



SOUTH AUSTRALIAN CORONERS COURT

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17 March 2015

Legislative Reviews
GPO Box 11066
ADELAIDE SA 5001

Dear Commissioner

Re: Review of Legislative Schemes / Evaluation of Practices, Policies and Procedures of Police Ombudsman

Thank you for your letter dated 13 February 2015. I am pleased to make a submission to your review of the oversight and management of complaints regarding the conduct of members of South Australia Police, in the Police Act 1998, the Police (Complaints and Disciplinary Proceedings) Act 1985 and the Independent Commissioner Against Corruption Act 2012. I also note in your discussion paper dated February 2015 reference is made to the Finding into the death of Christopher Stuart Wilson. I know that you already have a copy of that Finding in your possession, but I attach an electronic copy for your convenience.

I will not repeat in this submission the remarks I made about the Police (Complaints and Disciplinary Proceedings) Act 1985 in that Finding, however I do ask that you take them into consideration. You will recall that in that case I requested that the Police Complaints Authority assessment and statements made by the key witnesses to the Internal Investigation Branch be voluntarily provided to me by the Commissioner of Police pursuant to section 48(2) of the Act. That section enables a relevant person, which is defined to mean the Commissioner, the Minister or the Authority (now Ombudsman) to authorise a prescribed officer to provide information. The invitation I extended to the Commissioner would have enabled him to authorise a member of the IIB, being a prescribed officer, to provide me with the relevant information. The Commissioner refused, citing as his reason the fact that the disciplinary processes under the Act were yet to be completed. As you have noted in your discussion paper, that was more than 3½ years after the disciplinary processes had been instigated. So far as I am aware the disciplinary processes had not resulted in any more serious sanction than unrecorded reprimands, submission to counselling in relation to conduct and recorded reprimands.

As I said in the Wilson Finding, it is difficult to see how the public interest in the full disclosure to an Inquest of all matters pertinent to the circumstances of a death could be outweighed by the perceived public interest in the prevention of possible prejudice

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to a disciplinary process that is unlikely to result in anything more serious than reprimands and managerial guidance.

I expressed the view in the Wilson Finding that the Inquest was detrimentally affected by the statutory secrecy in section 48 and which is a central feature of the Police (Complaints and Disciplinary Proceedings) Act. I recommended that section 48 of the Act be amended to enable full disclosure of relevant evidence to the Coroners Court and further that the Government review the Police (Complaints and Disciplinary Proceedings) Act 1985 in light of reforms adopted in other states of Australia, the United Kingdom and New Zealand which I had referred to in the Finding. I have never received a response from the Government to those recommendations. The Police (Complaints and Disciplinary Proceedings) Act 1985 has not been amended as I recommended and, if there has been any review as recommended by me, I have never seen its contents and no amendment has been made to the Act as a result of any such review.

Indeed, the fact that the Act remains in substantially the same form as it was when enacted in 1985 is most unusual. It is difficult to think of any other piece of legislation governing an aspect of the employment of a public employee such as a police officer that has not undergone at least two revisions in that time. Certainly the legislation covering public servants has been fundamentally changed at least twice during that period. South Australia is clearly out of step with the other states in this respect also and I refer to the Wilson Finding, paragraphs 23.4 to 23.6.

I am particularly concerned about the potential impact of delays in the police disciplinary process upon Inquests into deaths in custody. As you would be aware, the Coroners Act 2003 provides that the Coroners Court must hold an Inquest to ascertain the cause or circumstances of a death in custody. Other reportable deaths are the subject of a discretion vested in the State Coroner as to whether an Inquest will be held or not. Deaths in custody are the exception for obvious reasons. In this connection I draw your attention to the Royal Commission into Aboriginal Deaths in Custody, Volume 1, page 109 and following where the Commissioner commented on the adequacy of coronial Inquests reviewed by the Commission. A matter of particular concern in a death in police custody is that the police are effectively investigating the actions and omissions of the police themselves. This was the subject of comment by the Commissioner in the Royal Commission into Aboriginal Deaths in Custody and you will see the Commissioner eventually concluded that, imperfect though the system is, with the proper safeguards in place, including close coronial supervision, he was satisfied that police investigation of police deaths should continue.

But, when there is a potential that the outcome of a police disciplinary process might delay the commencement of an Inquest into a police death in custody, there is cause for great concern. Although the Coroners Act 2003 does not stipulate a time within which an Inquest must be commenced and completed into a death in custody, whether police custody or otherwise, it is clear that Parliament must have intended that the Inquest be held with all reasonable expedition. Indeed, the Parliament expressly empowered the Coroners Court to make recommendations that might in the opinion of the Court prevent or reduce the likelihood of an event similar to the event that was the subject of the Inquest (see section 25(2) of the Coroners Act 2003). It is easy to see that the benefit of a recommendation is considerably reduced the longer it takes for the

recommendation to be made. It is clearly not in the public interest that an Inquest into a police death in custody should be delayed by a cumbersome and lengthy police disciplinary process.

Once again, thank you very much for providing me with the opportunity to make a submission. I look forward to the outcome of your process and very much hope that it will result in long overdue reforms of the Police (Complaints and Disciplinary Proceedings) Act 1985. I note that you intend to hold a public hearing in late April 2015. I do not wish to be heard at that public hearing and I am content to confine my input to this submission. I note that submissions will be published on the ICAC website after 27 March 2015 and I have no objection to the publication of my submission in that manner.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mark Johns', written over a printed name and title.

Mark Johns
STATE CORONER



INQUEST INTO THE DEATH OF

CHRISTOPHER STUART WILSON

“In my view, this case presented opportunities for greater leadership to be demonstrated and I would have expected greater leadership to be shown during police involvement in the incidents that have been examined during this Inquest.” (Deputy Commissioner Burns)



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 21st, 23rd and 28th days of May 2007, the 28th and 29th days of June 2007, the 13th, 14th, 15th, 16th, 17th, 20th, 21st, 22nd, 23rd, 24th, 27th, 28th, 29th and 30th days of August 2007, and the 9th, 19th, 20th, 22nd, 23rd and 26th days of November 2007, and the 7th day of April 2008, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the death of Christopher Stuart Wilson.

The said Court finds that Christopher Stuart Wilson aged 23 years, late of 3 Ey Court, Athelstone died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 28th day of February 2004 as a result of gunshot wounds to head. The said Court finds that the circumstances of his death were as follows:

1. Cause of death

Christopher Wilson was 23 years of age at the time of his death at 1500 hours on 28 February 2004 at the Royal Adelaide Hospital. On 27 February 2004 Mr Wilson had sustained a gunshot wound to the back and two shots to the head. He was conveyed to the Royal Adelaide Hospital where he subsequently died from his wounds. Post mortem examination confirmed two gunshot entry wounds to the head, one in the right forehead and the other just below the left ear. Further examination of the brain showed the right forehead gunshot wound passed right to left, horizontally, and exited the brain in the left frontal region. The left temporal gunshot wound passed left to right into the brain and approximately horizontally. Another gunshot

wound was located in the left side of the back region, with a projectile path passing through the tenth thoracic vertebrae. The pathologist also noted that there was an irregularly shaped abrasion on the lateral aspect of Mr Wilson's right lower leg. This abrasion was 17 by 8 millimetres in size and was healing at the time of death.

1. Christopher Wilson's murderer

- 1.1. For reasons that appear in paragraph 23 of these findings, the media is forbidden from publishing the identity of Christopher Wilson's murderer, because he (the murderer) was 17 years old at the time of the murder. Although the Coroner's Court can publish his name, any further publication by the media of his name would be forbidden by section 63C of the Young Offenders Act 1993.
- 1.2. In order to prevent an inadvertent breach of section 63C by media outlets I have elected to refer to the murderer by the letters "HB". Had HB murdered Christopher Wilson just one week later, he would have been 18 years old and this would have been unnecessary. I have made recommendations about section 63C of the Young Offenders Act.
- 1.3. On 4 August 2005 HB pleaded guilty to the offence of murder, two separate offences of endangering the life of another person and one offence of threatening a person with a firearm. It was HB who shot Christopher Wilson on 27 February 2004. He used a Ruger revolver¹. HB was sentenced to life imprisonment for the offence of murder and to a single sentence of imprisonment for nine years for the offences of endangering life and threatening a person with a firearm. The sentences were directed to be served concurrently. HB was almost 18 years old on 27 February 2004² and accordingly he was dealt with under the Young Offenders Act 1993 but was sentenced as an adult. Justice White directed that the sentences of imprisonment be served in a prison. He fixed a non-parole period of 16 years and 6 months commencing on 1 March 2004. Of the offences for which HB was convicted, the murder, the threatening a person with a firearm and one of the offences of endangering the life of another person were committed on 27 February 2004 during an incident that occurred in Duthie Street, Hillcrest in the early hours of that morning. The other offence of endangering the life of another person occurred late in the

¹ Annexure GM37 to Exhibit C10

² His date of birth was 3 March 1986

evening of 25 February 2004 in Flinders Street, Hillcrest. The victim on that occasion was also Christopher Wilson. The victims of the offences apart from murder that occurred on 27 February 2004 were Mr Mark Wilson, the brother of Christopher Wilson, and Mr Justin Williams, a friend of Christopher and Mark Wilson. The sentencing remarks of Justice White are contained in Exhibit C37c. Those remarks note that the wound to Christopher Wilson's back was fired as he was running away from HB. That wound disabled Christopher Wilson immediately and he fell to the ground. After that, two shots were fired by HB into Mr Wilson's head as he lay on the ground. Justice White described this as indicative of an "execution style killing" and I respectfully agree.

- 1.4. Thus, the criminal proceedings which ensued from the death of Christopher Wilson having been disposed of, section 21(2) of the Coroners Act 2003 did not afford any obstacle to the commencement of this Inquest on 21 May 2007.

2. Conduct of the Inquest

- 2.1. Section 20(1) of the Coroners Act 2003 provides:

'The following persons are entitled to appear personally or by counsel in proceedings before the Coroner's Court:

- (a) the Attorney-General;
- (b) any person who, in the opinion of the Court, has a sufficient interest in the subject or result of the proceedings.'

When the Inquest opened on 21 May 2007 the information then available to the Court was relatively limited as is evident from the opening submissions of Counsel Assisting which appear at Transcript, pages 2 to 9. At that time Counsel Assisting me tendered the following affidavits:

- Senior Sergeant Dean Greenlees of Fingerprint Section, South Australia Police and attached statement of Anneke Lisbeth Sterk dated 1 March 2004
- Dr Allan Cala, Chief Forensic Pathologist and attached post mortem report dated 15 April 2004
- Mr Donald Sims, Principal Forensic Scientist of Forensic Science SA and attached toxicology report dated 21 May 2004
- Mr Mark Edmund Wilson sworn 14 May 2007 and attached statements dated 21 May 2004 and 19 November 2004
- Detective Inspector Brenton Saunders of Holden Hill Criminal Investigation Branch, South Australia Police and attached letter from Psychiatrist Nick Ford

dated 30 April 2007, and attached letter from Registered Psychologist Michael Correll dated 4 May 2007

- Sergeant Robert Delaat of Adelaide Crime Scene, South Australia Police and attached statement dated 12 March 2004

The affidavit of Senior Sergeant Greenlees was a formal identification affidavit. The post mortem report and toxicology reports were likewise essential documents, for the ascertainment of cause of death but did not provide much indication of the circumstances leading up to Mr Wilson's death. The affidavit of Mark Edmund Wilson was put in at that stage because he would be unable to give evidence by reason of a psychiatric condition. The affidavit of Detective Inspector Brenton Saunders related to the inability of another police officer to attend Court by reason of a medical condition.

- 2.2. Counsel Assisting's description of the situation as it appeared from the documents then available to the Court appears at Transcript, page 3. I set it out hereunder:

'... late on 25 February 2004, Mr Wilson, his brother Mark, who lived at an address at John Street at Hillcrest, and three other men in a car, who I'll refer to as Mr Wilson's group, encountered two other men in a nearby street, and there was apparently some verbal exchange between some of them.

Your Honour will hear references throughout the course of the inquest to John Street, which is where Mr Mark Wilson lived, to Duthie Street, to Hawkins Avenue and Flinders Road, and they are all streets in the same vicinity between Fosters and North East Roads at Hillcrest.

Mr Wilson's group apparently travelled in a car driven by Mr McAinsh down Duthie Street, which is a dead end street. They turned and went back onto Hawkins Avenue and then into Flinders Street, and in statements to police some of them say that they noticed a particular black BMW car behind them as they exited Duthie Street.

Once they were in Flinders Street, I understand that Mr McAinsh travelled around a roundabout so that his car was facing in the direction from which it had just come, and it was at this point that the occupants in that car in their statements describe that they saw a black BMW car coming towards them. Both of those vehicles stopped and it was at this time that there was some interchange between the two groups.'

Counsel Assisting then described how one of the occupants of the BMW, subsequently identified as HB, had a firearm of some description with him. She described how the firearm was apparently discharged during the encounter and how, as Mr Wilson's group drove away from the scene Mr Wilson, who was sitting in the right rear passenger seat said something to the effect that he thought he might have been shot, having felt what appeared to be blood on his right calf. As will

subsequently appear from a fuller description of this incident, a shot discharged from HB's gun ricocheted off the bitumen on Flinders Road and hit Mr Wilson in his right calf while he was seated in Mr McAinsh's Magna motor vehicle, in the rear of that vehicle on the driver's side with the door open. Shortly afterwards, the Wilson group attended in the same vehicle at the Holden Hill Police Station to report this incident.

- 2.3. Counsel Assisting said that the events at the Holden Hill Police Station concerning what was said by members of the Wilson group to particular police officers and what action was subsequently taken by police would be a primary focus of the Inquest.
- 2.4. Counsel Assisting made the point, which I returned to frequently during the course of Inquest, that the Court had no overall report of the events leading to the fatal shooting of Christopher Wilson. The documentary information available to the Court at the commencement of the Inquest related predominantly to the events of 25–27 February 2004. As the Inquest unfolded, it became apparent that there had been another significant incident which required consideration which came to be referred in the course of the Inquest as the “Dreelan PIR” or “Dreelan complaint”. That related to a complaint made to officers at Holden Hill Police Station by a person called Clive Dreelan in relation to an incident involving HB that had occurred in September 2003, the complaint having been made in October 2003. The handling of the Dreelan complaint became the subject of extensive investigation at the Inquest just as did the handling of the complaint made at Holden Hill Police Station by Christopher Wilson on the evening of 25 February 2004.
- 2.5. The lack of any overall report collating all material relevant to the cause and circumstances of Christopher Wilson's death meant that new³ material emerged over the course of the Inquest and required assessment “on the fly”, to an extent not usually experienced by the Court.
- 2.6. As a consequence of this, it became necessary to call further witnesses as the relevance or potential relevance of the accounts of those witnesses became apparent from evidence adduced by the witnesses that preceded them.
- 2.7. For that reason the Inquest took an unpredictable course and it was necessary to deal with applications by Counsel seeking leave to appear on behalf of proposed witnesses

³ I refer to material not previously known to the Court.

throughout the Inquest as it unfolded. This was complicated by the fact that it was not always entirely clear at the time an application was made why the proposed witness was said to have a sufficient interest in the subject or result of the proceedings. With the exception of an application on behalf of Mrs Julie Wilson, the mother of Christopher Wilson, and an application by the Commissioner of Police whose interests were self evident, there were a number of applications made on behalf of police officers who were to be called as witnesses during the course of the Inquest. A person appearing as a witness is not entitled as of right to be represented by Counsel on the basis that he or she has a sufficient interest in the subject or result of the proceedings. Something more than an interest as a witness or a proposed witness is required. Part of the material available to the Court at the commencement of the Inquest was a letter dated 19 October 2006 from the Police Complaints Authority⁴ to Mrs Julie Wilson who had made a complaint against police as a result of her son's death. That letter eventually came to be received in evidence as Exhibit C12n. The letter advised that the Police Complaints Authority had recommended disciplinary action against four named police officers; Detective Brevet Sergeant Gregory Paul Ranger, Detective Senior Constable Rohan Wynfield Crawford, Senior Constable Michael Redding and Sergeant Glenn Mickan. I took the view that any of these officers who was required to give evidence at the Inquest would, on the face of it, be entitled to appear by Counsel if an application was made. Beyond those officers, there was no material before the Court which would offer any obvious basis for an application made on behalf of a proposed police officer witness other than submissions provided by his or her Counsel.

- 2.8. As the Inquest unfolded, it became apparent that a number of other police officers apart from those referred to in Exhibit C12n had been the subject of investigation by the Internal Investigation Branch and the Police Complaints Authority in relation to the circumstances leading to Christopher Wilson's death. As a consequence of the lack of any overall report about those circumstances it was not possible for the Court to predict before the commencement of the Inquest the involvement of those other police officers.
- 2.9. In the result, almost every police officer who was called to give evidence at the Inquest applied for and was granted leave to appear by Counsel. In all there were

⁴ Exhibit C12n

twenty Counsel representing different interests by the completion of the Inquest many of whom were present in Court for substantial parts of the Inquest.

- 2.10. I made it plain at the outset that I did not wish to have unnecessary repetition of questions and that Counsel should confine themselves to questions pertaining to their client's interests only and to avoid covering ground which had already been covered so far as possible. With limited exceptions, this rule was generally adhered to by Counsel. Nevertheless, there were severe logistical difficulties presented by the number of Counsel appearing.

3. Police (Complaints and Disciplinary Proceedings) Act 1985

- 3.1. Prior to the commencement of this Inquest, Counsel Assisting me wrote to the Commissioner of Police seeking access to an assessment of the Police Complaints Authority. The Court was aware that such a document existed and that it was 53 pages in length. This was apparent from a letter dated 15 November 2006 from the Police Complaints Authority to Mrs Julie Wilson a copy of which was admitted as Exhibit C12q and which had been provided by Mrs Wilson to the Court prior to the Inquest. Neither the Commissioner of Police nor the Police Complaints Authority was prepared to provide a copy of the assessment to the Court for use at the Inquest. The Commissioner of Police was prepared and did offer to provide a copy of the report to me on the condition that I not divulge its contents. This I declined to do because it would be of no assistance to me to be aware of material which I could not use for the purposes of a public Inquest. Having knowledge of matters which I would not be able to refer to might also create difficulties in the conduct of the Inquest.
- 3.2. Nevertheless, it became clear at a fairly early stage that there was a significant amount of material in the hands of both the Commissioner of Police and the Police Complaints Authority that was relevant to the matters the subject of the Inquest. In my opinion it was likely that such material would include statements of witnesses, record of interviews of witnesses, copies of exhibits and various other documents.
- 3.3. The Inquest was fully conducted without access to any of this material. As the Inquest unfolded it became apparent that persons not previously understood by me to have been the subject of disciplinary investigation had in fact been so investigated. One such person disclosed this fact during the course his evidence. It was not until

very late in the Inquest that Counsel for the Commissioner of Police finally informed the Court (at the Court's request) of the names of all officers in relation to whom disciplinary investigations had taken place.

- 3.4. The Police (Complaints and Disciplinary Proceedings) Act 1985 will hereinafter be referred to as the "Police Complaints Act". The Police Complaints Act establishes the Police Complaints Authority and provides for a Police Disciplinary Tribunal. In addition to that it provides for the investigation and assessment of complaints against police. Section 48 of the Act is headed "Secrecy" and provides as follows:

(1) In this section—

prescribed officer means—

- (a) a person acting under the direction or authority of the Authority; or
- (b) a member of the internal investigation branch or any other member of the police force,

but does not include the Authority or the Commissioner;

relevant person means—

- (a) in relation to a person who is or has been acting under the direction or authority of the Authority—the Authority; or
- (b) in relation to a person who is or has been a member of the police force—the Commissioner; or
- (c) in any case—the Minister.

- (2) Except as required or authorised by this Act or by a relevant person, a person who is, or has been, a prescribed officer must not, either directly or indirectly, make a record of, or divulge or communicate, information acquired by reason of his or her being, or having been, a prescribed officer, being information that was disclosed or obtained under this Act.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (3) Where the Commissioner furnishes to the Authority a certificate certifying that the divulging or communication of information specified in the certificate, being information that has been disclosed to the Authority by a member of the police force or obtained by the Authority from records of the police force, might—
- (a) prejudice present or future police investigations or the prosecution of legal proceedings whether in the State or elsewhere; or
 - (b) constitute a breach of confidence; or
 - (c) endanger a person or cause material loss or harm or unreasonable distress to a person,

then, despite any other provisions of this Act, a person who is, or has been, the Authority or a person acting under the direction or authority of the Authority must not, either directly or indirectly, divulge or communicate any part of the information except with the approval of the Commissioner or the approval of the Minister given after consultation with the Commissioner.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (4) This section does not prevent a person who is or has been a prescribed officer from divulging or communicating information disclosed or obtained in the course of an investigation under this Act—
- (a) in proceedings before a court, the Tribunal or the Commissioner in respect of—
 - (i) an offence; or
 - (ii) a breach of discipline,
 relating to a matter the subject of the investigation; or
 - (b) as required in proceedings under the *Royal Commissions Act 1917*; or
 - (c) as required by order of a court, the court being satisfied that there are special reasons requiring the making of such an order and that the interests of justice cannot adequately be served except by the making of such an order.
- (5) This section does not prevent a person who is or has been a prescribed officer from whom information has been sought in the course of an investigation under this Act from consulting—
- (a) a legal practitioner; or
 - (b) some other person with the Minister's approval (which may be a general approval or given in a particular case),
- in relation to the matter under investigation.
- (6) This section does not prevent a person who is or has been a member of the police force whose conduct has been under investigation under this Act from divulging or communicating particulars of the outcome of the investigation as furnished or registered under section 36 (including any comments made by the Authority when furnishing any of those particulars).
- (7) Despite any other Act or law, a person who is or has been the Authority or the Commissioner cannot be required to divulge information disclosed or obtained under this Act in the course of an investigation except where such a requirement is made—
- (a) in proceedings before a court or the Tribunal in respect of—
 - (i) an offence; or
 - (ii) a breach of discipline,
 relating to a matter the subject of the investigation; or
 - (b) in proceedings under the *Royal Commissions Act 1917*; or
 - (c) as required by order of a court, the court being satisfied that there are special reasons requiring the making of such an order and that the interests of justice cannot adequately be served except by the making of such an order.
- (8) If a person consulted under subsection (5) obtains information as a result of the consultation that the person who initiated the consultation is (apart from that subsection) prohibited from divulging or communicating, the person so consulted must not divulge or communicate that information.

Maximum penalty: \$2 500 or imprisonment for 6 months.’

- 3.5. Section 48 of the Police Complaints Act operates as a secrecy provision in respect of people other than the Police Complaints Authority and the Commissioner. I formally requested the Police Complaints Authority and the Commissioner of Police voluntarily to produce all relevant information held by them in connection with the disciplinary process to the Court. They both declined to do so.
- 3.6. The secrecy provision operates to prevent a person who is or has been a police officer⁵ from divulging information acquired by reason of his or her having been a police officer being information that was disclosed or obtained under the Act. Clearly this prohibition was apt to prevent the disclosure by any of the police witnesses before the Inquest of information that had been disclosed by them to the Internal Investigation Branch or the Police Complaints Authority.
- 3.7. However, I took the view, with which Counsel for the Commissioner of Police did not disagree, that the prohibition did not prevent such officers from providing the same information they might previously have given to the Internal Investigation Branch or the Police Complaints Authority in answer to a direct question before the Court, provided that the question was not framed in a way that requested them to disclose what they had provided in answer to inquiries made by the Internal Investigation Branch or the Police Complaints Authority. In other words, if an officer had been questioned by Internal Investigation Branch and asked a particular question as to steps taken on the night of 25 February 2004, and the officer provided an answer, then Counsel before the Coroner’s Court could ask the officer exactly the same question in evidence and that officer would be obliged to answer the question and this would involve no breach of section 48 of the Police Complaints Act. Thus there would be no objection to eliciting answers from individual officers simply by asking those officers questions which might yield the same information as was provided to the Police Complaints Authority or the Internal Investigation Branch provided that the question was not framed in such a way as to ask what they actually said to the Internal Investigation Branch or the Police Complaints Authority.
- 3.8. That left open the possibility that I might have occasion to direct a witness to divulge information disclosed under the Police Complaints Act pursuant to section 48(7)(c) of

⁵ Excepting the Commissioner

the Act. However, I took the view that the tests required to be satisfied under that section were never met. That section required me to be satisfied that there were special reasons requiring the making of an order and the interest of justice could not adequately be served except by the making of such an order. The ability for the Court to hear, at least in theory, the same evidence from witnesses before the Court as given by those witnesses to the Internal Investigation Branch or the Police Complaints Authority meant that it was difficult to satisfy the requirement that there be special reasons requiring the making of an order. It seemed to me that the most likely special reason would be that I was of the view that a witness may not have been providing a truthful account to me and that that would afford a special reason to verify the account to the Court by checking it against a previous account provided to the Internal Investigation Branch or the Police Complaints Authority. In the circumstances that situation did not arise. Although the accounts of some witnesses differed, I have felt able to dispose of this matter without requiring production of previous accounts given by those witnesses.

