



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Inquest into the death of Aarron McKay
Hearing date:	18 and 20 March 2019
Date of findings:	22 March 2019
Place of findings:	NSW Coroners Court - Lidcombe
Findings of:	Magistrate Elizabeth Ryan, Deputy State Coroner
Catchwords:	CORONIAL LAW – death as a result of fall from building – was fall intentional – was police response appropriate.
File number:	2017/001916
Representation:	Counsel Assisting: C Gardiner, Solicitor Advocate CSO, i/b Crown Solicitors Office. NSW Commissioner of Police: S Robinson i/b Office of the General Counsel.

Findings:	<p>Identity The person who died is Aarron McKay.</p> <p>Date of death: Aarron McKay died on 31 December 2016.</p> <p>Place of death: Aarron McKay died at the intersection of Darling Street and Montague Street, Balmain NSW 2041.</p> <p>Cause of death: The cause of Aarron McKay's death is multiple injuries.</p> <p>Manner of death: Aarron McKay died when he fell from the roof of a building, in a condition of drug-induced cognitive and perceptual impairment.</p>
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Section 81(1) of the *Coroners Act 2009 (NSW)* [the Act] requires that when an inquest is held, the Coroner must record in writing his or her findings as to the date and place of the death, and its cause and manner.

In addition, pursuant to section 82 of the Act the Coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.

These are the findings of an inquest into the death of Aarron Jeffro McKay.

Introduction

1. Aarron McKay aged 27 years died in Sydney on New Year's Eve 2016. At about 9.30 that evening he climbed onto the roof top of a five storey building in the inner west suburb of Balmain. Nearby restaurants and hotels were filled with people celebrating New Year's Eve. Some were concerned at Aarron's behaviour and called NSW Police. Shortly afterwards, horrified on lookers saw Aarron fall from the roof of the building down to the road below. His injuries were severe and he died very soon afterwards.

Issues

2. The issues examined at inquest were as follows:
 - was Aarron McKay's fall from the building a deliberate act to end his own life?
 - did the actions of the attending police contribute in any way to Aarron McKay's death?
 - were NSW Police policies, procedures and training complied with in relation to incidents involving self harm from a height?

Aarron McKay's life

3. Aarron McKay was a British citizen. He was born on 16 June 1989 in Liverpool, and he lived there until his late teens. His parents separated when he was about six or seven years old. When he left school he thought of commencing a university degree, but instead decided to work in the financial sector. He worked in many places overseas, including Dubai and Spain.
4. In 2014 Aarron travelled to Sydney to work with his cousin Simon Thomas, who operated an employment agency there. Mr Thomas eventually terminated Aarron's employment, stating that Aarron was using illegal drugs and alleging that he owed people money, including himself. Mr Thomas did not have any contact with Aarron in the last 12 months of his life apart from a brief encounter in a night club.

5. Aarron's mother and his step father live in the United Kingdom and were unable to attend the inquest. However his mother provided a statement to the inquest, sharing some details of Aarron's life. She is devastated by the loss of her son, and is struggling to come to terms with his terrible death.
6. Aarron's mother says he was an outgoing and energetic person who enjoyed life and had many friends. While in Australia he was in frequent contact with his family in the UK. She had spoken to him on 29 December 2016 and he appeared to be well and happy, with plans for a new business venture with a friend, Lukka Goodman.
7. Mr Goodman provided evidence to the inquest about his relationship with Aarron. They had met in 2014 while working in promotions. According to Mr Goodman, Aarron influenced him to amend his partying ways to pursue business goals. Around the time of Aarron's death Aarron and Mr Goodman were working closely together to set up a business base in Melbourne. Aarron was enthusiastic about their plans and discussed these with Mr Goodman each day. Mr Goodman was aware that Aarron used illegal drugs but said this did not interfere with his professional life.
8. Aside from the above evidence, there was not a great deal of information about how Aarron was living at the time of his death. The Officer in Charge Detective Chief Inspector Terry O'Neill speculated that some of Aarron's friends were reluctant to provide statements to the police because they were overseas nationals on temporary visas. In addition, from their descriptions to police as well as other evidence in the coronial brief, it appears that Aarron and many of his friends were regular users of illegal drugs. This too may explain their reticence.
9. From what can be gathered, at the time of his death Aarron was staying on a temporary basis with other UK nationals in an apartment in Bondi. According to what they told police, Aarron had very little money. He was variously described by them as working in a job selling electricity contracts, and earning money as a DJ at parties and music events.
10. Limited information about Aarron's movements and state of mind in the few days leading up to his death was provided by Jack Rawlings, a UK citizen who was also staying at the Bondi apartment.
11. Mr Rawlings met Aarron on 24 December 2016 at a bar in Bondi Junction. Aarron told him he was doing a business course and had plans to work as a DJ. Mr Rawlings thought Aarron seemed very happy with life and was enjoying Australia. They met again a few days later, and Aarron told Mr Rawlings he used ketamine and LSD tablets on a regular basis. He also said that his plans for New Year's Eve were to go to a party at Rose Bay followed by another one at a Balmain apartment. He said he planned to use two tablets of LSD and some ketamine on New Year's Eve.
12. A mutual friend had told Mr Rawlings that at a music festival in November 2016 Aarron had taken LSD and then become paranoid the police were

