



**CORONERS COURT
NEW SOUTH WALES**

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| Inquest: | Inquest into the death of AF |
| Hearing date: | 25 June 2021 |
| Date of findings: | 18 August 2021 |
| Place of findings: | NSW State Coroner's Court, Lidcombe |
| Findings of: | Magistrate C Forbes, Deputy State Coroner |
| Catchwords: | CORONIAL LAW – self-inflicted death – mental health – s. 23 <i>Coroner's Act 2009</i> – mandatory inquest – death a result of police operations – high risk to public safety |
| File number: | 2019/4700 |
| Representation: | <p>Mr J Harris, Counsel Assisting instructed by Ms A Doyle, Crown Solicitors Office</p> <p>Mr P Madden, instructed by Walter Madden Jenkins Solicitors, representing Senior Constable Little and Senior Constable Medulla</p> <p>Mr R Hood, instructed by Office of the General Counsel New South Wales, representing the Commissioner of Police and the New South Wales Police Force, Senior Constable Gage and Senior Constable Henley</p> |
| Findings: | I find that [REDACTED] "AF" died on 4 January 2019 at Forest Road, Arncliffe NSW as a result of multiple stab wounds to the |

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| | <p>chest that he inflicted upon himself.</p> |
| <p>Non-publication orders:</p> | <p>Orders made on 21 May 2009</p> <p>Pursuant to s. 75 of the <i>Coroners Act 2009</i> there be no publication of any matter that identifies the deceased. He is to be known as “AF”.</p> <p>Orders made on 22 January 2021 in relation to sensitive material</p> <p>In relation to the material listed at Schedule A (“the Sensitive Material”), pursuant to ss. 65 and 74 of the <i>Coroners Act 2009</i>, the Court orders:</p> <ol style="list-style-type: none">1. There shall be no publication of the Sensitive Material2. Copies of the Sensitive Material may only be provided to the Deputy State Coroner, the Commissioner and his representatives, the Officer in Charge of the coronial investigation, and the legal representatives of the sufficient interest parties.3. The Sensitive Material may be inspected by any interested party in the presence of their legal representatives.4. The Sensitive Material may be inspected by the following people, if they are not represented, in the presence of those assisting the Deputy State Coroner:<ol style="list-style-type: none">a) [REDACTED]b) [REDACTED]c) [REDACTED]d) [REDACTED]e) [REDACTED] <p>Orders made on 22 January 2021 in relation to the brief of evidence</p> <ol style="list-style-type: none">1. Pursuant to s. 74(1)(b) of the <i>Coroners Act 2009</i>, in relation to |

the documents in Schedule A:

a. There shall be no publication of the information within them described in Schedule B;

b. The documents listed in Schedule A may be disclosed to:

i. The Coroner presiding over this inquest, Counsel Assisting and the Solicitor Assisting the Coroner

ii. Necessary Court staff

iii. The Officer in Charge of the coronial investigation

iv. Legal representatives of the family and

v. Legal representatives of the interested parties to the inquest.

c. The documents listed in Schedule A may be disclosed beyond those listed in order 1b., provided that the documents have been redacted to remove the information in Schedule B.

d. Notwithstanding order 1c., document 3 listed in Schedule A may be made available for inspection, under the supervision of those assisting the Coroner by the following relatives of the deceased;

i. [REDACTED]

ii. [REDACTED]

iii. [REDACTED]

iv. [REDACTED]; and

v. [REDACTED]

2. Pursuant to s. 65 of the *Coroners Act 2009*, subject to order 1, the documents listed in Schedule A are not to be supplied or copied to any person seeking access to Coroner's file.

3. Pursuant to s. 74(1)(b) of the *Coroners Act 2009*, in the event that the oral evidence contains content identified in Schedule B, there be no publication of that evidence.

