



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 30th and 31st days of July 2013 and the 13th day of August 2014, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Troy O'Donohoe .

The said Court finds that Troy O'Donohoe aged 32 years, late of The Hackney Lodge, 41/1 North Terrace, Adelaide, South Australia died at Adelaide, South Australia on the 9th day of December 2010 as a result of gunshot wound to head. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

- 1.1. Troy O'Donohoe was 32 years of age when he died on 9 December 2010 from a self-inflicted gunshot wound to the head.
- 1.2. A post-mortem examination in respect of Mr O'Donohoe was conducted by Dr Karen Heath, a forensic pathologist employed at Forensic Science South Australia. In her report¹ Dr Heath describes a gunshot entry wound under the chin of the deceased. No exit wound was evident. The entry wound below the chin involved a contact or near contact gunshot. There was extensive internal injury within the skull and brain. No natural disease that could have caused or contributed to the death was identified at autopsy. Analysis of a specimen of blood obtained at autopsy reportedly showed a blood alcohol concentration of 0.236%. The urine alcohol concentration was 0.261%². Other drugs such as amphetamines and cannabinoids were not detected. Dr Heath has also provided the Inquest with the opinion that Mr O'Donohoe's injuries

¹ Exhibit C2a

² Exhibit C3a

were unsurvivable and that he would have died very rapidly after, if not instantaneously with, the infliction of the gunshot wound.

- 1.3. The firearm in question was a CZ Model 85 9mm calibre semi-automatic pistol which on ballistics analysis was found to be in good condition and passed all function and safety tests³. One spent bullet recovered at autopsy from Mr O'Donohoe was consistent with being a hollow point 9mm Luger bullet and was also consistent with having been fired from the CZ pistol. The pistol was registered to Mr O'Donohoe
- 1.4. The position of the entry wound directly under Mr O'Donohoe's chin, the proximity of muzzle contact with that part of his head and the general circumstances as will be discussed in these findings, have led the Court to the conclusion that Mr O'Donohoe by his own hand deliberately fired the weapon into his head. I so find.
2. Mr O'Donohoe's death occurred on the evening of Thursday, 9 December 2010. He died at premises known as the Hackney Lodge situated at 1 North Terrace, Hackney. The deceased occupied a room at that premises. At a common area of the premises, two uniformed police officers approached him in connection with their investigation into the identity of a driver of a vehicle which earlier that evening had sped off after the officers had pulled it over. Without any warning Mr O'Donohoe produced the CZ pistol which, at first, he levelled at police but then turned on himself.
3. **Mr O'Donohoe's antecedents**
 - 3.1. Mr O'Donohoe is said to be a person who kept to himself throughout his life and one who did not socialise extensively. He was unmarried. He had not had any long term romantic relationships. For varying periods of time he had lived both with his brother and his sister and during those periods he had been known to exhibit low self esteem. Mr O'Donohoe was believed to have suffered from depression due to binge drinking. While Mr O'Donohoe had been professionally assessed as having learning and literacy difficulties, there is no evidence that Mr O'Donohoe had been treated for any diagnosed mental illness. There is no evidence that at any stage prior to the events in question he had entertained suicidal ideation. He did not leave a note prior to his death. His self-inflicted death appears to have occurred quite impulsively.

³ Exhibit C59a

- 3.2. At the time with which this Inquest is concerned Mr O'Donohoe owned two 9mm semi-automatic pistols. I have already mentioned the CZ pistol which he used to kill himself. The other gun was a Glock 9mm semi-automatic pistol. The Glock pistol was ultimately located by police at premises at Flinders Park occupied by Mr O'Donohoe's brother. The CZ pistol and a spent cartridge were both located adjacent to Mr O'Donohoe's deceased body at the Hackney Lodge. As indicated earlier, the fatal projectile was located at autopsy. The incident had only involved the firing of a single shot.
- 3.3. Mr O'Donohoe was experienced with handguns. He was a member of the Sporting Shooters' Association. He possessed a current firearms licence. Both of Mr O'Donohoe's handguns were registered with the Registrar of Firearms who is the Commissioner of Police. In accordance with relevant legal requirements he attended at the Marksman Indoor Firing Range in the City where from time to time he used both weapons on the indoor range. Until November of 2010 Mr O'Donohoe kept both weapons at the Marksman Indoor Firing Range. They were both stored in accordance with the relevant legal requirements. On 22 November 2010 the Glock pistol which Mr O'Donohoe appears to have owned for some time was taken out of storage and was apparently kept thereafter at the Flinders Park address where police would locate it after Mr O'Donohoe's death. This storage arrangement was lawfully in accordance with the arrangements that he had declared in respect of his firearms licence. The CZ pistol on the other hand, which was the item that was fatally used, was a pistol that Mr O'Donohoe appears to have acquired more recently. He had purchased it from the Marksman Indoor Firing Range in the latter half of 2010. He initially stored it there and used it on the range. On 19 November 2010 Mr O'Donohoe removed it from storage and took possession of that firearm. As with the Glock pistol, Mr O'Donohoe would have been legally obliged to store the CZ pistol at the Flinders Park address. There is no evidence as to whether at any time he did store the CZ pistol at that address, but what is known for certain is that he had the pistol in his personal possession on the night of 9 December 2010. It is possible that after Mr O'Donohoe removed the CZ pistol from storage he unlawfully maintained possession of the CZ pistol either on his person or at the Hackney Lodge where he actually resided. However, it is not necessary for the Court to reach any conclusion about this. The precise reason why Mr O'Donohoe had the firearm in his physical

