
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : Michael Andrew Gliddon Jenkin, Coroner
HEARD : 22 JULY 2020
DELIVERED : 18 AUGUST 2020
FILE NO/S : CORC 635 of 2018
DECEASED : STACEY, HAYDEN PAUL

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Counsel Assisting : Fleur ALLEN
Counsel Assisting : Rachel COLLINS
Counsel : Sarah Oliver
Counsel : Edward James Cade

Coroners Act 1996
(Section 26(1))

AMENDED RECORD OF INVESTIGATION INTO DEATH

*I, Michael Andrew Gliddon Jenkin, Coroner, having investigated the death of **Hayden Paul STACEY** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 22 July 2020, find that the identity of the deceased person was **Hayden Paul STACEY** and that death occurred on 27 May 2018 at Peel Health Campus from gunshot injury to the chest in the following circumstances:*

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SUPPRESSION ORDER

There be no reporting or publication of any document (or of the information contained in any document) in Volume 2 of Exhibit 1, that would reveal police policies or training methods in relation to body armour, and/or the capabilities of any replacement Taser system being considered and/or the use of force, including firearms.

INTRODUCTION

1. Hayden Paul Stacey (Mr Stacey) died on 27 May 2018 in a carpark located in Rod Court, Wannanup (the Carpark) from a gunshot wound to the chest. He was 22-years of age.
2. Immediately before his death, Mr Stacey was involved in an incident with police. He had armed himself with a large kitchen knife and refused to drop the weapon despite being repeatedly called on to do so. Police tried unsuccessfully to subdue Mr Stacey with their Tasers on three separate occasions.
3. Mr Stacey then advanced on one of the police officers, still armed with a knife and was shot once in the chest. He was taken to Peel Health Campus (PHC) by ambulance, but he could not be revived. Ms Stacey was declared deceased at 1.05 am on 27 May 2018.
4. Pursuant to the *Coroners Act 1996* (WA) (the Coroners Act), Mr Stacey's death was a "*reportable death*".¹ Further, because his death may have been caused by a member of the Western Australian Police Force (the Police), a coronial inquest was mandatory.² On 22 July 2020, I held an inquest into Mr Stacey's death which members of his family attended. The following witnesses gave oral evidence:
 - i. Sergeant Harry Russell (Officer Russell), attending police officer;
 - ii. Constable Lucinda Boon (Officer Boon), attending police officer;³
 - iii. Det. Sergeant Robert Martin (Officer Martin), Homicide Squad;
 - iv. Det. Sergeant Dion Selby (Officer Selby), Internal Affairs Unit; and
 - v. Mr Chris Markham, (Mr Markham), use of force expert.
5. The documentary evidence adduced at the inquest included reports prepared by the Police,^{4,5,6} witness statements, police policy, training and other documents. Together, the Brief comprised two volumes. The inquest focused on the circumstances surrounding Mr Stacey's death and the role of the Police in his death.

¹ Section 3, *Coroners Act 1996* (WA)

² Section 22(1)(b), *Coroners Act 1996* (WA)

³ At the relevant time, Officer Boon was a probationary constable, having completed initial training in June 2017

⁴ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report

⁵ Exhibit 1, Vol. 1, Tab 8, Report - Internal Affairs Unit

⁶ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham

MR STACEY

Background⁷

6. Mr Stacey was born in Perth on 11 June 1995 and was raised in what was described as a “*dysfunctional household*”.⁸ He lived with his mother and younger brother until he was about 17-years of age and then moved to Wundowie to live with his father briefly. Later, he moved in with his maternal grandparents. Mr Stacey had been employed as a brick paving labourer and had partly completed an apprenticeship as a carpenter. He was described as reliable and hard working.⁹
7. Mr Stacey was reported to binge drink alcohol occasionally and to have experimented with illicit drugs, including methylamphetamine and cannabis. He told his maternal step-grandfather that he liked how methylamphetamine made him feel when he injected it. There were reportedly periods where Mr Stacey abstained from illicit drugs for months, and other times where he would use illicit drugs for several weekends in a row.¹⁰
8. According to Mr Stacey’s criminal history, he accumulated 21 convictions prior to his death, including one conviction for aggravated burglary and various convictions for drug and fraud-related offences. He was sentenced to various periods of suspended imprisonment for these offences and was remanded in custody on several occasions, including from 22 May - 15 August 2014.^{11,12,13}
9. After he was released from prison, Mr Stacey lived with his maternal grandparents and pursued his long-term goal of joining the Australian Army. Although he embarked on the recruitment process he was told that because of his criminal record, he would have to reapply for enlistment in 10 years. Mr Stacey is said to “*have dropped his bundle*” after this “*major knock back*”.¹⁴

⁷ Exhibit 1, Vol. 1, Tab 7, Report - Homicide Squad Report, pp1-2

⁸ Exhibit 1, Vol. 1, Tab 1, P100 - Report of Death

⁹ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 1-29

¹⁰ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 33-38

¹¹ Email to the Court from Ms T Palmer, Department of Corrective Services (06.08.20)

¹² Criminal Record, (printed 10.06.20)