4. In accordance with the Coroner's implied powers, in relation to the confidential affidavit of Acting Assistant Commissioner Michael McLean and the Confidential Exhibits referred to therein:

a. there be no disclosure of those documents beyond the

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| | <p>Coroner and those assisting the Coroner;</p> <p>b. those documents be returned to the Commissioner of Police through his legal representative at the conclusion of the hearing of this application, on the basis that the Commissioner will make them available as required by the Court.</p> <p>Orders made on 24 June 2021</p> <p>Pursuant to s. 74 of the <i>Coroners Act 2009</i> there be no publication of the unredacted version of the report of A/Sergeant Hrymak dated 19 January 2020.</p> |
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IN THE NSW STATE CORONER'S COURT
LIDCOMBE
SECTION 81 CORONERS ACT 2009

REASONS FOR DECISION

Introduction

1. This is an inquest into the death of AF who died on 4 January 2019. He was only 24 years of age. At about 2.30pm that day, he rammed a police vehicle at Bass Hill which had been attempting a traffic stop. He then drove away from the scene, left his vehicle, and stole a delivery truck. He then stopped and had an altercation with members of the public which ended in one man being seriously stabbed. He then stole a taxi at knifepoint. He was travelling in the taxi and being pursued by police when he collided with a kerb at Arncliffe. He exited the vehicle shortly after and began to stab himself in the chest. Police approached AF and rendered first aid, but AF was pronounced dead at the scene.
2. Sections 23 and 27 of the *Coroner's Act 2009* ("the Act") require a Senior Coroner to conduct an inquest where a death has occurred in these circumstances.

*"The purposes of a s.23 Inquest are to fully examine the circumstances of any death in which Police have been involved, in order that the public, the relatives and the relevant agency can become aware of the circumstances. In the majority of cases there will be no grounds for criticism, but in all cases the conduct of involved officers and/or the relevant department will be thoroughly reviewed, including the quality of the post-death investigation. If appropriate and warranted in a particular case, the State or Deputy State Coroner will make recommendations pursuant to s.82."*¹

¹ *Waller's Coronial Law and Practice in New South Wales*, 4th edition, page 106.

3. A secondary purpose of an inquest is to consider whether it is necessary or desirable to make recommendations in relation to any matter connected with the death. This involves identifying any lessons that can be learned from the death, and whether anything should or could be done differently in the future, to prevent a death in similar circumstances.
4. This inquest is not a criminal investigation, nor is it civil liability proceedings intended to determine fault or lay blame on persons involved in the incident. This inquest has been a close examination of the police actions on the day of AF's death and pursuant to s.37 of the Act a summary of the details of this case will be reported to Parliament.

Non-publication Order

5. Because AF's death was self-inflicted, an order was made on 12 September 2019 preventing the publication of the identification of AF. Pursuant to s. 75(4) of the Act the order is to continue.

Background

November 2016 - damage to AFP vehicle

6. AF was charged with an offence on one prior occasion. At about 8.25pm on 26 November 2016, AF went to Nithsdale Street in Sydney, which is adjacent to the Australian Federal Police (AFP) building in Goulburn Street. He approached a marked AFP vehicle, which had two officers inside, and started hitting the rear windscreen with a metal bar, causing scratches. He was confronted by the officers and arrested for damaging Commonwealth property.
7. Police searched his car and found his phone, showing directions to the AFP building, and a Koran which had a passage marked relating to judgment day. Police also noted that AF had a tattoo on his right hand, depicting "313".
8. AF refused to speak to police, and he was taken to Surry Hills Police Station and identified by fingerprints.
9. He told police that as a result of someone shouting at him while he was jogging, he searched on his phone for the AFP and followed the directions to Nithsdale Street. When he arrived, he thought he had seen the collar of an animal inside the AFP vehicle, and had hit the window because he was trying to release it.

10. On 30 November 2016, police conducted a search of his address and seized his two firearms. Weapons and firearms prohibition orders were put in place and his security licence was suspended.
11. AF was initially refused bail on this charge. On 20 January 2017, an order was made dismissing the charge pursuant to s. 32 of the *Mental Health (Forensic Provisions) Act 1990*. AF was referred to psychiatrist Dr Olav Nielssen for treatment.
12. Subsequent to this incident, on 5 March 2017, AF was stopped by police in the Westpac Lifesaving Helicopter Base car park. He said he was going for a jog. No charges were laid.

