



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

Inquest: Inquest into the death of GH

Hearing dates: 14, 15, 17 March 2022

Date of findings: 27 May 2022

Place of findings: Coroner's Court of New South Wales

Findings of: Magistrate Carolyn Huntsman, Deputy State Coroner

Catchwords: CORONIAL LAW – CORONIAL LAW – unlicensed shooters, try shooting course, P650 forms, Firearms Registry oversight; notification procedures; risk of harm to self or others; clauses 101 and 104 of Firearms Regulation 2017

File number: 2017/127266

Representation: Counsel Assisting – Michael Della Pozza
Instructed by Crown Solicitors Office
Counsel for Police Commissioner – Mr Hood, instructed by Mr Robinson, Office of General Counsel, NSW Police
Counsel for Sporting Shooters Association of Australia ("SSAA")/St Mary's Indoor Shooting Centre, Mr Mainstone

Findings: I make the following findings pursuant to s81 of the Coroners Act 2009 NSW:

Identity: GH

Date: 26 April 2017

Place: St Mary's Indoor Shooting Centre, 30 Power Street, St Marys, NSW

Cause of death: Gunshot wound to the head

Manner of death: suicide

Recommendations

Recommendation 1:

That the Proposed Recommendations of this inquest, being Proposed Recommendation 1a, 1b and 2, as set out below, in addition to the Reasons for Decision of this Inquest, be referred to the Review of the Firearms Registry being conducted by former NSW Assistant Commissioner Geoff McKechnie, for consideration by that Review. It is noted that the Review was announced by the NSW Deputy Premier and Minister for Police on 3 May 2022, to ensure that processes around licencing of firearms are robust timely and efficient.

Proposed recommendations for consideration by Review

Proposed Recommendation 1a:

That the Commissioner of Police give consideration to developing, and maintaining at the Firearms Registry, an alert system linking pieces of intelligence received by shooting clubs; and

Proposed Recommendation 1b:

That the Commissioner of Police in its consideration of whether an alert system be developed and maintained, also consider whether amendments to clause 101 and 104 of the Firearms Regulation 2017 may be required, particularly in relation to unlicensed persons who are not club members or proposed club members, who are applying to use club firearms for try shooting

Proposed Recommendation 2:

The Commissioner of Police give consideration to imposing the following condition on all approved shooting ranges that permit unlicensed persons to handle or use firearms pursuant to s. 6B of the Firearms Act 1996:

(a)Unlicensed possession and use of pistols pursuant to section 6B(1)(a) of the Firearms Act 1996 and clause 129 of the Firearms Regulation 2017 is not permitted at the shooting range unless the pistol is securely tethered in such a manner that prevents the pistol from being turned to the rear or any direction other than towards the designated target area.

(b)Compliance with condition (a) above may be dispensed with in circumstances where the range official is satisfied that the unlicensed shooter is a member of an approved pistol club and has successfully completed an approved firearms (pistol) safety training course conducted by an approved pistol club.

Non-publication orders: Non publication orders in relation to the name of the deceased, exhibits 4 and 5 were made on application by the Commissioner of Police; and also in relation to Annexures 4-16 of the statement of Det Inspector Matthew Kehoe dated 8 May 2017 at tab 53 of the brief of evidence.

JUDGMENT

INTRODUCTION

1 This is an inquest into the death of GH, who died on 26 April 2017 from a self-inflicted gunshot wound. The firearm used to inflict the injury was lawfully possessed. GH died whilst participating in a try shooting session held at a firearm range, the St Mary's Indoor Shooting Centre.

The general position is that a person possessing and using a firearm must be licenced under the Firearms Act 1996 NSW ("the Firearms Act") and GH was not a licence holder. However, s 6B of that Act permits an unlicensed person to possess and use a firearm, at an approved shooting range, in accordance with the regulations, and under the supervision of an authorised licence holder. Pursuant to s6B, GH was participating in a "try shooting session" offered by the St Marys Indoor Shooting Club.

GH, who is originally from Iran, is survived by his family there and, in particular, his brother, Mr R GH, who has been the point of contact between the family in Iran. He had no family members living in Australia but did have a close friend here, being Mr Hashemi.

