



**CORONER'S COURT  
OF NEW SOUTH WALES**

**Inquest:** Inquest into the death of Daniel Bolton

**Hearing dates:** 14 - 15 August 2023; 17 August 2023

**Date of findings:** 5 September 2023

**Place of findings:** Coroners Court of New South Wales

**Findings of:** Magistrate David O'Neil, Deputy State Coroner

**Catchwords:** CORONIAL LAW— supervision in the community — mental health issues — drug addiction issues — police operation

**File number:** 2020/30404

**Representation:** Mr Jake Harris, Counsel Assisting instructed by Ms Sarah Crellin and Ms Alice Petch (Crown Solicitor's Office)

Mr Tom Quilter for Matthew Bolton, instructed by Mr Dawoud Ayache (Legal Aid)

Mr Brent Haverfield for New South Wales Police Force, instructed by Mr Patrick Hodgetts (Office of the General Counsel)

Ms Deborah Whitew for Department of Communities and Justice, instructed by Ms Jessica Holmes (Department of Communities and Justice)

Mr Paul Madden for Senior Constable James Millhouse instructed by Ken Madden (Walter Madder Jenkins Solicitors)

**Findings:**

I make the following findings in relation to the death of Daniel Bolton, pursuant to s 81 of the *Coroners Act 2009* (NSW):

**Identity:**

The person who died was Daniel Thomas Bolton.

**Date of death:**

Daniel died on 22 October 2020.

**Place of death:**

Daniel died at John Hunter Hospital Newcastle.

**Cause of death:**

Daniel died of a gunshot wound to the neck and head

**Manner of death:**

Self-inflicted in context of avoiding arrest by police

Non-publication orders prohibiting publication of certain evidence pursuant to section 74(1)(b) of the *Coroners Act 2009* have been made in this inquest. A copy of these orders, and corresponding ones pursuant to section 65(4) of the Act, can be found on the Registry file.

## Introduction

1 Daniel Bolton (“Daniel”) died on 22 October 2020 at John Hunter Hospital, New Lambton Heights. The day prior to his death, he had been located by police at Noraville in a vehicle with a female acquaintance. He was wanted on two outstanding warrants. Police commenced a pursuit, which was terminated whilst the vehicle Daniel was driving was headed toward The Entrance. Police continued to patrol The Entrance and again came upon Daniel, shortly after which he decamped and was pursued on foot over a distance of about a kilometre. He was armed with a pistol and a rifle and was pointing these firearms at himself, threatening self-harm. He was challenged by police to drop his weapons, but he refused. In Gosford Avenue, he discharged the rifle under his chin. At about the same time, a police officer, Senior Constable James Millhouse also discharged his firearm. Daniel was taken to hospital by helicopter, but his injuries were deemed non-survivable. Life support was withdrawn, and he died the following day.

## Inquest

- 2 The inquest hearing was held on 14, 15 and 17 August 2023.
- 3 An inquest is a public examination of the circumstances of a death. It provides an opportunity to closely consider what led to the death. It is not the primary purpose of an inquest to blame or punish anyone for the death. The process of holding an inquest does not imply that anyone is guilty of wrongdoing. Despite this, there may nevertheless be factual findings which necessitate an adverse comment or criticism to be made.
- 4 The primary function of an inquest is to identify the circumstances in which the death occurred, and to make the formal findings required under s 81 of the *Coroners Act 2009* (NSW) (“the Act”); namely:
- the person’s identity;
  - the date and place of the person’s death; and
  - the manner and cause of death.
- 5 Another 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 considering whether anything should or could be done differently in the future, to prevent a death in similar circumstances.

## **Coronial Investigation**

- 6 Prior to holding an inquest, a detailed coronial investigation was undertaken. Investigating police compiled an initial brief of evidence. The brief included the statement of the former officer in charge of the investigation (“OIC”) Detective Chief Inspector Mark Henney, statements from police officers at the scene of both the vehicle pursuit and the foot pursuit, statements relating to the examination of the crime scene, statements from Community Corrections officers together with handbooks in relation to their practices, statements from civilian witnesses and medical professionals. The brief also included Mr Bolton’s inmate profile, Medicare records and counselling notes, medical records from the John Hunter Hospital and footage from closed circuit TV (“CCTV”), body worn videos (“BWV”) and in-car videos. In addition, there was a statement and oral evidence from experts in the field of police operations. Daniel’s brother, Matthew Bolton, also provided a statement.
- 7 The following agencies and individuals were identified as having a sufficient interest in the proceedings and received notification:
1. Matthew Bolton (Daniel Bolton’s brother);
  2. New South Wales Commissioner of Corrective Services;
  3. New South Wales Commissioner of Police; and
  4. Senior Constable James Millhouse
- 8 All the material obtained during the coronial investigation formed part of the six-volume brief of evidence that was tendered at the commencement of the inquest. Material was also received and tendered throughout the inquest. All of that material, and the oral evidence at the inquest, has been considered in making the findings detailed below.