Referral to Dr Nielssen

13. Dr Nielssen initially reviewed AF in December 2016. AF reported symptoms including hearing voices of people he could not see, believing that television programs were related to his own situation, and the ability to communicate by thoughts. He gave a history of prior use of cannabis and MDMA.
14. Dr Nielssen diagnosed AF with first episode psychosis and commenced an antipsychotic, lurasidone (Dr Nielssen provided AF with a pack of that medication that day). He also referred AF to a local early psychosis service, although that was not taken up.
15. When Dr Nielssen reviewed AF again on 30 January 2017, AF reported improved feelings. Dr Nielssen later formed the view that AF had developed schizophrenia. AF returned to see Dr Nielssen on five further occasions during 2017.
16. AF also had a referral to a neuropsychologist, Dr Donald Rowe, who saw AF in late 2016 and early 2017. Dr Rowe considered AF to be slightly depressed, and also identified some difficulties he had understanding and following instructions. This cognitive decline was of concern to Dr Rowe, who recommended treatment with an antipsychotic and monitoring. He also recommended a brain scan and full blood work up, although this was not obtained.
17. AF commenced taking an antipsychotic, lurasidone, and filled a prescription on 23 February and 7 March 2017. When Dr Nielssen reviewed AF on 6 March 2017, he appeared evasive but denied any symptoms of psychosis. Following this, AF went on holiday for a couple of months to Lebanon, from 9 March to 12 May 2017.
18. When AF next attended Dr Nielssen, on 19 June 2017, he told him he had stopped taking the medication while he was on holiday. Dr Nielssen advised him to recommence the medication and return in three months or sooner if symptoms emerged.

19. AF next attended Dr Nielssen on 18 September 2017. He had not taken the medication, but he reported feeling well. Dr Nielssen asked him to return to him if symptoms re-emerged or if his family was concerned.
20. On 21 November 2017, AF attended a GP asking about using "*small pieces of magnetic metal inside the ear like earphone speakers*". He was advised not to put any foreign bodies in his ear.
21. On 2 January 2018, he attended a different GP at Greenacre, complaining of swollen lymph glands. He attended that surgery several more times, complaining of tiredness. He also attended at Chullora Medical Practice in early February 2018, but his behaviour was disruptive, and he was banned from that practice on 9 February 2018.
22. On 13 March 2018, AF reported an assault at work to police. He declined to give a statement.
23. On 16 March 2018, he emailed Dr Nielssen, reporting possibly persecutory beliefs about work.
24. On 19 March 2018, AF attended the Greenacre GP surgery, stating he was feeling anxious; he was given a referral back to Dr Nielssen. AF was offered appointments on 23 and 26 March but failed to attend either.
25. On 5 November 2018, AF's brother and father took him to Dr Nielssen as AF had reported having "*revelations from God*". Dr Nielssen diagnosed a relapse of schizophrenia. He recommended lurasidone at a higher dose. AF filled a script for that drug on 7 November 2018.

24 November 2018 – speeding and possession of a knife

26. On 24 November 2018, AF was stopped by police who had detected him traveling at 120kmph along General Holmes Drive, near the airport. He provided a breath sample of 0.034.
27. There is footage available from a body worn video of that interaction. It shows AF moving very slowly and at times being unresponsive, standing very still.
28. AF's car was searched, and a black "Jarvis Walker" fishing knife was located in the glove box. The knife was identical to the one used by AF on the day of his death. It was seized by police, who issued a penalty notice.
29. He was also drug tested by police, with a negative result.

Return to Dr Nielssen

30. AF returned to Dr Nielssen with his father on 26 November 2018. There is no mention in the notes of the police stop. AF's father was unsure whether AF was taking his medication, although AF said he was. AF said he was sleeping well and denied symptoms of psychosis. AF provided some incongruent answers (for example, saying he had "*come around to accept the surgery*" although he had not been asked about this). He reported he was looking for work. He also told Dr Nielssen he was restoring a 2004 Range Rover, which was not yet registered.
31. On 10 December 2018, Dr Nielssen reviewed AF. AF reported that he was taking his medication every day, as advised. He appeared talkative. Dr Nielssen thought he had improved. A review was scheduled for 21 January 2019.
32. On 14 December 2018, AF registered ownership of the Range Rover.
33. At about 6.30pm on 17 December 2018, AF went to Big W at Chullora. He purchased the same Jarvis Walker knife that had been confiscated by police on 24 November 2018. It seems that he kept this knife in his car, the receipt and wrapping were found there after his death.
34. On 29 December 2019, AF attended Coles express at Greenacre at about 10.10pm. He filled up his car with petrol and then drove off without paying. That offence was still under investigation at the time of his death.