¹³ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 33-38

¹⁴ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 43-49

10. As a result of increasing unreliability, Mr Stacey's employer cancelled his apprenticeship as a carpenter. Mr Stacey was said to have started drinking alcohol to excess and using illicit drugs from around this time. As a result of this behaviour, he was asked to leave his maternal grandparent's home "*for a while*".¹⁵
11. Mr Stacey last saw his maternal grandparents about two months before his death. At that time, he seemed to "*be back on track*" and was renting a room in a house on Richview Ramble in Wannanup.
12. Mr Stacey had helped his step-grandfather with some gardening and the family had then gone out to dinner. As a result of this apparent change in Mr Stacey's demeanour, he was told he was welcome to return to his maternal grandparent's home at any time.¹⁶

¹⁵ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 50-55

¹⁶ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 56-59

EVENTS LEADING TO MR STACEY'S DEATH

*Background*¹⁷

13. On Saturday, 26 May 2018, Officer Russell and Officer Boon (the Officers) were working a night shift at the Mandurah Police Station. Officer Boon was a probationary constable, and had completed her initial employment training in June 2017. Officer Russell was a very experienced officer and had been a member of the Police for 39 years. In one of his postings as “Training Sergeant”, he had delivered critical skills training, including the use of force.^{18,19}
14. The Officers were allocated two “*suspicious person*” reports. The first report, received at 11.35 pm, was from a female caller who said a man had attended her home on Richview Ramble in Wannanup on three occasions asking for someone she didn’t know called “*Ross*”.^{20,21,22}
15. Mr Stacey was renting a room in a house on Richview Ramble in Wannanup at the time, and it is possible that he was the person of interest. However, CCTV footage from adjacent premises was too indistinct to confirm this.^{23,24}
16. At about 11.42 pm, whilst they were on their way to Richview Ramble, the Officers received a further report of a man armed with a knife at a café near the Port Bouvard Bridge. This information related to a call to emergency services by a male caller from a public phone box located in a carpark in Rod Court in Wannanup (the Carpark).^{25,26} The male caller sounded intoxicated and was mumbling the name of a nearby café. It was later established that the caller was Mr Stacey.^{27,28}

¹⁷ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, p2-3

¹⁸ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 4-10 and ts 22.07.20 (Boon), pp70-73

¹⁹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 4-12 and ts 22.07.20 (Russell), pp11-13

²⁰ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 11-14 and ts 22.07.20 (Boon), p73

²¹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 13-14 and ts 22.07.20 (Russell), pp14-16

²² Exhibit 1, Vol. 1, Tab 21, Statement – Ms A Marshall, paras 4-39

²³ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, p16 and ts 22.07.20 (Martin), pp114-115

²⁴ ts 22.07.20 (Selby), pp121-122

²⁵ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 15-18 and ts 22.07.20 (Boon), pp73-79

²⁶ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 15-18 and ts 22.07.20 (Russell), pp16-18

²⁷ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 69-71

²⁸ Exhibit 1, Vol. 1, Tab 8.1, Police incident report (26.05.18)

17. The Officers proceeded to the Carpark on a priority two basis. On the way, Officer Boon heard another police car offer to assist by way of backup because of the mention of a knife. However, the offer of support was declined by the Police Operations Centre (POC).^{29,30}

*Police attend Rod Court*³¹

18. The Officers arrived at the Carpark just after midnight on Sunday 27 May 2018. They located the public phone box from which it was thought the second call to the Police had been made, but saw no one in the area. The Officers then drove to Richview Ramble and spoke with the female caller who had made the first report, before they drove back to the Carpark.^{32,33}

19. On returning to the Carpark, the Officers saw Mr Stacey standing near a public telephone box. This area is close to the Dawesville Channel, the Port Bouvard Bridge (the Bridge) and a pedestrian walkway which goes under the Bridge (the Underpass). At the time, Mr Stacey was wearing trousers and a dark grey jacket.^{34,35,36}

*Police confront Mr Stacey*³⁷

20. Officer Russell pulled the police car up near to where Mr Stacey was standing, and spoke to him through the open driver's window. He asked Mr Stacey for his name and what he was doing, but Mr Stacey said: "*What do you want to know for*" and walked off. Officer Russell believed Mr Stacey was the person described in the second report because he had been standing close to the public phone box when the Officers first saw him.^{38,39}

²⁹ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 19-21 and ts 22.07.20 (Boon), pp77-79

³⁰ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 19-20 and ts 22.07.20 (Russell), p17

³¹ Exhibit 1, Vol. 1, Tab 7, Squad Report, p3

³² Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 22-34 and ts 22.07.20 (Boon), pp80-81

³³ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 19-38 and ts 22.07.20 (Russell), pp17-19

³⁴ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 35-38 and ts 22.07.20 (Boon), p81

³⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 39-42 and ts 22.07.20 (Russell), p19

³⁶ See Google Maps at: <https://goo.gl/maps/nWjmhG6L5yseQceJ6>

³⁷ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, p3

³⁸ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 39-42 and ts 22.07.20 (Boon), p81

³⁹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 43-50 and ts 22.07.20 (Russell), p19

