of altercation.

The internal examination of the deceased supported the fact he had suffered from coronary atherosclerosis as originally stated by the deceased's partner.

With respect to the circumstances of the case Dr Cooke was confident it was feasible the deceased had inflicted the elbow injury, while upright at the commencement of the blood trail in the armoury. The blood from that cut, being arterial, would have bled copiously and probably spurted some blood. While it is clear the deceased lost a significant amount of blood, Dr Cooke believed the deceased had made his way to the stack of tyres and once there, lay down in a semi seated position, where he inflicted the chest injury in a stabbing motion from left to right.

Dr Cooke noted the flow of blood by then was minimal, consistent with the extent of the prior bleeding and a small quantity of blood being located internally in the vicinity of the sac around the heart. He state in evidence<sup>48</sup> that on pulling a knife out, one would have expected more blood flow, downwards, if the deceased had been upright. Dr Cooke believed it possible the deceased had removed the knife and flung it away from himself with his left hand. It

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<sup>48</sup> † 07.02.17, p117-118

was possible the deceased, although weakening, would have been able to achieve such a throw.<sup>49</sup>

The pattern of lividity indicated the deceased had keeled over, towards his right, into the position in which he was later located. This position accounted for the markings to the deceased's face which could have been mistaken for bruising had one not understood lividity. Dr Cooke confirmed the trickle of blood he observed, dried on the deceased's chest, was consistent with that position, in that it ran from the stab wound in the chest towards the right side of the deceased's body.

Dr Cooke confirmed the cause of death for the deceased as penetrating injuries to the right arm and chest, which he confirmed in evidence were consistent with the suspicion the injuries were self-inflicted, and due to the lack of other evidence, without the involvement of another party.<sup>50</sup>

## **POLICE INVESTIGATION**

As the result of Dr Cooke's post mortem examination revealing a stab wound to the deceased's chest, the Major Crime Squad became involved in the matter to try and determine the circumstances of the death. In addition, there was some concern as to the location of the weapon

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<sup>49</sup> † 07.02.17, p121

<sup>50</sup> † 07.02.17, p114-115

which had inflicted those penetrating injuries which had not been located in the vicinity of the deceased.

It was clear the incised wound to the chest did not relate to the deceased's work, and the police were investigating the possibility of someone else being involved in the death, particularly in view of the fact the weapon the deceased had used, if indeed it was self-inflicted, had not been located. This was inconsistent with the deceased's self-harming.

At the initial police attendance on 28 November 2011 Detective Senior Constable Mansell had taken some photographs of the scene and the deceased with a digital camera. These were more for the context of the placement of items rather than from a forensic perspective. The red handle referred to in evidence by Mr Banks was photographed on the armoury floor.<sup>51</sup> There was no blood or grease visible on that handle and it is not capable of inflicting the chest injury. It was not forensically tested.<sup>52</sup>

Following the post mortem examination on 30 November 2011 police re-attended the auctioneers yard in an attempt to locate the weapon which had inflicted the incised wound. During the process of searching the armoury many of the items stored there were moved with the assistance of a forklift. Corey Bush from the auctioneers yard assisted the police by moving stacks of tyres in an attempt to search for

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<sup>51</sup> Ex 1, tab 9, photo 4

<sup>52</sup> Ex 1, tab 13

the weapon.<sup>53</sup> Nothing was located and the area was not further forensically examined.

On the morning of 5 December 2011 Mr Bush and Mr Poulton were discussing the events of the previous week. While the suspicion remained the deceased died as the result of a self-inflicted injury, people were still curious as to the location of the knife. Mr Bush understood it may have been possible to throw it some distance as a result of a conversation with one of the detectives. Mr Poulton and Mr Bush went out to the armoury. Mr Poulton searched along the top of the forklifts which were parked on the right hand side of the armoury towards the front, while Mr Bush went down the left side of the armoury, following along the wall on top of some rolls of wire. As he searched that area towards the left, he saw a knife lying between two grooves in the rolls of iron wire. The point of the blade was facing the left side wall.<sup>54</sup>

The knife was approximately 20cm in length and was a Wiltshire brand dark handled knife. Mr Bush noted the top third of the blade appeared to have dried blood on it. Mr Bush had never seen that type of knife in the armoury before.<sup>55</sup> He called out to Mr Poulton. Neither of them touched the knife, but contacted the front office for them to

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<sup>53</sup> † 06.02.17, p70-71

<sup>54</sup> Ex 1, tab 37

<sup>55</sup> † 06.02.17, p72

contact the detectives to return to the scene to seize the knife.