The events of 4 January 2019

Attempted traffic stop at Bass Hill

35. At about 2.35pm on 4 January 2019, Sergeant Harper and Senior Constable Stewart, from Bass Hill Regional Enforcement Squad (RES) observed AF's Range Rover. It was not displaying number plates, driving at speed, and had performed a sharp U-turn in Marks Street, Bass Hill, where Bass Hill police station is located. It then passed Sergeant Harper's vehicle on the wrong side of the road and headed south on Hector Street towards the Hume Highway.
36. Senior Constable Stewart observed AF in the vehicle as appearing expressionless almost in a trance like state. Sergeant Harper followed AF's vehicle, observing it to undertake other traffic and drive aggressively. Both officers were concerned the public were in danger. They decided to stop AF's vehicle.

37. Sergeant Harper broadcast a request over police radio, asking for a highway patrol vehicle to attend, in case AF attempted to evade police. He also informed other RES officers about their intentions via a “back channel” radio. A second RES vehicle, driven by Senior Constable Mohri, was slightly further back in traffic.
38. At this point the Range Rover came to a southbound queue of traffic in Hector Street at the intersection with the Hume Highway. This incident is partially captured on CCTV.
39. Sergeant Harper decided to attempt to stop AF’s vehicle at this point, because the other traffic would limit AF’s options. He activated his warning lights and drove along a grass verge and cut in front of AF’s car from the left.
40. Both officers then exited and approach AF, telling him to get out of the car.
41. At this point, AF accelerated hard towards the police vehicle, colliding with the driver’s door. Sergeant Harper managed to get back inside and was not injured, although the driver door was bent backwards in the collision. AF continued forwards, colliding with another car, and then turned left onto the Hume Highway and drove off at speed.

First police pursuit

42. Sergeant Harper activated his lights and followed AF onto the Hume Highway. However, he was unable to continue, due to the damage to his vehicle, and stopped about a kilometre along the highway.
43. Senior Constable Mohri, in the other RES vehicle, also followed AF. However, after a short distance, he returned to Sergeant Harper and Senior Constable Stewart to check they were okay.
44. At 2.39pm, Sergeant Harper alerted police radio about the collision and police units began looking for AF’s vehicle. Those units included SWM512, a vehicle driven by Constable Medulla. Police searched around Yagoona and Bankstown but could not locate AF.
45. At 2.47pm, police helicopter PolAir 4 was also mobilised and began to join the search.

Theft of a Woolworth’s truck at Chullora

46. It was later discovered that AF had driven from Bass Hill to Chullora marketplace. At 2.44pm, CCTV captured his Range Rover entering the loading dock. He parked his car and then got into a Woolworths truck nearby, which had its engine running, and drove off. The driver of that truck was

retrieving something from his car and did not observe the theft. When he discovered the truck missing, he phoned 000. Police broadcast an incident about the theft of the truck at 3.01pm.

Collisions at King George's Road, Wiley Park

47. Meanwhile, AF drove the Woolworths truck from Chullora south along King George's Road, to Wiley Park, where he collided with three vehicles. They signalled for him to stop, but he accelerated away, passing onto the wrong side of the road, and heading south towards Rockdale. There were a number of calls to 000 regarding these collisions.
48. At about 3pm, there was a broadcast via police radio regarding the theft of the truck and these collisions. Constable Medulla heard this broadcast and suspected that the theft of the truck was related to the fail to stop incident at Bass Hill.

Collisions at West Botany Street, Rockdale

49. At about 3.05pm, AF entered West Botany Street, Rockdale. He collided with three vehicles and then slowed down to a stop. He exited the truck, without engaging the handbrake.
50. A member of the public observed the collisions and parked his ute in front of the truck, in an attempt to stop it from leaving.
51. CCTV footage is available at this point, which appears to show AF holding a cigarette lighter near to the fuel tank of the truck.
52. The member of the public exited his vehicle, and AF approached him, producing a knife and demanding his car which he refused, and AF then walked along the road, into traffic, attempting to open other car doors.

Stabbing at Rockdale

53. Two men who were at Exodus Youth Club in West Botany Street heard a collision and came out to see AF in the street. They approached him and told him they were going to call police. They filmed him on a mobile phone. AF then ran at one of them and slashed towards him with the knife. He was able to fend AF off.