21. The Officers noticed that Mr Stacey was holding a small silver “*Leatherman*” style knife in his left hand. Officer Russell asked Mr Stacey why he was carrying a knife and he replied: “*I brought the knife down so I can get a gun to shoot myself*”. Mr Stacey continued to walk away from the police vehicle but then he walked in front of the car, and Officer Russell stopped the vehicle.^{40,41}
22. Mr Stacey then continued walking away from the Officers towards the Bridge. He ignored requests from the Officers for his personal details and appeared evasive and agitated. Officer Russell was concerned that because Mr Stacey had a knife, he might walk to the underpass and encounter people fishing in that area. Given his behaviour, the Officers both considered that Mr Stacey should be detained under the *Mental Health Act 1996 (WA)* for an assessment.^{42,43}
23. Officer Russell manoeuvred the police car so that it was between Mr Stacey and the Bridge. However, despite Officer Russell’s repeated attempts to engage with Mr Stacey and get him to put the knife down, Mr Stacey ignored him and continued walking towards the underpass. The Officers noticed that Mr Stacey was behaving strangely and stopped and mumbled something before walking away again.^{44,45}
24. Because she had successfully negotiated with some non-compliant males earlier in the shift, Officer Boon felt she would be able to deal with Mr Stacey. She got out of the passenger seat of the police car and walked to the rear of the vehicle, and began interacting with Mr Stacey. Officer Boon stood about five metres away from Mr Stacey, and although she asked him for his name and told him several times to put the knife down, he ignored her. Meanwhile, Officer Russell got out of the police car and moved into a defensive position.^{46,47}

⁴⁰ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 43-52 and ts 22.07.20 (Boon), pp81-82

⁴¹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 50-57 and ts 22.07.20 (Russell), pp20-22

⁴² Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 53-55 & 69 and ts 22.07.20 (Boon), pp82-84

⁴³ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 50-55 & 91 and ts 22.07.20 (Russell), pp22-24

⁴⁴ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 56-70 and ts 22.07.20 (Boon), pp84-85

⁴⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 56-60 and ts 22.07.20 (Russell), p24

⁴⁶ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 71-81 and ts 22.07.20 (Boon), pp85-87

⁴⁷ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 61-64 and ts 22.07.20 (Russell), pp25-26

25. Mr Stacey took a few steps towards Officer Boon and when he was about four metres away from her, she drew her Taser. Officer Boon took this action because she believed she was at imminent risk of serious injury. On seeing the Taser, Mr Stacey laughed and said words to the effect of: “*Use the other one, do your job properly*”, which the Officers took to be a reference to Officer Boon using her police pistol.^{48,49}
26. Officer Boon pointed her Taser at Mr Stacey, and she and Officer Russell ordered him to drop his knife. Mr Stacey did so and Officer Russell picked it up. Officer Boon looked at Officer Russell momentarily and when she looked back at Mr Stacey, he had armed himself with a black handled kitchen knife with a 30 cm blade (the Knife). It is unclear where the Knife came from, but it seems likely that it was concealed on Mr Stacey’s person.^{50,51}
27. There are differing accounts as to how Mr Stacey was holding the Knife at this stage. Officer Russell said Mr Stacey was holding the Knife above his head, whilst Officer Boon said it was by Mr Stacey’s side. Either way, Mr Stacey had the Knife in his right hand and was refusing to drop it, despite being ordered to do so by the Officers. Mr Stacey was also saying: “*Do your job properly*”, which reinforced in Officer Russell’s mind, the possibility that Mr Stacey had mental health issues and that he wanted to be shot by police.^{52,53}
28. Officer Boon believed the lives of herself and Officer Russell were at imminent risk. She considered force options including her baton, OC spray and empty hand tactics, but decided that none of these options would be effective against the Knife. For that reason, she discharged her Taser towards the front of Mr Stacey’s body. Officer Russell said that the Taser was an appropriate force option in this situation and that Officer Boon had acted in accordance with her training.^{54,55}

⁴⁸ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 82- 87 and ts 22.07.20 (Boon), pp87-88

⁴⁹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 65-70 and ts 22.07.20 (Russell), pp27-28

⁵⁰ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 88-94 and ts 22.07.20 (Boon), p88-89

⁵¹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 71-74 and ts 22.07.20 (Russell), pp28-29 & 61-62

⁵² Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 95-98 and ts 22.07.20 (Boon), pp83, 89 & 98

⁵³ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 75-78 and ts 22.07.20 (Russell), p29-31

⁵⁴ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 99-103 and ts 22.07.20 (Boon), pp92-93

⁵⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 67-68 & 80-82 and ts 22.07.20 (Russell), pp27-28

29. Officer Boon's intention was to incapacitate Mr Stacey, handcuff him and take him into custody for a mental health assessment. However, the Taser had no apparent effect and Mr Stacey remained in control of the Knife. It appears that one of the Taser probes struck Mr Stacey's jacket whilst the other bounced off. The Officers continued to order Mr Stacey to put down the Knife, but he ignored them and merely laughed.^{56,57}
30. As Mr Stacey continued walking towards her, Officer Boon backed away around the police car. Officer Russell determined that Mr Stacey continued to pose an imminent threat so he told Mr Stacey: "*I've got my Taser out, stop moving, drop the knife, don't come any closer*". Mr Stacey continued to move towards Officer Boon with the Knife and his eyes seemed glazed. Officer Boon described Mr Stacey's laugh when he was told to put down the Knife as "*psychotic*".^{58,59}
31. Officer Russell then fired his Taser at the front of Mr Stacey's body. Although Officer Russell was sure that both Taser probes hit Mr Stacey, the Taser had no apparent effect. Officer Russell thought Mr Stacey may be wearing some form of body armour and he said: "*You are wearing a vest aren't you*". Mr Stacey was laughing and grinning as he continued walking towards Officer Boon holding the Knife. Officer Russell then moved behind him and fired his Taser again, this time into the back of Mr Stacey's body. For the third time, the Taser had no obvious effect.^{60,61}