## **Witnesses**

- 9 The following witnesses gave oral evidence in the inquest:
1. Detective Aaron Phillips;
  2. Adam Rice;
  3. Russell Anderson;
  4. Sergeant Reed;
  5. Senior Constable De Bruine;
  6. Senior Constable Callaghan;

7. Senior Constable Gillet;
8. Senior Constable Larson;
9. Senior Constable Dickson;
10. Sergeant Watt; and
11. Senior Constable Millhouse.

### **Issues considered in the Inquest**

- 10 A list of issues was prepared and circulated to the interested parties before the inquest commenced. The issues examined at inquest included:
1. The supervision of Mr Bolton under his Intensive Corrections Order by Community Corrections, including:
    - a. information shared between Community Corrections and Mr Rice, and the response to such information;
    - b. decisions that were made following Mr Bolton's disclosure of drug use; and
    - c. the decision to recommend revocation of Mr Bolton's order.
  2. The steps that were taken to locate Mr Bolton and plan for his arrest, in particular following his call to police on 24 September 2020.
  3. The action taken by police during the foot pursuit, whether this was appropriate in the circumstances and in accordance with NSW Police Force policy, including the tactical options that were available and exercised.
  4. The action taken by Senior Constable Millhouse on his arrival at the scene, what effect (if any) this had on Mr Bolton, and whether that action was appropriate in the circumstances.
  5. Whether Senior Constable Millhouse's decision to discharge his firearm was in accordance with NSW Police Force policy and appropriate in the circumstances.
  6. Whether it is necessary or desirable to make any recommendations in relation to any matter connected with the death.

### **Background**

- 11 Daniel was born on 9 August 1990 and was 30 years of age at the time of his death.
- 12 Daniel's mother, Jacqueline, has passed away since his death.

- 13 Daniel had been in a relationship with [REDACTED] MT from about 2012 and had 2 children with her. They had separated by the time of Daniel's death.
- 14 Daniel had some issues with his mental health. There was an incident in 2005 when Daniel was 15 where his mother reported to police that he was missing. She told police she had not seen him for 5 days and that he had schizophrenia.
- 15 [REDACTED] MT told investigators that Daniel had depression and anxiety. Matthew Bolton also notes Daniel had a history of problems with his mental health.
- 16 There is no doubt, on the material provided to the inquest that Daniel was a loved and loving family member and friend. It said something about Daniel's personality and nature that one of the police officers who had dealings with Daniel over several years described him as a charismatic person who was in many instances polite and respectful towards police.

### **Criminal history**

- 17 Daniel had a substantial criminal history. It is not necessary to describe it in detail. It included incidents involving weapons and violence, including a matter for which he served a 4-year prison sentence in 2009.
- 18 Daniel was involved in a police pursuit on 26 January 2019, Daniel was driving his car at San Remo, when he accelerated away from police. A police pursuit was commenced, but it was terminated due to safety concerns. The vehicle was located on fire at Buff Point, and Daniel was found in bushland nearby. He lunged at a police dog with a knife and then escaped into the bush. Police found a backpack nearby, containing a replica Glock gas-fired pellet gun. Daniel was found in a motel two days later and was arrested and charged in relation to that police pursuit and other matters.
- 19 Daniel was sentenced to a period of imprisonment in relation to these matters and was released to parole on 20 December 2019.
- 20 Ten days later, on 30 December 2019, Daniel was detected in possession of knuckle dusters. This was in breach of a Firearms Prohibition Order. He was arrested, charged and initially sentenced to a further period of custody. He successfully appealed that sentence and was given a 12-month Intensive Correction Order ("ICO"), expiring on 28 December 2020.

- 21 Daniel had also been convicted of possession of counterfeit currency, for which he was given an 18-month Commonwealth Recognizance Order, expiring on 3 September 2020.
- 22 During his last period in custody, Daniel was found in possession of buprenorphine. He was charged with drug possession relating to this matter after his release.