54. Following this, another man, who had been at a Fitness First gym nearby, approached AF. He later told police that he knew AF, having met him a couple of years previously but lost contact.
55. He said that he saw that AF had the same "313" tattoo as him. He said "*look, we are brothers*" pointing to his own neck to show AF his tattoo. He also said, "*stop stabbing innocent people, drop the knife, calm down...*".
56. AF began walking away and this man followed him. AF then turned and stabbed him in the stomach. This caused a serious injury, lacerating his liver and eviscerating a part of his intestines. He spent a substantial period of time in hospital due to his injuries.
57. Again, numerous calls were made to 000 regarding the collisions and the stabbing, the earliest being made at 3.09pm.

Theft of a taxi at Rockdale

58. After the stabbing AF walked in front of a maroon taxi, he opened the taxi door, pointed a knife at the driver and told him to get out, which he did. AF then performed a U-turn and drove off southwards.
59. The taxi theft was reported to 000 at 3.13pm.
60. The taxi was equipped with GPS tracking, and this was later analysed to show the route AF took. He drove south towards Sandringham and then turned north again to Brighton-Le-Sands, entering Grand Parade.
61. The taxi also had CCTV fitted, which shows AF inside the vehicle between this point and Arncliffe.

Police car rammed at Brighton-Le-Sands

62. At 3.22pm, PolAir located the taxi AF was driving on Grand Parade at Sans Souci. There is video footage from the helicopter which shows the following events, culminating in AF's death.
63. Constable Frencham was driving a highway patrol vehicle at President Avenue, accompanied by and Senior Constable Vrondas. He observed AF driving past. He followed AF left onto Grand Parade, and activated his warning lights and sirens.

64. As Constable Frencham approached AF in the police vehicle from behind, AF stopped abruptly, and then reversed and rammed the police vehicle. AF then accelerated heavily, away. Constable Frencham was unable to follow immediately due to the damage. He informed police radio about what had occurred.

Second police pursuit

65. Constable Haylings and Constable Bird were also nearby in police van SG21 at this point. Constable Haylings activated warning devices and drew alongside AF's vehicle. He then veered into AF's lane, causing him to cross onto the wrong side of the road. AF continued up the wrong side of the road. Constable Haylings crossed onto the wrong side of the road and followed.

Third police pursuit

66. One of the officers who had attended the scene of the stabbing at Rockdale was Senior Constable Mitchell Gage, a Highway patrol officer (CM275). He heard the broadcasts from PolAir about the taxi being located, and he responded, heading towards Grand Parade.
67. Meanwhile, AF continued north on Grand Parade and General Holmes Drive towards the airport. However, as AF approached the tunnel under the airport, he performed a U-turn.
68. A number of police cars then became involved in a pursuit.
69. First, Constable Haylings observed AF heading south on General Holmes Drive. He activated warning devices, performed a U-turn and commenced following. He informed police radio that he had sighted the car, and provided some updates about the location.
70. Second, Constable Medulla in a RES vehicle SMW512 saw AF approaching towards him. He steered onto the wrong side of the road in an attempt to block AF, but this did not succeed. He then performed a U-Turn.
71. Third, another RES vehicle, SWM517, driven by Senior Constable Pershouse and with Senior Constable Little on board, joined the pursuit.
72. Fourth, Senior Constable Gage caught up with the RES vehicles at the corner of Bestic Street and West Botany Street. He asked via police radio that they move aside, so that he could lead the pursuit, which they did.

73. Fifth, Constable Frencham (CM272) was then able to join behind these vehicles.
74. The course of this pursuit proceeded from General Holmes Drive right onto Beehag Street, left onto Jacob Senior Avenue, right into Bestic Street, and then right again (north) into West Botany Street. At Arncliffe, AF turned left into Wickham Street. The traffic was moderate to heavy. The manner of AF's driving was dangerous. At times he drove on the incorrect side of the road, drove along the footpath, and also went through red traffic lights and major junctions.
75. As AF travelled along Wickham Street approaching the Princes Highway, he moved onto the incorrect side of the road to pass stationary traffic. A semi-trailer was approaching from the other direction, and so he moved onto the footpath. He then crossed over the six lanes of the Princes Highway, across flowing traffic, and into Forest Road.
76. He then mounted the kerb and blew the front offside tyre. He continued along the footpath, colliding with rubbish bins and then turned his vehicle to the left at Wardell Street and brought his vehicle to a stop.
77. The time was 3.28pm, 49 minutes after the incident in Bass Hill when AF had first come to the attention of police.