The Midland detectives arrived at approximately 5 pm on 5 December 2011. They observed the knife in situ while waiting for forensic police to arrive. It was at this stage forensic police became properly involved with the investigation.

The forensic report was put together by Sergeant Ian Cornthwaite.<sup>56</sup> A full range of photographs was taken of the scene on 13 December 2011 along with the forensic examination. By this time the scene had been extensively contaminated.<sup>57</sup>

### ***Blood Splatter***

Sergeant Neil Blaver, Forensic police officer, is an accredited blood splatter analyst.<sup>58</sup> He gave evidence of his opinion of the blood spatter at the scene, but observed there were some short comings in his ability to assess the scene and the blood splatter at the scene because he had not attended the scene at a time commensurate with an optimal analysis.

Sergeant Blaver's analysis of the blood splatter relied on photographs taken by the WorkSafe Officer and attending police on 28 November 2011. Those photographs were

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<sup>56</sup> Ex 1, tab 13, t 7.2.17, p128-140

<sup>57</sup> t 06.02.17, p93

<sup>58</sup> Ex 1, tab 12 – t 07.02.17, p141-154

taken as a record, rather than with the science of blood splatter in mind, and consequently there were no close up photographs of the blood splatter. However, Sergeant Blaver was confident of the evidence he did give, and where he was unable to determine matters further, stated so. This was especially the case for the analysis of “*cast off*” blood.

It was Sergeant Blaver’s opinion the deceased had received the injury to the elbow at the commencement of the blood trail, near the entry to the armoury. The blood trail had then moved as the source of the blood, the wound in the elbow, bled. It became more dispersed further into the armoury consistent with the deceased (also Dr Cooke’s observation) having originally had his arm bent and the blood flow causing one trail. Further in, the deceased’s arm had faced down and the blood run off his fingers to make a more splattered trail. There was a pooling of blood about half way along the trail, which indicated the deceased had been stationary there for a while, before continuing in a meandering fashion further into the armoury, between the vehicles around the front of the Toyota and into the area of the tyre stacks. There was also a shoe print from the deceased’s shoe in that area.

Sergeant Blaver believed that approximately two steps from where the deceased was finally located, he had been upright when he plunged the knife into his chest, removed the knife and in one motion flung it away from himself towards the

left of the armoury. Sergeant Blaver believed the initial blood trickle in a perpendicular direction down the chest would have been smudged away by the movement of the deceased's shirt as it fell over the wound. The deceased then collapsed into position between the tyres, where he remained semi-seated for a while, before keeling over onto his right hand side into the blood.<sup>59</sup>

The fact there was significant pooling of blood, with areas in the centre of the pool not being blood stained was consistent with the staining on the deceased's clothing. This indicated the blood had started to congeal at the time the deceased keeled further over onto his right hand side with his head on the concrete.

Sergeant Blaver believed the position of the pool of blood a couple of steps from the deceased's final location was more consistent with him flinging the knife while upright, because in that location, the tyre stack was only two tyres high and easier for him to fling to the far side of the armoury. He believed the large amount of blood trickling in a right hand direction on the deceased was consistent with blood trickle after the deceased had sunk into that position, and that prior blood was located internally, in the heart. Dr Cooke referred to this as a minimal amount of blood remaining.

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<sup>59</sup> † 07.02.17, p152



While Sergeant Blaver's explanation is more conducive with the ability of the deceased to fling the knife the distance he did, approximately 15 metres, Dr Cooke was more sceptical of the deceased administering the stab to the chest while upright and throwing the knife from that position.<sup>60</sup>

Both Sergeant Cornthwaite and Sergeant Blaver believed the ability of the deceased to fling the knife between the tyre stacks from where he was located to have been less likely than from when he was in the vicinity of the lower two tyre stacks, just before where he was located near a pool of blood.

### *Knife*

With respect to the blood on the knife blade it was confirmed the deceased could not be excluded as the source of the blood. There was no blood located on the handle of the knife. Sergeant Cornthwaite said the surface of the handle was plastic and slightly textured and would be unlikely to reveal fingerprints. The handle of the knife had not been tested for grease.