### **The Supervision of Daniel in the community**

- 23 As a result of the various matters set out immediately above, when Daniel was released from custody on 23 April 2020, he was subject to a Parole Order, a Commonwealth Order and an ICO. The terms of his ICO included a requirement to abstain from alcohol and drugs.
- 24 The various orders he was on all required that Daniel be supervised by Community Corrections. His appointed supervisor was Russell Anderson whose team leader was Steven Mahoney.
- 25 Daniel's supervision commenced during the early stages of the COVID-19 pandemic. On 23 March 2020, the Commissioner for Corrective Services NSW had issued a memorandum and some guidelines regarding service delivery during the pandemic. All drug and alcohol testing in the community was suspended, field visits were restricted to higher-risk offenders, and face-to-face contact was to be minimised, with a preference for phone contact.
- 26 These guidelines necessarily limited the ability of Community Corrections officers to closely monitor the offenders they were supervising.
- 27 Mr Anderson's supervision of Daniel was primarily through fortnightly phone interviews. The first interview took place on 27 April 2020, and fortnightly thereafter. At the initial session, Daniel engaged well. His conditions were explained. He was directed to attend drug and alcohol counselling.
- 28 Daniel also attended his GP, Dr Leon van der Walt, who gave him a referral to mental health clinician, Adam Rice. Daniel was prescribed mirtazapine (antidepressant) and melatonin (for sleep). He was later prescribed olanzapine (antipsychotic) and diazepam (sedative).
- 29 Mr Rice had seen Daniel in 2018 for anxiety and depression in the context of ice and cannabis use. Mr Rice reviewed Daniel on 30 April, 4 May, 11 May, 20 May, 31 July and 3 August 2020. Daniel did not always attend scheduled appointments and, as indicated by Mr Rice in evidence, Daniel would on occasions present without an appointment, talk to Mr Rice for a few minutes and then leave. Due to poor record

keeping it is unclear precisely how many times Mr Rice engaged with Daniel. Mr Rice formed the view that Daniel definitely wanted to make positive changes in his life. However, as Mr Rice accepted in his evidence, Daniel found it difficult to take the steps necessary to achieve those changes.

- 30 On 6 May 2020, Daniel was charged with possession of drugs whilst he had been in custody. Daniel pleaded guilty to that charge, which was finalised in the Local Court on 4 June 2020. One of the outcomes of the finalisation of that matter was that Daniel was to engage with the Magistrates Early Referral into Treatment (“MERIT”) Program.
- 31 On 17 May 2020, Daniel was stopped and searched and found in possession of medication for which he did not have a prescription. He was again charged with drug possession. He was released on conditional bail. Those charges were listed before the Local Court on 7 October 2020.
- 32 Following Daniel’s new drugs charges on 17 May 2020, Mr Anderson submitted a breach report. Daniel’s engagement at that stage was assessed to be satisfactory, and as a result of this Mr Anderson did not recommend that Daniel be breached. Instead, a decision was made to manage the drug issues locally.
- 33 In May 2020, Mr Rice referred Daniel to a buprenorphine replacement program at the Wallama Clinic. Although Daniel did at times engage with that service, the records show that he was continuing to use drugs, including ice, and he admitted this to Mr Anderson. He was given a direction to cease drug use and attend the clinic.
- 34 On 3 August 2020, Daniel attended Mr Rice for the final time. Mr Rice thought he was in a bad way and administered a full mental health assessment. Daniel was tearful, distracted, restless and slurring his speech. Mr Rice thought he may have taken drugs. Daniel also disclosed thoughts of suicide. Mr Rice suggested he should attend an Emergency Department if his suicidal thoughts continued. At the end of the session, Daniel appeared calmer. He made further appointments with Mr Rice but failed to attend these.
- 35 On 4 August 2020, Daniel told Mr Anderson that he had used ice 3 days prior. He was issued with a further verbal warning that continued drug use may result in a breach. Mr Anderson also spoke with his manager and team leader, Stephen Mahoney. Drug testing was not an option, due to the COVID-19 restrictions, and so they decided to continue to monitor Daniel’s engagement.



- 36 Mr Anderson saw Daniel in the community on 25 August 2020. This was their first and only face-to-face meeting. Daniel admitted smoking cannabis but said he had attended the Wallama Clinic.
- 37 Reports from the Wallama Clinic to Mr Anderson indicated that Daniel engaged reasonably well but would not provide samples for drug testing.
- 38 On 5 September 2020, Daniel was stopped and searched at 1:40am, and police found cannabis in his vehicle.
- 39 On 8 September 2020, Daniel failed to attend an appointment with Mr Anderson.
- 40 On 10 September 2020, he was directed by text message to attend Community Corrections no later than 11 September 2020 at 11:00am. Mr Anderson spoke with Mr Rice that day. According to Mr Anderson's notes, Mr Rice told him Daniel had last attended on 3 September 2020, which was not correct, as Daniel had in fact last attended on 3 August 2020.
- 41 As I have indicated earlier, Mr Rice's recording keeping was poor. On the other hand, Mr Anderson was required to keep, and did keep, very extensive records that were confirmed by objective evidence to be relatively contemporaneous. Whether it was because of misunderstanding or mistake, I am satisfied that Mr Anderson completed his discussion with Mr Rice on 10 September 2020, with the mistaken understanding that Daniel had attended upon Mr Rice on 3 September.
- 42 Ultimately, nothing relevant turns on Mr Anderson's incorrect understanding, as Daniel did not attend Community Corrections on 11 September 2020, and so a breach report was prepared, recommending revocation of his ICO.
- 43 On 11 September 2020, Mr Rice spoke with Daniel by phone. Daniel was not in a good way. He said he had tried to stab himself, had burnt all his clothes and had doused himself in petrol and considered lighting the fuel.
- 44 Mr Anderson also spoke with MT He could hear Daniel in the background and Daniel appeared highly agitated. Daniel said he was going to go on the run. He sounded erratic, and eventually terminated the call. Mr Anderson encouraged him to contact Mr Rice.
- 45 MT spoke with Mr Anderson again on 15 September 2020. She said Daniel had calmed down, and had gone back to his mother's house. She believed he was using ice and no longer wanted him to live with her and the children.
- 46 Further attempts to contact Daniel were unsuccessful.

