



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 23<sup>rd</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 28<sup>th</sup> and 29<sup>th</sup> days of September 2009, the 1<sup>st</sup> day of October 2009 and the 26<sup>th</sup> day of November 2009, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Mark Thomas Mansvelders.*

*The said Court finds that Mark Thomas Mansvelders aged 44 years, late of 12A Trevor Avenue, Rostrevor, South Australia died at the City Watch House, Carrington Street, Adelaide, South Australia on the 27<sup>th</sup> day of July 2007 as a result of epilepsy with contributing factors of hypertensive heart disease and coronary artery disease. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and reason for Inquest**

1.1. Mr Mark Mansvelders was born on 10 November 1962. He died at shortly after 7am on Friday 27 July 2007 while detained, pursuant to the Public Intoxication Act, in the City Watch House in Adelaide. Accordingly, his was a death in custody within the meaning of the Coroners Act 2003 and an Inquest was held as required pursuant to section 21 of that Act. From the above summary it can be seen that Mr Mansvelders was 44 years old at the date of his death.

### **2. Cause of death**

2.1. An autopsy was carried out by Dr Cheryl Charlwood, Forensic Pathologist, who prepared a report of the results of her examination dated 25 January 2008<sup>1</sup>. Dr

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<sup>1</sup> See Exhibit C3a

Charlwood gave the cause of death as epilepsy with contributing factors of hypertensive heart disease and coronary artery disease and I so find.

### **3. Background**

- 3.1. Mr Mansvelders lived a troubled life. He suffered from convulsions at a very young age. Copies of records of the Adelaide Children's Hospital, which appear on Mr Mansvelders' Royal Adelaide Hospital notes<sup>2</sup>, record a history of head injury when aged 1½ years and an inpatient admission in 1964 with concussion and cerebral irritation observed over 24 hours. There was a record of an admission in October 1964 with febrile convulsions and another febrile convulsion in June 1967. Mr Mansvelders was described in a report prepared by Psychologist, Richard Balfour, in October 2003 as a tall man who was moderately overweight. He had a borderline intellectual disability and spoke with a slight stutter. He had a limited vocabulary but could comprehend questions if they were asked using 'developmentally appropriate language'<sup>3</sup>. The documentation contains reports of an episode of rape when he was 7 years old and again when he was older. For much of his life Mr Mansvelders lived in Housing Trust accommodation. However, he was preyed upon by some people who took advantage of his intellectual disability to steal money from him and use his accommodation and possessions. For the last two years of his life he lived with his mother in her home but was independent in the sense that he was free to come and go as he saw fit.
- 3.2. I heard evidence from a number of police witnesses. Some of those witnesses were involved in the initial apprehension of Mr Mansvelders when he was walking in the middle of the road at the intersection of The Parade, The Parade West and Fullarton Road, Kent Town. That incident occurred at approximately 1:05am on 27 July 2007.
- 3.3. I heard evidence from a number of police officers who were present at the City Watch House on Mr Mansvelders' presentation there after his apprehension at Kent Town. I also heard from officers who came on duty at the City Watch House later that morning and who were involved in the detection of Mr Mansvelders after his collapse later that morning and in the attempts to resuscitate him.

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<sup>2</sup> Exhibit C69ai

<sup>3</sup> See Exhibit C82

#### **4. Epilepsy and the nature of Mr Mansvelders' condition**

- 4.1. An expert overview was obtained by counsel assisting me in this matter from Dr Martin Robinson, Neurologist. Dr Robinson prepared a report dated 19 January 2009<sup>4</sup>. Dr Robinson agreed with Dr Charlwood's opinion that Mr Mansvelders died as a result of an epileptic seizure whilst in his cell in the City Watch House<sup>5</sup>. Dr Robinson said that seizure related deaths are not very common and only approximately 1 in 1000 patients die as a result of a seizure in any year<sup>6</sup>. He said that autopsy findings are sometimes non-specific. Dr Robinson outlined the risk factors of dying from a seizure. He said that this is more common in males, persons who have some form of an intellectual disability, who live alone and who are not compliant in taking their medication<sup>7</sup>.
- 4.2. Dr Robinson had examined Mr Mansvelders' Royal Adelaide Hospital casenotes<sup>8</sup>. He said that the EEG tests contained within those records suggested that Mr Mansvelders suffered from a type of epilepsy syndrome called idiopathic generalised epilepsy. It is a feature of this condition that the patient often does not get any warning or notice of an imminent seizure. It was Dr Robinson's opinion that Mr Mansvelders would not have had much warning of what was about to happen prior to his seizure<sup>9</sup>.
- 4.3. Mr Mansvelders' level of alcohol intoxication could not be tested by police at the City Watch House<sup>10</sup>. It was nevertheless plain that Mr Mansvelders was affected by alcohol to a significant extent. Dr Robinson said that alcohol intoxication may lower the seizure threshold in an individual predisposed to seizures<sup>11</sup>. Dr Robinson also noted that seizures may be precipitated by alcohol withdrawal<sup>12</sup>.
- 4.4. Dr Robinson was provided with copies of statements and other evidentiary material in this case. Having examined that material it was Dr Robinson's opinion that the interaction with the police in the early hours of the morning when Mr Mansvelders