As Coroner, I would like to begin these reasons for decision by expressing my sincere condolences to GH's family, and also to his friend, Mr Hashemi.

Coroner's role

The Coroners Act 2009 NSW (the Act) provides that the Coroner is to investigate and make findings about suspicious or unnatural deaths. The required findings include the identity of the person who has died, the date and

place of the person's death, the cause of death, and manner (or circumstances) of the person's death. Coroners may also make recommendations in relation to any matter connected with the person's death if appropriate to do so.

The police and coronial investigation conducted to date, have provided detailed evidence from which it can be concluded that the cause of GH's death was a gunshot wound which was self. Findings can be made as to manner and cause of death, on the evidence gathered during the investigation, as detailed below.

However, issues relevant to public safety were indicated by the circumstances of GH's death and therefore an inquest was held to explore systemic issues – including how GH came to be permitted to use and possess the firearm which he used to end his life.

Procedural Background

This matter was heard at the same time as an inquest into the death of WX (refer file no 2015/124745), as there were issues arising in that matter in relation to access to firearms.

The two inquests raised related issues of access to firearms where a person has a risk of self harm - however the death of WX was wholly unconnected to the death of GH. Both the inquests - for WX and GH - were scheduled to follow the inquest into other deaths involving firearms (being the Inquests into the Deaths of John, Jack and Jennifer Edwards (files 2018/209420; 2018/208842; 2018/208843) ("the Edwards inquest") and this has caused some delay. The Edwards inquest involved a detailed examination of issues relating to firearms regulation in the context of family law proceedings. Some of the evidence presented to the Coroners Court in the Edwards inquest, and the recommendations made in that inquest, were subject of consideration in the current proceedings. In addition, orders were made that the evidence in relation to the inquest for WX, was to be evidence in the inquest relating to GH – this allowed evidence pertaining to regulation of the possession and use firearms to be explored in relation to the deaths of GH and WX.

At the close of the evidence the inquest was adjourned and a timetable was set for written submissions to be provided by Counsel Assisting and interested parties. The matter was adjourned to 27 May 2022 for findings to be made.

The evidence

The police officer initially appointed to investigate GH's death was Detective Senior Constable Moy. Detective Senior Constable Moy is on an extended period of leave from the NSW Police Force, and carriage of the investigation into GH's death was assumed by Detective Sergeant Fokes.

Both Detective Senior Constable Moy and Sergeant Fokes have conducted considerable investigations into the death of GH, and the documentary evidence and witness statements obtained were contained in the brief of evidence presented at the inquest.

The brief of evidence included the following documents – statements from witnesses at the scene of GH's death, and statements of Mr Oakley and Ms Newbery. Mr Oakley, is a civilian administrative officer employed in the Registry in the role of Senior Range Inspector. Mr Oakley, amongst other matters, was responsible for conducting inspections of all shooting ranges in NSW, and had several years experience in that role. Mr Oakley has conducted inspections of the St Marys Indoor Shooting Centre and has been involved in the regulatory action involving that centre after GH's death. Ms Newbery is an employee of the Sporting Shooters Association of Australia ("SSAA") which is an owner of the St Mary's Indoor Shooting Centre.

Both Mr Oakley and Ms Newbery gave oral evidence at hearing, as did the Officer in Charge of the Police Investigation, Sergeant Fokes. The inquest also heard oral evidence from Detective Inspector Kehoe, who held a senior position at the Firearms Registry for a number of years but was not in that position at the time of the inquest. The inquest also received updated evidence in relation to the operations of the Firearms Registry in a statement of Superintendent Bell which was evidence prepared for the Edwards inquest.

Background of GH

GH was an Iranian national who came to Australia in 2009. At the time of his death he held a permanent protection visa. He had undertaken study at the University of New South Wales in a Graduate Diploma of Engineering Science, passing all but one subject in 2013. He commenced a Diploma of Building and Construction at Ultimo TAFE, and was studying this course at the time of his death. He is reported to have no family members residing in Australia and to have led a fairly solitary life. He had a friend in Australia, Mr Hashemi, they had originally met when residing at the same premises. According to Mr Hashemi, in the five years that he had known GH, he had frequently spoken of trying to end his life with a firearm. Mr Hashemi tried to encourage his friend to get psychological help and treatment but GH always refused.

