



STATE CORONER'S COURT OF NEW SOUTH WALES

Inquest:	Inquest into the death of LP
Hearing dates:	29 – 30 May 2017
Date of findings:	11 July 2017
Place of findings:	State Coroners Court, Glebe
Findings of:	Magistrate H Barry
Catchwords:	CORONIAL LAW – Death in Police operation, third person intervention during negotiations
File number:	2016/11257
Representation:	Ms A Bonnor: Counsel Assisting the Coroner Ms D Ward, representing NSW Commissioner of Police
Non publication order:	Pursuant to S75 of the Coroners act 2009 I direct that there be no publication of any material that identifies the deceased person or his family and no publication of these findings
Findings:	<p>The <i>Coroners Act</i> in s81(1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death. These are the findings of an inquest into the death of LP.</p> <p>I find that LP died on 12 January 2016 at Westfield Shopping Centre, 1 Anderson Street, Chatswood. The cause of death was multiple injuries. The manner of his death was intentionally inflicted.</p>

The role of a Coroner as set out in section 81 of the *Coroners Act 2009* is to make findings as to:

- (a) The identity of the deceased
- (b) the date and place of the persons death;
- (c) the physical or medical cause of death and
- (d) the manner of death, in other words, the circumstances surrounding the death.

LP's death was reported because it occurred during the course of a police operation. In these circumstances an inquest is mandatory pursuant to the combination of ss. 27 and 23 of the *Coroners Act 2009*.

"The purposes of a s. 23 inquest are to fully examine the circumstances of a death... in order that the public, the relatives and the relevant agencies 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." (Waller, *Coronial Law and Practice in New South Wales*, p106).

Pursuant to s.37 of the *Coroners Act 2009* a summary of the details of this case will be reported to Parliament.

LP

LP was born on 30th of November 1943 and died at the age of 72 on 12th of January 2016.

LP was adopted as a child and was close to his adoptive sister N. N passed away in 2010, but LP stayed in contact with his brother-in-law Dennis, seeing him 2 to 3 times per year and speaking by telephone every few months.

LP never married and had lived alone in a town on the Central Coast for about 10 years. He had a number of good friends including James and Kris.

LP struggled with mental health issues and had been prescribed medication for schizophrenia and antidepressants, but it appears that in the years prior to his death he had failed to have his prescriptions filled.

A feature of his illness was that he heard voices of "spirits from a higher plane" which guided him and which he found comforting. From time to time he would speak with his friend Kris about his frustration over the power that these "spirit guides" had over him.

In the months before his death, the “spirit guides” appeared to have deserted him and he told Kris he was sleeping on the floor to try and get the “spirit guides” back into his life and if they weren’t going to come back and help him he would end his life

Over the years he had attended a number of mental health facilities and had spoken of jumping from a bridge or a building and had told Kris that he had a place at Chatswood lined up.

In each of the four afternoons and evenings before his death LP was at the house of his friend James and his wife Ruth. He appeared to be in good spirits and there was no indication he was suicidal.

On the afternoon before his death he told James that his “spirit guides” had told him they would no longer guide him. However, he appeared happy and told James he would see him and Ruth soon. That evening he called his friend Kris asking when he could visit.

On 12th of January 2016 LP travelled to Westfield at Chatswood. On the inside of the shopping centre, he climbed over the balustrade of level 7 near the top of the escalators. About 22 minutes later he fell to his death.

LP is remembered fondly by his brother-in-law, Dennis and friends. LP had a good relationship with Dennis and his family. Dennis tried to convince LP not to proceed with his plan because he was part of the family. Kris considered LP to be one of his best friends. James also considered LP to be one of his best friends. They are all saddened and upset by LP’s death.

Autopsy Report

A limited autopsy report was prepared by Dr Tim Lyons, Pathologist , Department of Forensic Medicine, Sydney.

Dr Lyons found the direct cause of LP’s death was *“multiple injuries resulting from a catastrophic head injury with massive disruption of the skull and facial bones, multiple rib fractures and a complex pelvic fracture and multiple bilateral limb fractures”*.

The Evidence

January 12, 2016

At about 8 AM LP called Dennis asking for his postal address – “just in case I want to write to you.”

About 2:30 PM LP called Kris and said he would be dead in half an hour. He told Kris he could have his books and videos.