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<sup>4</sup> Exhibit C85

<sup>5</sup> Transcript, page 397

<sup>6</sup> Transcript, page 397

<sup>7</sup> Transcript, page 397

<sup>8</sup> Exhibit C69ai

<sup>9</sup> Transcript, page 400

<sup>10</sup> He was requested to submit to an alcotest but the CCTV footage, which I have seen, suggests that he was unable to blow sufficiently for the officers to obtain a reading

<sup>11</sup> Transcript, page 400

<sup>12</sup> Transcript, page 401

was apprehended in Kent Town would not have played any role in precipitating his seizure later that morning<sup>13</sup>.

- 4.5. It was plain from Dr Robinson's evidence that the seizure which Mr Mansvelders suffered, and which resulted in his death, was not in any way connected with the treatment he received from police during his detention in the City Watch House. Dr Robinson said:

'When you consider how many seizures people have across the epilepsy population and how incredibly rare death is as a result of seizure, why people die on that particular time and not others, when there might be no difference to that seizure to compare with other ones they have ever had before is unexplained. But all these factors have to line up ...'<sup>14</sup>

- 4.6. Dr Robinson added that attempts at resuscitation at the scene of a seizure are rarely successful, even when a cardiac arrest from a seizure occurs within a hospital setting<sup>15</sup>. In short it was Dr Robinson's opinion that Mr Mansvelders' death was not preventable<sup>16</sup>.
- 4.7. Finally, Dr Robinson agreed that Mr Mansvelders' fatal seizure would as likely have occurred had he been in a sobering up centre as in the City Watch House<sup>17</sup>.

## **5. Public Intoxication Act 1984 and sobering-up centres**

- 5.1. This case potentially raised the issue of the appropriateness of a person detained under the Public Intoxication Act 1984 being taken to a police lockup such as the City Watch House rather than a sobering-up centre. I heard evidence from Ms McDermott, the Team Leader at the Salvation Army sobering-up centre in Adelaide. That is the only facility in the Adelaide CBD and there is only one other facility in the State which is at Port Adelaide. The Port Adelaide facility is not open at weekends. The facility operated by Ms McDermott receives intakes from Christies Beach, St Agnes, Mount Barker, in fact the whole metropolitan area. About 10% of their referrals come from police officers under the Public Intoxication Act.
- 5.2. In Mr Mansvelders' case the officers concerned reached a consensus at Kent Town that Mr Mansvelders was too aggressive and uncooperative to be a suitable candidate for detention at the Salvation Army sobering-up centre in Adelaide. Ms McDermott

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<sup>13</sup> Transcript, page 402

<sup>14</sup> Transcript, page 405

<sup>15</sup> Transcript, page 406

<sup>16</sup> Transcript, page 407

confirmed that the sobering-up centre would not accept people who were physically aggressive towards the staff, although she agreed that the centre would accept people who were behaving aggressively, provided that the behaviour was not directed towards the staff of the centre.

- 5.3. Having considered Dr Robinson's evidence, it is my view that the decision to detain Mr Mansvelders at the City Watch House, rather than taking him to the Salvation Army sobering-up centre, played no part in his tragic death.
- 5.4. The evidence was clear that police faced a difficult dilemma when detaining a person for his or her own safety under the Public Intoxication Act 1984. If the person is showing signs of aggression one can understand why the police officers concerned might form the view that the person is unlikely to be acceptable to the staff of the sobering-up centre. There are only two staff on duty at the sobering-up centre and the centre does not provide for continuous observations of the occupants. On the other hand, the degree of scrutiny provided at a facility such as the City Watch House is much higher. One might conclude that Mr Mansvelders would have been safer in the City Watch House than he might in the sobering-up centre. In any event his seizure was not related to his place of incarceration or the circumstances of his apprehension. Therefore, I need not explore this issue further other than to say that it is my opinion that the detention of Mr Mansvelders, pursuant to the Public Intoxication Act 1984, was lawful.