4. Public interest immunity

- 4.1. The material available to the Court before the commencement of the Inquest was not such as would attract a claim for public interest immunity. However, from a very early stage in the Inquest, Counsel for the Commissioner of Police raised the subject of public interest immunity and foreshadowed that a claim would be made in relation to some material. That was material which had yet to be provided by the Commissioner of Police but was clearly thought by the Commissioner and those advising him to be relevant to the Inquest.
- 4.2. Subsequently Counsel for the Commissioner of Police suggested that I look at the relevant material privately. I resisted this suggestion preferring to conduct the Inquest as publicly as possible and wishing to ensure that I saw nothing which could not be publicly revealed. The Commissioner filed an affidavit sworn by Detective Senior Sergeant Grant Garritty on 26 June 2007. This was an “open affidavit” in the sense that no objection was taken to publication of the affidavit or any part of it. The material the subject of the public interest immunity claim was described in paragraph 13 of that affidavit as follows:

‘During the later half of 2003 SAPOL received information from a registered human source that HB was in possession of a revolver.

- a. This information was documented and disseminated to Holden Hill police in hard copy document for action.
- b. Informant Management Section/Human Source Management Section received no further information as to any results or outcomes from the referral of the information.’

4.3. I accepted the need to respect the public interest in the non-disclosure of the identity of a “human source” or informant. The public interest in non-disclosure of the identity of informants is well established and well known. The more difficult issue would be the application of the second part of the well established principle for dealing with claims of public interest immunity in the context of an Inquest: the so called “balancing exercise” in which the Court is required to balance the public interest in the preservation of the confidentiality of certain information against the detriment that might be caused to the administration of justice if that information were not to be available in the proceedings. That test is normally applied in an action, civil or criminal, between parties. I am not aware of any authority upon the application of the principle to an Inquest. The difficulty that I perceive is that the second part of the test, namely the balancing of the detriment to the administration of justice is a variable factor in normal civil or criminal litigation in that the detriment to the administration of justice is measured by the forensic advantage that might be obtained or lost if the material is produced or not produced to one or other of the parties. In an Inquest, the purpose of which is to ascertain the cause **or circumstances** of specified events, any material relevant to the circumstances surrounding the event in question is relevant, and it is difficult to perceive any quantitative test which could be applied to determine in a way analogous to the application of the test in civil or criminal proceedings, the “forensic advantage” of the inclusion or non-inclusion of the particular information.

4.4. Be that as it may, I resisted the need to pursue the identity of the informant on the ground that it seemed to me to be irrelevant.

4.5. Late in the Inquest, when it was proposed to recall Detective Senior Constable Rohan Crawford to give evidence, his Counsel pressed upon me the need to consider the identity of the informant in order to better understand the position of Detective Senior Constable Crawford who, it was said, had done certain things which could not be

disclosed without disclosing the identity of the informant. I briefly convened the Court in camera and was informed during that session of the identity of the informant, and was assured by Counsel for Detective Senior Constable Crawford that he had carried out more investigations than he was able to reveal without disclosing the identity of the informant. On the basis that Detective Senior Constable Crawford may have done more than he was able to disclose, I excused him from further attendance, having taken the view that the matter could not further be pursued because to do so would require the divulgence to a wide group of people of the identity of the informant and that this exercise would not materially assist me in an analysis of the circumstances leading to Mr Wilson's death, but would only serve to prove one way or the other whether Detective Senior Constable Crawford had in fact done more than was apparent on the face of the evidence both oral and documentary as it then stood.

- 4.6. Detective Senior Constable Crawford's evidence was relevant to the Dreelan PIR and the information contained in paragraph 13 of Detective Senior Sergeant Garritty's affidavit⁶. All references to the evidence of Detective Senior Constable Crawford in this finding should be read against the background that I must accept that there were further steps taken by him than those which are apparent on the evidence in pursuing those two matters. However, the results of those investigations, so far as they are relevant to the circumstances leading to the death of Mr Wilson, will be apparent on the face of these findings. There were admitted deficiencies in those investigations. I am unable to attribute them to Detective Senior Constable Crawford for the reasons I have already stated, however that does not mean that there were not deficiencies. Indeed, as will be apparent in due course, such deficiencies were acknowledged by Deputy Commissioner Burns in his evidence. The deficiencies must be regarded as attributable in a "corporate" sense to South Australia Police, and should not be taken in this finding, as referable to Detective Senior Constable Crawford except where specifically appears.

5. The earlier offending of HB

- 5.1. The evidence revealed that in the early hours of Sunday, 30 March 2003, HB was involved in an altercation with an unknown person at McDonald's on West Terrace, Adelaide. At about 5:30am he returned to the McDonald's in possession of a long

⁶ Exhibit C40

barrelled pump action firearm. He confronted a number of patrons, waving the firearm at them and apparently looking for the person with whom he had the earlier altercation. He was shouting that he was going to kill that person. He pointed the firearm at a number of people inside the restaurant while holding his finger on the trigger and shouting that he would kill those involved. A security guard stepped in and moved HB from the restaurant to the car park where he continued to wave the firearm around at people. He was arrested later that day at his home address in Duthie Street, Hillcrest. Although the gun was not located at that time it was later handed to police, apparently by HB's father.

- 5.2. It was discovered by police that the firearm was stolen although it was not alleged that HB was the thief. HB did not have a licence to possess a firearm. He had just turned 17 when this happened.
- 5.3. On 22 June 2003, despite being on bail in relation to the incident previously mentioned, and despite that bail being conditional upon HB not leaving his home except for the purposes of attending school, for the purpose of attending his family's mosque, and for the purpose of seeing his solicitor, HB was arrested at approximately 11:30 pm on 22 June 2003, after having been observed doing burn-outs in Gouger Street and having been found to have a Samurai sword under the driver's seat of his car.
- 5.4. On 8 July 2003, HB appeared before the Youth Court and was sentenced for the offences of threatening a person with a firearm (two counts), possessing a firearm with intent to commit an offence, possessing a firearm without a licence, carrying an offensive weapon, giving a false name and address, failing to comply with a bail agreement, and unlawful possession. HB was sentenced to four months detention which was suspended on the condition that he enter into an obligation with the Court. The length of that obligation was 18 months. The paramount condition of the obligation was that he be of good behaviour for that period. In addition to that, he was to reside at his Duthie Street home address. Condition 5 of the obligation prohibited him from possessing or carrying any firearm or offensive weapon including knives. The obligation was acknowledged by HB on that day.

6. **Police warnings in relation to HB**

Some time around June 2003, warnings were placed onto the Police Information Management System (“PIMS”) which is a computerised information management system allowing for the sharing of information within South Australia Police⁷. Those warnings related to HB. They came mostly from ancillary reports. Such reports come to generated, and the information therein transferred to the PIMS system, in accordance with a process described in the affidavit of Deputy Commissioner Burns⁸ and the affidavit of Senior Constable Allan Ziegler⁹. The warnings which were inserted on the PIMS system in June 2003 included “may be armed”, and “psychological/psychiatric disorder”.

7. **The murder of Christopher Wilson**

- 7.1. I will now briefly describe the events immediately preceding the shooting of Christopher Wilson. These events occurred on the night of 27 and the early hours of the morning of 28 February 2004. 27 February 2004 was a Friday. That night, Christopher Wilson, James McAinsh, Ryan Williams, Justin Williams and Mark Wilson gathered together at the home of Mark Wilson. They were drinking alcohol and talking about the events of the previous Wednesday night when they had had an altercation which will be described in more detail later.
- 7.2. According to James McAinsh the idea arose of walking around to Duthie Street which was nearby, and “sus out the house”¹⁰ which they believed the persons involved in the earlier altercation might live in or frequent. Ryan Williams gave an account that it was in the back of his mind that they might find the men who had been involved in the incident on Wednesday night and “beat them up if we found them”. Ryan Williams armed himself with a broken off golf club shaft. Christopher Wilson was drinking from and took with him a 750 ml bottle of Coopers Pale Ale beer.
- 7.3. There is a park on one side of Duthie Street opposite the house that the men were interested in. They sat in the park in a position just south of two large drains which are located in the centre of the park. They remained there for a little while, perhaps

⁷ Exhibit C10, affidavit of Chief Inspector Grant Moyle, paragraph 6

⁸ Exhibit C34

⁹ Exhibit C25b

¹⁰ Transcript, page 113

half an hour, looking at this house. After that period they decided to walk back to Mark Wilson's house.

- 7.4. The question arises: what was the motivation of the group in attending at Duthie Street that night. It was suggested by some members of the group who gave evidence at the Inquest that they decided to attend the scene because they believed that police had not taken sufficient action following a report made by them about the incident which occurred on the Wednesday night. Other members of the group, such as Ryan Williams, clearly had vengeance in mind. On the whole of the evidence, it is not possible to conclude that the group acted in concert with a common purpose to seek vengeance. It is clear that some members of that group may have had that purpose. Other members may have had no particular purpose other than curiosity. It was forcefully submitted by the Commissioner of Police that their behaviour in attending at the scene on that night was foolhardy, knowing that they might encounter a person who they knew to possess a firearm, and a willingness to use it. Whether the behaviour was motivated by an intention to seek vengeance, or was mere bravado by relatively young men filled with alcohol and with some idle hours to fill, or whether the motivation was that the locality was relatively close to the home of Mark Wilson and the group was keen to carry out some form of reconnaissance because of a concern that Mark Wilson might encounter HB again, is not clear. I agree that the decision on the part of some members of the group to arm themselves with objects such as golf club shafts was foolish in the extreme. However, not all members of the group equipped themselves in that way. It was not clear that all members of the group were aware that some members of the group were armed. The most that can be said is that some members of the group acted in a foolhardy manner, some in an extremely foolhardy manner, and others in a relatively unexceptionable manner.
- 7.5. As I have said the group decided to leave the area opposite the house they thought to be occupied by their protagonists from the previous Wednesday night. They decided to return to Mark Wilson's house and walked across the park and onto Duthie Street. It will be recalled that the group consisted of Justin Williams, Ryan Williams, Christopher and Mark Wilson and James McAinsh. As they were walking along Duthie Street a car drove into Duthie Street. It was a white VK Commodore. A passenger emerged from this vehicle. It was HB. Mark Wilson walked up to HB and punched him in the face causing him to fall to the ground. Mark Wilson apparently

recognised HB as the person who had discharged a firearm on the preceding Wednesday night, hitting his brother in the leg.

- 7.6. HB then ran away in the direction of his home which was approximately 60 metres away. While in his home, he obtained his gun, which was loaded, and returned to the area where the car and the group of young men were located. That group was then engaged in a conversation of a relatively calm nature. HB walked up to Justin Williams and pointed the gun at his face. HB attempted to fire the gun but fortunately for Justin Williams, it did not discharge. HB then pointed the gun at Mark Wilson, telling him to get on his knees and to apologise. Mark Wilson complied. HB fired a shot into the ground in front of Mark Wilson and then fired at least one more shot in the direction of Mark Wilson one of which struck him in the left arm.
- 7.7. When HB began firing the gun, the other males in the group began to scatter. Christopher Wilson started to run in an easterly direction on Duthie Street. HB fired his gun at Christopher Wilson, striking him in the back as he was running away. That shot caused Christopher Wilson to fall to the ground. HB then walked towards him, stood over him and fired two further shots from close range into his head. Shortly after this, HB used a mobile telephone to dial 000, and report the incident and request the attendance of an ambulance. An ambulance attended, and police attended. HB was then arrested.

8. The first shooting incident involving Christopher Wilson

- 8.1. On Wednesday, 25 February 2004 at around 11:00 pm Christopher Wilson and four of his friends departed from the home of Mark Wilson to attend the OG Hotel to play the poker machines. They were being driven in a Magna motor vehicle owned and driven by James McAinsh. Ryan Williams was a passenger in the front seat of the vehicle. Mark Wilson (the brother of Christopher Wilson) was in the rear passenger side seat, Dylan Connelly was in the middle rear seat and Christopher Wilson was seated in the rear driver's side seat. As I have already said Christopher Wilson was 23 years old at that time. His friends were all of around the same age.
- 8.2. It appeared that Mark Wilson's "wheelie bin" had disappeared from his home and it was thought that it may have been stolen. The evidence suggests that at least part of their purpose as they drove away from Mark Wilson's house that night, in addition to

travelling to the OG Hotel, was to keep an eye out for the missing wheelie bin. This may have accounted for the fact that the group took a wrong turn and ended up in Duthie Street at Hillcrest. The western end of Duthie Street is a cul-de-sac and it was in this direction that the vehicle containing the five men travelled. Duthie Street runs parallel with Flinders Street and they are separated by a narrow strip of “park” or vegetation. It was that narrow strip which some of the group visited on the following Friday night on the occasion of the murder of Christopher Wilson. On the northern side of Duthie Street there are a number of domestic dwellings, including that of HB’s family.

- 8.3. It may be that James McAinsh had turned into Duthie Street having mistaken it for Flinders Street. In any event, at the western end of Duthie Street the Magna executed a manoeuvre described by James McAinsh in his evidence as a “five-point turn”. As the vehicle moved along Duthie Street, now proceeding in an easterly direction, some of the men in the car noticed some people standing in front of a house in Duthie Street. They did not pay much attention to this at the time. Some of them gave evidence that they noticed a car parked at that address facing towards the road and that there was a light on at the house. The group in the Magna left Duthie Street and travelling briefly on Hawkins Avenue, turned into Flinders Street. While travelling on Flinders Street they noticed a car coming up behind them. The car began to flash its lights at them and so James McAinsh executed a U-turn at the next roundabout and stopped his car facing in the opposite direction and alongside that other vehicle. The evidence suggested that the rear doors of each of the cars were approximately adjacent to one another, the vehicles facing in opposite directions.
- 8.4. Two males alighted from the other vehicle which was described subsequently by some of the men in the Magna as a black or dark coloured BMW. The males from the BMW were yelling something about the men in the Magna being in “their street” and were yelling for the group to “keep out” of “their street”. Ryan Williams and Mark Wilson alighted from James McAinsh’s car and approached the people from the BMW, meeting them in the space between the two vehicles. At this stage, Christopher Wilson had opened the rear right door of the Magna but had not alighted from it. One of the males from the BMW, the passenger, was HB. It seems that HB enquired in an aggressive fashion what the men in the Magna had been doing in his street. It may be that they responded that they were looking for a stolen wheelie bin

but had made the wrong turn. HB produced a revolver. He was told by his companion to put it away but he did not do so. He fired a shot from the revolver apparently in the direction of the road surface.

- 8.5. Although Christopher Wilson did not realise it immediately, the shot fired by HB had ricocheted off the road surface and hit him in the right leg below the knee on the calf muscle. As soon as the shot was fired, Mark Wilson and Ryan Williams quickly re-entered the Magna and James McAinsh drove away from the scene. They were not followed by the BMW and had no further contact with it.
- 8.6. As they drove away Christopher Wilson felt something warm and wet on his leg and realised he was bleeding. He told the others in the car and they travelled to a nearby BP Service Station where they pulled in and had a look at Christopher Wilson's leg. It was not bleeding profusely and Mr Wilson did not consider that it required medical assistance. Christopher Wilson did not complain of being in great pain and did not suggest that he see a doctor or be taken to a hospital.
- 8.7. At that point, the men in the Magna discussed what ought to be done next. The subject of going to the police was raised. The evidence of James McAinsh, Ryan Williams and Dylan Connelly suggests that Christopher Wilson was not enthusiastic about reporting the matter to the police, although he was not completely resistant either. James McAinsh gave evidence that it was he who raised the topic of reporting it to the police. It appears that James McAinsh also mentioned that this would be necessary if Christopher Wilson were later to pursue a criminal injuries compensation payout as a result of the wound. In the result, James McAinsh took responsibility for the decision and said that they were going to the police and that is what happened¹¹. I should mention that neither Ryan Williams nor Dylan Connelly gave evidence of being aware of a discussion about criminal injuries compensation. Their motivation for going to the police was the simple fact that they had been shot at and that a person was in possession of a gun and prepared to use it. The group then attended at the Holden Hill Police Station which was quite close by. They were asked why they did not ring the police from the BP Service Station and their response was that the Holden Hill Police Station was within five minutes drive.

¹¹ Transcript, page 87

- 8.8. They travelled to the Holden Hill Police Station via Flinders Street and past Duthie Street where they thought the BMW had come from in an effort to see if it was the same vehicle as that which had followed them and been involved in the encounter in Flinders Street. They saw nothing. Some of the men had different recollections in this regard. For example, James McAinsh did not think that they went via Flinders or Duthie Street¹². Other members of the group had a different recollection and on balance I think it more likely than not that this did occur.
- 8.9. Dylan Connolly's account of the events of the evening of 25 February 2004 provides a good summary. He recalled that James McAinsh was driving, Ryan Williams was in the front, he (Dylan Connelly) was in the middle in the back, Mark Wilson was on his left and Christopher Wilson was on his right¹³. He said that they left to go and play the poker machines at the OG Hotel¹⁴. He related the story of the wrong turn down Duthie Street¹⁵, and said that they noticed one house with the lights lit up and a car reverse parked in the driveway¹⁶. Dylan Connelly's account of the confrontation with the BMW appears at T1377-T1379. He stated that when the vehicle stopped "these blokes jumped out, like rambling" and there were two of them. Mark stepped out of the Magna and Dylan Connelly jumped out behind him. The following is a useful summary of what happened next:

'They were yelling obscenities and stuff, saying 'What the fuck are you doing in that fucking street? Fuck away from that house' etc. That's when I stepped out. The two boys were both on the driver's side of the car and we're just at the boot on the other side of our car and you see one of them trying to do something with his belt and the other one is just going 'No, man, no, put it away, man. What the fuck are you doing?'. Because he tried to push it back into his mate's belt, he pulled it out. I think we both sort of stood there, shocked for a second. He's pulled out this massive gun and he's still just yelling and threatening us about the house. We were just trying to get back into the car, and just as I am getting back into the car I heard a pop. We jumped back in the car, with Mark right behind me and we have gone.'¹⁷

- 8.10. Dylan Connelly made it plain that as soon as he saw the gun he moved to get straight back into the car. When he heard the "pop" sound he was still outside the car but was

¹² Transcript, page 87

¹³ Transcript, page 1374

¹⁴ Transcript, page 1374

¹⁵ Transcript, page 1375

¹⁶ Transcript, pages 1375 – 1376

¹⁷ Transcript, page 1378

just putting his head down to get in. Mark Wilson was right behind him. Once they got into the car it drove off straight away¹⁸.

- 8.11. Dylan Connelly provided some evidence about what knowledge any members of his group had of the identity of the shooter. He said that he thought that Mark Wilson said something to one of the occupants of the BMW when they first stepped out of the car along the lines of “I went to school with your brother”¹⁹. The occupant of the BMW did not respond. They were not listening to Dylan and Mark because they were just shouting²⁰. Dylan Connelly also said that after the shooting incident he did not believe that Mark Wilson further discussed the identity of the two individuals in the BMW. He said that he did not believe that either he or any of the other members of the group discussed the identity of this person with Mark Wilson during the trip to the Holden Hill Police Station²¹ even though that would have been important information to provide to the police.

9. The attendance of Christopher Wilson and others at Holden Hill Police Station on 25 February 2004

- 9.1. The evidence is clear that formal written statements were taken by police officers at the Holden Hill Police Station that night or in the early hours of the following morning from Christopher Wilson, James McAinsh and Dylan Connelly. No statement was taken from Ryan Williams that night, nor from Mark Wilson.

9.2. James McAinsh

James McAinsh said that four members of the group entered the police station and spoke to a person at the front counter who he believed to be a uniformed police officer by the name of Wilson. It is apparent from the totality of the evidence that he was wrong in this – the officer was Senior Constable Redding. He said that the men walked into the Holden Hill Police Station and said words to the effect “Our mates been shot he has a gunshot wound”. They said, “we know where this person is he has just pulled out a gun on us and shot it”. The police officer said words to the effect of “hang on what do you reckon happened?” with, according to Mr McAinsh, a smirk on

¹⁸ Transcript, page 1380

¹⁹ Transcript, page 1381 and Transcript, page 1398

²⁰ Transcript, page 1398

²¹ Transcript, page 1399

his face. Mr McAinsh took this to indicate scepticism or disbelief²². At this point Ryan Williams walked out of the police station²³. According to James McAinsh, the wound was shown to the officer at the front desk. James McAinsh also said that he gave all of the information he had about the events of the night and did not hold anything back²⁴. He was asked whether he provided to anyone at the Holden Hill Police Station information to the effect that he knew either the passenger or the driver of the vehicle. He answered that he did not do so because he did not know them. He said:

‘Over the next few days names were mentioned around the scenery. I can't remember. I mean the other guys may have known them; I didn't know them prior. I went to a totally different high school, totally different scenery. I've never seen them before.’²⁵

James McAinsh also said he did not remember any member of the group saying that they knew who the shooter was²⁶. He said that no one at the Holden Hill Police Station looked at his car that night. He remembered that very clearly because his car was unregistered²⁷.

- 9.3. It is notable that James McAinsh said that when the group entered the police station they were all talking at once²⁸.
- 9.4. Certain aspects of Mr McAinsh's account are clearly not correct. These include the identification of the officer at the front counter as a uniformed officer called Wilson. There was no uniformed officer by that name at the counter at that point. Subsequently, a uniformed police officer by the name of Luke Wilson attended at the Holden Hill Police Station at the request of Sergeant Mickan and took a statement from Dylan Connelly. However, Constable Luke Wilson did not have contact with any of the witnesses apart from Dylan Connelly while he was at the Holden Hill Police Station²⁹. Mr McAinsh's recollection that the wound was shown at the initial presentation at the counter does not seem to accord with the evidence of other witnesses either. Furthermore, it is difficult to see how Christopher Wilson could have demonstrated the leg wound while on the opposite side of the counter from any

²² Transcript, page 93

²³ Transcript, page 94

²⁴ Transcript, page 97

²⁵ Transcript, page 99

²⁶ Transcript, page 99

²⁷ Transcript, page 101

²⁸ Transcript, page 108

²⁹ Transcript, page 891

of the police officers. Mr McAinsh himself acknowledged this and suggested that the police officer may have come around to their side of the counter. I consider this to be unlikely. Mr McAinsh noted that he had given a number of interviews about the events of that night and the following Friday night over the ensuing couple of months³⁰. As a result his recollection may have become confused in some respects. However, I have no reason to doubt his basic position that the group conveyed at a very early stage to the officer behind the counter that one of their number had been shot by a person with a gun.

9.5. Dylan Connelly

Dylan Connelly gave evidence. He said that there was no discussion of ringing the police immediately after the incident because the police station was ‘straight up the street’³¹. He was asked whether there was any thought of getting medical attention for Christopher Wilson and his response was that he doubted that was considered because of “..the way we are. If it’s not life threatening or anything we never bother.”³² Dylan Connelly also shed some light on the question of whether the McAinsh vehicle returned to Duthie Street on the way to the police station. He referred to driving past the other side of the park which separates Duthie Street from Flinders Street. I infer that the occupants of the McAinsh vehicle drove parallel with Duthie Street and attempted to see if they could spot the BMW through the park that separated Duthie Street from Flinders Street³³. Upon arrival at the Holden Hill Police Station, Dylan Connelly stated that it was he and Christopher Wilson who entered the police station and he was not certain if any other members of the group came in at that stage. He was aware that James McAinsh came into the police station at a later point when he found the bullet fragment on the back floor of the car where Christopher Wilson had been sitting³⁴.

9.6. He did not recall the actual words that were used to the officer at the front counter but:

‘...it was along the lines of “My mate’s been shot” or Chris would have said “I’ve been shot”, but that’s it, I don’t know.’³⁵

³⁰ Transcript, page 96

³¹ Transcript, page 1383

³² Transcript, page 1384

³³ Transcript, page 1384

³⁴ Transcript, page 1385

³⁵ Transcript, page 1386

Interestingly, Dylan Connelly also had a recollection that Christopher Wilson showed the wound on his leg at the front counter stating “I’m sure he did but I truly can’t recall”³⁶.