Mr Stacey is shot⁶²

32. Mr Stacey continued to advance towards Officer Boon with the Knife as she slowly backed away. She called on Mr Stacey to drop the Knife but he ignored her. Officer Boon was obviously aware that three Taser deployments had been unsuccessful, and fearing for her life, she drew her police pistol.^{63,64}

⁵⁶ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 104-112 and ts 22.07.20 (Boon), p89-90

⁵⁷ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 83-84 and ts 22.07.20 (Russell), p31

⁵⁸ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, para 113 and ts 22.07.20 (Boon), p89

⁵⁹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 85-88 and ts 22.07.20 (Russell), pp31-32

⁶⁰ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 114-119 and ts 22.07.20 (Boon), p90

⁶¹ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 89-102 and ts 22.07.20 (Russell), pp32-37

⁶² Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, pp3-4

⁶³ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 120-128 and ts 22.07.20 (Boon), pp90-91

⁶⁴ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, para 103-104 & 107 and ts 22.07.20 (Russell), pp38-39

33. Meanwhile, Officer Russell discarded his Taser and armed himself with a baton. Officer Russell's reasoning was that if Mr Stacey dropped the Knife and the situation de-escalated, he would have a non-lethal force option available with which to subdue Mr Stacey. Officer Russell considered using OC spray, but decided this would be ineffective because of the windy conditions.⁶⁵
34. Officer Boon continued to shout at Mr Stacey to drop the Knife, but he ignored her. She made him aware that she had drawn her police pistol and shouted words to the effect of: "*If you don't drop the knife I will shoot you*". Mr Stacey responded by saying: "*Do your job, come on then*".^{66,67}
35. Officer Boon was continuing to shout at Mr Stacey to drop his knife as she backed away towards a curb and the wall the police car was parked in front of. Officer Russell saw her stop just short of the curb and "*plant her feet*". Instead of dropping the Knife, Mr Stacey either lunged or moved quickly towards Officer Boon and came within about three metres of her. Officer Boon aimed her police pistol at the "*centre of seen mass*"⁶⁸ and fired one round. The bullet struck Mr Stacey in the chest and he fell to the ground.^{69,70}

*The aftermath of Mr Stacey's shooting*⁷¹

36. As Mr Stacey fell to the ground he rolled onto his side. Officer Boon re-holstered her police pistol and used her radio to request the urgent attendance of an ambulance and for urgent police backup. Initially, Mr Stacey was breathing and did not appear to be bleeding. However, he appeared to stop breathing and after Officer Russell poked his fingers into his throat, Mr Stacey's breathing resumed. Meanwhile, Officer Boon was trying to reassure Mr Stacey by saying: "*Stay with us*".^{72,73}

⁶⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 105-106 & 110-111 and ts 22.07.20 (Russell), pp38-41

⁶⁶ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 129-130 and ts 22.07.20 (Boon), p91

⁶⁷ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 112-117 and ts 22.07.20 (Russell), pp39-42

⁶⁸ See: ts 22.07.20 (Markham), p136: Officers are trained to fire at the centre of the largest target they can see

⁶⁹ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 131-140 and ts 22.07.20 (Boon), pp91 & 99

⁷⁰ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 118-125 and ts 22.07.20 (Russell), pp42-43 & 62-63

⁷¹ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, p4

⁷² Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 141-154 and ts 22.07.20 (Boon), pp91-92

⁷³ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 132-145 & ts 22.07.20 (Russell), pp43-44, 62-63 & 68

37. The Officers did not have access to trauma packs that contain large dressings, tourniquets and other useful equipment so they used their smaller “*personal*” first aid kits instead. I will say more about this issue later in this Finding, but in any case, before Officer Russell could apply any bandages, additional police arrived and took over Mr Stacey’s care.^{74,75}
38. Ambulance officers arrived shortly afterwards and provided first aid to Mr Stacey, before taking him to PHC by ambulance. Despite resuscitation efforts, Mr Stacey could not be revived and he was declared deceased at 1.05 am.^{76,77,78,79,80}

Mr Stacey’s mental state

39. According to his maternal step-grandfather, during the time Mr Stacey stayed at his house, there were days when Mr Stacey was “*very depressed*”. However, he did not think that Mr Stacey would have been able to take his own life. Mr Stacey’s maternal step-grandfather speculated that because of the people Mr Stacey associated with and the movies he enjoyed watching: “*being shot by police might have been something [Mr Stacey] was capable of thinking about, due to his depression*”.⁸¹
40. Mr Stacey had called emergency services from a public phone box to report that there was an armed man (i.e.: himself) behaving strangely at the location he was later discovered at. In my view, this is significant and is evidence of disordered thinking. During his interactions with the Officers, Mr Stacey’s behaviour appeared to indicate that he was experiencing some form of mental health issue.
41. Mr Stacey also made several comments to the Officers that could be construed as indicating either, that he was extremely agitated, or perhaps that he was displaying some form of suicidal intent.