- 47 Police stopped Daniel on 14 September 2020, and on being searched police found a butterfly knife and a gel blaster in his possession. No charges were laid prior to his death.
- 48 On 22 September 2020, the State Parole Authority (“SPA”) revoked Daniel’s ICO and issued an arrest warrant.
- 49 After the SPA issued the arrest warrant, police attended Daniel’s mother’s address on 24 September 2020. He was not at home.
- 50 Later that day, Daniel called Senior Constable Stone after his mother had spoken to the Senior Constable earlier in the day and advised her that Daniel had doused himself with petrol and that she was concerned about him committing self-harm. Daniel told Senior Constable Stone that he was not going to hand himself in and was not going back to prison. He said we would go on the run. He said he was struggling with his mental health and wanted help. He made threats of self-harm, including that if police found him he was going to make sure they shot him dead. He said he was not going to hurt anyone. He said he had said his goodbyes to his mother and children. Senior Constable Stone advised that Daniel should seek treatment and hand himself in. She said there was nothing that could be done about the warrant, as it was issued by SPA. Senior Constable Stone created intelligence reports about these calls, and they were circulated to police.
- 51 On 1 October 2020, Daniel’s solicitor, Mark Riviere, phoned Mr Anderson. Mr Riviere had spoken to Daniel a week prior, and was concerned about his mental health, fearing he may self-harm. Mr Anderson passed this information onto police.
- 52 On 5 October 2020, police received information that Daniel had made threats against another person and may have assaulted him.
- 53 On 7 October 2020, Daniel failed to attend at Wyong Local Court for the drug possession charges. A second arrest warrant was issued.
- 54 At this stage, Daniel was clearly avoiding police and he had not had any engagement with Community Corrections or Mr Rice for some time.
- 55 I now turn to consider the supervision of Daniel both generally and in the context of the issues raised in the issues list.
- 56 It is clear enough that Daniel continued to struggle with drug addiction following his release from prison. On the evidence it seems likely he did not stop using cannabis at all and it seems likely he may have abstained from ice for only a short period following his release.

- 57 It is notoriously difficult for long-term drug users to stop using. Both Mr Anderson and Mr Rice understood that difficulty, and also the potential benefits for both Mr Bolton personally and the community if treatment could help Mr Bolton cease using. It is in that context that Mr Rice viewed Daniel's enthusiasm to change as extremely positive and similarly Mr Anderson saw the preferable course as being to encourage Daniel to continue with treatment rather than breach him early on.
- 58 As I expressed above, the measures put in place to minimise the risk of COVID-19 infection between Community Corrections officers and those being supervised impacted significantly upon the capacity of the Community Corrections officers to supervise closely. In Daniel's case, if early testing for drug use had been available, his ongoing issues would have been identified shortly after his release. Ultimately the inability for Community Corrections to test Daniel, and the lack of testing at the Wallama Clinic, meant that Daniel was never tested for drug use following his release.
- 59 Whilst drug testing did not take place, Daniel advised Mr Anderson at various times that he was using drugs. As I have explained above, the approach of Mr Anderson and his manager was understandable given the timing of Daniel's revelations to them and the fact that Daniel likely understated the extent of his ice use.
- 60 I also find that the communication between Mr Rice and Mr Anderson was satisfactory. Mr Anderson sought to contact Mr Rice regularly and any misunderstandings between them were not of any consequence.
- 61 Finally, on these issues I find that the ultimate decision to breach Daniel was appropriate in all the circumstances. Daniel had been in breach of his orders and his bail by continuing to commit offences and in particular by continuing to use drugs. This occurred despite engagement with Community Corrections, Mr Rice, the Wallama Clinic and the MERIT Program. Additionally, Daniel's mental health appeared to be deteriorating and he had stopped engaging with Community Corrections.
- 62 Following Daniel's death, his family were extremely upset by what they saw as the badgering of Daniel by Community Corrections and the load placed upon him by the numerous requirements he had to meet. There is no doubt that Daniel was required to do a great deal following his release, due to a combination of the conditions of the orders he was on, the bail conditions attached to his fresh charges and the conditions imposed upon him for the conviction for possessing drugs in custody. As already set out, he was required to engage with and follow the directions of Community Corrections, engage with his GP, engage with Mr Rice, engage with Wallama Clinic and take part in the MERIT Program. During the same period he was subjected to 20

home visit bail checks. I have no doubt that, in particular as Daniel's mental health deteriorated, he found it increasingly difficult, if not impossible, to meet all these requirements. At the same time, however, this situation was substantially contributed to by Daniel's ongoing use of drugs. If Community Corrections had been able to test Daniel for drug use, there may not have been any need for him to continue engaging with the Wallama Clinic once his bail conditions required him to engage with the MERIT Program. It can be seen that the multiple requirements placed upon Daniel arose from a combination of circumstances particular to the COVID-19 pandemic and Daniel's offending. In different circumstances it is likely that there would have been fewer conditions imposed upon Daniel so as to not overwhelm him.