- 9.7. Dylan Connelly said that after a period at the front desk he and Christopher Wilson were taken to a small interview room. His evidence is consistent with entering that interview room with the first uniformed officer to whom they initially spoke at the front counter³⁷.
- 9.8. Dylan Connelly said that he was shocked at how the police were treating them and by their words or conduct suggesting that the wound looked like nothing and didn’t look like a gunshot wound. He even said that some of the plain clothes officers had a chuckle³⁸. Dylan Connelly said that once he and Christopher Wilson had been taken into the interview room, a police officer started to take a statement but because Christopher Wilson and Dylan Connelly were both telling the story the police officer said “we had better split you up and take two separate statements” and at that point Dylan Connelly left that interview room³⁹.
- 9.9. Dylan Connelly also stated quite emphatically that he made an offer to a police officer to take them to the house with the lights on from which they thought the BMW had come. He thought that this was an offer made at the front counter of the police station upon arrival. He also referred to showing the address where the house was located by reference to a street directory⁴⁰.
- 9.10. It is significant that Dylan Connelly also recalls seeing the bullet fragment which was taken from the back of the Magna into the police station by James McAinsh. He said that when he saw the fragment he believed it had been handed in at the desk (presumably by James McAinsh) and then had been brought into the interview room occupied by him and Christopher Wilson. Dylan Connelly was positive that he saw the fragment and commented that it looked very damaged from having ricocheted⁴¹. Dylan Connelly said that although the projectile was mangled he still thought that it was a bullet because he thought it was made of lead. He said that he saw it when it

³⁶ Transcript, page 1386

³⁷ Transcript, page 1387

³⁸ Transcript, page 1388

³⁹ Transcript, page 1388

⁴⁰ Transcript, page 1391

⁴¹ Transcript, page 1392

was brought in while he and Christopher Wilson were still in the interview room⁴². When it was brought in it was inside a bag. It was brought in by a policeman and the officer who brought it in or another officer said something like “that doesn’t look like a bullet”⁴³. He confirmed that it was in a bag at this point⁴⁴. He said:

‘I just remember one of them saying that “that doesn't look like a bullet”, and I'm saying, “well, if that ricocheted off the ground first, then that's probably what it would look like”.’⁴⁵

9.11. Dylan Connelly could not recall either himself or Christopher Wilson telling the officers a name of who the perpetrator might have been⁴⁶. Dylan Connelly said that he circled the location of the Duthie Street address on a map (I presume he meant a street directory) and said to the police officer “I could take you there right now”⁴⁷. Dylan Connelly said that he did not hold any information back from the police that night⁴⁸. He said that he did not think that the police ever suggested to him that the episode was a road rage incident or anything like that⁴⁹. He was asked whether he noticed any particular reaction from the police officer or officers when he said that the weapon which was involved was a pistol or a revolver. He said that this did not produce any particular reaction from the police; it did not cause them to prick up their ears⁵⁰. Dylan Connelly discussed the motivation for reporting the matter to police. He said that he thought: “lunatic’s running around with a gun, you know what I mean, like, do anything about it, then nothing is going to happen.”⁵¹

9.12. Senior Constable Michael Redding

Senior Constable Michael Redding gave evidence at the Inquest. He is a police officer of 33 years standing. He said he was at the front counter of the police station when the young men came in. He recalled that two of them came to the counter and he was aware that there were another two in the foyer that were connected with the two at the counter. The two at the counter were Christopher Wilson and Dylan Connelly⁵². He said that he spoke with Christopher Wilson and Dylan Connelly at the

⁴² Transcript, page 1410

⁴³ Transcript, page 1411

⁴⁴ Transcript, page 1411

⁴⁵ Transcript, page 1411

⁴⁶ Transcript, page 1392

⁴⁷ Transcript, page 1400

⁴⁸ Transcript, page 1402

⁴⁹ Transcript, page 1403

⁵⁰ Transcript, page 1404

⁵¹ Transcript, page 1409

⁵² Transcript, page 306

counter for a period of approximately 10 to 15 minutes before moving with the two of them into a separate interview room. He said that while he was in the interview room with Christopher Wilson and Dylan Connelly, Detective Mark Wilson came in and shortly after that, at Senior Constable Redding's instigation, Dylan Connelly was required to leave the interview room. He thought that his interview with Christopher Wilson took 45 to 50 minutes⁵³.

9.13. Senior Constable Redding said that he had just started a nightshift when the men came in. He said "Christopher Wilson wanted to report a road rage incident and that's what he termed it as"⁵⁴. According to Senior Constable Redding, Christopher Wilson presented at the front counter in quite a normal manner – "not traumatised, no hint of anything that one would – well I would have equated with having received a wound"⁵⁵. According to Senior Constable Redding, Christopher Wilson told him about the black BMW, the "Afghan type blokes" and that when they stopped in Flinders Road and two of their number had left their car, Christopher Wilson who was seated in the back of the car saw one of the "Afghan blokes" pull something out of his pants. A fight started between the driver of the BMW and the passenger of the BMW while they were arguing with the people from Christopher Wilson's car. Senior Constable Redding said that Christopher Wilson described the thing that had been pulled out of the person's pants as looking like a bat or baseball club. He said "it started off with a club – like a bat, or like a club, but then it got defined quickly to a baseball bat, 'could have been a baseball bat'"⁵⁶. Senior Constable Redding said that it was at that point that he invited Christopher Wilson and Dylan Connelly into an interview room.

9.14. He said that the story developed further in the interview room. Senior Constable Redding went through the story again. He said that as they worked through the story Christopher Wilson elaborated on the incident and said that he thought he heard a pop like a slug gun. Senior Constable Redding then asked Christopher Wilson something to the effect "was the baseball bat a firearm?" to which Christopher Wilson replied that it could have been, it may have been a bigger gun⁵⁷. Senior Constable Redding said that as this conversation took place, Sergeant Mickan was nearby and was

⁵³ Transcript, page 308

⁵⁴ Transcript, page 308

⁵⁵ Transcript, page 309

⁵⁶ Transcript, page 310

⁵⁷ Transcript, page 312

occasionally standing inside the doorway of the interview room apparently listening. He said that because the situation had escalated to the point where a firearm was involved his reaction was to contact the Criminal Investigation Branch (“CIB”) because of the serious nature of the offence. He would also take a detailed statement from Christopher Wilson⁵⁸. Senior Constable Redding said that he was perplexed by what he insisted was Christopher Wilson’s nonchalant attitude to the event. He said that at this point the wound had still not been mentioned⁵⁹.

- 9.15. According to Senior Constable Redding, Christopher Wilson elaborated further and told him that as he was about to get out of the car he felt something hit his leg and that he leant down and felt something warm and wet and “that’s when I had a look at what he was alleging to be a wound in his leg”⁶⁰. This had not been mentioned previously⁶¹. Senior Constable Redding said that at this point he reassessed Christopher Wilson. He said that there was no blood on Christopher Wilson’s hands and no blood or soiling around his shoes or socks. Senior Constable Redding described the wound as looking like “a breaking of the skin like a cigarette burn”⁶².
- 9.16. Senior Constable Redding said that it was at about this time that Detective Mark Wilson entered the interview room. He said that he was a little bit shocked by it all because the wound had been “revealed so late from the initial inquiry at the front counter about a road rage incident”⁶³. Senior Constable Redding said he was not satisfied with what Christopher Wilson was telling him, he did not think that it added up and did not think that there was a full disclosure of the events or that Christopher Wilson was being frank with him.
- 9.17. Senior Constable Redding was asked at what stage he directed Dylan Connelly to leave the interview room. He was unable to be certain about that. However, he explained that his decision to send Dylan Connelly was based on his feeling that the story had changed “so many times” that it was necessary to separate Dylan Connelly and Christopher Wilson⁶⁴.

⁵⁸ Transcript, page 313

⁵⁹ Transcript, page 313

⁶⁰ Transcript, pages 314-315

⁶¹ Transcript, page 315

⁶² Transcript, page 315

⁶³ Transcript, page 316

⁶⁴ Transcript, pages 316-317

- 9.18. Senior Constable Redding was aware that statements were being taken from some of the other members of Christopher Wilson's group while he was taking his statement from Christopher Wilson⁶⁵.
- 9.19. Senior Constable Redding said that Detective Mark Wilson left the interview room and then returned to it a short time later with Detective Green. Detective Mark Wilson was holding a plastic bag containing what appeared to be a fragment of a projectile⁶⁶.
- 9.20. Senior Constable Redding said that he suspected that Christopher Wilson and the other members of his group may have known their assailants⁶⁷. When Senior Constable Redding finished taking his statement from Christopher Wilson he let him out into the foyer which was empty. Somewhat dramatically, he described Christopher Wilson as being met by a "shadowy figure" just outside the front of the police station⁶⁸. He assumed that witness statements were in preparation at that time. At that stage he could no longer see any sign of the CIB members.
- 9.21. Senior Constable Redding prepared a Police Incident Report ("PIR"). That document appears as GM1 to an affidavit of Inspector Grant Moyle sworn 26 June 2007 which was admitted as Exhibit C10. Hereafter, I will refer to exhibits to this affidavit simply by their exhibit name. The PIR states that at 1220 hours on 25 February 2004 at Flinders Road, Hillcrest, Christopher Wilson was with his brother and three others and were challenged by the occupants of a BMW of unknown registration. A passenger of the BMW got out and fired a shot from "a weapon of some sort, possibly slug gun", wounding Christopher Wilson in the lower right leg. The report states that Christopher Wilson and two witnesses attended at Holden Hill Police Station about 30 minutes after the incident and that statements were obtained from all. It states that Holden Hill CIB members Detective Wilson and Detective Green were "advised and assessing for dayshift follow-up". The PIR continues:

'Nil further information on suspect vehicle or suspects. Appears this stage that the suspect vehicle may be associated with person/s living in Duthie Street Hillcrest. Attached is a copy of possible suspects, HB and HB's brother, Duthie Street, Hillcrest, but this info is an educated guess. Nil evidence to link these suspect names with this incident this stage.'

⁶⁵ Transcript, page 317

⁶⁶ Transcript, page 318

⁶⁷ Transcript, pages 318-319

⁶⁸ Transcript, page 319

The narrative goes on to explain that Christopher Wilson was advised to re-attend at the police station for a photograph to be taken of his wound. It also states that part of a projectile was obtained from the interior of the car the victim was in and that it had been booked in as an exhibit. The PIR was first raised at 2350 hours on 25 February 2004. It was entered by Senior Constable Redding at 0117 hours on 26 February 2004. The only other pertinent information from the PIR was that it contained the names, addresses and ages of Christopher Wilson, Dylan Connelly, James McAinsh and Mark Wilson.

- 9.22. Senior Constable Redding said that the information in relation to HB's brother and HB was provided to him by either Sergeant Mickan or Probationary Constable Crawford, more likely the former. Senior Constable Redding acknowledged that he was aware when he finished with the PIR that Christopher Wilson had changed his description of the gun to something which may have been bigger than a slug gun and yet he completed the PIR without changing the reference to a slug gun⁶⁹. He had no explanation for this.
- 9.23. Senior Constable Redding thought that the information provided to him as the result of computer searches carried out by others, included the names of HB and HB's brother as possible persons of interest. He thought that this included a reference to HB having a criminal record which included attempted murder⁷⁰. This was incorrect, there was no such reference on HB's record. Senior Constable Redding said that the record of attempted murder which he believed to be part of HB's record had firmed up his view that a wounding had indeed happened⁷¹. This is extraordinary. It should have been obvious to him that Christopher Wilson had a wound – by that stage he had actually seen it. To suggest that something on HB's criminal record caused him to feel safer in concluding that there had been a wounding when there was physical evidence of a wound is most peculiar, particularly given that the information said to be in HB's record, namely attempt murder, did not appear in his record (at that stage) at all.
- 9.24. Senior Constable Redding stated that he had been in the interview room for a substantial amount of time with Christopher Wilson before there was mention of a

⁶⁹ Transcript, page 393

⁷⁰ Transcript, page 429

⁷¹ Transcript, page 429

firearm and wounding⁷². Senior Constable Redding acknowledged that he never conveyed to Detective Senior Constable Green the name of a suspect or a person of interest⁷³. He said that he never saw Probationary Constable Crawford look at Christopher Wilson's leg at the front counter⁷⁴. Senior Constable Redding acknowledged that there was no reference in the statement he took from Christopher Wilson, Exhibit GM29, to a report of road rage⁷⁵. He explained this by saying that the road rage "basically paled in significance" as the matter escalated to an unlawful wounding.

- 9.25. Senior Constable Redding was asked how it might have been that a projectile from a slug gun had sufficient power to ricochet off the ground or some other object and hit a person with a sufficient amount of force to cause a wound similar to that on Christopher Wilson's leg. He acknowledged that some slug guns are "pretty powerful" particularly those of a high calibre⁷⁶.

9.26. Sergeant Glen Mickan

Sergeant Mickan is a sergeant of police. He gave evidence at the Inquest. He was on duty with Senior Constable Redding and Probationary Constable Crawford in the Holden Hill Police Station on the night of 25/26 February 2004. He was not requested to make a statement about the events of that night at any time proximate to those events. The first time he was asked to recall the matter in any detail was when he was questioned by Internal Investigation Branch in early 2006, some two years after the event.

- 9.27. Sergeant Mickan said that he recalled a group of people entering the police station during his shift that night and that Senior Constable Redding went to the front counter to greet them⁷⁷. Shortly after Senior Constable Redding had spoken to them Sergeant Mickan had a conversation with Senior Constable Redding from which he learnt that Senior Constable Redding was taking a report from a member of the group and that some other members of the group had witnessed the event. At that point Sergeant Mickan decided that his staffing was not sufficient to deal with the matter. Sergeant Mickan understood the event to have been an assault, although he became aware

⁷² Transcript, page 422

⁷³ Transcript, page 395

⁷⁴ Transcript, page 336

⁷⁵ Transcript, page 362

⁷⁶ Transcript, pages 395-396

⁷⁷ Transcript, page 753

either on the first occasion he spoke to Senior Constable Redding about the incident or the second occasion that a firearm may have been involved⁷⁸. Because further staff were required he contacted Sergeant Tuk who was in charge of patrols and requested that he provide officers under his control to assist. This happened very quickly. The assisting officers were Senior Constable Peter Cox and Constable Luke Wilson. Sergeant Mickan thought that they arrived within five minutes of Senior Constable Redding entering the interview room⁷⁹.

- 9.28. Sergeant Mickan said that he recalled that when Constable Wilson and Senior Constable Cox arrived he was speaking to Senior Constable Redding who was informing him that the complainant's story was changing and that he was indicating that he had been shot with a firearm of some sort, possibly a slug gun, and that he had been hit in the leg⁸⁰. Sergeant Mickan said that when he learnt that the matter was a firearm incident, he then contacted the CIB because the incident was of a serious nature⁸¹. He said that he spoke to either Detective Wilson or Green by telephone and explained briefly to them that they had an incident involving a firearm and a road rage type incident and that he wished them to come down and look at the situation⁸². He believed that at that point he was aware of the location of the event, the involvement of a particular type of vehicle and of the offender being from a particular ethnic group⁸³. Sergeant Mickan said that, armed with this information, he directed Probationary Constable Crawford to start running some computer checks on this information⁸⁴. His recollection was that this search started prior to Detectives Green and Wilson attending⁸⁵. Prior to the attendance of the CIB officers the computer searches conducted by Probationary Constable Crawford had come up with a person of interest or persons of interest by the name of B. When the CIB officers arrived, Sergeant Mickan informed them of the details of this. He told them that Senior Constable Redding was speaking to the victim and that there were people waiting in the front office that were part of the group. Two other statements were being taken by Senior Constable Cox and Constable Wilson. He said that he definitely informed

⁷⁸ Transcript, page 755

⁷⁹ Transcript, page 756

⁸⁰ Transcript, page 757

⁸¹ Transcript, page 758

⁸² Transcript, page 759

⁸³ Transcript, page 759

⁸⁴ Transcript, page 760

⁸⁵ Transcript, page 761

them of the detail generated from the computer searches⁸⁶. Those computer searches as detailed by Sergeant Mickan to the CIB officers included an address, a name of a person of interest that lived at that address and the fact that the person had a car which was similar to that described by the group in the police station⁸⁷. Sergeant Mickan said that he conveyed this information to both Detectives Wilson and Green together.

- 9.29. Sergeant Mickan said that from that time on it was “the CIB’s call” as to how the matter would be handled. He said that at the point when the CIB arrived and were briefed, they took over the investigation and it was under their direction that all further inquiries and reports were undertaken⁸⁸.
- 9.30. Sergeant Mickan said that Detectives Green and Wilson decided that his staff should finish taking the statements and then pass it on for allocation the following morning by the Crime Management Unit. He agreed with that decision⁸⁹.
- 9.31. Sergeant Mickan gave evidence that he “vetted” the PIR that was produced by Senior Constable Redding and the statements produced by Senior Constable Cox and Constable Wilson later in the morning before despatching the investigation to the Crime Management Unit for allocation in the morning.
- 9.32. Sergeant Mickan believed that the information which he had available to him from the computer searches that morning included a registration number for a black or a dark BMW⁹⁰.
- 9.33. Sergeant Mickan said that on the night he had the feeling that this was not a random incident. He said that he formed that view because of the information coming from Senior Constable Redding that the story and details were changing and had changed a number of times. He formed the view that evidence was not freely being given by the witnesses and that they knew who the person was and exactly where he lived⁹¹.
- 9.34. Sergeant Mickan adhered adamantly to his position that the names of persons of interest, namely the B’s, was given to the CIB detectives that night⁹².

⁸⁶ Transcript, page 761

⁸⁷ Transcript, page 762

⁸⁸ Transcript, page 776

⁸⁹ Transcript, page 784

⁹⁰ Transcript, page 813

⁹¹ Transcript, page 819

⁹² Transcript, page 823

9.35. It was put to Sergeant Mickan in cross examination that one of the computer checks, namely a check as to vehicle details, was not done, according to other evidence before the Court, until a time after the CIB officers had left the building. Sergeant Mickan suggested that this may be explained by the possibility that he was operating another computer nearby in the police station and gained some of the information in that manner and then gave it to the CIB officers⁹³. However, he admitted that he had no clear recollection about this.

9.36. On the subject of the responsibility of the future conduct of the investigation Sergeant Mickan said:

‘The fact is that CIB were called in, it then became their responsibility to investigate it. It brings to mind if you go to an armed hold-up and CIB are called; because the statements haven't been taken by all the witnesses, do CIB sit back and do nothing until those statements have been provided? I don't think so. I think it's clearly a case of once CIB are there, they are responsible.’⁹⁴

9.37. Probationary Constable Tina Crawford

Tina Crawford gave evidence at the Inquest. She was a probationary police constable working at Holden Hill Police Station in February 2004. She left the police force later that year and is no longer a serving police officer. There was no suggestion at the Inquest that her decision to leave the police force was related to the events the subject of this Inquest.

9.38. Unlike Sergeant Mickan, she was called upon to make a statement about the events of the night of 25/26 February 2004. Her statement was made on 8 March 2004 and was admitted as Annexure GM9 to Exhibit C10. She said that she recalled Senior Constable Redding talking to Christopher Wilson on that night. She said that while Senior Constable Redding was talking to him at the front counter she was standing behind listening. She heard one of them say that he had been shot in the leg. She said he did not appear to be hampered by the wound in any particular way. That further excited her interest because she had imagined that someone having been shot would be behaving differently⁹⁵.

9.39. Ms Crawford recalled that Senior Constable Redding asked the men what had happened. She said that members of the group were all talking at once, but she

⁹³ Transcript, page 827

⁹⁴ Transcript, page 855

⁹⁵ Transcript, pages 588-589

overheard Christopher Wilson say that he had been shot in the leg and that the shooter looked Afghani, dark coloured and he was in a dark vehicle like a BMW. She said that she definitely heard the word BMW⁹⁶. Ms Crawford said that they also reported that this happened in Duthie Street, Hillcrest⁹⁷. According to Ms Crawford, Senior Constable Redding then decided to take Christopher Wilson to an interview room. She went out to the back part of the police station and started to do some checks to see if she could find out any information about the street which had been nominated. She said that she did this of her own initiative, and not pursuant to a direction from anyone⁹⁸. Ms Crawford said that she entered the name of the street to see if there were any persons of interest on that street. She said that one of the names which came up seemed to be a middle eastern or Lebanese type of name. She then typed that name into the computer and it came up with HB's details. She was printing out the different screens as she was moving in and out of them. She noted that there was a warning next to the name HB to the effect "May be armed" and said that she thought this may well be the person that was involved⁹⁹.

- 9.40. Ms Crawford said that she would print the pages on the screen straight away before moving on to another screen¹⁰⁰. She was aware as she was doing these searches that the Detectives, Green and Wilson, had come down into the station¹⁰¹. Ms Crawford printed out four pages from the system between 2347 and 2349 hours on 25 February 2004. Each of the pages bears a time. Annexure GM47 to Exhibit C10 is a copy of the four pages printed by Ms Crawford during those few minutes. They are copies of the actual pages printed by her on the night. They could not now be replicated from the computer system because they bear the date and time referred to above. The pages are all headed "General Enquiries – Enquire Persons at Address" for Duthie Street, Hillcrest. The pages reveal the names of seventeen persons recorded in the computer system for different addresses within Duthie Street, Hillcrest. Most of the names have been blanked out by the solicitors acting for South Australia Police in this matter because they are said not be relevant. The names which have not been blanked out are as follows:

⁹⁶ Transcript, page 589

⁹⁷ Transcript, page 589

⁹⁸ Transcript, page 590

⁹⁹ Transcript, page 592

¹⁰⁰ Transcript, page 592

¹⁰¹ Transcript, page 592

member of the Christopher Wilson group who came to the counter and said words to the effect “I’ve got a bullet in my car” or “piece of bullet, should I get it”. Ms Crawford said that she could get it if he showed her where it was. He said that it was just as easy for him to get it. He ran out and came back with it and during that time Ms Crawford obtained gloves and a bag to put the bullet or whatever it was. The item that he produced was described by Ms Crawford as a silver piece of shrapnel¹⁰⁶. Ms Crawford said that at the time that this was being handed to her Detective Green was at the counter taking some notes from another person. She said to him that this had been handed to her and he took possession of it and said that he would deal with it.

- 9.44. Ms Crawford said that she did some further computer searches during her shift and produced a second batch of documents which she handed to Senior Constable Redding¹⁰⁷.
- 9.45. Ms Crawford said that of the seventeen names under “Enquire Person at Address” in Annexure GM47 to Exhibit C10 the name HB was the only one which she thought had a middle eastern origin¹⁰⁸. She said that the detectives acknowledged the provision of the material to them by saying “thanks”¹⁰⁹. She said that she subsequently discussed the matter with Senior Constable Redding and Sergeant Mickan because she was wondering what would happen about her searches and the revelation of B as a person of interest. She said that Senior Constable Redding and Sergeant Mickan responded by telling her that CIB had taken the matter over and “that was that”¹¹⁰.
- 9.46. Ms Crawford said that she gave the detectives information from her computer searches revealing information about a vehicle. She said “I definitely gave them the picture of HB and the vehicle information and the address information”¹¹¹. She maintained that the motor vehicle check was in the first lot of information she provided to the detectives¹¹². Ms Crawford confirmed her account of the handing of the material to the detectives with the photograph on top and that there were two

¹⁰⁶ Transcript, page 604

¹⁰⁷ Transcript, page 607

¹⁰⁸ Transcript, page 614

¹⁰⁹ Transcript, page 615

¹¹⁰ Transcript, page 615

¹¹¹ Transcript, pages 619-620

¹¹² Transcript, page 621

batches of materials¹¹³. Ms Crawford acknowledged that the motor vehicle check took place at 00:31:58 hours on 26 February 2004¹¹⁴.

- 9.47. Ms Crawford was quite adamant that she handed the information to the detective while the victim was still in the interview room and she was adamant that this was at a point after she had done the motor vehicle check not at an earlier stage¹¹⁵.
- 9.48. Ms Crawford had made a statement on 8 March 2004 relating the events of the night of 25/26 February 2004. That statement was admitted as Annexure GM9 to Exhibit C10. That statement does not refer to Ms Crawford handing the search information to a detective and then to Senior Constable Redding. She was asked in cross examination why she had omitted this from the statement. She responded that she did not mention it in her statement because she handed it to the CIB member to give it, or with the intention that it be given, to Senior Constable Redding. For that reason she said she did not incorporate that information into the statement, saying “so I didn’t put I handed it to them, then they looked at it, then they handed it to him”¹¹⁶.
- 9.49. It was put to Ms Crawford by Counsel for Detective Green that at no stage on the night of 25 February or in the early hours of 26 February 2004 did she hand information in the form of intelligence checks to a detective from Holden Hill. She replied:

‘I did. I handed it to them and it's actually in a statement that I provided to IIB.’¹¹⁷

9.50. Detective Mark Wilson

Detective Mark Wilson gave evidence at the Inquest. He was one of the two detectives present in Holden Hill Police Station when Sergeant Mickan requested the attendance of CIB that night. Annexure GM5 to Exhibit C10 is a copy of Detective Wilson’s notes made that night. The note is as follows:

‘Wed 25th Feb 2004

Received info from Sgt Mickan at 2350 hrs. Male walked into front office and been shot in leg. Possibly slug gun. Spoke with Chris & Mark Wilson states some Afghans in a BMW pulled a pistol on them. Fired one shot. Small pop noise. Possibly slug gun. Something hit Chris in the leg and has scratch. No hosp treatment. They were in Duthy

¹¹³ Transcript, pages 633-634

¹¹⁴ Transcript, page 640

¹¹⁵ Transcript, page 696

¹¹⁶ Transcript, page 704

¹¹⁷ Transcript, page 705

St Hillcrest. Afghans said stay out of our street. No rego of BMW. Office and patrol taking statements. Further enq on A shift Thurs with FIO's.

Off duty 0030 hrs'

The reference to "A shift" is to afternoon shift and the reference to "FIO" is to Field Intelligence Officer.