⁷⁴ ts 22.07.20 (Boon), pp99-100

⁷⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 143-146 and ts 22.07.20 (Russell), p63

⁷⁶ Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 155-160 and ts 22.07.20 (Boon), pp91-92 & 99-100

⁷⁷ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 146-153 and ts 22.07.20 (Russell), p44 & p63

⁷⁸ Exhibit 1, Vol. 1, Tab 25, Statement - Mr B Moore, paras 3-49 & Tab 25A SJA Patient Care Record (27.05.18)

⁷⁹ Exhibit 1, Vol. 1, Tab 26, PHC Emergency Department Records

⁸⁰ Exhibit 1, Vol. 1, Tab 8.3, PHC Death in Hospital Form (27.05.18)

⁸¹ Exhibit 1, Vol. 1, Tab 24, Statement - Mr P Stacey, paras 62-64

42. Mr Stacey's comments included:

- a. *"I brought the knife down so I can get a gun to shoot myself"*
Mr Stacey's reply when asked why he was holding a knife;
- b. *"Do your job, come on then"*
Mr Stacey's comment to Officer Boon when she drew her Taser; and
- c. *"Use the other one, do your job properly"*
Mr Stacey's comment to Officer Boon when she drew her Taser, and possibly an attempt to goad her into using her pistol.

43. Officer Boon and Officer Russell took these comments to indicate that Mr Stacey needed a mental health assessment and that he may be contemplating what is colloquially termed, *"suicide by cop"*.^{82,83}

44. However, there is no evidence that Mr Stacey had ever been diagnosed with depression or had ever expressed any suicidal thoughts. In fact, the available evidence is to the contrary. Documents from the medical centre that Mr Stacey attended on a few occasions, record a consultation with his GP on 23 October 2015. On that occasion, Mr Stacey was prescribed a low dose of the anti-psychotic medication, *Seroquel* (quetiapine) and his GP made the following entry in the notes:

Was in jail in past, has a lot of anger issues, was on Seroquel when in there which used to help. Says [he] is struggling at the moment, finds himself flying off the handle, little things can set him off. Not depressed or anxious, but afraid of what he might do if he gets too angry and does not want to end up in jail.⁸⁴

45. On 22 January 2016, Mr Stacey saw his doctor again and reported that he was taking 100 - 150 mg of Seroquel, mainly at night and that the medication was *"mostly helping"* his anger. However, Mr Stacey reported that he had *"lost it"* the previous week with a man who was annoying him and hit the man *"with a brick"*.⁸⁵

⁸² Exhibit 1, Vol. 1, Tab 9, Statement - Const. L Boon, paras 45, 55, 69 & 87 & ts 22.07.20 (Boon), pp82-84

⁸³ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 70 & 91 & ts 22.07.20 (Russell), pp45, 52 & 62

⁸⁴ Exhibit 1, Vol. 1, Tab 8.29, Medical Centre Records (23.10.15)

⁸⁵ Exhibit 1, Vol. 1, Tab 8.29, Medical Centre Records (22.01.16)

46. In the notes for the 22 January 2016 consultation, the GP states that Mr Stacey was taking Seroquel for anger management and had denied any self-harm or suicidal ideation. Mr Stacey also self-reported using methylamphetamine intravenously, and his GP discussed a referral to a support service.⁸⁶
47. As Ms Oliver (counsel for Mr Stacey’s mother) pointed out, Mr Stacey’s maternal step-grandfather had no medical qualifications and his description of Mr Stacey having been “*depressed*” for lengthy periods, was a layperson’s assessment. Ms Oliver also pointed out that Mr Stacey had never been formally diagnosed with depression, and as I have observed, he had previously denied any suicidal ideation.⁸⁷
48. I have concluded that at the time Mr Stacey interacted with the Officers, he was having some form of mental health crisis that affected his speech, behaviour and ability to make rational decisions. The nature of that mental health crisis is unclear, but it is possible that Mr Stacey was experiencing a form of drug-induced psychosis.
49. Notwithstanding my conclusion about Mr Stacey’s mental state at the relevant time, after carefully considering the available evidence, I have been unable to conclude that Mr Stacey was actively suicidal at the time he interacted with the Officers, or that he had intended to place himself in a position where the Officers would be obliged to shoot him.

Issues related to Taser deployment

50. The Taser is a hand-held weapon that fires two small barbed electrodes attached to wires that make close contact with the skin of the offender. The electrodes then deliver an electric current to the offender that is designed to cause “*neuromuscular incapacitation*” and thereby subdue the person. As such, the Taser provides the Police with a valuable non-lethal force option.^{88,89}

⁸⁶ Exhibit 1, Vol. 1, Tab 8.29, Medical Centre Records (22.01.16)