It is likely the deceased's left hand would have been contaminated with both blood and grease as a result of the injuries he had incurred and his prior work on the loader. A partial finger print was located on the blade which again

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<sup>60</sup> † 07.02.17, p117-118

did not exclude the deceased as being the source of the partial fingerprint.<sup>61</sup>

### ***Boot Print***

There was a boot print observed in the blood trail which was consistent with the work boots used by emergency workers and ambulance officers. It had been placed there once the blood was dry and consequently was a print on the blood. It is likely this was left by emergency workers when retrieving the deceased's body. There was no evidence of any prints in the blood trail while still fresh.

### ***Effect of the Forensic Evidence***

The forensic evidence, both positive from the post mortem examination, and negative as to the involvement of any other person in the inflicting of the injuries on the deceased would imply this was a self-inflicted injury. The evidence overall would indicate the deceased had self-harmed, then deliberately suicided.

The fact the sensors in the armoury were not activated in the vicinity of the doors over the weekend would imply the deceased was not moving in the armoury once the alarm was set at approximately 5.30 pm on 28 November 2011. All the forensic evidence leads to the proposition the deceased self-inflicted the forearm injury, and that was

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<sup>61</sup> † 07.02.17, p131

before the alarms were set, because the beginning of the blood trail is near the doors.

The scene, or what there was left of it by the time it was appropriately forensically examined, did not disclose the presence of any other person involved in inflicting the injuries on the deceased, neither had the post mortem examination. There is also the issue of why the deceased did not use his mobile phone to seek help if the injuries were not self-inflicted or the initial injury accidental.

There are, however, a number of issues which are not clarified by the evidence. Not the least of which is why the deceased, having inflicted the wound in his arm and then stabbed himself in the chest, would decide to fling the knife away and not leave it where it fell. More timely forensic investigation while the deceased was still in position and the scene not contaminated may have assisted, but even that is not clear.

### **CONCLUSION AS TO THE DEATH OF THE DECEASED**

I am satisfied the deceased was a 53 year old male involved in various business enterprises which involved him travelling extensively in the Gascoyne area. He effectively had two homes, that in Gingin with his family of origin and that with his partner and their four children at Lake Barlee. It is accepted the deceased and his partner lived separately,

although he visited regularly and obviously spent some time with his partner and children.

There is no indication the deceased had financial concerns which were not manageable once Mr Cotterle was involved in the purchase of equipment towards starting the amethyst mining venture.

I am satisfied that, despite the difficulty with the loader, and possibly issues with respect to the purchase of the loader, there was nothing of such significance it would cause the deceased to end his life.

If he did have concerns, consistent with some of his statements to his partner and Mr Hatch, they were not related to the amethyst mine or purchase of the loader.

It is the case that in cases of suicide one frequently does not find a rational reason for the suicide, because of a lack of information or mental distress. In this particular case there is a lot of information about the deceased which would indicate that despite being possibly paranoid, he was not psychotic.

There is no credible evidence anyone was watching the deceased or would want to harm him. There is some evidence he was owed money, as opposed to owing money,

which may be a motive for foul play, but there is no credible evidence that was a real concern.

I am unable to determine any reason for the deceased to end his life in such a way at that point in time, although acknowledge reasons for suicide are frequently not known.

The discrepancies between the timing of a positive phone call to Mr Cotterle at 3.08 pm and the deceased's disappearance at about 3.30 pm and why he would not use his phone, still working at that time, if the initial injury was accidental are baffling. Why he would leave the loader upon which he had been working idling is also baffling.

The fact the problem with the hand brake of the loader may not have been fully resolved has largely been clarified by M Banks' theory the deceased could have disabled the loader to make sure it could not be moved before he was ready for it to be moved. However, the whole circumstance of the deceased moving into the armoury unseen, and killing himself prior to the place being alarmed at 5.30 pm is unbelievable. And if he did kill himself, his reasons for throwing the knife away from his vicinity are even more questionable.

## **MANNER AND CAUSE OF DEATH**

While the evidence there is points strongly to the deceased self-inflicting his injuries, the circumstances surrounding

events between 3-6 pm on 25 November 2011, in and around the armoury are too confusing for me to be satisfied as to the manner of the deceased's death. I am unable to determine enough of the events to be certain of his intent, if the injuries were both self-inflicted.

I find the cause of the deceased's death was penetrating injuries to the right arm and chest.

However, I make an Open Finding as to the manner of death.

E F Vicker  
**Deputy State Coroner**  
3 May 2017