At about 2:40 PM LP called Dennis again and told him he had decided to kill himself by jumping from a 13 story building. His brother-in-law pleaded with him not to go through with the plan but LP said: *"don't try and stop me, I've made up my mind. Today's the day"* and *"nothing will change my mind."*

He was adamant he did not want to end up in an institution, on medication, looking at 4 walls .He indicated he had left notes in his home about items to be distributed and had left house keys in the letterbox. He wanted his body to 'lay in state' 5 days so his spirit would be gone. He stated he would see his sister N in the spirit world. His brother-in-law said that he sounded calm.

At about 3:05 PM Dennis called his son and 000.

Fifteen minutes later officers from Parramatta police station attended Dennis' house.

After Kris had received the call from LP, he and his girlfriend drove to LP's place on the Central Coast. When they arrived police were already outside. Kris then went to James's house and they all went back to LPs place and met Dennis there.

Police informed them that it was suspected that LP had died at Chatswood earlier that afternoon.

The Police response

Parramatta police attended Dennis' house in response to the 000 call. Dennis gave them LP's mobile telephone number and they contacted Tuggerah Lakes LAC to have a crew attend LP's home to see if LP could be located before any attempts at triangulation were made.

This was an appropriate response. According to the Officer in Charge, Detective Inspector Baker, the first response must be to the informant in order to triage the information and obtain more detail.

He stated that trying to contact the person of interest via mobile phone poses a "dilemma" as there can be a tension between not alarming the person and trying to negotiate with him.

Police arrived at LP's place just before 4 PM.

They found his house keys in the letterbox and spoke with Kris and his girlfriend. Police entered the house and discovered the notes and personal items left by LP.

At 4:14 PM Tuggerah police called senior police for backup and informed Parramatta police they would attempt to triangulate LP's phone. Regrettably by this time LP was already deceased.

The Police response at Westfield.

At about 3:44 PM a female customer was in a coffee shop on level 5 of the Westfield shopping centre in Chatswood. She saw LP standing on the ledge on level 7 within the shopping centre. She called 000.

At about 3:45 PM Senior Constable Wark and Senior Constable Toby heard a police radio broadcast indicating a priority job/incident. The message indicated that there were concerns for a man who might be about to jump from Westfield Chatswood. They were police officers on the Police Transport Command (PTC) based out of Chatswood police station. Generally the duties of PTC officers involved high visibility policing and patrolling public transport and transport interchanges with a view to preventing crime and antisocial behaviour on public transport.

If the matter became urgent, however PTC officers were expected to respond to other matters.

Senior Constable Wark and Senior Constable Toby were close by Westfield at the time of the call and because of the urgency they responded. Initially, Senior Constable Wark assumed that the person they were looking for was outside the building. When he approached Westfield he met and conversed with Leading Senior Constable Roberts from Chatswood LAC.

Leading Senior Constable Roberts was one of the first officers "on scene" and arrived at the escalator below where LP was standing. This was at about 3:48 PM. He had noticed the job whilst watching the mobile terminal data in his police vehicle.

He observed LP to be shaking, and he was facing towards the void with his back to the glass.

Leading Senior Constable Roberts called urgent on the VKG asking for cars to remove pedestrians and shoppers so that they would not observe what was taking place. He requested negotiators be called urgently and was told a short time later that they were on the way.

He was aware from previous experience that police were to try to speak with the person before negotiators arrived.

Leading Senior Constable Roberts had completed online training in relation to mental health issues but was not a trained negotiator. From the bottom of the escalator on level 6, Leading Senior Constable Roberts called out to LP:

"Don't do it, we are here to help, don't do it. I don't want the kids to see it, please don't jump."

He saw LP motion to move everyone out of the way. Leading Senior Constable Roberts kept calling out to him calling him 'Sir 'and repeating similar words to the words he had already used.

Leading Senior Constable Roberts started to move up the escalators, which had been stopped, but LP told him to go back.

Leading Senior Constable Roberts then met Detective Kyneur who arrived at the escalators at about 3:54 PM.

Detective Kyneur had responded to a radio broadcast he heard whilst at Chatswood police station. Because of the proximity to Westfield he had walked to the shopping centre.