Mr Hashemi also told police that GH had told him, that at the age of 10 years, he had realised that he didn't like life and had wanted to commit suicide since then.

Mr Hashemi advised police that, when GH was still residing in Iran, he had attempted suicide on at least one occasion and was saved by his brother.

Mr Hashemi told police that in the days prior to his death (24 and 25 April 2017) GH had emailed Mr Hashemi hinting at a plan to end his life – one email stated that he (GH) was watching the last soccer game of his life, another stated that he needed a cyanide pill. Mr Hashemi emailed him back, asking him to think of his family and to get help, and to think wisely.

Mr Hashemi also told police that GH was one of the nicest, and one of the most sincere people, that he had met in his life.

The warning sent by Mr Hashemi

In mid-April 2015 Mr Hashemi was visiting GH's home, and saw a print out for the St Mary's Indoor Shooting Centre, and believing GH was trying to access a firearm for self harm, Mr Hashemi emailed the centre.

On 16 April 2015 Mr Hashemi emailed the St Mary's Indoor Shooting Centre and stated:

"I just want to notify you that a friend of mine, Mr [REDACTED] is suffering from depression for a long time. Recently he became interested in shooting practice. I must emphasise that at no circumstances he should be allowed to practice with live ammunition especially with small calibre hand gun. He might harm himself. You must take extreme caution. If possible, please notify other shooting ranges in Sydney".

The following day, a representative of the St Mary's Indoor Shooting Centre replied to Mr Hashemi:

"Thank you for your email. I have forwarded it to our Range Supervisor and to SSAA Sydney for circulation around other SSAA ranges in Sydney"

The email also asked Mr Hashemi whether GH had a valid firearms licence.

Mr Hashemi responded the same day, 17 April 2015, advising that GH did not have a firearm but was trying to acquire one. He also advised that GH:

"has done his military service in Iran so he is familiar with firearms. He has talked about suicide many times, so I assume strongly that he wants to use shooting practice as an alibi to harm himself ..."

GH's participation in the try shooting sessions

GH was not the holder of a licence under the Firearms Act 2006. Accordingly, he was not authorised by a licence to possess and use a firearm.

Section 6B(1)(a) of the Firearms Act 2006 permits an unlicensed person to possess and use a firearm, at an approved shooting range, in accordance with the regulations, and under the supervision of authorised licence holder. At the relevant time, cl. 110(2) of the Firearms Regulation 2006 prescribed the following condition to the approval granted to a shooting range pursuant to s. 6B(1)(a):

"...a club or range official must ensure that each person who, in accordance with section 6B (1) (a) of the Act, possesses or uses a firearm at the shooting range but who is not authorised by a licence or permit to do so completes and

signs a form containing the following questions before the person uses any firearm at the shooting range—
.... (iii) suffering from any mental illness or other disorder that may prevent you from using a firearm safely?”

At the relevant time the regulations also imposed a condition prohibiting a person who has answered “yes” to any of the questions prescribed in cl. 110(2) from using or possessing a firearm.

The current cl. 129 of the Firearms Regulation 2017 is in the same terms as cl. 110.

The questions in the P650 form, while asking about mental health or disorder which might prevent safe use of a firearm, did not ask about self harm or suicide attempts.

The St Mary’s Indoor Shooting Centre, an approved range for the purposes of s. 6B, offered “try shooting sessions” to unlicensed persons.

The evidence discloses that GH was permitted to participate in a try shooting session held at St Marys Indoor Shooting Centre on 24 May 2015. On 26 April 2017, GH again applied to participate in a try shooting session conducted by the St Mary’s Indoor Shooting Centre and submitted a P650 form for that purpose. GH returned the form the instructor at the St Marys Indoor Shooting Centre.