⁸⁷ ts 22.07.20 (Oliver), pp111-114 & 154-157

⁸⁸ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 112-137

⁸⁹ ts 22.07.20 (Markham), pp126-128

- 51.** In this case, the Officers attempted to subdue Mr Stacey by deploying their Tasers on three occasions (once by Officer Boon and twice by Officer Russell). Based on downloads from the Tasers used by the Officers, the time interval between the first and third deployments was less than one minute. None of these deployments were successful and this may be because the baggy clothing Mr Stacey was wearing prevented the Taser probes from making contact with his skin.^{90,91}
- 52.** To be effective, a Taser's probes must come within 25 mm of the offender's skin. Where that distance is greater, the requisite electrical charge is not delivered. Where the contact between the probe and the offender's skin is intermittent (e.g.: where the probe attaches to the offender's baggy clothing and only contacts the skin when the offender moves), only partial incapacitation may result.⁹²
- 53.** Police are currently considering a new Taser to replace the current model, which has been in service since 2014. The proposed replacement Taser is semi-automatic, meaning that police officers would not have to reload new cartridges between deployments.⁹³
- 54.** There are other advantages. The proposed replacement offers a greater ability to penetrate clothing and is capable of delivering an increased electrical current. The new model is also able to deliver charges to three probes, in the event that a previous deployment is only partially successful and it also connects with the officer's body worn camera and turns the camera on when the Taser is removed from its holster.⁹⁴
- 55.** Clearly, anything that can be done to remove the need to use lethal force is of benefit to the community generally, and to the Police more specifically. Given the operational advantages offered by the new Taser under consideration, and given the fact that it is almost seven years since the previous model was introduced, I urge the Police to give urgent consideration to adopting the proposed new model.

⁹⁰ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 262 & 337 and the Table at p39

⁹¹ ts 22.07.20 (Markham), p127-128 & 143-144

⁹² ts 22.07.20 (Markham), pp143-145

⁹³ Exhibit 1, Vol. 2, Tab 1.5, Summary of benefits of proposed new Taser and ts 22.07.20 (Markham), p137

⁹⁴ ts 22.07.20 (Markham), pp137-138 & 145-146

Trauma packs

56. Since Mr Stacey's death, police have progressively been provided with body armour to wear whilst on duty. Accompanying this equipment are trauma packs which contain a range of first aid items designed to treat serious injuries, including gunshot wounds.^{95,96,97}
57. In addition to being issued with this equipment, police have been given trauma first aid training, in order to ensure they are properly equipped to be able to effectively use the contents of the trauma packs. In my view, this is a welcome development and should enhance the safety of both police officers and the people they interact with.

Body-worn cameras

58. A related issue is the fact that police are now issued with body-worn cameras, which record relevant interactions between police and others. I am confident that these devices will also improve the safety of police.⁹⁸
59. In this case, there is at least the possibility that had body-worn cameras been available at the time of Mr Stacey's death, the trajectory in this case may have been different. There is evidence that on some occasions when police have advised an agitated person they are dealing with that the interaction is being recorded by a body-worn camera, the person has calmed down.⁹⁹
60. There is a further benefit to the use of body-worn cameras by police. In the event of a dispute about what occurred during an interaction with police, footage from the body-worn camera provides an independent record of the interaction that can hopefully resolve any dispute about what actually occurred.¹⁰⁰

⁹⁵ Exhibit 1, Vol. 2, Tab 1.1, Body Armour Project - Update

⁹⁶ ts 22.07.20 (Russell), pp47-48 and ts 22.07.20 (Boon), pp99 & 102

⁹⁷ ts 22.07.20 (Markham), pp139 & 140-141

⁹⁸ Exhibit 1, Vol. 2, Tab 1.2, Body worn cameras - Update

⁹⁹ ts 22.07.20 (Russell), p46

¹⁰⁰ ts 22.07.20 (Markham), pp138 & 142

USE OF FORCE¹⁰¹

Criminal Code

- 61.** At the relevant time, the Officers intended to arrest Mr Stacey and for the purposes of an assessment under the *Mental Health Act 1996* (WA). The *Criminal Code* authorises the Police to use force while effecting an arrest.¹⁰² However, in any case where the use of force by a police officer is lawful, the use of more force than is justified, is unlawful.¹⁰³
- 62.** A harmful act, including the killing of another, is lawful if the act is done in self-defence. An act is done in self-defence if:
- (a) the person believes the act is necessary to defend the person or another person from a harmful act, including a harmful act that is not imminent; and
 - (b) the person's harmful act is a reasonable response by the person in the circumstances as the person believes them to be; and
 - (c) there are reasonable grounds for those beliefs.¹⁰⁴
- 63.** In this case, Mr Stacey was threatening Officer Boon with a large edged weapon. Despite being repeatedly told to put the weapon down, he refused to do so. Further, Mr Stacey continued to advance on Officer Boon, who was backing away defensively.
- 64.** It appears that a person in Mr Stacey's position can cover a distance of seven metres in about 1.5 seconds. That would mean that when Mr Stacey either lunged at, or moved more quickly towards Officer Boon, there was a very real possibility that he could have seriously injured, or even killed her.^{105,106}

¹⁰¹ See generally: Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 41-110

¹⁰² Criminal Code, section 231

¹⁰³ Criminal Code, section 260

¹⁰⁴ Criminal Code, section 248(4)(a)-(c)

¹⁰⁵ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 126-127 & 131 and ts 22.07.20 (Russell), pp43 & 62

¹⁰⁶ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 262 & 337 and ts 22.07.20 (Markham), pp134

65. The Officers considered lesser force options and had attempted to subdue Mr Stacey with non-lethal force, namely their Tasers. Given Mr Stacey's behaviour, Officer Boon was entitled to believe that her life was at grave and imminent risk. In my view, her decision to discharge her police pistol was reasonable in the circumstances.¹⁰⁷

*Police Manual*¹⁰⁸

66. The Police Manual deals with the circumstances in which force options may be used by police officers. Force options available to general duty officers include: the baton, OC spray,¹⁰⁹ the Taser and a pistol.¹¹⁰ I made a Suppression Order in relation to the police policies that were tendered into evidence in this matter, including policies relating to the use of force and the use of firearms. Therefore, I do not intend to detail the relevant provisions of those policies.