Detective Kyneur saw LP standing on the incorrect side of the glass barrier fence, next to the escalators that rose to the Hoyts cinema facility. He does not remember conversing with Leading Senior Constable Roberts and was aware that there was an area that had appeared to have been cordoned off, with people being isolated from the area.

He walked up the escalator - about half way in order to establish a dialogue with LP. He observed LP to be nervous and agitated.

He said words to the effect:

"Come back over, nobody gets hurt, wants to get hurt, we can sort this out. Just come back over"

LP motioned to Detective Kyneur to get back and said words to the effect:

"You can't help me".

Detective Kyneur continued to attempt to persuade LP to get back over the fence, but he stated: "in my view he was intent on jumping from his position on the ledge".

Third Person Intervention

Anne-Marie James was in a shop at Westfield when she became aware of the drama unfolding outside.

Ms James was a trained nurse and explained that she was able to deal with stressful situations and had experience working with the elderly. She stated that as an acute care nurse she had to deal with stressed patients and stressed doctors from time to time and although she had not dealt directly with patients with mental health issues she had training in core mental health matters. Her experience in the past with persons who wanted to die was when she was nursing palliative care patients either in hospital or at home.

Ms James saw LP standing on the ledge on level 7 and spoke with Senior Constable Wark who was standing nearby. She told him:

"I am a nurse. I work with the elderly. Can I help?"

She stated Senior Constable Wark replied *"Come with me"* and they both went up two levels using the escalators. She observed Leading Senior Constable Roberts and heard him calling out to LP.

Senior Constable Wark said to Leading Senior Constable Roberts:

"This is Ann, she is a nurse. She works with the elderly."

Her evidence is that she heard a police officer (apparently Senior Constable Wark) say "Go" and she quickly ran up the escalator towards the man. She was stopped halfway up the escalator by Detective Kyneur who would not let her advance any further. She attempted to engage LP from that position over the following minutes until his death.

There is some tension between the version given by Ms James and the version given by the police officers at the scene.

Senior Constable Wark agrees that Ms James approached him, but rather that he told her that he was not in charge and he referred her to Leading Senior Constable Roberts. He walked with her towards Leading Senior Constable Roberts.

Senior Constable Wark stated he focused on the word "nurse" and thought it might be useful to have someone available with first aid training if needed.

At no time did Senior Constable Wark expect Ms James to attempt to negotiate with LP.

Leading Senior Constable Roberts stated that he noticed Ms James standing next to Senior Constable Wark and said:

"Stop. You're not going up, what, what are you doing."

He heard her reply:

"I work in aged care."

He then observed her move quickly toward Detective Kyneur who was halfway up the escalator, where she was stopped.

Leading Senior Constable Roberts described Ms James as 'pushing' past him to make her way up the escalator.

Certainly, CCTV footage reveals a very determined Ms James heading up the escalator past the police.

Senior Constable Wark called words to the effect *"come back down"* and he believes Leading Senior Constable Roberts said something similar.

Leading Senior Constable Roberts stated in his oral evidence that he was shocked by Ms James' presence and did not know why she was there. He was wanting to

focus on LP and was taken by surprise by Ms James' approach. She was a civilian and he did not know what she intended to do. He knew police would not want a civilian present.

He was adamant he did not say the word "Go" to Ms James and he said that he did not hear Senior Constable Wark say "Go".

In response to Ms James claim that she wanted to inject "calm" into the situation he stated:

"I was in control and calm. I wanted to keep him (LP) talking."

Detective Kyneur stated Ms James tried to push past him and he said to her:

"Who are you, what are you doing?"

Detective Kyneur, in his oral evidence, stated that on hearing her tell him that she was an aged care worker he was initially relieved that she was not a family member.

Detective Kyneur has had mental health training - mental health issues being a large component of police work.

In the past he has been able to engage with persons wishing to self-harm and has observed persons change their mind. He knew Leading Senior Constable Roberts had already started engaging with LP and he was aware that a third person, such as Ms James, does not assist as it introduces confusion, especially when it is not known what the third person is going to say.

He thought Ms James was very focused, and he could see that she was intent on being there and did not direct her to stand down because he did not want to have an altercation in front of LP and further distract from the negotiations underway.

I accept that Ms James was acting in the genuine belief that she could assist. In her oral evidence she could not recall being asked to come back down, although Senior Constable Wark and Leading Senior Constable Roberts attest to this.