The officer who was initially in charge of investigating GH’s death, Detective Senior Constable Moy has performed an audit of the P650 applications that were returned to the St Mary’s Indoor Shooting Centre by unlicensed persons who were ultimately permitted to participate in a try shooting session run by that centre. In particular, Detective Senior Constable Moy has undertaken a comparison of the answers given by an applicant to the mandatory questions on the P650 form against other information available to her. Detective Senior Constable Moy concludes that there have been a large number of instances where a person has provided false or inaccurate answers to the mandatory questions including, in the responses given to mandatory question B(d)) .

The evidence establishes that on 16 April 2015, as detailed above, the St Marys Indoor Shooting Centre had received warning in relation to GH.

In her evidence , Ms Newbery did not deny that the St Marys Indoor Shooting Centre had received Mr Hashemi's email. She said that the reason why GH was permitted to participate in the first (2015) try shooting session, notwithstanding the information contained in that email, was due to him being "overlooked".

As to why GH was permitted to participate in the second (2017) try shooting session, Ms Newbery expressed the view that it was not the "role" of the Shooting Centre "to question or judge [the suitability of a person to participate in a try shooting session] if the customer has completed the P650 appropriately and the instructor has no concerns".

Ms Newbery gave evidence that there were some processes in place at the St Marys Indoor Shooting Centre to flag persons who had previously been identified as not being suitable to participate in a try shooting session. These included that St Mary's Indoor Shooting Centre maintained a list of persons who had previously been deemed unsuitable to participate in a try shooting session. That list was held at the front counter of the centre. Ms Newbery was, however, unable to say whether, after receiving Mr Hashemi's email, GH's name was included on that list.

Ms Newbery also gave evidence that the details of each person who had ever participated in a try shooting session were entered into a database. She expressed the view that GH's details would have been included in that database. Ms Newbery noted, however, that this database was not routinely cross-checked against the list that was maintained at the counter. For that reason, that database was not a system which would have allowed the information about GH's suicidal intent to have been clearly identified at the time he attended the centre.

Ms Newbery detailed the specific actions that were taken by the St Marys Indoor Shooting Centre upon receipt of Mr Hashemi's email. Her statement annexes some contemporary records in this regard (being emails that were exchanged between Ms Newbery and another staff member concerning Mr Hashemi's email).

Ms Newbery told the inquest that, after receiving Mr Hashemi's email, she directed the other staff member to alert the Firearms Registry of the information that Mr Hashemi had provided.

This direction to the staff member is not contained within the emails attached to Ms Newbery's statement: the emails record Ms Newbery directing the relevant staff member to "flag this guy for trying shooting and [to advise] the the FAR ". Ms Newbery said that her email would have been understood by the staff member as amounting to a direction by Ms Newbery for her to inform the Firearms Registry of the information contained in Mr Hashemi's email. In oral evidence, Ms Newbery said that her email "had not been worded as well as it could have been" but maintained that it was her intent to direct the other staff member to inform the Registry.

Ms Newbery was unable to provide evidence that the Registry had been informed of Mr Hashemi's email. Detective Inspector Kehoe and Mr Oakley (a former shooting range inspector and civilian employee formerly employed at the Registry) both gave evidence that they were not aware of Mr Hashemi's email.

When asked if she were in favour of some formal process which would facilitate information sharing with the Registry, Ms Newbery gave the following answer:

"Yes, I think we all agree, if there was a system in place, where we could get confirmation prior, it would be a benefit."

GH's death

On 26 April 2017, GH attended the St Marys Indoor Shooting Centre and participated in the try shooting session. Whilst being closely supervised by the firearms instructor, he was handed a pistol, which was not tethered or secured, as was commonly the situation in clubs in 2017. He placed the pistol at the right side of his head and fired the pistol. No-one else was harmed. Emergency services were called to the scene but GH was pronounced dead from the gunshot wound.

The post mortem report prepared by the forensic pathologist stated that the cause of death was a gunshot wound to the head. No alcohol or common medications or common drugs of abuse were detected on toxicological examination.

Actions taken at the St Marys Indoor Shooting Centre after GH's death

As a result of GH's death, the Firearms Registry temporarily suspended the approval for St Mary's Indoor Shooting Centre to permit unlicensed persons to handle firearms on that shooting range pending the completion of a review.