### **Police approach to executing the Warrants for Daniel's Arrest**

- 63 After Daniel and his mother had spoken with Senior Constable Stone on 24 September 2020, police were aware of Daniel's deteriorating mental health and his comment that if police were to try to arrest him he would not harm anyone but would make sure the police killed him.
- 64 Once the arrest warrants had been issued by the Local Court and the SPA, police had a responsibility to arrest Daniel in execution of those warrants.
- 65 At inquest, the issue was explored as to how the arrest was to take place and what planning was undertaken in relation to arresting Daniel. As shall be shortly set out, ultimately Daniel was confronted by police in an unplanned interaction in public. The events that followed had potential to place lives of police and members of the public at risk. It is therefore appropriate to consider whether there could have been earlier opportunities to locate and arrest Daniel.
- 66 The evidence established that the police approach was to first locate where Daniel was living. Police witnesses accepted that whilst it was preferable to plan an arrest, it was not possible to do so without knowing where Daniel was and where any planned arrest was likely to occur. To that end, police regularly drove past the address where it was thought Daniel was residing in order to see if he could be spotted. In further evidence, it was indicated that it was not practicable to sit outside that address, as it would tip Daniel off and he would be able to vacate the premises and avoid further detection.
- 67 During October 2020, Daniel had become a "target" of the Wyong Proactive Crime Team. Details about him and his outstanding warrants were circulated to police. Police were aware that Daniel was wanted and that he had said he would "suicide by cop".

- 68 Around 10 October 2020, it appears Daniel or his mother purchased a blue Mitsubishi Lancer. At some stage it was spray-painted black.
- 69 It seems that Daniel was involved in two police pursuits in that vehicle. On 10 October 2020, an off-duty police officer saw the Mitsubishi in Toukley. Police attended, the Mitsubishi accelerated harshly, and a pursuit was commenced. The pursuit was terminated when the Mitsubishi drove on the wrong side of the road.
- 70 The next day, 11 October 2020, an automated number plate recognition system detected the Mitsubishi at Buff Point. Police stopped the Mitsubishi, but it then accelerated harshly and drove off at speed. The vehicle went through a red light and travelled on the wrong side of the road, and police again ceased following it.
- 71 On 16 October 2020, police received information that Daniel was at Gorokan and had a number of firearms, although the specific location was not provided. Daniel obtained a pistol and a .22 rifle. Matthew believes Daniel acquired these for his own protection.
- 72 I accept that police could not develop an arrest plan until they established by observation an address where Daniel was likely to be and a time when he was likely to be there. Any plan and any risk assessment in relation to an arrest would be dependent on the nature of the premises where the arrest was planned to take place.
- 73 Given that Daniel was actively avoiding police, they were not able to have any confidence as to where he was staying or where he was sleeping and as such could not plan an arrest. Police were trying to establish Daniel's whereabouts when the events of 21 October 2020 unfolded.

### **The events of 21 October 2020**

- 74 On the evening of 20 October 2020, Daniel went to see his brother, Matthew, to collect some clothes that Matthew had washed for him. When the clothes could not be located, Daniel became angry. Matthew saw Daniel take a pistol and place it against his right temple. He pulled the trigger and it discharged. He dropped the pistol, saying "fuck that hurt", and then drove off.
- 75 Daniel spent that night with an acquaintance, Erin. In the morning, she and Daniel went to Budgewoi. They were en route to The Entrance when they encountered police.
- 76 At 10:24am, police from the Wyong Proactive Crime Team spotted the Mitsubishi Lancer and commenced following it. Daniel accelerated at speed, police activated lights and sirens and informed police radio that they were in pursuit of the vehicle.