- 9.51. Detective Wilson said that in addition he usually completed a computerised journal at the completion of each shift. A copy of the journal made by either him or Detective Green that night was tendered by Counsel for Detective Wilson and admitted as Exhibit C16. It states:

'0015 hrs Wilson and Green Report

Received info from Sgt Mickan front office re male has come into front office and thinks he has been shot by Afghans. Spoke with 4 males who stated they were in Duthy St, Hillcrest and 2 "Afghans" in a old BMW stopped them and told them not to come into their street. The pulled a large pistol? Out and a small pop was heard. It was not until later that one of the boys found he had a graze to the leg. Another occupant of the car later found what appeared to be a mangled slug in the car. Front office and patrols taking statements. Offenders not known at this stage and no rego of BMW. Further enquiries to be conducted in day light. Cont. no hospital treatment sought. Wilson and Green off duty 0030 hrs.'

Detective Wilson said that it was 2350 hours when the detectives attended and spoke to Sergeant Mickan in the front office¹¹⁸. He confirmed that after speaking to Sergeant Mickan he and Detective Green went to the interview room in which Christopher Wilson and Dylan Connelly were talking to Senior Constable Redding¹¹⁹. Detective Wilson stated that Exhibit C16 and Annexure GM5 to Exhibit C10 contained all the information of which he and Detective Green were appraised that night¹²⁰.

- 9.52. Detective Wilson, Christopher Wilson and Dylan Connelly discussed what might have been meant by the exclamation from the occupants of the BMW "not to come into their street". Detective Wilson said that Christopher Wilson said that there was no explanation given by the occupants of the BMW as to why it was "their" street¹²¹. Detective Wilson said that he and Detective Green returned to their office upstairs at

¹¹⁸ Transcript, page 445

¹¹⁹ Transcript, page 446

¹²⁰ Transcript, page 453

¹²¹ Transcript, page 451

Holden Hill Police Station at 0015 hours¹²². Before doing so, there was a conversation between Detective Green, Sergeant Mickan and Detective Wilson. According to Detective Wilson they reviewed the situation between them and because there were no suspects and no “rego” to follow up and because the detectives were already on overtime, and the statements were being taken from the other boys, there was nothing for the detectives to follow up. It was decided that they would get “the intel” to do checks on Afghans with black BMWs in the morning and “just to put the whole file up through the system, yes through the Crime Management Unit”¹²³. Detective Wilson said that he and Detective Green discussed the possibility of he and Detective Green being authorised to stay for overtime to go looking for a black BMW. He said that they formed the view that they would not have been authorised to perform that overtime¹²⁴ because of the fact that they could hunt all night and probably not find the black BMW.

9.53. Detective Wilson said that from the time that he and Detective Green completed their computerised journal¹²⁵ at 0030 hours on 26 February 2004 he had no further involvement with the matter until after Christopher Wilson’s death. He was not given any task to be formed in relation to the matter by the Crime Management Unit¹²⁶.

9.54. Detective Wilson said that the officer in charge or investigating officer for the matter on the night was “probably Mick Redding” and elaborated:

‘My understanding is we were going down there to just assess the situation, whether anything needed to be done straightaway that night and it turned out that it wasn’t so he’s the senior connie and he was taking the police incident report. ... All he’s doing is taking the report so if you want to call him an investigating officer I suppose he is at that time but as soon as he gets rid of it to the crime management unit he’s finished.’¹²⁷

9.55. Detective Wilson gave evidence of going to the front counter while he was down in the station office and speaking to Mark Wilson. He said that Mark Wilson did not really want to speak to him. He said that there was another male, apparently part of the group, who stood back against the wall and did not come up to the counter¹²⁸.

¹²² Transcript, page 454

¹²³ Transcript, page 454

¹²⁴ Transcript, page 456

¹²⁵ Exhibit C16

¹²⁶ Transcript, page 457

¹²⁷ Transcript, page 457

¹²⁸ Transcript, page 460

- 9.56. Detective Wilson said that he had the feeling that there might have been something more to the incident which would have meant that it was not random¹²⁹. He elaborated on this later in his evidence saying that he had a feeling that there was more to it¹³⁰. He then added that he did not think that Christopher Wilson himself was being evasive. He said that it was always hard to obtain details from him and he was aware of this from a previous assault involving Christopher Wilson as a victim in which Detective Wilson had been involved. He said it had been difficult to get information out of him on that occasion and that it was just as if he was not interested¹³¹. He said that therefore Christopher Wilson was probably behaving according to his normal disposition but that he considered that the two men out the front (one of whom was Mark Wilson) were not cooperating¹³².
- 9.57. Detective Wilson said that he was under the understanding that all statements from the group would be taken that night by members of the office and patrols¹³³.
- 9.58. Detective Wilson said that he had no recollection that a woman police officer was on duty that night¹³⁴. At that time he did not know Tina Crawford¹³⁵. He was shown Annexure GM47 to Exhibit C10, which is the four pages entitled “General Enquiries – Enquire Persons at Address” referred to previously, and asked whether he saw those documents being handed over by Ms Crawford on that night either directly to him or to someone else or in his presence¹³⁶. He added that he had never seen the documents set out in Annexure GM47 to Exhibit C10 at any time prior to giving evidence in the Coroner’s Court¹³⁷. He had no knowledge of a check on HB¹³⁸.
- 9.59. Detective Wilson confirmed that he and Detective Green were aware that somebody had been shot before they went down to the front office that night¹³⁹.
- 9.60. Detective Wilson denied that Sergeant Mickan had told him that computer checks had been generated that night. He said that they did not discuss computer checks that

¹²⁹ Transcript, page 465

¹³⁰ Transcript, page 487

¹³¹ Transcript, page 487

¹³² Transcript, pages 488-489

¹³³ Transcript, pages 465-466

¹³⁴ Transcript, page 469

¹³⁵ Transcript, page 469

¹³⁶ Transcript, page 470

¹³⁷ Transcript, page 470

¹³⁸ Transcript, page 471

¹³⁹ Transcript, page 473

night¹⁴⁰. He acknowledged that the decision to leave the matter to the following day for allocation by the Crime Management Unit was his call¹⁴¹.

- 9.61. Detective Wilson said that when he spoke to Mark Wilson, Mark Wilson did not say that he knew who the assailant was. In fact he said that he did not know who the assailant was and did not know the car¹⁴². Detective Wilson denied that he and Detective Green had taken over the job that night¹⁴³.

9.62. Detective Stuart Green

Detective Green gave an account of the events of 25/26 February 2004 that accorded, in the broad, with that of Detective Mark Wilson. Annexure GM6 to Exhibit C10 is a copy of a handwritten note made by Detective Green on that night. It records that at 2345 hours Detective Green was contacted by Sergeant Mickan about a male person presenting at the police station alleging he had been shot by a group of Afghans, possibly by a slug. It records that Detective Green went off duty at 0030 hours. The note refers to the names of Ryan Williams, James McAinsh and Mark Wilson and gives ages and contact details. Curiously, the note does not refer to the name of Christopher Wilson. Detective Green confirmed the accuracy of this note and of the computerised journal¹⁴⁴ which was referred to previously.

- 9.63. Detective Green said he would have noted the time of 2345 hours before going down stairs to the station proper. He was aware before going down that a person had presented at the station alleging that he had been shot in the leg¹⁴⁵. Detective Green said that he and Detective Wilson went downstairs to the station proper and straight into the interview room with Senior Constable Redding and Christopher Wilson¹⁴⁶. Detective Green recalled that Christopher Wilson had said words to the effect that he thought he had been shot with some sort of gun but did not think it was real¹⁴⁷. Detective Green saw the wound on Christopher Wilson's leg and described it in evidence as "just a small scratch"¹⁴⁸. According to Detective Green, Christopher Wilson was not overly concerned about "the cut on his leg" and was not going to seek

¹⁴⁰ Transcript, page 474

¹⁴¹ Transcript, page 475

¹⁴² Transcript, page 490

¹⁴³ Transcript, pages 491-493

¹⁴⁴ Exhibit C16

¹⁴⁵ Transcript, page 512

¹⁴⁶ Transcript, page 513

¹⁴⁷ Transcript, page 514

¹⁴⁸ Transcript, page 515

medical attention because he did not think he had been shot with a real gun but possibly a slug gun¹⁴⁹.

- 9.64. Detective Green said that he spoke to Mark Wilson and some of the other men at the front counter. None of them volunteered a name of an assailant. At this point Detective Green said that he was approached by Probationary Constable Tina Crawford who handed him a plastic bag with some sort of metal projectile in it. He had not spoken to her prior to this¹⁵⁰. He said that Probationary Constable Crawford informed him that somebody had retrieved this from the vehicle and given it to her. Detective Green took this plastic bag to Detective Wilson. He said that they discussed the object and decided that it was more than likely a slug. He said that there was a conversation with Senior Constable Redding and Christopher Wilson “and it was agreed by all parties that they were all of the opinion that it was a slug”¹⁵¹.
- 9.65. Detective Green said that he and Detective Wilson then had a further conversation between themselves outside the interview room. This conversation was to the effect that “the matter was I believed of a less serious nature because of the fact that the weapon used was more than likely a slug gun”. Because there were no lines of inquiry to follow up (that is no address, no suspect’s name and no registration number for a vehicle), and no other information was “provided to us” at that time, they would approach Sergeant Mickan and “put our side of the story to him”¹⁵². He then described the subsequent conversation between himself, Detective Wilson and Sergeant Mickan. They informed Sergeant Mickan that they did not think it likely that they would achieve anything by conducting further inquiries themselves on the night and that the matter would be “better suited for day shift to follow it up as we were off duty”¹⁵³. Detective Green said that it would have been possible for he and Detective Wilson to be “recalled” to duty but that based on the information that they “were given” they thought it highly unlikely that they would be given authorisation to be recalled¹⁵⁴.
- 9.66. Detective Green said that Senior Constable Redding expressed concerns to him about Christopher Wilson’s version of events. Senior Constable Redding thought that what

¹⁴⁹ Transcript, page 516

¹⁵⁰ Transcript, page 518

¹⁵¹ Transcript, page 519

¹⁵² Transcript, pages 520-521

¹⁵³ Transcript, page 521

Christopher Wilson was saying “didn’t seem quite right and wasn’t adding up”¹⁵⁵. Furthermore, Detective Green said that his first thought was that it was “a little bit odd” that Christopher Wilson and his friends had come to the police station and not sought medical treatment if there had been a shooting¹⁵⁶ and that this did not add up¹⁵⁷. He said that they thought that the firearm may not have been a revolver or a long barrel rifle and that was “the reason why we treated it as a less serious thing”¹⁵⁸. He said that he felt that Christopher Wilson was not telling them everything¹⁵⁹. Finally, he said that looking at the projectile he was not convinced that it was a bullet and thought that it was a slug¹⁶⁰.

- 9.67. Detective Green said that he and Detective Wilson returned upstairs to their office, made a journal entry on the computerised journal at about 0015 hours and then left the building. He said that he estimated that he left the building just before 12:30am¹⁶¹. Detective Green was shown Annexure GM47 to Exhibit C10, the four page printout of persons at Duthie Street previously referred to and generated by Probationary Constable Crawford at approximately 11:47pm on 25 February 2004. He said that he did not see any of those four pages prior to completing his shift that night and was not present when it was handed to any other member of police. He said that the first time he saw the document was when it was shown to him by his lawyer shortly before the Inquest¹⁶².
- 9.68. Detective Green denied that he had heard the expression “road rage” mentioned by any police officer or civilian that night¹⁶³.
- 9.69. Detective Green said that his understanding of his role and that of Detective Wilson that night was simply to assess the situation and proffer advice as to how the matter should progress, but not to take it over¹⁶⁴ and that he understood that the further

¹⁵⁴ Transcript, pages 522-523

¹⁵⁵ Transcript, page 548

¹⁵⁶ Transcript, page 552

¹⁵⁷ Transcript, page 552

¹⁵⁸ Transcript, page 552

¹⁵⁹ Transcript, page 560

¹⁶⁰ Transcript, page 569

¹⁶¹ Transcript, page 525

¹⁶² Transcript, pages 524, 556 and 570

¹⁶³ Transcript, page 546

¹⁶⁴ Transcript, page 549

conduct of the matter for that night was with Sergeant Mickan and Senior Constable Redding¹⁶⁵.

9.70. Detective Green said that he would have expected that any computer checks which had been generated in the course of the evening would have been shown to him¹⁶⁶. He agreed that the information concerning a dark coloured BMW, a firearm and the street name of Duthie Street would be sufficient for computer checks to be conducted¹⁶⁷.

9.71. Detective Green said that he and Detective Wilson were approached by Acting Detective Sergeant Addison at the commencement of their afternoon shift the following day, namely 26 February 2004. Acting Detective Sergeant Addison was aware that they had had some involvement with the Christopher Wilson incident the previous night. He inquired of them what the job was about. Detective Green said that he and Detective Wilson provided Acting Detective Sergeant Addison with an overview of what had happened the previous evening. This occurred at approximately 3:00pm on 26 February 2004.

9.72. Detective Green was asked by his own Counsel to assume that he had had knowledge that night that a revolver had been used in relation to the shooting. He provided a very detailed answer the effect of which was that there would have been “a different set of procedures put in place”. He said the matter would have been treated as a “high risk listing”, there would have been advice to the shift manager, to the on-call officer, to police communications, to the on-call STAR Group officer, a briefing conducted, uniform patrols attending, placement of cordons and a tactical commander assuming responsibility for the incident¹⁶⁸. However, he said that he was not aware that witnesses spoken to that night had described the weapon used as a pistol until some time after that night¹⁶⁹.

9.73. Senior Constable Peter Cox and Senior Constable Luke Wilson

These police officers were the two patrol officers who were called back to Holden Hill Police Station at the request of Sergeant Mickan by Sergeant Tuk, the officer in charge of patrols. The joint daily activity log of Senior Constable Luke Wilson and

¹⁶⁵ Transcript, page 577

¹⁶⁶ Transcript, page 556

¹⁶⁷ Transcript, page 559

¹⁶⁸ Transcript, page 526

Senior Constable Peter Cox¹⁷⁰ confirms that from 0005 to 0125 hours they were at Holden Hill Police Station to assisting in the taking of the statements. Senior Constable Cox said that he attended at the front foyer area of Holden Hill Police Station and spoke to Detective Green who asked them to take a statement from the driver of the vehicle who turned out to be James McAinsh. He confirmed that he proceeded to do just that. He said that once he had finished taking the statement he handed it to Senior Constable Redding¹⁷¹. He said that as soon as the statements were handed in they resumed patrol duties¹⁷². It was clear that very little time expired between the completion of the statements and the resumption of patrol duties¹⁷³. Senior Constable Cox could tell that Senior Constable Redding had completed taking whatever statement he had taken (we now know it was the statement of Christopher Wilson) prior to Senior Constable Cox completing his. Neither Senior Constable Cox nor Senior Constable Luke Wilson was aware of Senior Constable Redding's presence on their arrival at the police station. All of the evidence suggests that Senior Constable Redding was in the interview room with Christopher Wilson at that point. Senior Constable Cox said that James McAinsh was cooperative and did not appear to be holding anything back¹⁷⁴.

- 9.74. Senior Constable Luke Wilson gave evidence to a similar effect as that given by Senior Constable Cox. He confirmed that he took a statement from Dylan Connelly and that he commenced taking that statement at 0005 hours and finished doing so shortly before 0125 hours. He said that he handed his completed statement to Senior Constable Redding¹⁷⁵. He said that he did not have any difficulty in obtaining information from Dylan Connelly who was quite forthcoming with details¹⁷⁶.
- 9.75. The evidence of both of these officers confirms that Senior Constable Redding was free from the task of taking a statement from Christopher Wilson prior to the completion of the statements that Senior Constable Cox and Senior Constable Wilson were tasked to take. There was no reason why Senior Constable Redding could not

¹⁶⁹ Transcript, page 528

¹⁷⁰ Exhibit C15

¹⁷¹ Transcript, page 876

¹⁷² Transcript, page 877

¹⁷³ Transcript, page 877

¹⁷⁴ Transcript, page 885

¹⁷⁵ Transcript, page 890

¹⁷⁶ Transcript, page 895

have used this time, it seems to me, to be taking a statement from either of Mark Wilson or Ryan Williams.

10. The Christopher Wilson complaint - Conclusions

- 10.1. Senior Constable Redding somehow did not pick up the information that Probationary Constable Tina Crawford picked up, namely that Christopher Wilson had been shot and wounded. Senior Constable Redding's evidence in chief was built upon the premise that this was information that was only reluctantly revealed by Christopher Wilson at a very late stage in the interaction between him and Senior Constable Redding. The premise was that there was a gradual change in the story from a "road rage" incident, to an assault involving a bat or other like object, to a shooting and finally to a shooting and a wounding, and this last only at a very late stage. However, while Senior Constable Redding was sitting with Christopher Wilson in the interview room eliciting what he described as a changing story, Probationary Constable Crawford was already pursuing fruitful lines of inquiry based upon her appreciation, gained almost immediately upon the arrival of Christopher Wilson at the Holden Hill Police Station, that he had been shot and wounded by "Afghans". It is extremely difficult to imagine how Senior Constable Redding managed to remain oblivious to this for so long. Was he distracted when that was mentioned at the front counter? Was his hearing impaired by something? Was he being truthful or did he hear the same things as Probationary Constable Crawford but was reluctant to accept that it was true until Christopher Wilson, having been forced to go through the story at length in the interview room finally got the point of the narrative where he was shot and revealed the wound. Did this in turn enable Senior Constable Redding to suggest that the wound was a late revelation reluctantly made thus establishing Senior Constable Redding with a foundation for his belief that something "did not add up", that Christopher Wilson was "holding something back". It will be remembered that Senior Constable Redding added a touch of mystery to his account by reference to the "shadowy figure" that met Christopher Wilson outside the station after he had been shown into an empty foyer by Senior Constable Redding after the completion of the interview.
- 10.2. In any event, I find that Christopher Wilson did indeed mention the wound and the shooting at a very early point at the front counter thus enabling Probationary

Constable Crawford to hear it and begin her inquiries. I am unable to explain why Senior Constable Redding would have been unable to hear something that could be heard by Probationary Constable Crawford.

- 10.3. Senior Constable Redding passed his suspicions about Christopher Wilson's unwillingness to cooperate onto other police officers that night, namely Sergeant Mickan, Detective Green and Detective Wilson. However, neither Senior Constable Cox nor Constable Luke Wilson noted a lack of cooperation on the behalf of James McAinsh or Dylan Connelly.
- 10.4. All the members of the Christopher Wilson party gave evidence that they did not feel that the complaint had been taken seriously by the police that night. This may be explained by the fact that Senior Constable Redding apparently did not take in the information about the wounding by gunshot until well into the interview with Christopher Wilson when none of the others with the exception of Dylan Connelly was present. The others would be left wondering why there was not some more urgent response to a report of a shooting, if it was accepted at face value.
- 10.5. They were not to know that it had been accepted at face value by Probationary Constable Crawford. By face value, I am referring to the initial attendance in the foyer by the Christopher Wilson party on their arrival at the Holden Hill Police Station, and the acceptance of the account of a shooting and wounding at that point. From the point of view of the rest of the members of the Christopher Wilson group, the public face of South Australia Police was Senior Constable Redding, who somehow missed the central message that was being conveyed, namely that Christopher Wilson had been shot and wounded by "Afghans". It is quite possible that the members of the group felt that they were not being taken seriously if Senior Constable Redding, the only officer to whom they initially spoke, did not realise that they were saying that Christopher Wilson had been shot and wounded.
- 10.6. Detectives Wilson and Green were both adamant that none of the results of the searches by Probationary Constable Crawford had been shown to them that night. Probationary Constable Crawford was just as adamant that she had handed the search results to one of the detectives in the presence of the other, for handing to Senior Constable Redding. Both detectives denied that this occurred.

- 10.7. Sergeant Mickan was quite sure that he gave the detectives information about the searches, including the name HB.
- 10.8. The initial search results “Enquire persons at address” for Duthie Street revealed the name HB together with the warnings “May be armed” and “Psych disorder”. That information was in existence at 11:47pm and had been printed. On Probationary Constable Tina Crawford’s evidence she left a pile of material on the printer before taking it to the interview room and handing it to the detectives. She was adamant that the final check she did before this was the vehicle details check which was not done and printed until 0032 hours on 26 February 2004. By that time the detectives had returned to their office upstairs, completed their journal entries and left the building (at 0030 hours).
- 10.9. If I were to accept that Probationary Constable Crawford did not hand over anything until after she printed the vehicle enquiry details, then it would not have been possible for the detectives to have been present when the material was handed over as recounted by Probationary Constable Crawford. This would mean that her evidence would have to be rejected on this point – that notwithstanding her emphatic assertions that she handed the checks to the detectives for transmission to Senior Constable Redding, she did not. It would be difficult to conclude that Probationary Constable Crawford was mistaken in that evidence given her repeated vehement assertions that this did happen.
- 10.10. On the other hand, if I accept that Sergeant Mickan was correct in saying that he told the detectives about the searches before they left the office that night, and assume Probationary Constable Crawford was mistaken in recalling that the vehicle enquiry searches were included in the package of information she handed to the detectives or Senior Constable Redding, then it may be possible to conclude that some computerised search information, including the details about HB, was provided to the detectives before they left that night. However, this conclusion would necessarily entail finding that the detectives were both lying. It would be difficult to find they were mistaken because they were as adamant in their evidence that they were not shown any searches nor provided with any verbal report of searches as Probationary Constable Crawford and Sergeant Mickan were in their assertions to the contrary.

10.11. I am in a position where, if I am to resolve the issue of the knowledge of the detectives about the search results in the early morning of 26 February 2004, I must find that either:

1. Detectives Wilson and Green are lying and Sergeant Mickan and Probationary Constable Crawford are telling the truth.
2. Sergeant Mickan and Probationary Constable Crawford are lying and Detectives Wilson and Green are telling the truth.

I have acknowledged that the version of events given by the detectives is supported by the times shown on the computer record of the vehicle checks. However, this is only to the extent that Probationary Constable Crawford is not mistaken in her belief that the vehicle checks were part of the package of checks she maintains she gave to the detectives. In the result, I am unable to reach a conclusion on the matter. I have reached the conclusion though that the discrepancy is not explicable by a genuine mistake on the part of one side or the other. Either Detectives Wilson and Green on the one hand or Probationary Constable Crawford and Sergeant Mickan on the other, have been untruthful at the Inquest.

10.12. With the exception of Probationary Constable Crawford, and Senior Constable Cox and Constable Luke Wilson, all officers involved on the night of 25/26 February 2004 said that things did not add up, that something was being held back and that there was a suspicion that the event was not random as alleged by the Christopher Wilson party.

10.13. The wound was variously described as a scratch, looking like a cigarette burn, a small crater. Christopher Wilson was described as nonchalant and not looking for medical treatment. The gun was only a slug gun or an air gun and only made a popping noise.

10.14. There was a general tendency to minimise the seriousness of the presentation that night. None of the officers when asked directly suggested that a minor wounding, even with an air gun, was not a serious matter. Yet somehow it was relevant that the wound was minor, that the gun made a popping noise, and that the projectile appeared to be a slug.

10.15. Detectives Wilson and Green and Senior Constable Redding said that the projectile appeared to be a slug. They said that Christopher Wilson and Dylan Connelly agreed.

None of them had ballistics training. None of them appeared to consider that it was obvious from the story given by Christopher Wilson that the projectile was not fired directly at him but that it had ricocheted off something else and spent most of its force before hitting him. None of them appeared to consider that this meant that the weapon was less likely to be an air gun and the projectile not a slug¹⁷⁷. When it was suggested to Senior Constable Redding that the projectile had hit the road before hitting Christopher Wilson and this may not be considered to be consistent with a low powered air gun, it was explained that some higher calibre air guns are actually quite powerful¹⁷⁸.

10.16. There was a tendency by Detective Green, Detective Wilson, Senior Constable Redding and Sergeant Mickan to suggest that it was accepted as a serious incident, but to point out that observations made by them decried the seriousness of the incident. This was something of the best of both worlds: an acknowledgement of the seriousness of the shooting (which, in hindsight, could hardly be denied, now that we know that there was no air gun but a Ruger revolver)¹⁷⁹ but an emphasis on the factors which would justify the treatment of the matter as less serious. Detective Green did admit that they treated the matter as less serious¹⁸⁰.

10.17. It was unacceptable to blame, as some witnesses did, Christopher Wilson for the lack of urgency and action. Senior Constable Redding went so far as to suggest that the incident was trivialised by Christopher Wilson¹⁸¹. Even if the victim of a shooting incident that police have no reason to believe is anything other than random (and all the evidence in this case suggests that the incident was indeed random) has some oddity of character that causes him not to be reacting in the way that one would normally expect, that should not lead to an assumption that the matter is not as serious as it might be. Public safety requires that an open mind be maintained. It is all very well to make assumptions based on vague feelings and suspicions and other highly subjective factors that a matter is not as serious as at first appears. The fact in this case was that there was a person at large who had used a gun in a public place for no better reason than that some people had driven into “his street” and that as a result, a member of the public who had done nothing to provoke this had been injured –

¹⁷⁷ The exception is Dylan Connelly, who said that he made this point to the detectives. Transcript, page 1411

¹⁷⁸ Transcript, pages 395-396

¹⁷⁹ Annexure GM37 to Exhibit C10

¹⁸⁰ Transcript, page 552

¹⁸¹ Transcript, page 428

fortunately, not seriously. There was no reason to believe that the incident would not be repeated other than feelings said to be based on experience, but more likely born or apathy, that the incident was not random and something was being held back.