## **6. The prisoner screening process - deficiencies in Mr Mansvelders' processing**

- 6.1. A very thorough investigation was carried out in this matter by Detective Brevet Sergeant Roderick Huppertz<sup>17</sup>. I commend Detective Huppertz on his helpful report and thorough investigation. The investigation and the report carefully detail every aspect of Mr Mansvelders' apprehension and detention during the hours between 1am and 7am on 27 July 2007, while he was in contact with members of SAPOL.
- 6.2. Having regard to the investigation carried out by Detective Huppertz and the evidence taken at the Inquest, I have reached the firm conclusion that no act or omission on the part of any police officer played any part in Mr Mansvelders' tragic death.

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<sup>17</sup> Transcript, page 413

<sup>18</sup> The report of Detective Brevet Sergeant Huppertz appears at Exhibit C69 and attachments

- 6.3. The evidence demonstrated that there were deficiencies in the process of admitting Mr Mansvelders to the City Watch House. Possibly the most serious of these involved the incorrect completion of the PD331 Prisoner Screening Form.
- 6.4. I would normally be extremely concerned about a failure to complete a Prisoner Screening Form with due care and attention. It is a matter of concern that the deficiencies revealed by the evidence in this case occurred. However, this was not a case involving self-harm or suicide. Although a proper search of Mr Mansvelders on the police computer system<sup>19</sup> would have alerted officers to Mr Mansvelders' history of epilepsy, there was certainly no suggestion that his condition was such, at the time of his admission to the City Watch House, to require a medical examination or hospital admission.
- 6.5. In my view the shortcomings in the processing of Mr Mansvelders, while concerning, played no part in causing his death. As I have said, any deficiency in the proper completion of this important documentation is a matter for concern. However, the present deficiencies only came to light because of Mr Mansvelders' tragic death later that morning and the extremely thorough investigation that followed as a consequence of his death. It may be that similar deficiencies take place in the proper completion of PD 331s on other occasions which are not detected and it seems to me that SAPOL might take this opportunity to remind all police officers of the importance of the proper completion of prisoner screening documentation. In that way this instance might be used as an opportunity to train and teach, rather than as an occasion for disciplining the officers involved, although I acknowledge that it is not my role to express an opinion about such matters.

## **7. The circumstances in which Mr Mansvelders was found**

- 7.1. Briefly, the evidence showed that there was a change of shift which resulted in a routine joint inspection of the cells by the outgoing and incoming Sergeants. They were, respectively, Sergeant Williams and Sergeant Lorenzetto. They jointly conducted an inspection of the prisoners at approximately 7am. There was some examination at the Inquest of the timing of this inspection and whether Mr Mansvelders' cell was the first to be inspected or the last in the particular wing of the

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<sup>19</sup> PIMS

City Watch House in which he was housed. Having regard to the clear evidence of Dr Robinson, I do not consider this issue requires any resolution.

- 7.2. The effect of the evidence was that upon arriving at Mr Mansvelders' cell, Sergeants Williams and Lorenzetto noted that Mr Mansvelders was lying on the floor with his head towards the cell door. He was on his side. One hand was visible; the other was underneath his body.
- 7.3. I should note at this point that a person who is not familiar with the environment of a police lockup or watch house might find it unusual that a prisoner would choose to lie on the floor and might consider this in itself a sign of some distress. However, that is not necessarily true. It is common for prisoners in police lockups to lie on the floor for a variety of reasons. One reason proffered by Sergeant Williams was that prisoners under the effect of amphetamines are often hot<sup>20</sup> and lie on the concrete floor of the cell in order to cool themselves. In my opinion, it is not a matter of concern or remark in and of itself that a prisoner might be lying on the floor of a cell.
- 7.4. Sergeant Lorenzetto noted that there was some twitching of Mr Mansvelders' visible hand. Sergeant Williams could not recall precisely what conversation occurred at that point between himself and Sergeant Lorenzetto although he did recall that there was a mention of an intention to have the nurse check Mr Mansvelders.
- 7.5. Sergeant Lorenzetto had a good recall of the episode. She said that she had had some exposure, when a high school student, to the condition of epilepsy. It arose from the fact that a friend at high school suffered from grand mal seizures. She said that the mild twitching of Mr Mansvelders' hand caused her to think that it was possible that Mr Mansvelders might have been having a seizure. However, her knowledge of epilepsy was such that she thought there was no action to be taken in such an event, and in any case she was far from certain that Mr Mansvelders was in fact experiencing a seizure. Instead, she recalled asking the other police officers words to the effect 'is he having a fit?'. She recalled Sergeant Williams saying that Mr Mansvelders had sleep apnoea and there was no problem. In any event, a decision was made that the nurse, who was assigned to the City Watch House and who had just come on duty, should have a look at Mr Mansvelders. There was some confusion about whether the decision to secure the attendance of the nurse was effectively

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<sup>20</sup> This is a known side effect of amphetamines

conveyed to a Senior Constable who was also present. In any event, the nurse was duly summoned after a short delay.