- 77 Two minutes later, they had lost sight of the vehicle due to the bends in the road. They terminated the pursuit and commenced patrolling the area. Other police units also headed towards The Entrance.
- 78 A short time later the Mitsubishi emerged from behind a parked car and drove towards police, veering left to avoid a collision. A little later the Mitsubishi came to a sudden stop, and then as police began to exit their vehicle, it reversed heavily and collided with the police car, going up onto the bonnet and causing damage. It then accelerated at speed and turned back onto Wilfred Barret Drive. It was emitting smoke.
- 79 The Mitsubishi headed south over The Entrance bridge and went onto the wrong side of the road, veering towards a police vehicle which had to allow the Mitsubishi to pass them on the left. After some distance, police in that same vehicle saw the Mitsubishi stationary in Tuggerah Parade, and a man and a woman (Daniel and Erin) decamping into the foreshore park. They made a broadcast about this at 10:32am and then exited their vehicle and gave chase.
- 80 At this point, the foot pursuit commenced. Daniel and Erin ran along a footpath or bike track in the foreshore park. The track is bounded by dense vegetation at this point. Daniel was carrying a rifle and pistol as he ran. He also removed his t-shirt and discarded it, so he was wearing only black shorts and a shoulder bag.
- 81 Police caught up with Erin. They asked her name and where Daniel had gone. She said: "please don't hurt him". The officers then continued after Daniel.
- 82 The bike track came to a junction and Daniel turned left (north) back towards the junction of Tuggerah Parade and Lentara Walk. Members of the public on the bike path directed police after him.
- 83 The police who had first seen Daniel that morning arrived at the junction of Lentara Walk and Tuggerah Parade. The vehicle came to a stop a few metres from Daniel. He turned to face the vehicle, holding his rifle. Two of the police officers exited their vehicle and drew their weapons. Daniel began to walk off and the two officers followed. At 10:33am, those officers broadcast that Daniel had a gun.
- 84 Daniel entered the vacant block at 79 Lakeside Parade. He asked a man on a bobcat to give him the keys for his machine, but this was declined. One police officer called out to Daniel to give up, and Daniel raised his pistol to the side of his head. He then went through the back of the block and onto the bike track again.

- 85 Daniel went south along the bike track. He approached some members of the public, one of whom had her daughter in a pram. He asked for water. He also placed the pistol against his head again.
- 86 Police were telling him to stop and drop his weapon. Daniel was seen to place the rifle up against the underside of his neck, and then the pistol against his head.
- 87 Daniel then continued along the bike track, up some steps and through a property at 93 Lakeside Parade. He sat on the steps and appeared distressed. Several police were present by now. They told him to put the guns down. One police officer who had prior involvement with Daniel over the years said to Daniel: "let's just talk it over. Let's just put the guns down. We'll put ours away. I want to talk about what's going to happen."
- 88 At this point, the local weapons and defensive tactics instructor, Senior Constable Larson, arrived. He had put on a ballistic vest. He was concerned about police positions and gave them directions about how to organise themselves.
- 89 Daniel then walked up the steps and through the property. He spoke to someone doing work in the yard, asking for help, and then continued to the front of the property.
- 90 A short time later, as Daniel continued walking along Campbell Parade he stopped and placed the pistol against his temple. He appeared to pull the trigger, which made a clicking sound but did not discharge. He put the pistol in his pocket and from this point was only holding the rifle.
- 91 Other police officers arrived at the scene at this point and joined with the police already present in following Daniel.
- 92 At around 5 Campbell Ave, Daniel placed the rifle under his chin and pulled the trigger. As he did so he moved his hands, directing the rifle towards the side of his head. There was an audible sound. A fired .22 cartridge was later found at this location, which had been fired by Daniel's rifle.
- 93 Daniel continued to walk along Campbell Ave. He was jogging intermittently, and then turning back towards police, and pointing the firearm at himself. It does not appear he was pointing it at anyone else. His route took him past The Entrance Public School. There were children in the playground at the time, and they were ushered inside.
- 94 A highway patrol officer arrived in his vehicle and drove alongside Daniel at slow speed. Senior Constable Larson told other officers to position themselves behind the highway patrol vehicle to provide cover. The highway patrol officer also used the loudhailer in his vehicle to direct Daniel to drop his weapon.

- 95 Daniel continued over The Entrance Road and into Warrigal Street. When he arrived at outside 7 Warrigal Street, he reloaded the rifle by operating the pump action. This ejected an unfired cartridge, which was later located by a member of the public. One officer called out loudly: “he’s just reloaded”.
- 96 At this point, Senior Constables Millhouse and Dickson arrived with their siren activated. They were aware of the intelligence reports about Daniel intending to “suicide by cop”, and they had heard some of the radio broadcasts. Senior Constable Millhouse had a longarm, an M4 carbine, and he took it out and loaded it whilst en route to the scene.
- 97 As those officers arrived, Daniel began jogging away. He turned right into Gosford Avenue. Senior Constables Millhouse and Dickson (in order) ran past all the police who had been present and led as police followed Daniel into Gosford Avenue.
- 98 As Senior Constable Millhouse ran after Daniel, Senior Constable Larson called out “Millhouse, no”, as he had formed the view that, because Daniel had not pointed his firearms at police, the situation did not require police to “rush in” and confront Daniel, and he was concerned this could escalate the situation.
- 99 Senior Constable Millhouse directed Daniel to put down the rifle. Daniel stopped in the first driveway in Gosford Avenue and turned to face police while backing away.
- 100 According to Senior Constable Millhouse, Daniel was “waving [the rifle] everywhere” or “turreting” it from left to right. He also believes the rifle was pointed at him. Senior Constable Dickson saw the rifle being “dipped” and pointed in the direction of police, but only ever above the heads of police.
- 101 Daniel then placed the rifle under his chin and discharged it. The round struck his neck and he fell to the ground.
- 102 Almost simultaneously, Senior Constable Millhouse discharged his M4.
- 103 As those shots were discharged, a member of the public on a mobility scooter was in the process of crossing the road behind Daniel some 20 to 30 metres away.
- 104 Senior Constable Millhouse secured Daniel’s rifle and other officers moved in and commenced first aid promptly. Police radio was informed, and an ambulance was requested at 10:42am.
- 105 Paramedics attended and Daniel was taken to John Hunter Hospital by helicopter. Tragically, Daniel’s injuries were deemed non-survivable. Life support was withdrawn the following day. Daniel was declared deceased at 12:52pm.