- 10.18. Yet the incident had been reported by a group of people who had been prepared to come into a police station shortly before midnight to make a formal complaint. Three of their number were interviewed and gave statements. In all they spent as a group at least two hours in the vicinity of Holden Hill Police Station waiting around. That can hardly be described as uncooperative.
- 10.19. The evidence given at Inquest by some members of the Wilson group was, I suspect, somewhat exaggerated. For example, reference by James McAinsh to a smirk¹⁸², by Dylan Connelly to officers chuckling at the wound¹⁸³, are more likely to reflect some degree of animus on their part towards the police than a true account. Having said that, I do believe that these witnesses generally provided a true account and tried to recall as faithfully as possible the events in question.
- 10.20. There should have been a far more rigorous response by the officers in Holden Hill Police Station involved in the investigation of the matter that night (with the exception of Probationary Constable Tina Crawford, whose involvement was probably purely of her own initiative and born of enthusiasm) and officers Luke Wilson and Peter Cox who were given a specific task to do in the matter which they did before resuming their patrol duties. It is notable that neither Constable Luke Wilson nor Senior Constable Peter Cox reported any lack of cooperation or any vague notions of a tendency on the part of their interviewees to hold things back. They had no incentive to offer any justification for their actions that night. They showed no lack of rigour in their approach.

11. Police response – community expectation

- 11.1. What should the community expect of its police force in a situation such as this? Let us assume that there was some bravado by Christopher Wilson that the wound was only minor and did not hurt or require medical treatment and agreement by Christopher Wilson that the projectile was in all probability a slug. But that does not

¹⁸² Transcript, page 93

¹⁸³ Transcript, page 1388

change the fact that a member of the public had presented in the police station to report that he had been wounded, albeit not seriously, by a projectile discharged from a firearm of some sort with sufficient power to cause the wound after having spent its initial force in ricocheting off something else, most likely the road surface, and that the incident was not provoked in any way but that the shooter was yelling out that the victim should keep out of “his street” and demanding to know what the victim was doing in “his street”. The victim was accompanied by four eye witnesses. None of them was heard to say that he knew the shooter. However, they did say that the incident occurred after they had made a wrong turn down a street from which the shooter apparently pursued them shortly afterwards, flagging them down in a nearby street.

- 11.2. I believe that the community had a right to expect that such an incident would be responded to as an immediate priority until the police have some basis to explain the conduct as being other than random. Until there is such a basis the community is theoretically at general risk. There may be other incidents involving this person. He may decide to accost someone else who drives into and out of his street. Bearing in mind that it is a public street, there is a likelihood that this might occur. The apparently irrational shooter might repeat his violent behaviour.
- 11.3. All this might seem unlikely. It might seem improbable that someone would be sufficiently deranged to take such exception to a car full of persons driving in his street as to flag them down and shoot one of their number if only inadvertently by ricochet. In the event that such a thing does occur, it is the police to whom the public turn for a response. It is the police who are charged with upholding law and order. It is not acceptable for the police to react to this by regarding it as inherently unlikely, probably explicable by some connection between the complainant and the shooter which the complainant is for reasons of his own concealing, and to proceed on the assumption that the shooter will not repeat his behaviour. Instead, the police should assume that there is a person who is willing to discharge a firearm in the vicinity of the location in question, who regards some public street as “his street” and who may therefore be a resident of that street. Police should then take steps to secure the peace and restore public safety.

12. The further handling of the complaint made by Christopher Wilson after he left the Holden Hill Police Station

- 12.1. On 26 February 2004 at 1:17am Senior Constable Redding updated the PIR investigation diary summarising the status of the investigation¹⁸⁴. He noted that Christopher Wilson had been advised to attend Holden Hill Police Station in the morning to have his wound photographed by technical services. Senior Constable Redding also noted that HB was a person of interest and may be a possible suspect.
- 12.2. Senior Constable Redding also submitted a hard copy of that same PIR, along with a copy of Christopher Wilson's statement and copies of the searches that Probationary Constable Crawford had done to Sergeant Mickan for vetting. Sergeant Mickan forwarded the electronic PIR as well as the hard copy PIR and the statement and searches to the Crime Management Unit or CMU for allocation at approximately 4:57am on 26 February 2004¹⁸⁵.
- 12.3. At approximately 7:00am on 26 February 2004, Senior Constable McGowan checked the Holden Hill Scene overnight book, and discovered that there was an overnight tasking for Christopher Wilson's injury to be photographed¹⁸⁶. Senior Constable McGowan attempted to contact Christopher Wilson by telephone at approximately 10:00am, 11:45am and 12:30pm¹⁸⁷. At 3:00pm Senior Constable McGowan asked Senior Constable Marzano to make further enquiries and contact Christopher Wilson¹⁸⁸. Senior Constable Marzano contacted Senior Constable Roger Delaat of Adelaide Crime Scene Investigation Unit to take the tasking¹⁸⁹. Senior Constable Delaat attended Christopher Wilson's home at approximately 5:50pm. The door was not answered and he left a calling card in it¹⁹⁰. At 9:43pm it was noted in the PIR investigation diary that Christopher Wilson had not attended Holden Hill Police Station to have his wound photographed¹⁹¹.
- 12.4. At Holden Hill Police Station there is an Intelligence Section. One of the duties of that section is to prepare a daily briefing sheet which gathers details of events from

¹⁸⁴ Annexure GM1 to Exhibit C10

¹⁸⁵ Annexure GM1 to Exhibit C10

¹⁸⁶ Annexure GM37 to Exhibit C10

¹⁸⁷ Annexure GM45 to Exhibit C10

¹⁸⁸ Annexure GM37 to Exhibit C10

¹⁸⁹ Annexure GM34 to Exhibit C10, Exhibit C7a

¹⁹⁰ Annexure GM34 to Exhibit C10, Exhibit C7a, Exhibit C12e and evidence of Mrs Julie Wilson

¹⁹¹ Annexure GM1 to Exhibit C10

the previous twenty-four hours which may be of interest to the Local Service Area. The briefing sheet is prepared by one or more Field Intelligence Officers. These officers obtain intelligence material from different sources in order to create the briefing sheet. Annexure GM58 to Exhibit C10 is a copy of the Holden Hill Crime Management Journal for 26 February 2004. It contains an entry relating Christopher Wilson's complaint. It contains a reference to the number of the PIR. It seems likely that the entry in the Crime Management Journal was made by Senior Constable Redding. It is most probably that journal together with the PIR that triggered an entry in the Holden Hill LSA Intelligence Section daily briefing in relation to the Christopher Wilson incident. This is evidenced by an extract from the Holden Hill LSA Intelligence Section daily briefing for 26 February 2004 a copy of which appears as Annexure GM59 to Exhibit C10. The daily intelligence briefings that are prepared by the intelligence officers are presented to the daily Tactical Coordination Group ("TCG") meeting for discussion and action. Annexure GM59 to Exhibit C10 indicates that the intelligence briefing was indeed distributed at a TCG meeting that day. Detective Senior Sergeant Eric Douglas was the Acting Detective Chief Inspector on the evening of 25 February 2004. He was not on duty at the time Christopher Wilson and his friends attended at the police station. He first became aware of the incident at the TCG meeting on the morning of 26 February 2004.

- 12.5. At the time Detective Senior Sergeant Douglas considered the matter he recognised the incident as serious. However it appeared to him that there was not, by that stage, an imminent or immediate danger to the public arising out of the incident¹⁹². He decided that the matter should be actioned by the CIB officers who had been on duty when the report occurred, namely Detectives Wilson and Green. He did not allocate the matter to the day shift CIB members because they were routinely off duty on Saturdays and Sundays and thus there would have been a risk of interruption and delay in the investigation¹⁹³. Detective Senior Sergeant Douglas prepared a forwarding minute¹⁹⁴ stating "for allocation to 2 Team for investigation please". The forwarding minute was attached to the PIR and forwarded to the Crime Management Unit for that instruction to be actioned. The reference to "2 Team" was a reference to

¹⁹² Transcript, page 1647

¹⁹³ Transcript, page 1676

¹⁹⁴ Exhibit C26

Team 2 of Investigations Division of which Detectives Wilson and Green were a part¹⁹⁵.

- 12.6. The forwarding minute with the PIR was physically received by Sergeant Kelly, a member of the Crime Management Unit. Receipt of the hard copy was acknowledged by Sergeant Kelly's signature on the minute¹⁹⁶. Sergeant Kelly then allocated the PIR to Detective Sergeant Butvila who Sergeant Kelly mistakenly believed was the person then in charge of Team 2 because Detective Sergeant Butvila was usually in that position. However, at that time, Detective Sergeant Butvila was relieving in the position of Acting Detective Senior Sergeant of Investigation and Response, which was primarily an administrative role and did not involve any direct and immediate supervision of Team 2. Instead he oversaw all of the Investigations Section as well as the Crime Management Unit¹⁹⁷. Sergeant Kelly had access to the weekly dispositions journal¹⁹⁸ which showed that Detective Sergeant Butvila was relieving up and similarly that Acting Detective Sergeant Addison was also relieving up and therefore in charge of Team 2. Sergeant Kelly gave evidence that he acknowledged that the PIR was to be allocated to Team 2 and not to Detective Sergeant Butvila directly. He explained that he sent the file to Detective Sergeant Butvila because he knew he was generally the sergeant in charge of Team 2. He acknowledged that he did not check the dispositions journal but allocated the PIR to Detective Sergeant Butvila because he was associated with Team 2.
- 12.7. As I have said Acting Detective Sergeant Shane Addison was in charge of Team 2 at the relevant time and was the direct supervisor of the members of that team¹⁹⁹. The PIR was sent electronically using the police information management system. Furthermore, a hard copy of the PIR followed thereafter. Thus both the electronic version and the hard copy version were forwarded to Detective Sergeant Butvila.
- 12.8. When a PIR is electronically allocated it goes into the system and when the relevant members logs onto the system he or she receives notification of matters that have arrived and are awaiting their attention. If a member does not log onto the Police Information Management System, then he or she will not receive any electronic

¹⁹⁵ Transcript, pages 1635-1636

¹⁹⁶ Exhibit C26

¹⁹⁷ Evidence of Detective Sergeant Butvila; Exhibit C26d

¹⁹⁸ Exhibit C26d

¹⁹⁹ Exhibit C26d

notification of the arrival of a new matter. The member will not have notice of the new matter until that member logs onto the system²⁰⁰.

- 12.9. Both Detective Sergeants Butvila and Addison had their own pigeon holes into which hard copy material would be placed by a rounds clerk who did rounds at least twice a day, in the morning and in the afternoon. Those pigeon holes were located near the Detective Sergeant of Investigation's office²⁰¹.
- 12.10. Detective Sergeant Butvila's usual office was being temporarily occupied by Acting Detective Sergeant Addison while they were both relieving. There were two trays located on the desk in that office, one of which was allocated for general purpose materials relevant to Team 2 investigations, and the other one was for personal correspondence addressed to Detective Sergeant Butvila²⁰².
- 12.11. While relieving up, Detective Sergeant Butvila did not regularly access the PIMS as his role as an Acting Detective Senior Sergeant did not require him to do so and because he was not required to receive and allocate matters for investigation while relieving up. On occasion, he would log onto PIMS and would forward on to the relevant person, usually Acting Detective Sergeant Addison, any material that might have been incorrectly forwarded to him. However, there was no regularity to his logging onto PIMS²⁰³.
- 12.12. While relieving up, Detective Sergeant Butvila would not necessarily check his pigeon hole with regularity either and for the same reason²⁰⁴. While relieving up, Detective Sergeant Addison was in charge of the receipt and allocation of matters for investigation by members of Team 2 and he relied upon those matters being forwarded to him. He relied upon the hard copy of those matters being placed in his pigeon hole. Detective Sergeant Butvila assumed that Detective Sergeant Addison would check Detective Sergeant Butvila's pigeon hole and remove anything that related to Team 2. However, Detective Sergeant Addison believed that it was not his place to check Detective Sergeant Butvila's pigeon hole and assumed that Detective Sergeant Butvila would check it himself.

²⁰⁰ Evidence of Detective Senior Sergeant Douglas; Detective Sergeant Butvila; Detective Sergeant Addison and Sergeant Kelly

²⁰¹ Evidence of Detective Senior Sergeant Douglas and Detective Sergeant Butvila

²⁰² Evidence of Detective Sergeant Butvila and Detective Sergeant Addison

²⁰³ Evidence of Detective Sergeant Butvila and Detective Sergeant Addison

²⁰⁴ Evidence of Detective Sergeant Butvila and Detective Sergeant Addison.

12.13. The staffing arrangements for the Holden Hill CIB were recorded in a document called the Holden Hill CIB Disposition sheet²⁰⁵. That document was collated, updated and distributed on a weekly basis to staff members²⁰⁶. Members of the Crime Management Unit were aware of and had ready access to the Holden Hill CIB Disposition sheet every week and were aware that it could be accessed on their computers²⁰⁷. Annexure GM1 to Exhibit C10 contains an entry at 1433 hours on 26 February 2004. It was made by Sergeant Kelly and it refers to the Christopher Wilson PIR. It states:

‘Vic for alloc as per direction of DS/Sgt Douglas. Hard copy to you 26/2’

And it records the transfer to Detective Sergeant Butvila.

12.14. In the result, neither Detective Sergeant Butvila nor Detective Sergeant Addison received the electronic version of the Christopher Wilson PIR on 26 February 2004 as intended. Nor did either of them receive the hard copy documents²⁰⁸. In fact Detective Sergeant Butvila had no knowledge of the matter at all until Internal Investigation Branch began investigating the matter more than twelve months later²⁰⁹.

12.15. As already noted previously, Detective Sergeant Addison who was working on afternoon shift along with Detectives Wilson and Green became aware of their involvement in the Christopher Wilson incident at approximately 3:00pm on 26 February 2004²¹⁰. However at the time of this discussion he was not in possession of the PIR in any form and did not come into possession of it until he sought out an electronic copy of it himself on 28 February 2004 at the request of Detective Lidio Santucci who had asked for it to be forwarded to him in relation to the fatal shooting of Christopher Wilson. The hard copy documents arrived on the desk Detective Sergeant Addison was occupying some time during the afternoon of 28 February 2004. He passed this on to Detective Santucci and made a note on the forwarding minute as follows:

‘Lidio, this is for you too. Makes very interesting reading now.’

²⁰⁵ Exhibit C26d

²⁰⁶ Evidence of Detective Sergeant Butvila, Detective Senior Sergeant Douglas and Sergeant Kelly

²⁰⁷ Evidence of Detective Sergeant Butvila and Sergeant Kelly

²⁰⁸ Evidence of Detective Sergeant Butvila and Detective Sergeant Addison

²⁰⁹ Evidence of Detective Sergeant Butvila

²¹⁰ In discussion with them, but not as a result of the allocation of the PIR.

12.16. Other than the efforts made by the crime scene examiners in connection with photographing Christopher Wilson's wound, and apart from the allocation of the PIR (or misallocation), no other action took place in relation to the complaint by Christopher Wilson until after his death on 28 February, 2004. The misallocation of the PIR reflects poorly on Sergeant Kelly. His evidence at T1702-1706 shows that he had a rather casual attitude in relation to ascertaining the identity of the person acting in a particular position at a particular time. This is evidenced by his comments that "you've got to appreciate there was always changes and relieving and it was an ongoing matter"²¹¹ and "you just throw it around there. I'd say whose relieving in that position at the moment or is so and so relieving. I mean its just general talk within the confines of the staff there at the Crime Management Unit."²¹² As to the disposition journal he said:

'Every now and again you get on to it. Depending what you were working on and what you were looking at, but, I mean, you know, we have a hundreds tasks to do there. It was just one of many.'²¹³

In my opinion Sergeant Kelly was less than diligent in his approach to the allocation of the Christopher Wilson PIR. If his evidence is any indication of his attitude to the importance of accurate allocation generally, it appears that he does not attach sufficient importance to the accurate transmission of PIRs. As this case has shown, a high level of diligence is required in this task.

12.17. In the result, neither Detective Sergeant Butvila nor Detective Sergeant Addison received the electronic version of the Christopher Wilson PIR on 26 February 2004 as intended. Nor did either of them receive the hard copy documents²¹⁴. In fact Detective Sergeant Butvila had no knowledge of the matter at all until Internal Investigation Branch began investigating the matter more than twelve months later²¹⁵.

13. Human source information

13.1. According to an affidavit of former Detective Brevet Sergeant Edgecombe, he was attached to the Informant Management Liaison Office at the Holden Hill CIB. He was responsible for the management of human sources and the safe dissemination of

²¹¹ Transcript, page 1702

²¹² Transcript, page 1706

²¹³ Transcript, page 1706

²¹⁴ Evidence of Detective Sergeant Butvila and Detective Sergeant Addison

information they provided. At an Informant Management Liaison Office meeting with members of the Informant Management Section (now referred to as the Human Source Management Section) between July and October 2003 he was advised of information received from a registered informant. The information was that HB, who resided within the Holden Hill Local Service Area was in possession of a revolver. An information report describing this information was tabled at the meeting. This information report is the same information as referred to in the affidavit of Detective Senior Sergeant Grant Garritty²¹⁶. According to an affidavit of Detective Brevet Sergeant Edgecombe which was admitted as Exhibit C38 in these proceedings, after the meeting of the Human Source Management Section referred to above he had a conversation with then Detective Senior Sergeant Saunders who was in charge of the Holden Hill CIB Tactical Unit at that time. Detective Senior Sergeant Garritty advised Detective Senior Sergeant Saunders of the nature of the information and sought his assistance in allocating the information report to his staff for follow up. Detective Senior Sergeant Saunders informed him that staffing problems prohibited him from providing any tactical resources. On the advice of Detective Senior Sergeant Saunders he then spoke with the Holden Hill Operation Mantle staff who were thought to be able to assist. Detective Senior Sergeant Garritty then briefed members of Operation Mantle and understood that the informant information would be followed up by members of that team.

- 13.2. Between July and October 2003, Detective Senior Sergeant Garritty spoke with members of Operation Mantle on a regular basis in the ordinary course of his duties. On one of those occasions he inquired about the status of the informant information and was told that the Operation Mantle members had been unable to act on the information but had passed it on to members of Operation Nail, a Holden Hill uniform tactical team involved in the investigation of local youth gang activity. Detective Senior Sergeant Garritty then spoke with Constable Lawton of Operation Nail and was advised by him that apart from driving past HB's address on a number of occasions, Operation Nail members had not been able to further any investigation due to lack of staffing. Detective Senior Sergeant Garritty again met with Detective Senior Sergeant Saunders and again asked for the allocation of staff from CIB Tactical Unit to deal with the informant information about HB possessing a firearm.

²¹⁵ Evidence of Detective Sergeant Butvila

²¹⁶ Exhibit C40

During this conversation, according to Detective Senior Sergeant Garritty, Detective Senior Sergeant Saunders said that the tactical team would investigate the matter but that it would be delayed for a week because of a lack of staff.

- 13.3. As I noted in paragraph 6.4 of this Finding, HB had appeared before the Youth Court on 8 July 2003. He had entered into an obligation with the Court to be of good behaviour for a period of eighteen months. Condition 5 of the obligation prohibited him from possessing or carrying any firearm or offensive weapon. This information was available to members of South Australia Police²¹⁷.

14. The Dreelan PIR

- 14.1. Annexure GM63 to Exhibit C10 is a copy of a Police Incident Report submitted by Constable Denise Case of Holden Hill Police Station at 12:46pm on 20 October 2003. Annexure GM64 to Exhibit C10 is a statement which was given by the complainant, Clive Patrick Dreelan, to Constable Lawrence at 1:30pm that day. The essence of the complaint was that Mr Dreelan's life had been threatened by a person he knew only as "HB". He would recognise HB if he saw him again because he had known him for approximately six to eight months according to this statement. HB was not a stranger to him. Furthermore, he provided HB's mobile telephone number but said that he did not know his full name or address. He told Constable Case, according to information recorded in the statement given to Constable Lawrence²¹⁸ that at about 5:30pm on Sunday, 21 September 2003 he was at home. A male that he knew only as HB had called him on his mobile telephone but he missed the call. Mr Dreelan called HB back at about 6:00pm and asked him what he wanted. He said something important had come up and that Mr Dreelan was in trouble and he wanted to speak to Mr Dreelan. Mr Dreelan told him to come around and he said he would be around at about 10:00pm. At about 10:30pm HB pulled up in the driveway at the front of Mr Dreelan's house in his green Nissan Skyline and revved his car loudly. Mr Dreelan opened the front door and saw HB in the car and HB waved for him to come out the front. Mr Dreelan went out of the front door closing it behind him and went out to HB's car. He opened the passenger door of the car and sat in the passenger seat but he left the door open. HB was sitting in the drivers seat and on the

²¹⁷ Exhibit C42

²¹⁸ Annexure GM64 to Exhibit C10

centre console of the car was a Samurai sword in its sheath. As he sat down in the car HB picked up the sword and held it. He pulled the sword so it was halfway out of the sheath so that Mr Dreelan could see the blade. HB then asked him "Do you know what I do?" to which Mr Dreelan stated "No". HB asked again "Do you know what I do?" to which Mr Dreelan replied "I don't want to know what you do." HB then said "I'm a hitman and I had a meeting with my people today and they told me that there's a contract out on my life (Dreelan's life) worth \$30,000." HB said that there was a way around it and suggested that they go inside for a chat. They got out of the car and HB left the sword in the car and went to the boot of the car and opened it. HB opened the side compartment in the boot and pulled out something wrapped in a white rag. He unwrapped the rag in front of Mr Dreelan and inside the rag was a black revolver. HB opened the chamber where the bullets go and spun it around a few times, he then closed the chamber and put the gun down the front of his pants under his shirt. When the chamber was open Mr Dreelan could not see whether there were or were not any bullets in the gun. They walked inside the house and went straight through the lounge and into the kitchen. In the lounge was Tanya Dunstall, Mr Dreelan's girlfriend and two other males whom he did not name. While in the kitchen, HB said to him words to the effect "I know you and you've been good to my cousins so I will do the right thing by you. If you give me the \$30,000 I won't kill you, I'll forget about this". Mr Dreelan was scared of him so he said that he would see what he could do. HB then opened the kitchen drawer and pulled out a very large kitchen knife. He then said words to the effect "If you fuck with me, if you call the cops or if you get your mates involved I'll fucking kill you". As HB said this he held the knife with the blade side facing Mr Dreelan to the left of Mr Dreelan's stomach. He then put the knife again with the blade side facing Mr Dreelan up against the left side of Mr Dreelan's throat. As he held the blade against Mr Dreelan's throat for about two seconds he said "I'll fucking slit your throat and cut your fucking head off". Mr Dreelan said that he was petrified at this point and said that he would comply but that it would take him until the following day to get the money. He promised to call HB at 1:00pm the following day. HB then put the knife on top of the counter, walked back to the front door and left the house. As he went out the front door he said that he would have to check with "his people" whether it was alright for Mr Dreelan to give him the money and then forget about it. He told Mr Dreelan to call him in an hour to find out what happened. Mr Dreelan shut the door of the house and quickly told his girlfriend and

this two male visitors what had happened. His girlfriend and he packed some clothes and they left with their friends to go and stay at another friends house. At about 11:45pm he called HB's phone. HB told him that it was all sorted out with "his people" that Mr Dreelan could sleep easy and should call him the next day. Mr Dreelan said that he was extremely scared of HB and believed that he would hurt Mr Dreelan with the knife. He also believed that HB would come and get him if he did not pay the money. Mr Dreelan had moved all of his possessions into storage and could not go home to that address because HB was aware of it and Mr Dreelan did not feel that it was safe to live there any more. Effectively, Mr Dreelan went into hiding.

- 14.2. As I have noted, the statement taken from Mr Dreelan was taken by Constable Lawrence. However the reporting officer was Constable Case. Constable Case obtained some information from Mr Dreelan for the purposes of preparing the PIR²¹⁹. In that PIR, Constable Case recorded the suspect's name as being "TAN, Hu". Constable Case gave evidence that she understood the suspect to have a surname of "Tan" and a first name of "Hu" from her conversation with Mr Dreelan²²⁰. However, the statement taken by Constable Lawrence²²¹ makes it plain that H is one word albeit misspelt in the statement and that it is not HB's full name.
- 14.3. There is a further difference between the information recorded in the statement taken by Constable Lawrence and the information recorded by Constable Case in the PIR. The PIR records that Mr Dreelan told Constable Case that HB had also been to the address of Mr Dreelan's fiancé's brother on two occasions and asked her brother where he could find Mr Dreelan. HB told the fiancé's brother that he would kill him if he did not tell him where Mr Dreelan was. Mr Dreelan told Constable Case that "two nights ago" his fiancé's brother was held down and two knives were held to his throat and his gold chain was taken. Mr Dreelan said "they" were looking for him and "they" told his fiancé's brother that if he didn't tell where Mr Dreelan was then HB would kill him. The PIR also records that Mr Dreelan asserted that he had not done anything to HB to provoke this behaviour and believed that HB considered him to be "an easy target".