looking for him. This suggested to Mr Rawlings that on the night Aaron died he was paranoid that the police were after him because he'd used LSD.

The events of 31 December 2016

13. At some point during the evening of 31 December 2016 Aaron went to Balmain. As it was New Year's Eve many people were gathered in the popular restaurants, bars and hotels of its main roadway, Darling Street. A number of Balmain's streets including Darling Street were closed to vehicular traffic for the night.
14. At the intersection of Darling and Montague Streets is the Balmain Telephone Exchange building, immediately adjacent to the historic Balmain Post Office and clock tower. These are in turn next door to Balmain's Court House and Police Station. The Telephone Exchange is a five storey building with ledges at the exterior of each level. Directly opposite it on Montague Street is the Town Hall Hotel, and across the road on Darling Street is the Marina Lunga Restaurant.
15. From these vantage points many people witnessed the night's tragic events, and provided police with statements. As is to be expected there are some inconsistencies between their accounts. Overall however there is a high degree of consistency in what they saw and heard. Their statements and those of the involved police provide much of the factual basis for these findings.
16. At about 9.30pm a number of people at the Town Hall Hotel and the Marina Lunga Restaurant saw Aaron climbing up the exterior of the Telephone Exchange building, using as footholds its external ledges and the mesh which covered its windows. When he was part way up he was seen to drop a backpack onto one of the window ledges of the building, then continue climbing.
17. When Aaron reached the roof top he wandered around for a short while. One witness described his movements as unsteady and '*erratic*', as though '*not knowing what to do with himself*'. Another said he seemed intoxicated '*because he was swaying and seemed cocky*'. Yet another stated he looked '*as though he was not even conscious of the fact that anyone was there, he looked like he was either mentally disturbed, on drugs or very drunk*'. At one point he appeared to be trying to climb the adjacent clock tower of the Balmain Post Office from his position on the Telephone Exchange roof top, but gave up the attempt. By now some of the witnesses had rung NSW Police as they were concerned for Aaron's welfare.
18. Aaron's terrible descent from the roof top came very soon afterwards, and was witnessed by many. Almost everyone described him running from the middle area of the roof top to its corner and jumping off the edge onto the road below. Some described him as appearing to trip when he got close to the edge. His run to the edge of the roof top was described as '*very fast*', with

one witness stating he saw the man *'take a run and jump like someone was doing a long jump'*.

19. Aaron's fall took place at 9.56pm. He landed on the roadway of Darling Street, about two metres out from the kerb. Police officers, Fire and Rescue officers and civilians ran to his side and started resuscitation attempts. Aaron had survived the fall but was unconscious, and he stopped breathing within a few minutes of the fall. Despite this, CPR efforts continued until and after the arrival of an ambulance. Aaron was pronounced deceased at 10.20pm.