possession when he was approached by police on the night in question also cannot be known with certainty.

- 3.4. Mr O'Donohoe's recent driving record needs to be examined. On 24 April 2010 Mr O'Donohoe had been detected by police in respect of a drink driving offence. On that occasion he was found to have a blood alcohol concentration of 0.186% which is a significant reading. This attracted an immediate police imposed 12 month disqualification from holding or obtaining a driver's licence. Ultimately on 24 November 2010 Mr O'Donohoe was convicted of the drink driving offence by a Magistrates Court. The court imposed a licence disqualification of 5 months. No doubt Mr O'Donohoe was warned by the court of the consequences of contravening that disqualification.
- 3.5. I have already referred to the fact that Mr O'Donohoe at autopsy also had very high alcohol readings, reflective of a significant alcohol intoxication at the time of his death.
- 3.6. At the time with which this Inquest was concerned Mr O'Donohoe was the subject of a 14 day suspended sentence of imprisonment for the offence of driving under the licence disqualification that had been imposed by police on 24 April 2010. The offence had occurred on 12 August 2010. The conviction and sentence in respect of that offence had been imposed on 9 September 2010.
- 3.7. In the intervening period between 24 April 2010 when Mr O'Donohoe was detected drink driving and 24 November 2010 when he was finally dealt with by the courts, he had contravened his licence disqualification, been dealt with by the courts for that and been placed on a suspended sentence, and as well, he had acquired the CZ pistol, had successfully made application to police to acquire the firearm in accordance with legal requirements and had also successfully renewed his firearms licence.

4. The circumstances of Mr O'Donohoe's death

- 4.1. The police patrol in question was manned by Senior Constable Shawn McGregor and Senior Constable Bryan Fleming. Both officers at that time were stationed at the Norwood Police Station. They were in uniform and in a marked police vehicle. Senior Constable McGregor was the driver. A routine check of the registration of the vehicle in question revealed that it was currently unregistered and uninsured and that

the registered owner of the vehicle, one Troy O'Donohoe of the Hackney address I have identified, was currently the subject of a disqualification from holding or obtaining a driver's licence. This information was revealed by way of the MDT within the police vehicle⁴. The time at which the vehicle was stopped was approximately 7:45pm.

- 4.2. Police were lawfully entitled to require the driver of the vehicle to pull over. The driver of the vehicle was obliged by law to remain stationary. The vehicle sped off when the officer's approached. The failure on the part of the driver to remain stationary was an offence.
- 4.3. There is no doubt that when police first encountered Mr O'Donohoe on the night in question he was driving a vehicle on public roads in the Glynde area. Accordingly, he was committing a number of offences including driving under disqualification, failing to remain stationary after being ordered to stop by police and offences in relation to the possession of the firearm which undoubtedly he had in his physical possession at that point in time. The firearm was not properly stored, nor was the ammunition. An offence of carrying an offensive weapon without lawful excuse also would possibly have been enlivened. In addition, there was the matter of all or any of those offences possibly triggering the activation of his 14 day suspended sentence, and this would have been in addition to any penalty or penalties that he received in respect of his offending on the night in question. Therefore, there was every incentive for Mr O'Donohoe, when he was pulled over by police, to evade detection and apprehension if possible. The same mindset may well have applied at any other subsequent location should he have been so detected, including at his living quarters.
- 4.4. There was no pursuit of the vehicle by Senior Constables McGregor and Fleming. A brief search in the general area failed to locate the vehicle. It was natural for the officer's to think that the vehicle might reappear at the Hackney address so they then went there.
- 4.5. The Hackney Lodge is an accommodation facility that consists of a number of private rooms as well as common access areas such as hallways. The facility as a whole was not locked, although it can be assumed that the individual lodgings could be locked. Both officers had conducted inquiries at these premises in the past and without

⁴ Mobile Data Terminal

hindrance. There had never been any suggestion that the common areas of the premises were off limits to the public or to police. Provided they had a legitimate purpose for their presence, they could lawfully attend those common areas.