After a review, the Registry then imposed a condition on the centre prohibiting the unlicensed possession and use of firearms on the shooting range unless the pistol was tethered in such a manner that prevented it from being turned in any direction other than towards the designated target area. The condition allowed for an exemption in the case of unlicensed shooter who was the member of an approved pistol club and who had successfully completed an approved firearms (pistol) safety training course conducted by an approved pistol club .

The evidence establishes that this condition was complied with and the tethering system that has been installed is effective to prevent a person from getting in front of the tethered firearm or turning it around. It is understood that

the St Marys Indoor Shooting Centre has resumed offering try shooting sessions to unlicensed persons, and continues to use the tethering system.

The tethering system

Mr Oakely and Ms Newbury both endorsed the tethering system installed at St Marys as a positive outcome which significantly enhances safety.

FINDINGS

Issue 1 – formal findings under s81(1) of the Coroners Act

The findings I make under s81 of the Coroners Act are as follows.

Identity

Whilst no identification statement has been obtained in relation to GH, the evidence indicates that prior to participating in that session, GH's drivers licence was sighted by the shooting instructor and his identity confirmed. The instructor in his statement to investigating police confirmed these matters and also that the signature placed on the P650 form by GH matched the signature on his drivers licence. From the time of completing the form until the time of his death, GH remained under the close supervision of the instructor.

It is noted that the instructor sighted the photo licence and also compared the likeness. There is no evidence to indicate that anyone else was using GH's licence, or any other evidence to indicate the person presenting the licence to the instructor was not GH, rather the evidence supports the conclusion that it was GH.

There is also evidence of a connection between GH and the St Marys Indoor Shooting Centre - I note the evidence of Mr Hashimi that he had found, at GH's residence, information pamphlets from St Marys Indoor Shooting Centre; and I also note the evidence that GH had previously attended that centre in 2015.

The police investigation also obtained CCTV footage from Sydney trains. That footage for the day of GH's death depicts GH boarding a train for St Marys station, and he is seen on the CCTV exiting the railway station at St Marys. He is not seen after that time on any Sydney Trains footage. The police also obtained CCTV footage from St Marys Indoor Shooting Centre which shows GH arriving at the centre shortly after his departure from the train station – the footage also shows him in the foyer and completing the P650 form, and talking with the instructor before entering the range. The CCTV footage also shows that GH was under close supervision of the instructor from the time of completing the form to when he entered the shooting range – and the instructor's statement to police also evidences this. Therefore it is clear that the person who entered the range with the instructor was the person who completed the P650 form.

It is on the basis of all this evidence that I am satisfied that the identity of the deceased is GH, this is established to the requisite standard, being the balance of probabilities.

Date and place of death

The evidence establishes that the date of GH's death was 26 April 2017 .

The place of GH's death was the St Marys Indoor Shooting Centre, at 30 Power Street, St Marys .

Cause of death

The evidence is clear – both from witness statements from those at St Marys Indoor Shooting Centre where the death occurred, and from the report of the forensic pathologist - that the cause of death was a gunshot wound to the head.

Manner of death

The evidence supports the conclusion that the gunshot wound was deliberately self-inflicted - witness testimony describes how GH deliberately turned the gun on himself and fired. There is evidence of suicidal intent – both in the past in

Iran and in conversations over the years with Mr Hashemi, and in the report of Mr Hashemi that GH was trying to obtain a gun to self harm - and also evidence of suicidal thoughts held at the time of his death. The emails to Mr Hashemi of 24 and 25 April 2017, just prior to GH's death, evidence ongoing suicidal thoughts. Given the evidence of ongoing suicidal thoughts up until the date of his death, and the evidence of the deliberate action of putting the gun to his head and firing it, then I am satisfied that that GH carried out that action with intention to end his life. The manner of death is therefore suicide.

Findings in relation to whether recommendations should be made

The question of the manner of the deceased person's death permits consideration to be given to the broader circumstances surrounding the death. Section 82 permits the Coroners Court to "make such recommendation as are necessary or desirable to make in relation to any matter connected with the death".