The police response

20. Police officers were at the scene by about 9.30pm, in response to calls made by onlookers concerned at Aaron's behaviour. The first police officer on the scene was Leichhardt Local Area Commander, Detective Superintendent Paul Pisanos. He has been a police officer for 32 years, and a Superintendent for the past five years. He is highly experienced in investigating and reviewing critical incidents, and in managing public safety at large scale events. On the night of 31 December 2016 he assumed the role of coordinator of the response to the incident.
21. When Superintendent Pisanos arrived at the intersection at about 9.30pm he noticed Aaron's black backpack on one of the concrete ledges of the Telephone Exchange, approximately 2.5 metres above the footpath. Looking upwards he could just make out Aaron's head peering over the edge of the roof top.
22. A police colleague was able to retrieve the back pack. Inside were some bottles of alcohol and numerous small gas cylinders. The cylinders were of concern to Superintendent Pisanos, as he was worried they might be intended for some kind of explosive attack. His concern was heightened by the large numbers of people in the area who would be at risk if there was such an attack. He told the court that at this stage his primary concern was for community safety, and the need to exclude the possibility that the man on the roof top had in mind a plan to harm others.
23. More police officers arrived, and Superintendent Pisanos dispatched some to find a way to access the roof top. Telling his officers to be very careful, he instructed them to try to engage the man to find out what his intention was.
24. While waiting down on the street Superintendent Pisanos began to consider whether he should commence evacuation of the public from the street area. At about this time he witnessed Aaron *'run quickly towards the corner of the roof facing Darling Street ...the male jumped at speed'*. He saw Aaron *'almost float out from the roof plummeting down to Darling Street'*.

Police accounts of events on the roof top

25. The officers whom Superintendent Pisanos had dispatched to the roof top were Senior Constable Tim Cameron, Leading Senior Constable Ryan Clarke,

and Probationary Constable Peter Hibbert. All three officers participated in directed interviews within hours of Aarron's death. All had completed the one-day mental health awareness workshop which is a mandatory component of NSW Police training.

26. The three officers went around the rear of the Telephone Exchange building and searched for a way to get up to its roof top. Officers of NSW Fire and Rescue had provided them with a key to the building. The three police officers found an external steel ladder which led to the roof top, and ascended it.
27. The layout of the roof top has been described as generally flat with a slight slope. It was floored with corrugated iron, and had a total surface area of approximately 20-30 metres by 20-30 metres. Two sides of the area had a sheer drop to the streets below with no railing or lip. The police officers described the lighting on the roof top as poor. There was environmental noise coming both from an industrial air conditioner vent on the roof, and from the street below.
28. PC Peter Hibbert was the first to arrive on the roof top, followed by SC Cameron and LSC Clarke. There they saw Aarron pacing back and forth about 30 metres away, near the Darling Street side of the roof. He was not facing them, although PC Hibbert thought he was aware of their presence because he made a hand gesture as though to wave them off.
29. PC Hibbert addressed Aarron with the words '*It's the police, can you walk over to us?*' He told the inquest he used a calm and friendly tone. Aarron simply turned to look his way then turned away again. SC Cameron repeated PC Hibbert's request, saying '*Come on mate come away from the edge we just want have a conversation*'. LSC Clarke also spoke: '*Mate what's your name? We are just here to help you*'. They received no response from Aarron.
30. When PC Hibbert was asked to describe Aarron's demeanour while on the roof, he said he was '*pacing a few steps left and right as we tried to speak with him and he appeared to have a very blank expression on his face. I guess quite upset*'. SC Clarke however found the lighting too poor to discern any facial expressions.
31. The police officers described Aarron taking some steps diagonally in their direction, then suddenly turning, sprinting to the corner of the building and leaping off the edge. PC Hibbert thought it possible Aarron had tripped as he neared the edge. SC Cameron heard LSC Clarke yell '*Mate, mate, mate*'. This all happened very quickly: records show it was within 43 seconds of the officers' arrival on the roof. PC Hibbert said he knew they could not get to Aarron in time to stop him, once he started running.
32. At the inquest the three police officers were asked what their intention was in speaking to Aarron. Each replied that they had not formed a plan beyond that of trying to get him away from the edge, and finding out what he was doing up there.

33. LSC Clarke said that at the time there were several possibilities running through his mind as to Aaron's purpose. Uppermost was the thought that he might be planning some form of terrorist activity, but he thought it was also possible he was suffering a mental crisis or simply wished to get a good view of the New Year's Eve fireworks. All the officers stated that due to the brief time space before Aaron jumped, they never reached the stage of determining which if any of these purposes lay behind Aaron's actions.