7.6. Sergeants Williams and Lorenzetto left Mr Mansvelders and continued with their duties.

7.7. Shortly thereafter, Constable Bridgland was observing Mr Mansvelders by means of the CCTV monitors. She noted that he was not moving and suggested to Constable Longden that they go and check upon him. Constable Bridgland was concerned that he may have been dead from his appearance over the CCTV monitor. They immediately went to his cell and Constable Bridgland examined him. She noted that he was not breathing and she tried to wake him but he was not responsive. She tried to check his mouth and his airway and tried to check for a pulse but could find nothing. The nurse arrived shortly after this. Mr Mansvelders was not able to be resuscitated. South Australian Ambulance Service was summoned but there was nothing they could do.

8. **Should an ambulance have been summoned immediately after Sergeants Williams and Lorenzetto observed Mr Mansvelders' hand twitching?**

8.1. The evidence is absolutely clear that whatever symptoms were being exhibited by Mr Mansvelders, they were very subtle. He certainly was not suffering from a convulsive fit when being observed by Sergeants Williams and Lorenzetto. The former clearly thought there was no occasion for alarm and the latter was put in mind of the possibility of a fit, largely because of her experience as a school girl. Nurse Nicholson was the registered nurse who was on duty in the City Watch House that morning. Her evidence was instructive in that she had experience of police officers at the City Watch House who did not have medical training using words such as 'fitting' to describe what was actually alcohol withdrawal<sup>21</sup>. Nurse Nicholson was of the opinion that a police officer without formal training might not be able to distinguish between fitting and mere alcohol withdrawal<sup>22</sup>.

8.2. In my opinion, the subtle signs of fitting that were being exhibited by Mr Mansvelders at the time of the observations made by Sergeants Williams and Lorenzetto were not such as to cause a medically untrained officer such as Sergeant Lorenzetto or Sergeant

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<sup>21</sup> Transcript, pages 389-390

<sup>22</sup> Transcript, page 392

Williams to perceive the need to obtain urgent medical attention or to summon an ambulance. Dr Robinson made it perfectly clear in his evidence that the signs of an epileptic seizure can sometimes be subtle. If the hand twitching that was observed and commented on by Sergeant Lorenzetto was indeed the beginning of a more serious seizure that occurred shortly after the departure of Sergeants Williams and Lorenzetto, I do not consider that either Sergeant Lorenzetto or Sergeant Williams should be criticised for their failure to appreciate the seriousness of the situation. Indeed, it strikes me that even a medical practitioner may not have appreciated that the mild twitching being shown by Mr Mansvelders was the precursor to an epileptic seizure and not the mere involuntary movements of one who is deeply sleeping, or a person suffering from alcohol withdrawal. Sergeant Lorenzetto in particular presented as a conscientious and diligent police officer of long experience. Her evidence was given in a frank and helpful manner and she was clearly deeply distressed by Mr Mansvelders' death and her inability to prevent it. This has been reflected by her decision, in her own time and at her own expense, to undergo further first aid training than that which is provided by SAPOL, and in particular to undertake training in relation to epilepsy and its treatment. In my opinion, Sergeant Lorenzetto is to be commended for her initiative in undertaking such training.

- 8.3. Once again, it is not for me or this Court to comment upon the appropriateness of disciplinary action. On some occasions it may be a matter of concern if SAPOL has failed to act in a situation of neglect or misbehaviour by a police officer with an appropriate disciplinary response, as it may indicate that there is a risk of a recurrence of the particular behaviour. In such a situation it might be appropriate for this Court to comment that a failure to respond with appropriate disciplinary action is a matter of concern in that there is a potential that the particular circumstance might be repeated. However, it is not for this Court to examine the appropriateness of particular disciplinary action taken in any given case.
- 8.4. On this occasion I would only say, as I remarked above, that this tragic case would seem to me to offer an opportunity for SAPOL to enhance its training and corporate knowledge. I note that the General Orders require that a police officer must summon an ambulance if a person in his or her custody is suffering from an epileptic seizure. However, it seems to me that if the observations of Mr Mansvelders' hand twitching were indeed observations of an epileptic seizure, no reasonable person could expect a

police officer of Sergeant Lorenzetto's or Sergeant Williams' experience and knowledge to appreciate what they were observing, even if some memory from school days might trigger a question in the mind of one of the officers as to the possibility of a fit. In those circumstances it would seem to me that this is an occasion when the appropriate response may be to train and teach, rather than take disciplinary action, although that is a matter for SAPOL.

**9. Recommendations**

9.1. In the circumstances I have no recommendations to make in this matter.

*Key Words: Death in Custody; Monitoring/Observation of Prisoners*

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

*Seal the 26<sup>th</sup> day of November, 2009.*

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*State Coroner*