67. As I have already observed, at the time she discharged her police pistol and shot Mr Stacey, Officer Boon had reasonable grounds to believe there was an imminent risk to her own life. In accordance with the relevant provisions of the Police Manual, I am satisfied that the Officers considered less lethal force options including a baton and OC spray.

68. Neither the baton or OC spray were appropriate given Mr Stacey was armed with a large knife and the area of operations was open and windy. As I have explained, the Officers deployed Tasers against Mr Stacey on a total of three occasions, but none of those attempts to subdue him were successful.

69. Having carefully considered all of the available evidence, I am satisfied that the use of lethal force by Officer Boon was justified by the circumstances she was faced with and was in accordance with the relevant provisions of both the *Criminal Code* and the Police Manual. In this respect, I agree with the conclusions reached in the reports by the Homicide Squad and the Internal Affairs Unit (IAU) respectively.^{111,112}

¹⁰⁷ See also: Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 355-357

¹⁰⁸ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 41-91 & ts 22.07.20 (Markham), pp125-128 & 131-133

¹⁰⁹ Oleoresin capsicum is the oil derived from the stem of peppers, hence the colloquial term "pepper spray"

¹¹⁰ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, paras 41-91 and ts 22.07.20 (Markham), pp125-126

¹¹¹ Exhibit 1, Vol. 1, Tab 7, Homicide Squad Report, p20

¹¹² Exhibit 1, Vol. 1, Tab 8, IAU Report, p32 & p33 and see also: ts 22.07.20 (Markham), pp133-136

CAUSE AND MANNER OF DEATH

*Post Mortem Examination*¹¹³

70. A forensic pathologist, (Dr Clive Cooke), conducted a post mortem examination of Mr Stacey's body on 29 May 2018 and noted changes related to resuscitation attempts. Dr Cooke also found a gunshot injury to the left side of Mr Stacey's chest, with the entry point just below his left nipple. There was internal bleeding associated with injuries to Mr Stacey's heart, diaphragm, liver, stomach, spleen and left kidney and the bullet was retrieved from beneath the skin on the left side of the back of his chest.
71. Dr Cooke found minor abrasions and bruises to the knuckles of both of Mr Stacey's hands, a small abrasion on his right shin and a small puncture type wound to the skin of the left front of his chest, which may have been a Taser wound. There was no evidence of natural disease and specialist examination of Mr Stacey's brain found no relevant abnormalities.¹¹⁴
72. Toxicological analysis showed that Mr Stacey had a blood alcohol level of 0.081% and a urine alcohol level of 0.118%.¹¹⁵ He also had a level of tetrahydrocannabinol (cannabis) in his blood that may have caused impairment, especially in association with alcohol.¹¹⁶ The higher alcohol level in Mr Stacey's urine may indicate that he had stopped drinking sometime prior to his death and that his body had started to breakdown the alcohol in his body and concentrate it in his urine.¹¹⁷

*Cause of Death*¹¹⁸

73. At the conclusion of the post mortem examination, Dr Cooke expressed the opinion that the cause of Mr Stacey's death was a gunshot injury to the chest. I accept and adopt Dr Cooke's conclusion and given the circumstances, I find that the manner of Mr Stacey's death was homicide by way of self-defence.

¹¹³ Exhibit 1, Vol. 1, Tab 4, Post Mortem Report, p7 & Tab 4, Supplementary Post Mortem Report, p1

¹¹⁴ Exhibit 1, Vol. 1, Tab 6, Neuropathology Report & Exhibit 1, Vol. 1, Tab 4, Post Mortem Report

¹¹⁵ Exhibit 1, Vol.1, Tab 5, ChemCentre Report

¹¹⁶ Table prepared by Prof. David Joyce, Physician and Clinical Toxicologist (undated)

¹¹⁷ See: <http://www.clinlabnavigator.com/alcohol-urine.html>

¹¹⁸ Exhibit 1, Vol. 1, Tab 4, Supplementary-Post mortem report, p1

INVESTIGATIONS INTO POLICE ACTIONS

Homicide Squad investigation

74. Officers from the Homicide Squad conducted an investigation into Mr Stacey's death. They examined various items of physical evidence and obtained statements from the Officers, attending paramedics, police and civilian witnesses. The investigation concluded that there was no criminality in relation to Mr Stacey's death.¹¹⁹

Internal Affairs Unit investigation

75. In accordance with Police policy, following Mr Stacey's death, the IAU examined Officer Boon's conduct during the incident. The issue under investigation was framed in the following terms:

On 27 May 2018 in Wannanup, did [Officer Boon] use unnecessary force when dealing with [Mr Stacey] in contravention of *Regulation 609, Police Force Regulations 1979*.¹²⁰

76. Neither Officer Boon nor Officer Russell were interviewed by officers from the IAU, but they were interviewed by officers from the Homicide Squad. There was extensive collaboration between the IAU and the Homicide Squad,¹²¹ and I agree with the conclusion of the IAU investigator that:

Making the officers re-live the event for no identified reason would not further the investigation and could cause unnecessary anxiety or distress.¹²²

77. The IAU investigation considered the evidence gathered by the Homicide Squad including interviews with police and civilian witnesses, physical evidence and downloads from the two Tasers deployed in the incident. The Officers were subjected to drug and alcohol testing and all tests were negative.¹²³

¹¹⁹ Exhibit 1, Vol. 1, Tab 7, Report - Homicide Squad, p120

¹²⁰ Exhibit 1, Vol. 1, Tab 8, IAU Report, p9

¹²¹ ts 22.07.20 (Martin), pp105-106

¹²² Exhibit 1, Vol. 1, Tab 8, IAU Report, pp8-9

¹²³ Exhibit 1, Vol. 1, Tab 8, IAU Report, p24 and ts 22.07.20 (Selby), pp117-118

78. After considering the available evidence, the IAU investigation concluded that Officer Boon had not used unnecessary force when she shot Mr Stacey.¹²⁴

Comments on the actions of the Officers

79. I accept that police are often called on to react to rapidly changing situations without necessarily having all of the available facts at their disposal. As I assess the actions of the Officers, I am also mindful of the phenomenon known as “*hindsight bias*”. Hindsight bias is the common tendency to perceive events that have occurred as having been more predictable than they actually were.¹²⁵

80. In this case, the Officers actively tried to engage with Mr Stacey, who essentially ignored them. The Officers considered that Mr Stacey’s agitated and evasive behaviour meant that he was having some form of mental health episode, and they intended to take him into custody for assessment.

81. As noted, another police car had offered to attend the Carpark and provide backup to the Officers, but that offer was declined by the POC. With the benefit of hindsight, this was an unfortunate decision. Had additional police been deployed to the Carpark at the time the Officers encountered Mr Stacey, it is at least possible that the outcome in this case might have been different.

82. Mr Stacey, who had reported himself to police, was initially armed with a small knife, which he discarded before arming himself with a much larger knife, which was potentially more dangerous. Mr Stacey was given repeated opportunities to drop the weapon, and his response was to laugh and grin in what the Officers described as a “*menacing*” way and call out things like: “*Come on, do your job properly*”.

¹²⁴ Exhibit 1, Vol. 1, Tab 8, IAU Report, p33

¹²⁵ See for example: <https://www.britannica.com/topic/hindsight-bias>

83. The Officers made numerous attempts to engage with Mr Stacey and de-escalate the situation they were confronted with. They considered non-lethal force options and each of them appropriately deployed their Tasers. However, three Taser deployments were ineffective and Mr Stacey continued to advance towards Officer Boon, who was backing away defensively. In my view, Mr Stacey's behaviour and his decision to arm himself with a large knife indicate that his mental state at the time of the incident was disordered.
84. The Officers believed on reasonable grounds, that Mr Stacey posed a serious and imminent threat, not only to their own lives, but also to the lives of others. In those circumstances, the use of lethal force is authorised.¹²⁶
85. Officer Russell said that if Officer Boon had not shot and killed Mr Stacey when he advanced quickly towards her, she would have been stabbed by the Knife Mr Stacey was holding.¹²⁷ I have seen no evidence to contradict Officer Russell's assessment and in my view, given the circumstances, Officer Boon had no option than to act as she did.

RECOMMENDATIONS

86. In light of the observations I have made about Tasers, I make the following recommendation:

Recommendation No.1

The Police should take all necessary steps to introduce a new Taser system which has a greater capacity to cause neuromuscular incapacitation, and is more likely to do so.

¹²⁶ Exhibit 1, Vol. 2, Tab 1, Report - Mr C Markham, para 389 and ts 22.07.20 (Markham), pp131-132

¹²⁷ Exhibit 1, Vol. 1, Tab 10, Statement - Sgt. H Russell, paras 126-127 & 131

CONCLUSION

- 87.** In this case, a cascade of events led to the tragic death of a 22-year old man. Mr Stacey had armed himself with a large knife which he refused to put down, despite being repeatedly ordered to do so. Attending police made three unsuccessful attempts to subdue Mr Stacey with Tasers and he continued to advance in a threatening manner towards Officer Boon.
- 88.** Having carefully considered the available evidence, I am satisfied that the Officers conducted themselves reasonably when they interacted with Mr Stacey. I am further satisfied that Officer Boon acted lawfully and reasonably when she drew her police pistol and fatally shot Mr Stacey.
- 89.** I have made one recommendation relating to the proposed new Taser the Police are currently considering. The new Taser appears to offer a more efficient non-lethal force option with an increased ability to subdue offenders. For that reason alone it is my hope that the new Taser is brought into service as soon as possible.

MAG Jenkin
Coroner
31 August 2020