The cause of Aaron McKay's death

34. There is no doubt as to the physiological cause of Aaron's death. The autopsy report of Dr Istvan Szentmariay confirmed that he had died as a result of multiple injuries. Aaron had suffered multiple skull and facial fractures and a traumatic subarachnoid haemorrhage. He also had fractures to his right arm and left wrist. Many other areas of his body showed blunt injuries.
35. Aaron's post mortem blood samples were analysed. These showed the presence of cannabinoids and ketamine, as well as lysergic acid diethylamide [LSD].
36. Dr Szentmariay found a clear plastic bag in Aaron's underwear which contained 20 capsules. These contained MDMA in the form of white powder. The small gas cylinders inside Aaron's back pack contained pressurised nitrous oxide gas.

Evidence regarding the drugs

37. At the inquest the court heard expert evidence from Mr John Farrar about the above drugs and their likely effects on Aaron's physical and emotional state. Mr Farrar is a consultant pharmacologist with extensive research experience in the effects of drugs on human subjects.
38. Mr Farrar described LSD as a potent hallucinogen which distorts a person's perception of their environment. He was unable to determine the concentration of LSD in Aaron's blood sample. However he noted that the response which LSD can produce varies greatly between individuals, and even a small amount can produce profound psychological effects. Users can experience visual hallucinations and intense emotional experiences, as well as unpleasant reactions involving anxiety, paranoid ideation and panic. Some users perceive their paranoia as having a real origin, stimulating desperate and irrational responses leading to misadventure.
39. Mr Farrar explained that ketamine is used clinically to induce anaesthesia, and can produce a trance-like state. This is often described as a '*dissociative*' condition whereby users feel as though they are watching a film which they are in. Ketamine also has the effect of distorting a user's sense of time and space.

40. Mr Farrar then described the effect that can be produced when a person ingests both LSD and ketamine. These are both hallucinogenic drugs which when ingested together can augment each other's individual effects of distorting perception. Mr Farrar told the court that the peak effects of ketamines and LSD are experienced approximately 2.5 hours after ingestion.
41. As regards the nitrous oxide found in Aarron's back pack, it is impossible to know whether he had ingested any in the period prior to his death. Because its half life is very brief it is uncommon to detect nitrous oxide in post mortem blood.
42. In Mr Farrar's opinion, the ketamines and LSD which Aarron had ingested would be expected to have caused significant cognitive impairment, some degree of acute dissociation, and grossly impaired perception. His use of cannabinoids may have added to his cognitive impairment.

The manner of Aarron McKay's death

43. The question of whether Aarron's fall was the result of an intention to end his own life goes to the issue of the manner of his death.
44. There can be no doubt that Aarron's fatal fall was the direct result of his own actions. Eye witnesses are unanimous that his fall was preceded by him running to the edge of the roof top. The police officers' evidence is that they made no physical contact with him and were never less than ten metres from him. This is supported by the evidence of those onlookers down on the street who were able to see the police officers on the roof: none saw them approaching Aarron.
45. Having carefully reviewed the evidence however I do not think it can be concluded that Aarron acted with the intention of ending his life. There is no evidence that his emotional state around the time of his death tended towards suicidal thoughts. According to his mother, he was upbeat and positive about his life when she spoke with him on 29 December. This was also the impression of Jack Rawlings, who last saw him on the afternoon of 31 December. Lukka Goodman also spoke of Aarron as a person who had nothing but positive thoughts about the future at this time.
46. Based on the evidence of Mr Farrar, there is a high likelihood that when Aarron ran to the roof edge his perceptions were distorted and his cognitive functioning impaired due to the effects of the hallucinogenic drugs he had ingested. Observations of some eye witnesses also provide support for the proposition that Aarron was affected by drugs that night, as described in paragraph 17 above.
47. There was in addition evidence that on a previous occasion when Aarron had used LSD he had become paranoid at the sight of police officers. The possibility cannot be excluded that when Aarron saw the three police officers on the night of 31 December he panicked and decided to run from the scene, unable to appreciate that he was at a height. The proposition that the arrival

of police officers triggered Aarron's run is supported by the fact that he had been on the roof top for at least twenty minutes before their arrival without doing such a thing.

48. The finding I make is that Aarron's fall was the result of misadventure, in circumstances of drug-induced cognitive and perceptual impairment.

Did the actions of police officers contribute to Aarron's death?