- 106 I now turn to consider the police actions in the context of the issues raised in the issues list.
- 107 There is no controversy in relation to the manner of the police actions up to the point of the arrival of Senior Constables Millhouse and Dickson.
- 108 Warrants for Daniel's arrest had been in place for some time when the Mitsubishi was observed on the morning of 21 October. It was appropriate for police to follow the vehicle and the pursuit was appropriately called off. I also find that it was appropriate for police to patrol The Entrance area looking for Daniel following the termination of the car pursuit.
- 109 Throughout the foot pursuit, police not only displayed great courage and determination to protect the public as best they could, but also exercised caution in the interests of both Daniel and themselves. They continually encouraged Daniel to end the situation peacefully.
- 110 The approach of police changed substantially when Senior Constable Millhouse arrived with Senior Constable Dickson. It is clear that Senior Constable Millhouse took the lead not only in relation to himself and Senior Constable Dickson, but also in relation to the foot pursuit overall.
- 111 Upon exiting his vehicle, Senior Constable Millhouse ran past all the other police. He explained that he saw the other police tiring and that Daniel had gone out of sight for a short period as he rounded the corner into Gosford Avenue. Those matters in the eyes of Senior Constable Millhouse required him, being fresher than other police, to take the action he did. When Senior Constable Millhouse was approaching Daniel in Gosford Avenue, he observed a person on a mobility scooter about 40 metres ahead of Daniel and in the direction in which Daniel was running and then issued directions in contrast to the prior approach of requesting Daniel to put down his weapons.
- 112 It is clear that the actions of Senior Constable Millhouse brought the situation to an end far more quickly than would have occurred if he had not arrived. His approach was far more aggressive than the approach other police had been taking.
- 113 Senior Constable Ahmedi, who has expertise in weapons and tactics, provided a statement analysing, assessing and commenting on the actions of police in relation to Daniel on 21 October. At short notice the Senior Constable was unavailable to give evidence and the inquest is grateful to Sergeant William Watt for giving evidence in the stead of Senior Constable Ahmedi. Sergeant Watt's evidence was based upon the statement of Senior Constable Ahmedi, he too being qualified in the same areas.

- 114 The effect of Sergeant Watt's evidence was that both the approach of police up until the time of the arrival of Senior Constable Millhouse, and the different approach taken by Senior Constable Millhouse, were acceptable forms of policing and within the policies and procedures.
- 115 As Sergeant Watt put it, they are examples of different individuals taking different approaches in a dynamic situation where the presence of weapons means there is risk to all participants and members of the public. It nevertheless remains clear that the actions of Senior Constable Millhouse impacted on Mr Bolton in the sense of bringing matters to finalisation rapidly. Mr Bolton fired the fatal shot within 22 seconds of Senior Constable Millhouse exiting his vehicle. It is not possible to say in any sense that the actions of Senior Constable Millhouse caused Daniel to shoot himself. Daniel had expressed a desire to end his own life in the period leading up to 21 October and had held weapons to his head and discharged them at least twice, being once during the early hours of 21 October outside the home of Matthew Bolton, and at least once during the foot pursuit. Daniel seemed absolutely intent on not going back into prison.
- 116 Sergeant Watt's assessment includes consideration of the action of Senior Constable Millhouse in discharging his fireman. Whilst I accept and find the action was appropriate and within policy, there remains the issue as to what Daniel was doing with the rifle in the seconds leading up to the two shots being fired.
- 117 Senior Constable Millhouse gave evidence that Daniel's rifle was pointed at him. In contrast to this, Senior Constable Dickson's evidence was that Daniel's rifle was moving from a vertical position to a less vertical position but was aimed above the heads of police.
- 118 A civilian witness gave evidence of being on a veranda in Gosford Avenue and of seeing Daniel point his rifle directly at Senior Constable Millhouse. There are significant difficulties with the statement of the civilian. Firstly, he describes Daniel as having his back to him at all times. As such, the civilian's vision must have been limited. Secondly, he refers to a gun that he thought was a black pistol. On all the other evidence, Daniel's pistol was in his pocket at this stage. Finally, the civilian describes an action of raising the gun to shoulder height and holding it in that position as it was pointed directly at police who maintained a distance of about 10 yards all along Gosford Avenue. This is inconsistent with the clear evidence on the footage of Senior Constable Millhouse gaining on Daniel in Gosford Avenue prior to steadying somewhat as he got closer to Daniel. In addition, no one else describes Daniel's actions in Gosford Avenue as being

a holding of the gun at shoulder height. I do not find the civilian's statement to be reliable on this issue.