She does not recall being told: "You are not going up" although again Senior Constable Wark and Leading Senior Constable Roberts also attest to that.

Similarly, she does not recall a conversation with Detective Kyneur but does recall his arm coming out to prevent her progressing further on the escalator.

Given her lack of recall and the consistency of the evidence of the police officers, I accept that police did not say the word "Go" to Ms James although I accept that Ms James believed she had been given permission to proceed.

Detective Acting/Inspector Hales is the commander of the Negotiation Unit with the New South Wales Police Force. She acknowledged that the situation involving Ms James was a unique occurrence.

In her evidence she stated that a time span of 12 minutes from when police first engaged LP until he jumped was a very short time span to enable police to have engaged with LP.

She stated it is a “stressful and difficult encounter to try and talk a person back from the brink of self – harm.”

Ms James was unknown to police and LP and in Detective Acting /Inspector Hales’ view, “her involvement may have had the potential to confuse and distract LP by introducing another voice into the negotiations.” It also had the potential to distract police.

She further stated that non-trained negotiators have a lack of understanding of police policy and procedure and a lack of “knowledge and understanding of negotiation tactics and techniques”.

Her evidence is:

“When under stress these people (third persons) revert to their most comfortable behaviour, which is not always conducive to good negotiation and peaceful resolution. It is particularly undesirable that a third person be used to intervene when negotiations are being carried out in a ‘face-to-face’ situation. Most importantly it can become an unsafe and dangerous situation for a civilian negotiator.”

Conclusion

All the available evidence points to LP’s determination to end his life. After trying to negotiate with LP, Leading Senior Constable Roberts stated:

“I was of the belief that LP wanted to kill himself”

Detective Kyneur described LP’s actions as a” rehearsal“:

“He (LP) was asking people to get out of the way. At some stage he bent his knees... I did not form the view at any time that he would change his mind.”

These observations coupled with the evidence of LP’s planning and telephone calls to family and friends made before he arrived at Westfield certainly suggest that LP was determined to carry through his plan.

It is unlikely therefore, that the intervention by Ms James had a negative impact on the unfolding scenario. Ms James had no intelligence about LP. She could not assess the risk. It is the duty of police to put themselves at risk in difficult situations. Whilst it cannot be said that Ms James contributed to the death of LP, her actions give rise to a broader concern about the intervention of third persons.

What is clear in this case is that the police response was professional and timely, as was the reaction by Westfield security staff.

Staff and security at Westfield acted promptly and professionally.

Ms Messina, a manager at Hoyts Cinema on Level 7, called security immediately she became aware that there was a man on the incorrect side of the barrier. Another staff member called police.

Ms Messina travelled down the escalator to stop people walking up the escalator. LP shouted to her that she needed to clear the area because he did not want to fall on anyone.

Six security staff from Westfield attended the site. Mr Kapoor, a Risk and Security Manager, approached LP and had a conversation with him and asked for time to clear away children and families.

When police arrived Mr Kapoor concentrated on the evacuation and safety of customers. He instructed that tape be used to barricade the area, escalators be blocked, cleaners be called in to assist and void areas to be cleared. Myer shut its roller doors and entry doors were secured.

A trauma tent and screens were established on level two. When LP fell, those tents were erected within seconds by police.

The attempts by police to engage LP in negotiation were professional and appropriate in a stressful situation, especially given that the police directly involved were not trained negotiators.

Leading Senior Constable Roberts took calm and admirable control in a distressing scenario.

Detective Kyneur's measured response in restraining Ms James without creating further drama was commendable.

At the request of Counsel Assisting, Counsel for the New South Wales Commissioner of Police prepared a document which encapsulates the type of scenario that arose in this matter, concerning the intervention by Ms James.

The document prepared by Counsel for the NSW Police is a useful case study. She submitted that that document may be able to be used for training purposes. Given the rarity of the occurrence of uninvited third persons moving towards a person of interest it may be most appropriate to draw the case study to the attention of the Commander of the Training and Education Command for possible inclusion in their training programme. I intend to leave it to police to best determine the way this training scenario should be directed.

Formal Findings

I find that LP died on 12 January 2016 at Westfield Shopping Centre, Spring Street Chatswood. The Cause of Death was Multiple Injuries. The Manner of his death was intentionally self inflicted.