49. The circumstances of Aarron's death meet the category of a death which took place in the course of a police operation, which under the legislation applicable in 2016 required an inquest. In such circumstances the legislation dictated that there be a review of the conduct of involved officers.
50. I have noted the possibility that Aaron's death occurred because he panicked at the sight of the police officers, and in his condition of drug-induced cognitive impairment failed to appreciate where he was. If so the presence of the police officers might be said to have contributed to his death. However while there is some evidence to suggest that the police presence triggered Aaron's actions, I do not think it is sufficient to enable a firm finding that this was the case.
51. Even if the arrival of the police officers could be said to have contributed to Aarron's death in the above manner, it would be unreasonable to criticise their actions on this account. None of the officers was in a position to know whether or not Aarron was at risk due to drug-induced cognitive impairment. It is plain there was not enough time for them to make this assessment and if need be, to adjust their plan accordingly.
52. Furthermore it was entirely appropriate for the police officers to try to engage Aarron as they did. They did this with the two aims of persuading him away from the roof edge and trying to ascertain what his purpose was. These aims were consistent with their duty to keep members of the public safe, including Aarron himself. Aarron's precipitate action in running for the edge put an end to any further attempts to engage him and assess what response the situation required.

Were NSW Police policies, procedures and training complied with in relation to incidents involving self harm from a height?

53. The inquest heard that there do not exist any NSW Police policies or procedures which deal specifically with the situation of a person threatening self harm by jumping from a height.
54. In July 2018 a recommendation was made by Her Honour Deputy State Coroner Grahame that NSW Police develop a short training course focused on the skills needed by first response officers in such situations. This inquest was advised that an e-learning module '*Persons at risk of heights*' is being developed to help officers build their skills in de-escalating these situations.

This is welcome news and forestalls any consideration of whether such a recommendation ought to be considered arising from this case.

55. The absence of a specific policy means that police officers finding themselves in the situation of SC Cameron, LSC Clarke and PC Hibbert would need to rely upon such communication techniques as they had learned in their mandatory training as NSW Police officers. These would include the following resources:
- NSW Police Force Operations Manual which provides conversation guidelines for operational police in high risk situations. Officers are instructed to avoid confrontation, establish voice contact from a place of safety, and attempt to build a rapport with the person.
 - Mental Health Intervention Team One Day Workshop booklet, which guides officers when dealing with persons suffering a mental health crisis. Officers are advised to take time and not rush; not to crowd the person; to use their name and to reassure them they are there to help.
56. The approach and communication techniques used by the three officers conformed with these guidelines.
57. As a further matter, there is no basis for criticism of Superintendent Pisanos' management of the incident. He is an experienced and capable commander who took appropriate steps to gather intelligence in order to assess the situation and plan a response. He gave appropriate consideration to evacuating members of the public. These steps conformed with what is recommended within the Operations Manual's Initial Response section.
58. I adopt the submissions made by Counsel Assisting and by Mr Robinson for the NSW Police Commissioner, that all involved officers acted in accordance with NSW Police Force policies and procedures. I would add that in my opinion, given the circumstances, they could not have acted in any way which would have prevented Aaron's tragic death.
59. I hope that Aaron's family will accept the sincere sympathy of all of us at the NSW Coroner's Court for the tragic loss of their son. I also extend my sympathy to the many people, in particular police officers, who would have found the events of that night most distressing.
60. I acknowledge the excellent assistance provided to the inquest by Counsel Assisting Mr Gardiner and Mr Pender, and Mr Robinson on behalf of the NSW Commissioner of Police. My thanks also to the Officer in Charge Detective Chief Inspector Terry O'Neill for his thorough and transparent coronial investigation.

Findings required by s81(1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I make the following findings.

Identity

The person who died is Aarron McKay.

Date of death:

Aarron McKay died on 31 December 2016.

Place of death:

Aarron McKay died at the intersection of Darling Street and Montague Street, Balmain NSW 2041.

Cause of death:

The cause of Aarron McKay's death is multiple injuries.

Manner of death:

Aarron McKay died when he fell from the roof of a building, in a condition of drug-induced cognitive and perceptual impairment.

I close this inquest.

Magistrate E Ryan

Deputy State Coroner

Lidcombe

Date 22 March 2019