²¹⁹ Annexure GM63 to Exhibit C10

²²⁰ Transcript, page 1728

²²¹ Annexure GM64 to Exhibit C10

- 14.4. The information thus recorded by Constable Case in the PIR²²² is clearly ambiguous. It is referring to a complaint against HB, an individual, but at more than one point it moves into the plural, suggesting that HB has one or more accomplices. Whether this was deliberate or not I do not know. However, Constable Case has failed to record unambiguously and with proper clarity allegations of the utmost seriousness. This ambiguity was noted by Deputy Commissioner Burns²²³ who assumed that the reference to an incident “two nights ago” was a reference to an event two nights prior to 21 September 2003 rather than to a more recent incident two nights before presentation at the Holden Hill Police Station. With respect to Deputy Commissioner Burns, I am unable to see that the reference could have been to an incident two days prior to 21 September 2003, because the point of the confrontation with the fiancé’s brother was to establish the whereabouts of Mr Dreelan yet, according to the statement taken by Constable Lawrence²²⁴, HB had had no difficulty in establishing contact with Mr Dreelan on Sunday, 21 September 2003, having simply called him on his mobile telephone and Mr Dreelan himself having returned that call and agreed to a meeting later that night. The very fact that the PIR was capable of misinterpretation in this way by the Deputy Commissioner of Police is sufficient to demonstrate its inadequacy. Furthermore, this important information was not recorded in Mr Dreelan’s statement by Constable Lawrence. Constable Lawrence was not called at the Inquest and so it is not possible for me to determine whether that was because the information was omitted by Mr Dreelan or not recorded by Constable Lawrence. However, Mr Dreelan had obviously conveyed it earlier to Constable Case. He may have thought that it was unnecessary to repeat himself but that is speculation. According to the PIR²²⁵ Constable Lawrence recorded in the investigation diary at 1454 hours on 20 October 2003 that the statement had been taken and signed by Mr Dreelan although not witnessed as no staff were available to do that. The statement and the PIR were given to the station sergeant. The PIR investigation diary reveals that at 1057 hours the following morning a Sergeant Johnson of the Holden Hill Crime Management Unit forwarded the Dreelan PIR electronically to Detective Senior Sergeant Saunders. It was not then accompanied by any hard copy. However, at 1901 hours on the same day the hard copy was forwarded to Detective Senior Sergeant Saunders by Sergeant Kelly of the Crime Management Unit. I should also

²²² Annexure GM63 to Exhibit C10

²²³ Transcript, page 1942

²²⁴ Annexure GM64 to Exhibit C10

record that the station supervisor at the Holden Hill Police Station on day shift 20 October 2003 was Paul Bahr who was at that time a sergeant. At the time of giving evidence he had been promoted to the rank of Inspector and is stationed at the State Duty Office Communications Branch. He gave evidence at the Inquest and said that for the 16 years prior to September 2003 he was a member of the Police Forensic Services Branch. Having spent 16 years in that one area he thought it was time to move on and seek further development within South Australia Police. He sought secondment to an operational area²²⁶. He said that the procedures that are used in an operational field of South Australia Police are “vastly different” to those that he encountered as a member of the Forensic Services Branch. He said that there were a range of procedures that “would have been completely foreign to me”²²⁷. Inspector Bahr gave evidence that according to the Dreelan PIR investigation diary²²⁸ at 1325 hours on 20 October 2003 he viewed the PIR from a vetting list of PIRs taken by those officers that he was supervising, in this instance Constables Case and Lawrence. He acknowledged that he considered the information from Constable Case²²⁹. He acknowledged also that he considered the information in the statement by Constable Lawrence which he received subsequently and that he vetted it to “make sure it covered the relevant detail required for the particular offence under investigation”²³⁰. He had no recollection of the particular occasion²³¹ but acknowledged that this must have occurred by reference to the PIR investigation diary. Although Inspector Bahr acknowledged that he must have vetted both the electronic PIR and the written statement²³² he offered no explanation as to why there was a different level of information on the one hand in the PIR and on the other in the statement. He acknowledged that it was not normal practice to have two different officers doing the PIR and the statement, especially where there was only one statement to be taken²³³. In any event, Inspector Bahr (as he now is) failed to appreciate that there were important details in the PIR which were simply not reflected in the statement taken by Constable Lawrence. He also failed to recognise that the PIR entry itself was

²²⁵ Annexure GM63 to Exhibit C10

²²⁶ Transcript, page 1737

²²⁷ Transcript, page 1737

²²⁸ Annexure GM63 to Exhibit C10

²²⁹ Transcript, page 1741

²³⁰ Transcript, page 1742

²³¹ Transcript, page 1743

²³² Transcript, page 1746

²³³ Transcript, pages 1745-1746

ambiguous and to rectify that. The verb “to vet” means to examine, scrutinise and test. Inspector Bahr’s vetting process in this instance was seriously deficient.

- 14.5. There was a further omission that occurred. The PIR was not recorded in the Crime Management Journal. Although the Dreelan PIR was handled by three officers on 20 October 2003 prior to its transfer to the Crime Management Unit, none of those officers - Constable Case, Constable Lawrence nor Sergeant (now Inspector) Bahr made an entry in the Crime Management Journal. Inspector Bahr said:

‘As I developed some skills and knowledge and a bit more acumen in regard to the processes used in the operational domain, I developed certain requirements that I required my staff to enter into the investigation diary. Specifically toward the end of my tenure I required all of my staff to enter details of any Crime Management Unit journal entry that was also added to the crime management system and to state the particular item or journal number for that crime management journal so that I was sure that the matter could be cross-referenced against the journal if necessary.’²³⁴

Inspector Bahr went on to concede that there was nothing to indicate that the matter was placed on the Crime Management Journal and that as the supervisor of Constables Case and Lawrence it had been his responsibility to ensure that had been done²³⁵.

- 14.6. The evidence now shows that neither of the two Crime Management Unit officers who processed the Dreelan PIR on 22 October 2003 – Sergeants Johnson and Kelly – recorded the incident in the Crime Management Journal. Deputy Commissioner Burns gave evidence that given the seriousness of the alleged offences in the Dreelan PIR an entry should have been made in the Crime Management Journal²³⁶. Deputy Commissioner Burns was asked to comment upon General Order 8273²³⁷ which deals amongst other things with the Crime Management Journal. Item 5 of the General Order states that each Crime Management Unit must maintain a comprehensive real time incident journal and the journal will contain information of interest to the LSA/TCG and will include details which are listed. Deputy Commissioner Burns stated that personnel within the Crime Management Unit had a responsibility to enter information such as that contained in the Dreelan PIR in the Crime Management Journal²³⁸. Deputy Commissioner Burns said that if the Dreelan PIR had been entered

²³⁴ Transcript, page 1743

²³⁵ Transcript, page 1743

²³⁶ Transcript, page 1921

²³⁷ Annexure BF4 to Exhibit C11

²³⁸ Transcript, pages 1922-1923

in the Crime Management Journal on 21 October 2003 he would have expected that it would have been raised for discussion at the TCG meeting the following morning²³⁹. He also agreed that if the Dreelan PIR had been raised for discussion on 22 October 2003 it was likely that an “action” would have been raised²⁴⁰. This would have meant that there would be a system in place to follow up and monitor through the TCG what was occurring with the Dreelan PIR²⁴¹.

- 14.7. In the event, the Dreelan PIR was never recorded in the Crime Management Journal. In the course of the Inquest I called for the production of minutes of the TCG meetings at Holden Hill for the period immediately after 21 October 2003 in an effort to identify whether the Dreelan PIR had been the subject of discussion at any TCG meeting. However, no minutes were ever produced, notwithstanding evidence that minutes are duly recorded and would have been recorded for the relevant period. Deputy Commissioner Burns made an affidavit which was received as Exhibit C34. At paragraph 70 he stated:

‘Extensive investigation has identified that relevant daily TCG documents for 2003 and 2004 are unable to be located.’

He stated that the general disposal schedule maintained in conformity with the State Records Act requires that minutes of such meetings be held for five years after the last action. Deputy Commissioner Burns said in his affidavit that no determination had ever been made to destroy any TCG minutes in accordance with the State Records Act. However, he acknowledged that the relevant minutes which must have been taken for meetings during those years at Holden Hill Police Station TCG meetings “have been unable to be located”. Deputy Commissioner Burns said:

‘Based on the information available to me this is a failing of SAPOL’s record keeping system and I take responsibility for this failing.’²⁴²

- 14.8. Thus it was not possible at this Inquest to establish whether the Dreelan PIR was ever raised at a TCG meeting. It certainly should have been. It was acknowledged by Deputy Commissioner Burns and every other witness who ought to know that the Dreelan PIR contained allegations of sufficient seriousness to require that the matter be raised at a TCG meeting. One of the triggers for a PIR to be placed on the agenda

²³⁹ Transcript, page 1923

²⁴⁰ Transcript, page 1924

²⁴¹ Transcript, page 1924

²⁴² Exhibit C34, paragraph 71

of a TCG meeting is information placed in the Crime Management Journal. It is possible, in view of the omission of the Dreelan PIR from the Crime Management Journal, that the Dreelan PIR was never placed on the agenda for a TCG meeting, but I am unable to make a positive finding one way or another.

15. The investigation of the Dreelan PIR

15.1. The next entry on the Dreelan PIR²⁴³ does not occur until 12 November 2003 when at 1400 hours Detective Senior Sergeant Saunders assigned the investigation to Senior Constable Rohan Crawford with a computerised message as follows:

‘Dreelan threaten life – f/u suspect as discussed.’

There are no entries on the PIR investigation diary between 12 November 2003 and 13 February 2004. On 13 February 2004 Detective Senior Constable Crawford recorded that Mr Dreelan no longer wanted to pursue the complaint. Thereafter, two entries appear on 2 March 2004, just a few days after Christopher Wilson’s death at the hands of HB. Those entries are as follows:

‘Enquiries made in relation to HB. Enquiries indicate suspect vehicle WWJ076 was stopped since incident and hiding place in vehicle was searched. Nil firearm located. Additional information received that vehicle WWJ076 has been sold. Unknown current vehicle of HB. HH Tactical members conducted obs on [HB’s residential address] to confirm or negate whether HB residing at address. Nil activity observed as address. Some attention paid to HB HHill Op Nail. Appears nil result and unable to confirm address or current vehicle.’

‘Arrangements previously made with Dreelan to attend HHPS. To date has not attend. Advised by [blacked out] that Dreelan has moved [blacked out]. To date statement from Dreelan is insufficient and refuses to identify additional witnesses/parties involved that may be able to assist police (as per current statement from Dreelan) suggest matter be filed.’

Interestingly, on 4 March 2004 a further note appears in the investigation diary indicating that Mr Dreelan had again contacted police to explain that he had been told that HB had been arrested for the murder at Hillcrest and that Mr Dreelan now wanted action on his PIR. It appears that he admitted that he had not previously been “fussed” as to what police action was taken.

²⁴³ Annexure GM63 to Exhibit C10

15.2. Detective Senior Sergeant Saunders

Detective Senior Sergeant Saunders was unable to explain the delay between 22 October 2003 and 12 November 2003. He said:

‘There’s a three week delay and I have no independent recollection as to why there was a three week delay. My normal business practice was that if I - if there was a delay the reason would be recorded. I have no answer as to why I haven’t put an entry in.’²⁴⁴

He conceded that the allocation of the PIR may simply have been overlooked by him²⁴⁵ and he implied that he could offer no excuse as to why it was not allocated²⁴⁶. Detective Senior Sergeant Saunders was invited by his Counsel and by other Counsel to consider possible reasons for the delay in allocating the Dreelan PIR to Detective Senior Constable Crawford. He put forward two propositions as possibilities, the first being the delay of Mr Dreelan’s report and the fact that Mr Dreelan had since relocated and in hiding, and secondly that the threat related to one specific victim at one specific residence and his whereabouts were not known to the offender²⁴⁷. I was urged by Counsel for Detective Senior Sergeant Saunders not to regard these possible reasons as actual reasons for the delay. Counsel for Detective Senior Sergeant Saunders cautioned against looking at a speculative answer as to a possible reason for the delay in allocation and treating it as Detective Senior Sergeant Saunders’ assessment at the relevant time. Of course I accept that Detective Senior Sergeant Saunders has said that he has no recollection of the reason for the delay, that he does not seek to excuse the delay. However, that begs the question of what I am to make of answers given to him about possible reasons for the delay when asked by his own Counsel to speculate. Detective Senior Sergeant Saunders’ response to the invitation to speculate was to focus upon Mr Dreelan’s own delay in reporting the threat of 21 September 2003. While I accept that Detective Senior Sergeant Saunders principal position was that he could offer no excuse for the delay, the fact remains that the delay referred to on the part of Mr Dreelan may in fact be no delay at all; it must be remembered that the information recorded by Constable Case in the electronic documentation referred, albeit confusingly, to threats against Mr Dreelan’s fiancé’s brother as recently as two days before. The information recorded by Constable Case also referred to a deadline of seven days. All of this put some greater urgency and immediacy upon the report by Mr Dreelan. While I accept that Detective Senior

²⁴⁴ Transcript, page 1590

²⁴⁵ Transcript, page 1578

²⁴⁶ Transcript, page 1579

Sergeant Saunders was not attempting to trivialise the Dreelan complaint in any way, the very fact of referring to a delay by Mr Dreelan is misconceived when one considers that he was actually complaining about not one threat, but two, the most recent of which was only made two days before.

- 15.3. It was submitted by Counsel for Detective Senior Sergeant Saunders that if the Dreelan PIR had been recorded in the Crime Management Journal as it should have been, it might have been added to the agenda for a TCG meeting, and this might have prevented the three week delay that ensued while the matter was in Detective Senior Sergeant Saunders' hands. So far as it goes, this may well be so. The difficulty is that the TCG minutes are not available. Furthermore, on his own evidence Detective Senior Sergeant Saunders would have attended the TCG meeting. Given that the PIR was in his own hands, it is difficult to see how his attendance at a TCG meeting might have added any more rigour to a process which was largely in his own hands. It might be suggested that the possible actions issued by a TCG meeting would have prevented Detective Senior Sergeant Saunders from being in a position where he was able to overlook the PIR for three weeks. However, that is a matter of speculation. While the failure to record the PIR on the Crime Management Journal by a number of officers was a serious oversight, the fact remains that Detective Senior Sergeant Saunders himself was guilty of a serious oversight in not allocating the PIR for three weeks. It might also be said that the incoherence of Constable Case's notation on the electronic narrative, and Constable Lawrence's failure to elicit that information from Mr Dreelan for the purposes of Mr Dreelan's statement, and Inspector Bahr's failure to adequately vet the PIR and ensure the correction of those errors also contributed to a situation in which the PIR could be misconstrued if not carefully assessed by the reader and that this did not make Detective Senior Sergeant Saunders' task any easier. No doubt that is true. A picture emerges of compounding errors.

15.4. Detective Senior Constable Rohan Crawford

Detective Senior Constable Rohan Crawford gave evidence at the Inquest. He said that he instigated inquiries on the file while he had it between 12 November 2003 and 2 March 2004. He suggested that he had done computer searches in relation to the suspect HB. He acknowledged that he was aware of the name HB from the time of, or very shortly after, the allocation of the PIR to him.

- 15.5. Detective Senior Constable Crawford said that he had made observations on the HB residence in Duthie Street, Hillcrest. He said that his primary focus was to search the motor vehicle in which HB had travelled to Mr Dreelan's house when the original threat was made. It was Detective Senior Constable Crawford's intention to search the car in the hope of finding a weapon.
- 15.6. There is very little evidence of what was done by Detective Senior Constable Crawford to corroborate his account, because he was not, on his own admission, in the habit of regularly updating the electronic investigation diary with details of his investigations and the actions he had taken. This was a very clear contravention of South Australia Police General Orders, policies and procedures. It was suggested by Detective Senior Constable Crawford that it was quite a common practice within Holden Hill CIB that detectives would keep notes on paper and that entries might be made on the electronic diary from time to time. It was said in evidence by Detective Senior Constable Crawford that that is exactly what he did in the Dreelan investigation. He said that he made written notes on paper and kept those notes in a folder. After the fatal shooting of Christopher Wilson, he was asked to provide that bundle of documents to the detectives investigating the Christopher Wilson murder. He said that he complied with that request and that as a consequence, when he came to make the entries on the electronic PIR investigation diary on 2 March 2004 which have been quoted above, he did not have access to full details of the activities he had carried out during the period of the investigation. Upon Detective Senior Constable Crawford referring to this paper material, I requested that Counsel for South Australia Police arrange for searches to be instigated to produce the material to the Court. After what I was assured were extensive and thorough searches, no such documents could be located. The result is that there is nothing to corroborate Detective Senior Constable Crawford's account of the things he said he did in connection with the Dreelan investigation. Obviously the maintenance of accurate and proper records is important in policing as it is in any other serious endeavour. The circumstances just described make it apparent why organisations establish systems for record keeping and require their staff to comply with those systems. South Australia Police has such a system; Detective Senior Constable Crawford did not comply with; as a result it is not possible to establish precisely what was done by Detective Senior Constable Crawford. Much of his evidence was based upon his attempts to recall what he

believed he did, but he was unable to provide explicit detail because of the absence of records and the effluxion of time.

- 15.7. After he gave evidence, he was recalled to clarify the matter of the electronic searches he claimed to have done but which were not verified by a search carried out by Senior Constable Allan Ziegler. It was at this point in the proceedings, that Counsel for Detective Senior Constable Crawford informed the Court that there were certain other things done by Detective Senior Constable Crawford that could not be revealed because of the public interest in maintaining the confidentiality of information that would potentially identify an informant or human source. As I have previously recorded, I accepted those assurances. Thus, I proceed on the assumption that in addition to the matters about which Detective Senior Constable Crawford gave evidence, there were other things he did.
- 15.8. Detective Senior Constable Crawford said, and I accept, that he had some difficulty with Mr Dreelan in the latter's willingness to assist with the investigation. Ultimately, at some time in December 2003, Mr Dreelan indicated an unwillingness to continue with the matter and this is reflected in the entry made by Detective Senior Constable Crawford on 13 February 2004.
- 15.9. However, as Deputy Commissioner Burns said in his evidence, there was a second arm to this investigation, namely that whether or not Mr Dreelan wished to pursue the complaint about the threat to his life, there was a report that HB was in possession of a firearm and this had to be acted upon regardless of Mr Dreelan's attitude as a priority and as a matter of public safety.
- 15.10. Detective Senior Constable Crawford was given no explanation for the delay in the matter being allocated for investigation when he was given the PIR by Detective Senior Sergeant Saunders. Detective Senior Constable Crawford assumed, in the absence of any direction to the contrary, that the matter was not urgent²⁴⁸. Furthermore, during the relevant period Detective Senior Constable Crawford was managing a heavy workload²⁴⁹. Detective Sergeant Gregory Ranger said that the Tactical Unit was not at full staffing level in 2003²⁵⁰. He believed that the Tactical

²⁴⁸ Transcript, page 1930

²⁴⁹ Transcript, page 1943

²⁵⁰ Transcript, page 1087

Unit was understaffed to the point where it was half of its establishment²⁵¹. Senior Sergeant Kenneth Raymond acknowledged that it was not uncommon for investigators such as Detective Senior Constable Crawford to be overburdened by their workload to the point where in December 2003 it was affecting the efficient discharge of investigations²⁵².

15.11. Importantly, between 12 December 2003 and 2 February 2004, Detective Senior Constable Crawford was absent on Workers Compensation leave. He had at first thought that he would be away for a relatively short time but once he realised that he would be absent for a matter of weeks he telephoned Senior Sergeant Raymond to advise of the situation²⁵³. When Detective Senior Constable Crawford returned from Workers Compensation leave he found that no further work had been done on any of his investigations, and in particular, not on the Dreelan PIR²⁵⁴. Between 2 February 2004 and 19 February 2004 he had other urgent outstanding matters to attend to. Between 19 February 2004 and 25 February 2004 he was required to work on an attempted murder at Yatala Labour Prison²⁵⁵.

15.12. Senior Sergeant Raymond was supervising Detective Senior Constable Crawford from 10 November 2003 until 11 December 2003 and then again from 21 January 2004 to 22 February 2004. Detective Senior Constable Crawford said that he discussed the Dreelan PIR with Senior Sergeant Raymond, probably soon after he received it. He informed Senior Sergeant Raymond about his general approach to the case, that he would like to locate the vehicle and that he had concerns that Mr Dreelan was not being entirely cooperative and was reluctant to make a “forced entry” into HB’s house²⁵⁶. Senior Sergeant Raymond gave evidence at the Inquest. He did not specifically recall this conversation but agreed that it was likely that it occurred and, that it was part of his normal practice to review the investigations of those under his supervision at an early stage after taking supervisory responsibility for a new group of people. Senior Sergeant Raymond said that it was his habit to check his investigator’s electronic investigation diaries periodically once or twice a month²⁵⁷. Senior Sergeant

²⁵¹ Transcript, page 1115

²⁵² Transcript, page 1333

²⁵³ Transcript, page 922

²⁵⁴ Transcript, page 923

²⁵⁵ Transcript, pages 942, 1030, 1070 and 1120

²⁵⁶ Transcript, page 913

²⁵⁷ Transcript, page 1339

Raymond said that he did not recall speaking to Detective Senior Constable Crawford about the way his work was progressing²⁵⁸.

16. The supervision of Detective Senior Constable Crawford

16.1. Detective Senior Constable Crawford's, Detective Sergeants during the period August 2003 until February 2004 were Detective Sergeant Ranger and Senior Sergeant Raymond. Further up the line of responsibility was Detective Senior Sergeant Saunders.

16.2. Detective Sergeant Gregory Ranger

Detective Sergeant Ranger confirmed that from August 2003, Detective Senior Sergeant Saunders took up the position of Acting Detective Senior Sergeant and Detective Sergeant Ranger took up the position of Acting Detective Sergeant²⁵⁹. Detective Sergeant Ranger said that on 8 September 2003 he became involved in an investigation relating to an illicit drug laboratory at Cudlee Creek. This investigation also involved dealing with a very large quantity of stolen property which had been found in the same premises as the Cudlee Creek laboratory. I will refer to this investigation as the "Cudlee Creek investigation". Detective Sergeant Ranger described the Cudlee Creek investigation as "very big" and "a huge job"²⁶⁰. Detective Sergeant Ranger said that from 8 September 2003 into 2004 his work was exclusively devoted to the Cudlee Creek investigation²⁶¹. He said that while he was devoted to that investigation he believed that Senior Sergeant Raymond was responsible for the supervision of Detective Senior Constable Crawford²⁶².

16.3. Detective Sergeant Ranger said that he only became aware of the Dreelan allegations for the first time when he became involved in the investigations relevant to the shooting of Christopher Wilson soon after the event in late February-March 2004²⁶³.

16.4. Detective Sergeant Ranger said that Senior Sergeant Raymond was another Detective Sergeant within the Tactical Unit at the same time as he was there. He accepted that between 11 December 2003 and 22 January 2004 Detective Senior Sergeant Saunders

²⁵⁸ Transcript, page 1340

²⁵⁹ Transcript, page 1074

²⁶⁰ Transcript, page 1075

²⁶¹ Transcript, page 1078

²⁶² Transcript, page 1078

²⁶³ Transcript, page 1078

moved into a CIB management position (Detective Chief Inspector) and that Senior Sergeant Raymond moved into the Acting Detective Senior Sergeant role that had been vacated by Detective Senior Sergeant Saunders²⁶⁴.

16.5. Detective Sergeant Ranger said that although he was not aware of the Dreelan allegations at any time prior to late February early March 2004, if he had known of the allegations and the allocation of the PIR to Detective Senior Constable Crawford he would have taken action to ensure that it was investigated as expeditiously as possible considering the seriousness of the allegation²⁶⁵.

16.6. Detective Sergeant Ranger accepted that a detective sergeant is responsible for the supervision of those members of the police force who are under his or her control²⁶⁶. Detective Sergeant Ranger said that from his point of view the Cudlee Creek matter dominated most if not all of his time while it was a live matter within the Tactical Unit²⁶⁷. Detective Sergeant Ranger talked about responsibility for supervising less senior staff and said that the responsibility for supervision of staff under the control of a detective sergeant was not only the responsibility of the detective sergeant but also of the detective senior sergeant. He said:

‘Yes, I was the only detective sergeant there, the only supervisor, no. There’s still Detective Sergeant Raymond. Although he’s the acting senior sergeant he is still a supervisor there.’²⁶⁸

16.7. Detective Sergeant Ranger acknowledged that during the period between 11 December 2003 and 22 January 2004 when Detective Senior Sergeant Saunders was acting as detective chief inspector and Senior Sergeant Raymond was acting as detective senior sergeant, that left himself as the only detective sergeant in the Tactical Unit²⁶⁹.