- 4.6. When the officer's arrived at the Hackney Lodge there was no sign of the vehicle they had earlier pulled over. Senior Constable McGregor made an initial attempt to locate the room of the registered owner of the vehicle. He located a particular room but the occupant was not present. He made no attempt to force his way into or otherwise enter the room. Meanwhile, Senior Constable Fleming waited outside the premises.
- 4.7. The vehicle that the two officers had pulled over earlier at Glynde eventually arrived in the car park. In his oral evidence before the Court Senior Constable McGregor expressed some certainty that when the vehicle arrived at the Hackney Lodge car park, the driver was the same person who had been driving the vehicle when it had been pulled over earlier that evening at Glynde. I find that to have been the case. In any event, police were lawfully entitled to question the driver of the vehicle in relation to that issue. I am not entirely certain whether the two officers had either singly or jointly decided to arrest that person at this point. I would make the observation that it would have been premature to have done so without establishing the identity of the person who alighted from the vehicle at Hackney, and in particular whether that person was the registered owner of the vehicle or not and whether that person had been the driver of the vehicle on the earlier occasion at Glynde. These were all legitimate enquiries for the two officers to make prior to any decision to arrest. They intended to make those enquiries.
- 4.8. In any event, regardless of whether police had initially decided to make an arrest, police were lawfully entitled to be on the premises. They had a legitimate reason for being there and they did not encroach onto wholly private areas of the premises.
- 4.9. The man who alighted from the vehicle at Hackney, that is Mr O'Donohoe, entered the building on the ground floor through one of its unlocked entrances. The two officers followed him into that part of the building. This part of the building was a common area. Mr O'Donohoe proceeded into a corridor that led to a bathroom. It was at that point that Senior Constable Fleming announced that he wanted to speak to Mr O'Donohoe. Both officers were still in the common area of the building. It was then that Mr O'Donohoe produced the firearm and pointed it at the officers. The

officers then turned around and withdrew from the building. It was very shortly after that that the fatal shot was fired by the deceased.

- 4.10. I am satisfied that at all material times the two officers were acting lawfully and appropriately and, in particular, that their presence within the common area of the accommodation building was lawful. I am also satisfied that there was no behaviour on the part of either police officer that could in any sense be regarded as provocative or intimidatory, or which could have sensibly prompted Mr O'Donohoe to have produced a firearm, let alone to have deliberately shot himself with it. Mr O'Donohoe's actions in that regard can rightly be described as wholly unpredictable and irrational. His response was perhaps the product of his severe intoxication and his desire not to be detected and apprehended by police. It is not necessary to ascribe a motive to Mr O'Donohoe's actions as I am completely satisfied that he deliberately took his own life unaided by any other person and did so not as the result of, nor contributed to by, any improper behaviour on the part of police.
- 4.11. Given that the fatal shot resulted in Mr O'Donohoe's almost immediate death, it is not necessary for the Court to further examine the efforts by the emergency services and other authorities to attend at the premises promptly or to explore whether proper efforts were made to revive Mr O'Donohoe who by the time of their arrival was already deceased.
- 4.12. However, it is as well to record the Court's acknowledgment of the courageous actions of one Ms Anna Gundling. Ms Gundling was at that time a resident of one of the rooms at the Hackney Lodge. Sometime between 8:30pm and 9pm she heard a loud thud. A few minutes later she got out of bed to go to the bathroom. When arriving at the bathroom she encountered another resident of the premises who said words to the effect that someone had been shot. She looked into the bathroom and saw Mr O'Donohoe lying on the floor near the hand washing basin. She told the other resident to call an ambulance. Ms Gundling is a trained enrolled nurse. She attended to Mr O'Donohoe. She could not detect a pulse. There was also no evidence of any breathing, nor was there any movement of Mr O'Donohoe's body. Ms Gundling gained the impression that the man had been shot in the back of the head. Although she believed that Mr O'Donohoe was already deceased, she obtained some sheets from her room in order to stem any bleeding and then performed CPR for some time before the arrival at the location of the authorities. She was able to speak to

ambulance officers over the telephone during this period. When Ms Gundling took the action that she did, the exact circumstances of Mr O'Donohoe's shooting were unknown. Police have already acknowledged the fact that Ms Gundling could not in her own mind have been assured of her own safety during the course of her actions. To that extent her actions evince a high degree of fortitude. The Court commends Ms Gundling's efforts in endeavouring to resuscitate the deceased.