AF's death

78. The events leading to AF's death are captured by PolAir footage, and also on footage from an In-Car Video in Senior Constable Gage's highway patrol car. There is also incidental footage from other vehicles, the taxi, and a Taser camera. A brief description of the sequence of events is as follows.
79. As AF exited his vehicle, he produced a knife and held it in both hands in front of him. He started to stab himself repeatedly in the chest.
80. As that was occurring, Senior Constable Gage arrived and exited his vehicle. He saw AF holding the knife, drew his firearm, and began to approach AF.
81. Senior Constables Pershouse and Little (SWM517) arrived and stopped immediately behind AF to his right, in order to block his exit. Senior Constable Little got out of the passenger door. However, he was in Senior Constable Gage's line of fire, and so he immediately backed away to his right. He stood with his back against the taxi.

82. As AF continued to stab himself, Senior Constable Gage realised that AF was harming himself. He removed his OC Spray with his left hand, and sprayed AF in the face. AF turned away to his right and continued stabbing himself.
83. Senior Constable Medulla arrived (SWM512) and approached from behind Senior Constable Gage to the left. He deployed a Taser. It is unclear whether one of the probes made contact with AF's body. However, the officers who observed the Taser deploying believe it was effective in incapacitating AF. Simultaneously, AF fell forwards, away from Senior Constable Gage, and twisted to his left, landing on his right shoulder and side.
84. Police officers approached AF immediately. Senior Constable Little can be seen in the video suffering the effects of OC spray, which was still in the air. Other officers arrived and provided first aid.
85. It took approximately 17 seconds from the time AF stopped his taxi to when he fell to the ground. AF commenced stabbing himself about five seconds after stopping the taxi, and Senior Constable Gage deployed OC spray about 10 seconds after that. By that time, AF had stabbed himself 17 times. He stabbed himself a total of 24 times before he fell to the ground.
86. Police called an ambulance at 3.32pm, which arrived promptly at 3.37pm. However, it quickly became obvious that AF has sustained non-survivable injuries. He was declared deceased at the scene.

Issues

87. Police pursuits are governed by the policies and procedures of the NSW Police Force. In certain circumstances, police officers are permitted to disregard the road rules, but they must do so within the boundaries of the policies that guides them. Where a pursuit of a vehicle occurs, there are strict rules governing what police must do and who they must notify.
88. In this case there were obvious and serious risks to the safety of the public, and it was necessary for police to take action, including the pursuits to stop AF. Acting Sergeant Hrymak of the Traffic and Highway Command identified some possible breaches of the Safe Driving Policy on the day. There is evidence that those matters have been reviewed and finalised through internal police processes. Accordingly, I do not propose to make any recommendations in that regard.

89. I have carefully considered whether anything should have been done differently by the police in their attempts to prevent AF from further endangering the public on this day.
90. I am satisfied that this matter was appropriately assessed as a high-risk situation due to AF's dangerous driving, the fact that AF had a knife and that a member of the public had been stabbed. I note the opinion given by Senior Constable Henley, an Operational Safety Instructor of the Weapons and Tactics Policy and Review, who conducted a review of the events of this day, that the actions of the officers were appropriate.
91. Senior Constable Gage was on his own when he was the first to attend the scene where AF had finally stopped his car. He was in the process of containing and negotiating with AF when Senior Constable Little arrived shortly after and assisted. Senior Constable Medulla arrived next and appropriately attempted to stop AF from continuing to self-harm. All of this happened within seconds. I commend each of these officers. They all assessed the situation appropriately and responded in accordance with their training.
92. I offer my sincere condolences to AF's family. The evidence supports a finding that he was suffering from his diagnosed schizophrenia at the time of this tragedy.

Findings: s 81 Coroners Act 2009

93. I find that [REDACTED] "AF" died on 4 January 2019 at Forest Road, Arncliffe NSW as a result of multiple stab wounds to the chest that he inflicted upon himself

Magistrate C Forbes
Deputy State Coroner
18 August 2021