16.8. Detective Sergeant Ranger acknowledged that Detective Senior Sergeant Saunders was aware of his involvement in the Cudlee Creek matter and that he was reporting to Detective Senior Sergeant Saunders from time to time on that matter²⁷⁰. When he was

²⁶⁴ Transcript, page 1076

²⁶⁵ Transcript, page 1080

²⁶⁶ Transcript, page 1088

²⁶⁷ Transcript, page 1091

²⁶⁸ Transcript, page 1095

²⁶⁹ Transcript, page 1098

²⁷⁰ Transcript, page 1102

asked if he was formally or informally relieved of the supervising role as a detective sergeant during that period he stated:

‘Yes. I don't know whether it would've been formal, but certainly informally I would've been told because of the lack of staff from a CIB point of view, that I was told to complete that task and the situation is, no I wasn't told “You've now got no responsibilities of a detective sergeant”. It was more that “This is your job to do and to complete that task”.’²⁷¹

Detective Sergeant Ranger said that it was his belief that in practice he was not available to do any other detective sergeant duties because of his commitments with the Cudlee Creek investigation, but nevertheless, he was continuing to be paid at a higher duties level of detective senior sergeant²⁷². Detective Sergeant Ranger acknowledged that Detective Senior Sergeant Saunders offered to assist him with his sergeant's responsibilities during that time²⁷³. However in practice he felt that he was not available to do the other Detective Sergeant duties because of his commitments to the Cudlee Creek matter. Notwithstanding this he was continuing to be paid at a higher duties level as Detective Sergeant throughout²⁷⁴. He acknowledged that Detective Senior Sergeant Saunders offered to assist him with the preliminary assessment and allocation of PIRs and that he did in fact do so²⁷⁵. Detective Sergeant Ranger was asked whether it was not part of his responsibility to continue to monitor the investigation of PIRs:

‘Well, if - I'd say that I'd been told to do the Cudlee Creek thing and, within reason and where time permitting, fulfil my duties as a detective sergeant in the same time - where possible.’²⁷⁶

He said that it was Detective Senior Sergeant Saunders who told him to work on the Cudlee Creek matter exclusively²⁷⁷.

- 16.9. It became apparent that by and large the bulk of the work arising out of the Cudlee Creek matter in late 2003, was the finding of owners of a large quantity of stolen property²⁷⁸. Detective Sergeant Ranger was being assisted by a group of uniform

²⁷¹ Transcript, page 1103

²⁷² Transcript, page 1104

²⁷³ Transcript, page 1104

²⁷⁴ Transcript, page 1104

²⁷⁵ Transcript, pages 1104-1105

²⁷⁶ Transcript, page 1107

²⁷⁷ Transcript, page 1108

²⁷⁸ Transcript, page 1109

officers in relation to this Cudlee Creek task²⁷⁹. Detective Sergeant Ranger was asked whether it would have been possible for him during the period in question to have conducted computer checks on the progress of PIRs and monitor the associated investigations. He agreed that it would have been and this could have been done in a relatively short space of time, of the order of 20 minutes²⁸⁰. He said that he probably did not undertake any such computer checks to see how his investigators were going during this period because “I was told to complete the Cudlee Creek inquiries, that was my main focus and that’s what I focused on”²⁸¹. However he thought it was going a bit too far to say that he assumed that someone else was monitoring the progress of those investigations²⁸². He was asked who he thought was monitoring the staff during the period 11 December 2003 to 22 January 2004 when Senior Sergeant Raymond was the Acting Detective Senior Sergeant and the Detective Senior Sergeant Saunders was the Detective Chief Inspector. He said that he thought most of the staff were helping him with the Cudlee Creek matter²⁸³. Detective Sergeant Ranger said that the staffing shortages in the Tactical Group at this time meant that the group was understaffed to the extent of fifty percent²⁸⁴. Detective Sergeant Ranger acknowledged that if he had done computer checks he may have identified that Detective Senior Constable Crawford had been allocated the Dreelan PIR and become aware of what progress if any had been made in that investigation²⁸⁵. Detective Sergeant Ranger acknowledged that Detective Senior Constable Crawford was on Workers Compensation leave for a significant period of approximately five weeks in December 2003 – January 2004. He was asked if he turned his mind at any stage to who was working on Detective Senior Constable Crawford’s investigations during that period. He said that he did not²⁸⁶. He said that he assumed that Detective Senior Constable Crawford was being helped by other supervisors because of his involvement in the Cudlee Creek matter²⁸⁷.

²⁷⁹ Transcript, page 1110

²⁸⁰ Transcript, pages 1111-1112

²⁸¹ Transcript, page 1112

²⁸² Transcript, page 1112

²⁸³ Transcript, page 1113

²⁸⁴ Transcript, page 1115

²⁸⁵ Transcript, page 1117

²⁸⁶ Transcript, page 1119

²⁸⁷ Transcript, page 1117

16.10. Senior Sergeant Kenneth Raymond

Senior Sergeant Raymond gave evidence at the Inquest. He said that he was posted at Holden Hill in the period between July 2003 and March 2004. He said that during that time he did supervise Detective Senior Constable Crawford between the periods 10 November 2003 to 11 December 2003 and 22 January 2004 until 22 February 2004²⁸⁸. Senior Sergeant Raymond was aware of Detective Sergeant Ranger's involvement in the Cudlee Creek matter²⁸⁹. He said that during the period 12 December 2003 to 22 January 2004 while he was the Acting Detective Senior Sergeant and Detective Sergeant Ranger was the only Detective Sergeant in the division his view was that the day to day responsibility for the supervision of Detective Senior Constable Crawford rested with Detective Sergeant Ranger²⁹⁰. He acknowledged that according to the information before the Court, Detective Senior Constable Crawford was on Workers Compensation leave between December 2003 and January 2004. He said that during that period he would have expected that Detective Sergeant Ranger would have monitored the progress of Detective Senior Constable Crawford's investigations²⁹¹. It was Senior Sergeant Raymond's evidence that he had no independent recollection of the Dreelan PIR. He noted that his identification number did not appear anywhere on the Dreelan PIR investigation diary. He knew that he had spoken to Detective Senior Constable Crawford and another detective on his team about workloads but had no independent notes or memory as to the specifics of the conversations²⁹². Senior Sergeant Raymond acknowledged that he was, in effect, Detective Senior Constable Crawford's supervisor between 14 November 2003 and 11 December 2003 and again from 21 January 2004 until 22 February 2004²⁹³ and that during that period he did not recall ever being concerned about the status of any of Detective Senior Constable Crawford's files²⁹⁴. He had no recollection of Detective Senior Constable Crawford having telephoned him to advise that Detective Senior Constable Crawford was required to undergo shoulder surgery in December 2003²⁹⁵.

²⁸⁸ Transcript, page 1312

²⁸⁹ Transcript, pages 1329-1330

²⁹⁰ Transcript, page 1331

²⁹¹ Transcript, pages 1331-1332

²⁹² Exhibit C27

²⁹³ Transcript, page 1337

²⁹⁴ Transcript, page 1338

²⁹⁵ Transcript, page 1339

16.11. Conclusions as to supervision of Detective Senior Constable Crawford

In my view, during the period October 2003 to February 2004 Detective Senior Constable Crawford had little or no supervision. Detective Sergeant Ranger continued to be paid at a higher duties rate as a detective sergeant and had not been in any formal sense relieved of his supervisory responsibility but devoted himself to his Cudlee Creek investigation and carried out little or no supervision outside of the Cudlee Creek matter. It is true that when Senior Sergeant Raymond first arrived in November 2003, he sat down with Detective Senior Constable Crawford and discussed his files. Beyond that, Detective Senior Constable Crawford was substantially left to his own devices. It is plain from Detective Senior Sergeant Saunders' affidavit²⁹⁶ that he understood that Detective Sergeant Ranger would continue to spend time with less experienced staff, provide leadership and during this period, because of staffing shortages and workloads in the Tactical Unit, Detective Senior Sergeant Saunders "volunteered" to assume some of Detective Sergeant Ranger's duties. The roles which he "voluntarily assumed" in addition to his own duties were receiving all PIR/IR's for assessment and allocation which would normally have been sent directly to Detective Sergeant Ranger. This assistance was limited to conducting preliminary checks in relation to drug information reports to determine whether they would be allocated for further investigation. Furthermore, Detective Senior Sergeant Saunders agreed to accepting responsibility for the vetting of arrest/report/expiation files²⁹⁷.

16.12. Detective Senior Sergeant Saunders also made reference to the Cudlee Creek matter and said that the staff shortages and workloads to which he referred were partly attributable to that matter. Detective Senior Sergeant Saunders said that two separate case management files were created in relation to the laboratory and the stolen property and that Detective Sergeant Ranger managed both matters which were overseen by Detective Senior Sergeant Saunders. He said that the property case management in particular was lengthy and time consuming and involved property tracing and conducting a public viewing to try and identify as much property as possible. He said that the property aspect of this investigation comprised 111 actions issued to Detective Sergeant Ranger and other members of the Tactical Unit.

²⁹⁶ Exhibit C31

²⁹⁷ Exhibit C31

- 16.13. It is a matter of concern that the Cudlee Creek property investigation occupied so much time and was accorded such a high priority by comparison with other matters, including the Dreelan PIR, which would appear to me to warrant a higher level of priority than the search for the owners of stolen property.
- 16.14. It is a matter of considerable concern that during the lengthy period during which Detective Senior Constable Crawford was on Workers Compensation leave no supervisor including Detective Sergeant Ranger, Senior Sergeant Raymond and Detective Senior Sergeant Saunders made any attempt to reallocate his duties to anyone else. During this considerable period, it appears that Detective Senior Constable Crawford's investigations simply languished. This is even more serious when one considers that there was a general problem with understaffing throughout the period, as a result of which one might expect that Detective Senior Constable Crawford would have had urgent matters that had not been attended to even before he was absent on Workers Compensations leave. That would have made all the more crucial the need to monitor his investigations during that period.

17. The fate of the Dreelan PIR

- 17.1. As I have already noted, Mr Dreelan contacted police after the death of Christopher Wilson and requested that his complaint against HB be reactivated. I think it can be fairly said that by at the latest 13 February 2004 the Dreelan PIR had reached a point at which Detective Senior Constable Crawford was no longer actively pursuing it. On 2 March 2004, after the death of Christopher Wilson, Detective Senior Constable Crawford made the entries in the PIR investigation diary which I have set out previously in this Finding. Those entries, although made after the death of Christopher Wilson, make no mention of HB's arrest for Christopher Wilson's murder. That is surprising. Detective Senior Constable Crawford's explanation for the entries was that he had been asked to pass the PIR over to Sergeant Paul Blackmore. That in itself was triggered by the fatal shooting of Christopher Wilson. It seems rather artificial that there was no mention of the fatal shooting of Christopher Wilson in those diary entries, or at the very least a reference to HB's arrest for murder.
- 17.2. The affidavit of Detective Sergeant Ranger which was admitted as Exhibit C23 annexes a statement prepared by him as to his further actions in relation to the

Dreelan PIR in March 2004. The statement was, I understand, prepared in December 2004. The statement indicates that Detective Sergeant Ranger was unable to procure the cooperation of witnesses to the Dreelan complaint apart from Mr Dreelan himself. Neither Mr Dreelan's fiancé nor other witnesses were prepared to provide statements. The offences of which HB was convicted on 4 August 2005²⁹⁸ do not include any of the Dreelan PIR allegations. It appears that the Dreelan PIR was ultimately filed as foreshadowed by the diary entry made by Detective Senior Constable Crawford on 2 March 2004.

- 17.3. In many ways the Dreelan PIR was overtaken by the fatal shooting of Christopher Wilson. The Dreelan PIR involved not only the threat against Mr Dreelan, but it had what was referred to by Deputy Commissioner Burns as a second arm to the investigation namely, the simple possession or possible possession of a firearm by HB. Deputy Commissioner Burns in his evidence was firmly of the view that this aspect of the matter required action regardless of Mr Dreelan's attitude because it did not necessarily require Mr Dreelan's full cooperation or support to pursue that line of enquiry. Furthermore, it was a priority because of the issue of public safety and acting swiftly where a firearm is involved.
- 17.4. Although I must accept that there were actions taken by Detective Senior Constable Crawford that he was unable to reveal in open Court, and of which I am unaware, I think I can proceed safely on the assumption that no member of South Australia Police confronted HB at any time between October 2003 and 25 February 2004 with the allegation that he was in possession of a firearm contrary to Condition 5 of his obligation to the Youth Court. There were a number of powers in relation to the firearm that could have been exercised pursuant to the Firearms Act 1977. These include:
- (a) A member of the police force may seize a firearm if he or she suspects on reasonable grounds that a person who has possession of it is not a fit and proper person to have possession of it,
 - (b) A member of the police force may seize a firearm if he or she suspects on reasonable grounds that continued possession of a firearm by a person would be likely to result in undue danger to life or property,

²⁹⁸ See paragraph 2.1 hereof

- (c) A member of the police force may seize a firearm if he or she suspects on reasonable grounds that a person has possession of the firearm in contravention of an order of a Court,
- (d) A member of the police force may stop, detain and search or detain and search any vehicle on which the member suspects on reasonable grounds there is a firearm liable to seizure under this Act,
- (e) A member of the police force may stop, detain and search or detain and search any person who the member suspects on reasonable grounds has possession of a firearm liable to seizure under this Act,
- (f) A member of the police force may break into, enter and search any premises in which the member suspects on reasonable grounds there is a firearm liable to seizure under this Act,
- (g) A person who hinder or resists a member of the police force acting in the exercise of powers conferred under the Act is guilty of an offence²⁹⁹.

17.5. There is nothing to suggest that any member of South Australia Police exercised any of these powers.

18. Deputy Commissioner Gary Burns

18.1. Deputy Commissioner Gary Burns made an affidavit which set out South Australia Police's "corporate" response to the matters the subject of this Inquest. The affidavit was received as Exhibit C34 in these proceedings. Deputy Commissioner Burns also gave oral evidence. Deputy Commissioner Burns was open and frank in his evidence and conceded that the circumstances preceding the death of Christopher Wilson presented opportunities for greater leadership to be demonstrated by members of South Australia Police and that he would have expected greater leadership to have been shown.

18.2. In particular, Deputy Commissioner Burns said that he would have expected the "human source" information to have been given some priority for investigation because it involved a firearm. He would have expected CIB, because of their

²⁹⁹ Sections 32 and 33, Firearms Act 1977

expertise, to become involved. He regarded the responsibility as resting with Detective Senior Sergeant Saunders to seek and secure extra resources because the information that a person is in possession of a revolver was something that he would expect to be investigated and acted upon at an early time³⁰⁰.

- 18.3. Deputy Commissioner Burns said that he did not consider it unusual or irregular that the human source information in this case was not widely disseminated amongst police at Holden Hill but that even in circumstances where it is not widely disseminated he would expect that it be acted upon with expedition.
- 18.4. Deputy Commissioner Burns referred to the time taken by Detective Senior Sergeant Saunders to allocate the Dreelan PIR. He said that he did not consider that it should have taken so long to allocate bearing in mind the gravity of the allegations³⁰¹.
- 18.5. Deputy Commissioner Burns noted the significant amount of time off work that occurred by reason of the work related injury suffered by Detective Senior Constable Crawford and said that during Detective Senior Constable Crawford's absence he would have expected that a matter involving allegations of a serious nature such as the Dreelan PIR would continue to be investigated³⁰².
- 18.6. Deputy Commissioner Burns said that Mr Dreelan's reluctance to press the matter was a factor to be weighed in the investigation but regardless of Mr Dreelan's cooperation there remained information that a particular person had recently been in possession of a firearm which he had threatened to use. This was a matter that continued to warrant investigation by police and there was sufficient information to continue to pursue that aspect of the matter³⁰³. In relation to the initial report of the first shooting of Christopher Wilson, Deputy Commissioner Burns remarked that all police members involved in the event should have been aware that it was a serious offence which posed a real risk to the community. He said that the established procedure for dealing with serious offences should have been activated and it was not³⁰⁴.

³⁰⁰ Exhibit C34, paragraph 35

³⁰¹ Exhibit C34, paragraph 45

³⁰² Exhibit C34, paragraph 48

³⁰³ Exhibit C34, paragraph 49

³⁰⁴ Exhibit C34, paragraph 55

- 18.7. Deputy Commissioner Burns noted that the General Duties manual instructions in relation to firearms³⁰⁵ makes it clear that any officer investigating or receiving a report of a firearms incident, including any use of a firearm in unlawful circumstances, must submit an ancillary report to the Firearms Branch through the Local Service Area Intelligence Section. It appears that General Order was not complied with either on the occasion of the Dreelan PIR or of the first Christopher Wilson shooting report.
- 18.8. Deputy Commissioner Burns said that active consideration should have been given to recalling the CIB on the night of 25/26 February 2004³⁰⁶. Deputy Commissioner Burns was also critical of the failure to take statements from two of the witnesses who were present on the night of 25/26 February 2004³⁰⁷.
- 18.9. Deputy Commissioner Burns acknowledged that the report of the first Christopher Wilson shooting should have been accorded greater urgency and priority and been treated as a serious offence and if that had happened the route which the investigation ultimately took would have been avoided³⁰⁸.
- 18.10. Deputy Commissioner Burns said that he believed that the first Christopher Wilson shooting incident may have been treated differently by police had it been reported on the street or at the scene via telephone or a passing patrol. He thought that the investigation “took a slower route” in light of it being reported in the police station where reports of firearms offences are rare³⁰⁹. In saying this Deputy Commissioner Burns was not seeking to excuse the deficiencies exposed in this Inquest, he was making an observation which is probably true. But the mode of reporting a matter to police should not affect the manner of investigation. Deputy Commissioner Burns acknowledged that incorrect value judgements and assessments as to seriousness were made on the night of 25/26 February 2004 and that the matter was given a lower prioritisation than was justified or warranted in the circumstances³¹⁰.
- 18.11. Deputy Commissioner Burns pointed to a number of changes to practices, procedures, policies and General Orders within South Australia Police which, he said, should

³⁰⁵ Annexure BF16 to Exhibit C11 (affidavit of Assistant Commissioner Brian Fahy)

³⁰⁶ Exhibit C34, paragraph 60

³⁰⁷ Exhibit C34, paragraphs 62 and 63

³⁰⁸ Exhibit C34, paragraph 67

³⁰⁹ Exhibit C34, paragraph 69

³¹⁰ Exhibit C34, paragraph 69

assist in preventing a repetition of the shortcomings he identified. However, none of the changes identified by him were instigated as a direct result of the Christopher Wilson shooting. The changes are set out in Deputy Commissioner Burns' affidavit, Exhibit C34.

19. Submissions by the Commissioner of Police

In closing submissions filed on behalf of the Commissioner of Police, the Commissioner identifies a number of issues arising from the conduct of the inquiry and the investigations on the night of 25/26 February 2004. They are as follows:

1. The failure to identify the incident reported on 25 February 2004 as a serious incident and follow the General Order procedures for investigation of a serious offence.
2. On 25 February 2004, CIB's decision to provide advice rather than a more detailed analysis and assessment of the evidence. CIB did not assume investigative responsibility.
3. Failure to obtain statements from all witnesses who attended the Holden Hill Station on 25 February 2004.
4. Advice of the vehicle description involved in the incident and warning of potential weapon possession was not forwarded to all patrols in the Holden Hill Local Service Area.
5. Christopher Wilson was not offered medical attention or advised to seek medical attention upon presenting at Holden Hill Police station with a wound.
6. There was a failure to identify and secure all physical evidence on the night of 25 February 2004 including bullet fragments from the car and the scene of the shooting, the victim's clothing, and an assessment of the car.
7. There was an excessive length of time taken for the Dreelan PIR to be allocated by Acting Detective Senior Sergeant Saunders to an investigating officer.

8. Once allocated, the nature of Detective Senior Constable Crawford's investigation of the Dreelan PIR and the lapse of investigations whilst Detective Senior Constable Crawford was on leave.
9. The lack of priority and urgency in investigation of human source information received in late 2003.

20. Conclusions as to deficiencies in policing preceding the death of Christopher Wilson

In no particular order I list the deficiencies I have identified in the police work that preceded the death of Christopher Wilson and which I regard as part of the circumstances of his death:

1. The failure to act on the human source information expeditiously because of resource shortages.
2. The failure by Constable Denise Case to adequately complete the Dreelan PIR.
3. The failure by Constable Lawrence to include in Mr Dreelan's statement the reference to the later threats against Mr Dreelan's fiancé's brother.
4. The failure by Inspector Bahr to identify the differences between the PIR as recorded by Constable Case and the statement as taken by Constable Lawrence.
5. The failure of Constable Case to enter the Dreelan complaint in the Crime Management Journal.
6. The failure of Constable Lawrence to enter the Dreelan complaint in the Crime Management Journal.
7. The failure of Inspector Bahr to enter the Dreelan complaint in the Crime Management Journal.
8. The failure of Constable Case to notify the Firearms Branch in accordance with General Orders of the allegation of an offence involving a firearm.
9. The failure of Constable Lawrence to notify the Firearms Branch in accordance with General Orders of the allegation of an offence involving a firearm.

10. The failure of Inspector Bahr to notify the Firearms Branch in accordance with General Orders of the allegation of an offence involving a firearm.
11. The fact that Inspector Bahr was then the officer in charge at the Holden Hill Police Station when the Dreelan complaint was made, when on his own evidence he was inexperienced in operational policing.
12. The failure of Sergeant Kelly of the Crime Management Unit to enter the Dreelan complaint in the Crime Management Journal.
13. The failure of Sergeant Johnson to enter the Dreelan complaint in the Crime Management Journal.
14. The failure of Detective Senior Sergeant Saunders to ensure that the human source information was pursued with sufficient expedition and urgency and appropriate resources allocated.
15. The failure of Detective Senior Sergeant Saunders to allocate the Dreelan PIR for a period of three weeks.
16. The failure of Detective Senior Constable Crawford to maintain a timely PIR investigation diary as required by General Orders.
17. The failure by any member of South Australia Police to exercise powers that were available under the Firearms Act following the making of the Dreelan PIR.
18. The failure by any member of South Australia Police to confront HB with the serious allegations that had been made by Mr Dreelan³¹¹.
19. Detective Sergeant Ranger was preoccupied with the return of stolen property from the Cudlee Creek investigation to the detriment of at least the investigation of the Dreelan allegations which involved a threat to life and were therefore clearly more serious and deserving of a higher priority.

³¹¹ It may be suggested that even if this had occurred HB would have merely denied the allegations. He might have had warning and been able to dispose of a firearm. While all that may be true, it seems to me unfortunate that he was left for a period of months between October and February 2004 in the knowledge that he had made an extremely serious threat against the life of another person with a view to extorting a significant sum of money from that person, and there appeared to be no consequence flowing from his behaviour. This could only increase his confidence and bravado. It must be remembered, that he was, after all, only 17 years old during this period. I do not suggest that a further intervention would have prevented

20. Senior Sergeant Raymond and Detective Sergeant Ranger failed to communicate adequately between them as to who was supervising Detective Senior Constable Crawford.
21. Detective Senior Sergeant Saunders failed to ensure that either Detective Sergeant Ranger or Senior Sergeant Raymond were maintaining effective supervision of Detective Senior Constable Crawford.
22. During Detective Senior Constable Crawford's absence on Workers Compensation leave Detective Sergeant Ranger failed to ensure that Detective Senior Constable Crawford's investigations, including the Dreelan PIR, were being investigated.
23. During Detective Senior Constable Crawford's absence on Workers Compensation leave Senior Sergeant Raymond failed to ensure that Detective Senior Constable Crawford's investigations, including the Dreelan PIR, were being investigated.
24. During Detective Senior Constable Crawford's absence on Workers Compensation leave Detective Senior Sergeant Saunders failed to ensure that Detective Senior Constable Crawford's investigations, including the Dreelan PIR, were being investigated.
25. The failure by any person to pursue the fact that HB was in possession of a firearm and that this could be pursued regardless of Mr Dreelan's attitude.
26. The fact that Detective Sergeant Ranger thought he had been relieved of his supervisory responsibilities in light of his Cudlee Creek investigation and that his supervisor, Detective Senior Sergeant Saunders, had a different perception.
27. The fact that the Holden Hill CIG tactical section was understaffed to a significant extent (by a factor, on one account, of as much as 50 percent).
28. The fact that the PIR as recorded by Constable Case referred to "Hu Tan" rather than H and this was not reconciled with the more accurate information in the statement obtained by Constable Lawrence from Mr Dreelan.

him from obtaining another firearm and eventually killing Christopher Wilson or some other person; however in my view an opportunity was lost which might potentially have had that result.

29. The failure by Senior Constable Redding to appreciate at an early stage that Christopher Wilson was complaining that he had been shot by a firearm.
30. The failure to ensure that productive use was made of the timely searches carried out by Probationary Constable Tina Crawford.
31. Senior Constable Redding's flawed judgement in deciding that the matter was less serious because Christopher Wilson was withholding information and behaving nonchalantly.
32. Senior Constable Redding's transmission of this wrong impression to other officers present on the night including Sergeant Mickan, Detective Green and Detective Wilson all of whom were influenced by it.
33. The failure by Senior Constable Redding and Sergeant Mickan to ensure that statements were taken on the night from the two remaining witnesses, Mark Wilson and Ryan Williams.
34. The failure by any police officer involved on the night to search James McAinsh's vehicle.
35. The failure by any police officer involved on the night to advise a more senior officer, possibly the State Duty Officer, of the situation and seek guidance.
36. The belief by uniformed police officers, Senior Constable Redding and Sergeant Mickan, that the CIB officers had accepted responsibility for the further investigation of the matter.
37. The belief by the CIB officers, Detective Green and Detective Wilson, that they had not assumed any responsibility for the further investigation of the matter and were merely "advising".
38. The net failure of any of officers, Sergeant Mickan, Senior Constable Redding, Detective Wilson or Detective Green to assume leadership when it must have been obvious to all of them that there was a real danger that the matter would not be under the control and management of one of the uniformed officers or the CIB members.