119 Senior Constable Millhouse was not a good witness, He was at pains to give evidence supportive of the position he wanted to take and to paint his actions in a good light rather than giving direct responses to questions. An example of this was his inability to readily accept the obvious proposition that discharging his firearm presented a risk to the safety of the civilian on the mobility scooter. He painstakingly sought to avoid giving a direct response until he ultimately had to concede the obvious and agree that his actions presented some level of risk.

120 I am unable to accept the evidence of Senior Constable Millhouse in relation to where Daniel's rifle was pointing in the moments leading up to when the shots were fired. The situation was dynamic, dangerous and stressful, and as I have observed Senior Constable Millhouse was not a good witness.

121 I also bear in mind that there is no evidence of Daniel pointing either weapon at police at any other time during the foot pursuit. He had said he would not harm police, and none of his actions during the foot pursuit suggest that he wanted to shoot police.

122 I find that Daniel's rifle was moving as he ran along Gosford Avenue and then when he stopped. The movement of the rifle was initially consistent with natural movement by running. Thereafter, in the seconds whilst Daniel was stopped the rifle was pointed above the head of police.

## **Autopsy**

123 Dr Donovan Loots performed a three-cavity autopsy on Daniel on 26 October 2020 at Newcastle. The cause of death was recorded as a gunshot wound to the neck and head.

124 There was a gunshot wound to the right temple. A deformed projectile was found in the right temporal bone. The projectile had penetrated the temporal bone but did not penetrate the brain.

125 The gunshot wound to the right side of the neck showed a track from front to back and right to left, angled upwards. It caused extensive damage to the structures of the neck and the right front portion of the brain. A projectile was recovered from the subdural space.

126 Each entry wound had features in keeping with a contact wound.

127 There were also some incidental findings, including signs of self-harm [linear marks to the left forearm].

128 Toxicology of ante-mortem blood revealed metabolites of cannabis and methylamphetamine. No alcohol was detected.

### **The firearms**

129 In relation to the weapons, expert police examined Daniel's rifle and found it to be a .22 calibre Fabrique Nationale-Browning model Trombone pump-action repeating rifle with a shortened stock. It contained one fired cartridge and 9 unfired rounds. In addition, another fired cartridge had been found at 5 Campbell Parade, and an unfired round in Warrigal Street.

130 The pistol was examined and found to be a homemade revolver constructed from tubing and a six-chamber cylinder. Although capable of firing .22 cartridges, the mechanism was loose and not reliable, as the bullets did not always align with the firing pin. It is not possible to determine whether the injury to right temple occurred in the incident Matthew Bolton witnessed or during the police pursuit.

131

### **The need for recommendations**

132 Given my findings there is no need for any recommendations in this matter.

### **Findings pursuant to section 81 *Coroners Act 2009***

133 Having considered all the evidence, the findings I make under section 81(1) of the *Coroners Act 2009* (NSW) are:

#### ***Identity***

The person who died was Daniel Bolton

#### ***Date of death***

Daniel died on 22 October 2020.

#### ***Place of death***

Daniel died at John Hunter Hospital, Newcastle, NSW.

#### ***Cause of death***

Daniel died from a gunshot wound to the neck and head.

### ***Manner of death***

Daniels death was self-inflicted in the context of seeking to avoid arrest by police.

### **Conclusion**

- 134 On behalf of the Coroners Court of New South Wales, I offer my sincere and respectful condolences to the family, extended family, friends, and associates of Daniel. I thank Daniel's brother and the mother of his children for their attendance by AVL throughout the inquest.
- 135 I thank the former officer in charge of the coronial investigation, Detective Chief Inspector Mark Henney, and the subsequent officer in charge, Detective Aaron Philips, for their efforts in the process of the investigation and work in compiling the initial police brief of evidence.
- 136 I acknowledge and express my gratitude to the assisting team, Mr Jake Harris of counsel and Ms Sarah Crellin and Alice Petch of the Crown Solicitor's Office for their invaluable assistance both before and during the inquest.
- 137 In addition, I thank the legal representatives for each of the interested parties for their assistance provided throughout the coronial proceedings.
- 138 I close this inquest.

**Magistrate David O'Neil**

**Deputy State Coroner**

**Coroner's Court of New South Wales**

**5 September 2023**