5. One other issue

- 5.1. I have already referred to the fact that Mr O'Donohoe had a previous drink driving offence in which he had registered a blood alcohol reading of 0.186% . This offence had occurred in April 2010. Mr O'Donohoe was under disqualification in respect of that offence at the time of the incident in December 2010. The statement of Mr O'Donohoe's sister⁵, Jodee Louise O'Donohoe, describes a pattern of emotional turmoil in respect of the deceased over a period of time. She also describes a frame of mind on the part of her brother whereby any decision to acquire a firearm or firearms would have been made for reasons that were not wholly rational. She also describes a pattern of heavy drinking on Mr O'Donohoe's part. She describes Mr O'Donohoe as having low self-esteem issues combined with heavy binge drinking. In her opinion he was suffering from depression, although to her knowledge he had not sought any medical assistance. She states that she had never seen any indication that Mr O'Donohoe might take his own life. He had never threatened to take his own life. However, when he was drunk he was careless in that he would drink drive and cause injury to himself by bumping into walls.
- 5.2. The statement of Mr O'Donohoe's brother⁶, Darren Leslie O'Donohoe, also suggests a measure of instability in respect of his brother's lifestyle and behaviour. This included heavy drinking and aggression when drunk. According to Mr Darren O'Donohoe, when Mr O'Donohoe lost his licence in 2010 he continued to drive notwithstanding. Mr O'Donohoe was involved in a car accident; he never had the particular vehicle repaired and this evidently devastated him. Mr O'Donohoe ignored his brother's advice that he should not drive whilst disqualified. According to Mr Darren O'Donohoe, his brother had never spoken about hurting himself. He does not know what could have prompted his brother to kill himself.

⁵ Exhibit C15a

⁶ Exhibit C16a

- 5.3. I have already referred to the fact that during the incident in question Mr O'Donohoe had a very high level of alcohol in his system. Against an already disturbed frame of mind, this could account for all of his erratic behaviour that night, including fleeing from police and his ultimate fatal act. His drink driving offence that year could well have been the manifestation of underlying emotional instability.

6. Recommendations

- 6.1. Pursuant to Section 25(2) of the Coroners Act 2003 I am empowered to make recommendations that in the opinion of the Court might prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.
- 6.2. As recorded earlier, Mr O'Donohoe was the holder of a firearms licence pursuant to the Firearms Act 1977 and the Regulations made thereunder. On 29 October 2010 Mr O'Donohoe had applied to the Registrar of Firearms, who is the Commissioner of Police, to renew his firearms licence. This renewal was granted and took effect from 1 November 2010⁷. Pursuant to section 12(6) of the Firearms Act the Registrar may refuse an application for a firearms licence if the Registrar is not satisfied that the applicant is a fit and proper person to hold the licence applied for. Pursuant to section 5(10) of the Firearms Act a person who has a mental or physical condition that would make it unsafe for him or her to possess a firearm must be taken not to be a fit and proper person to have possession of a firearm or to hold or have possession of a firearms licence. Pursuant to section 5(11) of the Firearms Act a person may be taken not to be a fit and proper person to have possession of a firearm or to hold or have possession of a firearms licence if the person has been found guilty of certain listed offences. On my reading of the Firearms Regulations 2008, drink driving offences are not specifically listed. Section 5(13) of the Firearms Act states that in deciding whether a person is a fit and proper person to have possession of a firearm or to hold or have possession of a firearms licence, regard may be had to the reputation, honesty and integrity of the person and of people with whom the person associates.
- 6.3. The commission of a drink driving offence does not of itself render a person as not being a fit and proper person to have possession of a firearm or to hold or have possession of a firearms licence. However, depending upon the circumstances, there

⁷ Exhibit C66a

may well be cases where in terms of section 5(10) of the Firearms Act the commission of such an offence might legitimately be said to be a reflection of a mental or physical condition that would make it unsafe for the person to possess a firearm and for that reason render that person as not being a fit and proper person to have possession of a firearm or to hold or have possession of a firearms licence. This might be particularly so where there has been a very high blood alcohol reading as in Mr O'Donohoe's case in April 2010. The commission of a drink driving offence by an individual is a matter to which the Registrar of Firearms should have knowledge, having regard to the fact that the prosecution of such an offence is the responsibility of the Commissioner of Police. To my mind the commission of a drink driving offence such as Mr O'Donohoe's should routinely be taken into consideration, and given significant weight, when a firearms licence is either applied for or renewed, and especially when the commission of the offence has been committed during the currency of a firearms licence as in the case of Mr O'Donohoe. I so recommend. Moreover, in my view there is a strong case for requiring any person who has committed a drink driving offence with a significant blood alcohol reading to be subjected to a mandatory examination by a health professional pursuant to section 6(b) of the Firearms Act. I so recommend.

Key Words: Death in Custody; Suicide

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 13th day of August, 2014.

Deputy State Coroner