39. The failure of Senior Constable Redding or Sergeant Mickan to update the PIR once the statements of Dylan Connelly and James McAinsh were obtained to eliminate references to a “slug gun” and to substitute a reference to a “pistol or revolver” with the result that the Holden Hill LSA Intelligence Section daily briefing prepared the following morning contained a reference to a slug gun³¹² and that the Holden Hill Crime Management Journal, presumably prepared by Senior Constable Redding, contained a reference to a slug gun³¹³ with the possible result that Detective Senior Sergeant Douglas may have missed an opportunity to elevate the matter to a higher priority at the Crime Management Unit meeting on Thursday morning.
40. The determination by Senior Constable Redding, Sergeant Mickan, Detective Wilson and Detective Green, none of whom had ballistics training, that a projectile which was known to have ricocheted from a hard surface was, in all probability, merely a slug from an air gun.
41. The failure to alert Holden Hill Patrols as to the fact that a person was at large with a weapon and a preparedness to use it.
42. The failure by any of the officers present in Holden Hill Police Station to have taken the opportunity while the men were present at the police station to take one of them back to Duthie Street and identify the house involved (I have reached no conclusion one way or another about whether a specific offer was made by any of the Christopher Wilson group that night to this effect: even it was not offered, it could still have been suggested by police).
43. The failure by Senior Constable Redding to ensure that all five of the witnesses were accounted for as far as statements were concerned before he allowed them to leave that night.
44. The assumption by Detectives Wilson and Green that they would not have been given overtime or authorisation to continue with the investigation that night³¹⁴.

³¹² Annexure GM59 to Exhibit C10

³¹³ Annexure GM58 to Exhibit C10

³¹⁴ Had Detectives Wilson and Green stayed longer they would have become aware of the involvement of a revolver, they might have ensured that all statements were taken that night and they could not have failed to become aware of the result of Probationary Constable Crawford’s searches if, as they both asserted, they truly did not become aware of these searches on the night.

45. The failure by Detectives Wilson and Green at least to attempt to seek the authorisation of a more senior officer to remain on duty that night.
46. The failure by Sergeant Kelly to allocate the Christopher Wilson PIR to Detective Sergeant Addison who was Acting Officer in Charge of CIB Team 2. Instead, Sergeant Kelly allocated the PIR to Detective Sergeant Butvila who was at that time acting in a different position.
47. Sergeant Kelly failed to have regard to the Holden Hill CIB disposition sheet, a document readily available either in hard copy or on the intranet.
48. The failure by both Detective Sergeant Butvila and Detective Sergeant Addison to have put in place procedures to ensure that one or other was checking to make sure that any files that were potentially misallocated would be checked and recovered from the respective pigeon holes of Detective Sergeant Butvila and Detective Sergeant Addison, and that the respective PIMS logons for Detective Sergeant Addison and Detective Sergeant Butvila would be routinely checked to ensure that no PIRs had been misallocated during a period of acting.
49. The failure by South Australia Police to preserve minutes of TCG meetings as required by the State Records Act.

21. The aftermath of the Christopher Wilson shooting – What did South Australia Police do?

- 21.1. I have already referred to the complaint made to the Police Complaints Authority by Mrs Julie Wilson on 19 April 2004³¹⁵. I was not aware, until I received the affidavit of Deputy Commissioner Burns³¹⁶ that there had in fact been another internal complaint by Superintendent Bronwyn Killmeir. That complaint was dated 15 April 2004. The Court was not aware of the existence of that complaint until the receipt of Deputy Commissioner Burns' affidavit, Exhibit C34, shortly before Deputy Commissioner Burns gave evidence on 20 November 2007. That day was the twenty-second sitting day and the last day on which evidence was taken in the Inquest. The Court has never been provided with a copy of the complaint by Superintendent Killmeir. According to the affidavit of Deputy Commissioner Burns, Superintendent

³¹⁵ Exhibit C12g

Killmeir (now Assistant Commissioner, Killmeir) reported on 15 April 2004 to Superintendent Tank of the Internal Investigation Branch that there were “service delivery deficiencies” relating to the investigation of the shooting of Christopher Wilson³¹⁷. I do not know whether the service delivery deficiencies complained of by Superintendent Killmeir extended to the deficiencies that I have identified in the handling of the Dreelan PIR, or the human source information.

- 21.2. This referral, by Superintendent Killmeir, of a complaint about service delivery faults, was the only recognition by South Australia Police that something had gone wrong.
- 21.3. The relevant officers who proceeded to investigate the murder of Christopher Wilson had not been involved in the earlier investigations (with the exception of Detective Sergeant Ranger). HB pleaded guilty to the murder in July 2005 and was sentenced on 4 August 2005. On 6 September 2005, South Australia Police submitted a Coroners report to the Office of the State Coroner³¹⁸. That report was tendered as Exhibit C34c. It consists of three pages and attaches a copy of Sentencing Remarks of the Honourable Justice White. The report sets out in very brief summary form a description of the first encounter between the Christopher Wilson group and HB. It sets out a short summary of the events of the early hours of the morning of Saturday, 28 February 2004 which resulted in the fatal shooting of Christopher Wilson. The only reference to the handling by the police of the first complaint by Christopher Wilson is as follows:

‘A short time later the occupants attended the Holden Hill Police Station to report the incident. Statements were taken from Christopher Wilson, Dylan Connelly and James McAinsh. No other police action was taken. This matter is now the subject of a Police Complaints Authority investigation.’³¹⁹

- 21.4. In my opinion, the Police Complaints Authority is not an appropriate body for dealing with problems such as those apparent in this case. The problems that emerged in this Inquest were of a cultural nature, more than a disciplinary nature, subject to one or two exceptions. From South Australia Police point of view, the cultural problems are far more pressing than the disciplinary problems. The Police Complaints Authority process is effectively conducted in secret. It is still not clear to me what the outcome

³¹⁶ Exhibit C34

³¹⁷ Exhibit C34, paragraph 83

³¹⁸ Exhibit C34, Item 40

³¹⁹ Exhibit C34c

of Superintendent Killmeir's referral was. Nothing has been produced to me by South Australia Police to show that.

- 21.5. The Commissioner was requested voluntarily to reveal the full Internal Investigation Branch investigation and Police Complaints Authority assessment and other relevant material including statements made by the key witnesses in this Inquest to the Internal Investigation Branch. The Commissioner refused to reveal it citing as his reason the fact that the disciplinary processes under the Police Complaints Act were yet to be completed³²⁰. That the disciplinary processes had not been completed more than three and a half years after they were instigated is a matter of considerable concern and Deputy Commissioner Burns conceded this in his evidence³²¹. So far as I am aware, the disciplinary process has resulted in no more serious sanction than unrecorded reprimands, submission to counselling in relation to conduct and recorded reprimands³²². It is difficult to see how the public interest in the full disclosure to an inquest of all matters pertinent to the circumstances preceding the death of Christopher Wilson could be outweighed by the perceived public interest in the prevention of possible prejudice to a disciplinary process that appears likely to result in nothing more serious than recorded and unrecorded reprimands and managerial guidance.
- 21.6. In my opinion, the Inquest was detrimentally affected by the statutory secrecy that is central to the Police Complaints and Disciplinary process. Any forensic investigation, any thorough legal review, indeed any normal legal process has as one of its hallmarks the full disclosure of previous accounts of the events given by witnesses before the inquiry. That did not happen at this Inquest.
- 21.7. As the Inquest proceeded, some witnesses revealed that they had been subject to a disciplinary assessment. That information was not known to the Court in relation to that witness until the witness revealed it. It was not until very late in the Inquest that, at the express request of the Court, Counsel for the Commissioner provided a

³²⁰ I do not wish to be taken as suggesting that the Commissioner does not have the right, under section 48, to refuse to reveal this information. To the contrary, he does have that right, as affirmed by recent Supreme Court authority (*White & Ors v The State of South Australia & Ors* [2007] SASC 75). However, the decision to exercise the right and to refuse to provide the information may nevertheless be the subject of examination and comment by me. In this case, the Commissioner offered a reason for his refusal, namely the disciplinary processes not yet completed. I am entitled to comment on the reason given by the Commissioner and express my opinion as to its merits. This I will proceed to do.

³²¹ Transcript, page 1979

³²² See recommendations contained letter from Police Complaints Authority, Exhibit C12n

complete list of all officers who had been subject to disciplinary assessment. In my opinion, this was potentially relevant information. Information that is potentially relevant is habitually disclosed to Courts voluntarily by Government agencies such as South Australia Police, because the Government has a duty to behave as a model litigant. That this did not occur in this case is probably explained by the secrecy governing the Police Complaints and Disciplinary process. It is difficult to see how an organisation such as South Australia Police could really justify withholding relevant information from the Coroner's Court on the basis that there is still the possibility that the police complaints process may, after three and half years, yield some further result which, it seems to me, is likely to be no more significant than a reprimand (recorded or unrecorded) or managerial guidance.

21.8. In submissions filed on behalf of the Commissioner, it was put that the Police Complaints Authority and the Internal Investigation Branch inquiry in relation to any particular police officer, or more generally at all, is not relevant to the cause and circumstances of the death of Christopher Wilson. That response overlooks the fact that during the course of the Inquest evidence was adduced by a number of witnesses who were either known at the time, or who came to be known during the course of their evidence, as persons who had given previous statements to the Internal Investigation Branch and/or officers of the Police Complaints Authority. Any proper forensic inquiry into a matter in which the participants have given previous written accounts of their involvement cannot be complete without a consideration of those previous accounts, and a consideration of whether those accounts are consistent with the accounts being provided to the current inquirer. For that reason, the material was clearly relevant, and had it not been for the secrecy provisions of the Police Complaints Act, I would unhesitatingly have sought and considered that material.

21.9. It was further submitted by the Commissioner as follows:

‘In this incident, like most matters which are the subject of Coronial Inquests, there a (sic) combination of factors which have come together to cause the judgment calls made by individuals on the night. The individual roles and decisions of police officers have been subject to inquiry by SAPOL. The more relevant issue is to consider the SAPOL's corporate policies and procedures....’

I strongly disagree with any suggestion that the conduct of particular officers and the judgement calls made by them is a subject outside the scope and jurisdiction of an Inquest. The fact of the matter is that, apart from section 48 of the Police Complaints

Act, some of the information flowing from the investigation of the conduct of individual officers whether made by South Australia Police or anyone else, might provide relevant information for consideration by the Coroner at an Inquest. It is not difficult to see that this might arise, and might likely arise, in the context of a death in police custody. In my opinion, it is not satisfactory to suggest that the coronial inquiry must, in every case, if it is to be conducted with the benefit of all relevant information, await the completion of police complaints processes which can take as long as three and a half years, and perhaps more, to complete. This is a matter that requires attention by the Parliament. I intend to recommend that consideration be given to the making of amendments to section 48 of the Police Complaints Act to remove the barrier created by the secrecy provision to full disclosure of all relevant evidence to the Coroner's Court in future.

- 21.10. I have made a number of references in this Finding to my concern at the lack of an overarching coronial investigation that would have enabled the Court to predict with some degree of certainty the likely course of the Inquest and the witnesses who would be likely to be required. The Commissioner made submissions in relation to that issue. The submission is as follows:

‘SAPOL provided its report into the death of Christopher Wilson to the Coroner on 6 September 2005. The Coroner never provided any criticism, feedback nor request that any further investigation be conducted as a result of SAPOL submitting this report. In the event that the Coroner (sic) Office is of the view that a Coroner's Report provided by SAPOL requires further investigation or supplementation SAPOL is happy to provide this if requested to do so.’

I have already referred to the coronial report provided on 6 September 2005 and to the extremely brief description of the police handling of the first Christopher Wilson complaint. Nothing in the report could have alerted the reader to the existence of the Dreelan PIR, nor to the human source information. All of these things were relevant to the circumstances surrounding the death of Christopher Wilson. I do not suggest that the deficiencies in the Dreelan investigation or in the handling of the human source information were causative of Christopher Wilson's death. The most that can be said of their relevance to the actual cause of Christopher Wilson's death is that a number of opportunities were afforded for interventions which might have had the potential to prevent HB from continuing to behave as he did and to engage in the kind of conduct he did which included ultimately the shooting of Christopher Wilson.

However, it is indisputable that the events surrounding the handling of the Dreelan PIR and the human source information were relevant to the circumstances of Christopher Wilson's death and the Court has jurisdiction pursuant to section 21 of the Coroners Act to consider not only cause but circumstances of a reportable death. "Circumstances" is a word of very wide import, and I am firmly of the view that the behaviour of HB during the twelve months of the eighteenth year of his life leading to the fatal shooting of Christopher Wilson, including as they did, various acts of violence involving weapons and firearms that resulted in the placement of warnings on the Police Information Management System about him, and ultimately in a complaint by Mr Dreelan about him threatening the latter's life, are quite plainly circumstances which are relevant to the fatal shooting by HB of Christopher Wilson.

21.11. It is disingenuous to suggest that a coronial report which says nothing at all about these matters is a proper coronial report. The Commissioner suggests that it is always possible for the Coroner to request further investigations. The difficulty with this is that when the initial information is as scant as that provided in this case, there is little reason to request a further investigation. Furthermore, out of the approximately two thousand deaths reported each year, there are police reports associated with approximately one thousand of them. The Coroner's Court simply does not have the resources to consider each one of the thousand or so police reports received each year to test their adequacy. There are several thousand police officers in South Australia while the staff of the Coroner's Court numbers less than twenty. It is beyond the resources of the Court to examine each South Australia Police investigation to assess its adequacy. The State Coroner and the Coroner's Court must be able to rely upon a thorough initial investigation by South Australia Police. Any such investigation may require supplementation. However, the extent of supplementary investigation should usually be minor. In the present case a three page investigation – namely that provided and referred to by the Commissioner as the "Coroner's report" in this matter on 6 September 2005 – has been dwarfed by the volume of evidence oral and written elicited at this Inquest.

21.12. The Commissioner has submitted that the matter of documents required to be held by South Australia Police pursuant to the State Records Act for periods required by that Act are not "part of the cause and circumstances of death of Christopher Wilson"³²³.

³²³ Closing submissions for Commissioner of Police

I take this to imply that this matter therefore does not concern the Coroner's Court. In my view, that is incorrect. The unavailability of documents relevant to an Inquest is very much a matter for the concern of the Coroner's Court. In the present case, the documents asserted by Detective Senior Constable Crawford to afford evidence of his efforts in pursuing the Dreelan PIR cannot be found after extensive searches by South Australia Police. They are required to be preserved by reason of the State Records Act 1997. Furthermore, the minutes of TCG meetings during 2003 and 2004 which would have revealed for the Court the deliberations of the TCG in relation to both the Dreelan PIR (if any) and the Christopher Wilson PIR have not, after extensive searches, been located by South Australia Police. They should have been retained by reason of the State Records Act 1997. In my opinion, the Coroner's Court is entitled to take notice of those matters and to record its concern at the fact that documents required to be kept in accordance with the law of this State have not been so kept. I formally record my concern at that circumstance.

22. **Section 63C – Young Offenders Act 1993**

22.1. Section 63C of the Young Offenders Act 1993 provides as follows:

- ‘(1) A person must not publish, by radio, television, newspaper or in any other way, a report of proceedings in which a child or youth is alleged to have committed an offence, if—
- (a) the court before which the proceedings are heard prohibits publication of any report of the proceedings; or
 - (b) the report—
 - (i) identifies the child or youth or contains information tending to identify the child or youth; or
 - (ii) reveals the name, address or school, or includes any particulars, picture or film that may lead to the identification, of any child or youth who is concerned in those proceedings, either as a party or a witness.
- (2) The court before which the proceedings are heard may, on such conditions as it thinks fit, permit the publication of particulars, pictures or films that would otherwise be suppressed from publication under subsection (1)(b).
- (3) A person who contravenes this section, or a condition imposed under subsection (2), is guilty of an offence.
- Maximum penalty: \$10 000.’

22.2. Section 63C is capable of having an application to the allegations against HB. I will proceed on the assumption that even after his conviction, at least of the offences of

which he was convicted in July and August 2005, references to allegations underpinning those convictions might still attract the operation of section 63C. That is because, notwithstanding the ultimate conviction of HB, the matters complained of against him can still be described as allegations, or could have been up until his conviction. Furthermore, there are the allegations the subject of the Dreelan PIR which were never brought before a Court³²⁴. It may be that in those circumstances the allegations contained in the Dreelan PIR would not if published fall within the prohibition in section 63C because that section seems only to apply to proceedings before a Court. Finally, there are the allegations that were the subject of HB's earlier convictions for his offences in March 2003. Notwithstanding the fact that those allegations resulted in convictions, or at least findings of guilt, they nevertheless would have been allegations prior to that time, and it seems to me that section 63C must be interpreted on the assumption that the subsequent conviction of a person of allegations against them does not permit thereafter the publication of information identifying the child or tending to identify the child.

- 22.3. In my view the Coroner's Court, in publishing its finding of the cause and circumstances of the death of Christopher Wilson, is not prohibited by section 63C from referring to HB by name and otherwise identifying him. The prohibition in section 63C does not in my opinion apply to a Court. Nor does it apply in my opinion to prevent the receipt of information by the Coroner's Court, or any other Court, of information which would otherwise be prohibited from publication by section 63C. I am of that view because the prohibition in section 63C applies to "a person" and this expression is not apt to include a "Court". In *Canadian Pacific Tobacco Company Limited and Anor v Stapleton* (1952) 86 CLR 1 Chief Justice Dixon said that the meaning of the words "to any person", "probably cannot apply to Courts, which would hardly be called persons". A similar view was expressed by Gibbs J in *Miller v Miller* (1978) 141 CLR 269 at 277. In *Hilton v Wells* (1985) 157 CLR 57, Mason and Dean JJ referred to Dixon CJ's comments and held that a provision which prohibited divulging or communicating information to "another person" did not apply in respect of the disclosure of such information in the course of giving evidence before a Court. Their Honours commented that "as a matter of ordinary language, the words 'divulge or communicate to another person' are inappropriate to refer to the giving of evidence

³²⁴ The section may now operate in relation to the proceedings before the Coroner's Court, which have now aired the allegations.

before a Court”. The majority judgment of Gibbs CJ, Wilson and Dawson JJ in *Hilton v Wells* (at 76) made reference to the comments of Gibbs J in *Miller v Miller* (1978) 141 CLR 269, and went on to find that “relevant evidence obtained from an intercepted communication may be given in proceedings” other than those mentioned in the legislative provision, and that the provision of such evidence did not amount to an offence under the Act. I have concluded that the prohibition in section 63C did not prevent the divulgence of information about HB to the Coroner’s Court and further that it would not operate to prohibit me from making reference in my finding to proceedings in which HB was alleged to have committed an offence in such a way as to identify him.

- 22.4. The effect of section 63C it seems to me would be to prohibit the publication by newspaper, radio or television of a report of this finding if that report identified HB by name or otherwise tended to identify him. I note that section 63(2) permits the Court before which the proceedings relating to the allegations against the child have been heard to make an order permitting publication of material that would otherwise be suppressed from publication under subsection (1). The Coroner’s Court, not being the Court before which the proceedings against HB were heard, does not have power to permit the publication of particulars that would identify HB. Had subsection (2) empowered me to do so, I would certainly have made an order permitting the publication of HB’s name and other identifying information. My reason for that is that there has been a significant public interest in this Inquest, and it is generally in the public interest that inquests be conducted as fully as possible under public scrutiny. I propose to recommend that section 63C be amended to permit the Coroner’s Court to make an order permitting publication of the name of a youth. An obvious situation in which that might be necessary is that in which a child, remanded in custody, dies while in custody. It is not difficult to envisage that the circumstances leading up to a child being charged with the offence that leads to his or her remand in custody would be relevant to the circumstances of his or her incarceration, and if he or she died as a result of a self-inflicted injury, may very well be relevant to the circumstances of that death. Section 63C would prevent the publication of a report of such an inquest in which the child was identified. That may not always be appropriate. In my opinion, the Coroner’s Court should have the power to permit publication. A similar difficulty arises with section 59A of the Children’s Protection Act 1993, which is identical to section 63C but applicable to child welfare

proceedings before the Children's Court. Such proceedings are likely to be relevant in an inquest into the death of the child the subject of the proceedings and so a corresponding amendment should be made to section 59A.

23. Recommendations

- 23.1. Section 25(2) of the Coroners Act 2003 provides that the Court may add to its findings any recommendation that might, in the opinion of the Court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the Inquest.
- 23.2. I have not found that the death of Christopher Wilson was caused by any of the deficiencies in policing which I have identified in these findings. However, I do believe that a number of the deficiencies identified by me can be regarded as events, which had they been handled differently, might potentially have changed future events, including possibly, the ultimate event the subject of this Inquest, namely the fatal shooting of Christopher Wilson. These events were opportunities for intervention which had the potential to directly or indirectly prevent that fatal outcome. While those events were not causes of the fatal outcome, they were components of the circumstances leading up to the fatal event.
- 23.3. Each of the potential opportunities for intervention relates to acts or omissions of police officers. Those acts or omissions have been, in some sense, deficient. The system for dealing with those deficiencies is the process established by the Police Complaints Act. It was that process that Superintendent Killmeir adopted to deal with the deficiencies she identified. In my opinion, improvements to the process established by the Police Complaints Act might reduce the likelihood of a recurrence of deficiencies of the kind identified during this Inquest and therefore have the potential to reduce the likelihood of a recurrence of an event similar to the event that was the subject of this Inquest.
- 23.4. The Police Complaints Act or the Police (Complaints and Disciplinary Proceedings) Act 1985 to use its full title, was enacted in 1985. The Act has remained in substantially the same form since that time although there have been nine amending Acts in the twenty-three years since 1985 which have made various adjustments to the

general scheme of the Act. However, none of those amending Acts has made any major change to the system which remains broadly as it was in 1985.

- 23.5. Since 1985, Queensland Police (the Fitzgerald Royal Commission 1989), New South Wales Police (the Wood Royal Commission 1994), Western Australia Police (the Kennedy Royal Commission 2002) and the Australian Federal Police (the Fisher Review 2003) each have undergone significant reform processes following Royal Commissions or Inquiries.
- 23.6. In Victoria, the Office of Police Integrity published a report called “A Fair and Effective Victoria Police Discipline System” in October 2007. That report recommended substantial changes to the Victorian model of complaint handling and disciplinary process within Victoria Police. It noted that in Tasmania and South Australia there has been little reform in this area by comparison with Queensland, New South Wales, Western Australia, the Federal Police, and Victoria itself. Of course, Victoria has seen the establishment of the Office of Police Integrity which in itself represents a reform. The report notes that the Victorian system is similar to that of South Australia although it is even more complex than the South Australian system.
- 23.7. The South Australian Act is indeed complex. The fact that proceedings can take more than three and a half years is clear evidence of that fact. In *Police Service Board v Russell John Morris and Robert Colin Martin* (1985) 156 CLR 397 Brennan J, as he then was, said:
- ‘Internal disciplinary authority over members of the police force is a means - the primary and usual means - of ensuring that individual police officers do not jeopardize public confidence by their conduct, nor neglect the performance of their police duty, nor abuse their powers. The purpose of police discipline is the maintenance of public confidence in the police force, of the self-esteem of police officers and of efficiency.’
- 23.8. In *Hardcastle v Commissioner of Police* [1984] 53 ALR 593 at 597 the Full Federal Court said:
- ‘The purpose of a disciplinary system within a professional organisation is: to protect the public, to maintain proper standards of conduct and to protect the reputation of the organisation. It is not to punish.’
- 23.9. In my opinion this Inquest has shown that the Police Complaints and Disciplinary process in South Australia is in need of review. As noted in the Victorian Office of

Police Integrity report³²⁵ an effective disciplinary process must operate promptly. A delayed outcome with lingering uncertainty is often stressful for the employee concerned and may well be worse than the penalty itself. It is also a potential cause of dysfunction within the workplace.

23.10. I therefore recommend as follows:

1. I recommend that the Government review the Police (Complaints and Disciplinary Proceedings) Act 1985 in light of reforms adopted in other States of Australia, the United Kingdom and New Zealand³²⁶.
2. In the meantime I recommend that section 48 of the Police Complaints Act be amended to remove the barrier created by the secrecy provision to full disclosure of all relevant evidence to the Coroner's Court.
3. I recommend that section 63C of the Young Offenders Act 1993 and section 59A of the Children's Protection Act 1993 be amended to permit the Coroner's Court to allow publication of material that would otherwise be prohibited from publication by these provisions.

Key Words: Firearms - licence - Firearms Act; Murder – allegations; Police; Police Complaints; Public safety; Publicity/Public Warnings

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

Seal the 7th day of April, 2008.



State Coroner

Inquest Number 12/2007 (0599/04)

³²⁵ "A Fair and Effective Victoria Police Discipline System", page 20

³²⁶ See generally, "A Fair and Effective Victoria Police Discipline System", Office of Police Integrity, Victoria, October 2007.