An issue examined at the inquest was whether sufficient action was taken to act upon Mr Hashemi's warnings. The issue of who may have had, or should have, such responsibility was also a focus of the inquest.

Prior to the inquest the parties were served with an issues list. Issue 1 involved the s81(1) formal findings, set out above.

Issue 2 - whether the death was preventable

Issue 2 concerned whether GH's death was preventable, having regard to:

- (a) the apparent failure of St Mary's Indoor Shooting Club when processing GH's P650 application in 2017, to act upon the information provided to it by Mr Hashemi on 16 April 2015;
- (b) the inability of St Mary's Indoor Shooting Club to check the veracity of information relating to mental health a history/ risk of

self-harm arising from mental health and/or substance use issues as reported by applicants in P650 forms;

Issue 2(a) raises whether there was a failure of the St Mary's Indoor Shooting Club, when processing GH's P650 application, to act upon the information provided to it by Mr Hashemi on 16 April 2015.

The evidence detailed above reveals that Mr Hashemi's email reported that GH was seeking access to a firearm in order to commit suicide, and GH was subsequently permitted to participate in a try shooting session on two occasions. The first of those two occasions was in 2015 and only around a month or so after Mr Hashemi's email had been received; the second was some two years later in 2017.

It appears from the evidence that the processes in place at the St Marys Indoor Shooting Centre, to identify and keep a record of persons who had been found to be unsuitable to participate in try shooting sessions, did not alert the shooting club to a safety concern in GH's case, despite the email from Mr Hashemi. It is unclear whether GH was placed on the lists maintained by the St Marys Indoor Shooting Centre detailed by Ms Newbury in her evidence.

There is no evidence to indicate that the Firearms Registry was informed of Mr Hashemi's email, and it appears likely that it was not. The records (the emails sent by Ms Newbury to the other staff member) do not indicate that the staff member knew to inform the Registry, or did so. While Ms Newbury gave evidence of her intention that her email communicate to the staff member her direction to advise the Registry, there is no evidence upon which to conclude that this advice to Registry occurred.

Counsel Assisting has submitted that issue 2(b) does not arise for consideration, given the evidence of Ms Newbury. This is because there is no suggestion that the St Mary's Indoor Shooting Centre was unaware of the information contained in Mr Hashemi's email; rather, Ms Newbury's evidence is that, despite being aware of that information, the St Mary's Indoor Shooting

Centre and/or it's staff were not in a position to act on that information on the days that GH attended. Counsel Assisting notes that this would not have been rectified by the St Mary's Indoor Shooting Centre checking information on the P650 form.

Concerns which surround access to firearms, by persons who are not licenced shooters, facilitated by the self declarations on the P650 forms, was subject of some consideration in the Edwards Inquest (refer to the findings of the State Coroner in the Edwards inquest at paragraphs 677-701).

In terms of pistol clubs checking information on P650 forms, Detective Inspector Kehoe gave evidence of difficulties in the Registry sharing its holdings with individual shooting clubs - it is probable that some information would be sensitive in nature and should not be distributed beyond the NSW Police Force. In my view it would be inappropriate for such information about private individuals to be freely accessible to private clubs. It is probable that it is for this reason that the limited information sharing which occurs currently - in relation to club members or proposed club members - is specifically authorised by a regulation (cl104 of the Firearms Regulation).

As observed in the Edwards inquest, it is desirable that there be some system of oversight of the P650 forms by the Firearms Registry. This is considered further below.

Issue 3 - The feasibility and desirability of an alert system linking pieces of intelligence received by shooting clubs and whether this would be facilitated by NSW Firearms Registry oversight.

This issue focuses on how to better provide for information - which indicates risks in relation to someone trying to access firearms in a try shooting course, such as that provided by Mr Hashemi – to be acted upon, or circulated, to reduce risk.

It is submitted by Counsel Assisting that an alert system might provide a measure by which the information provided by Mr Hashemi could have found its way to the Registry.

Counsel Assisting has submitted a recommendation should be made.

Proposed Recommendation 1

- 1) That the Commissioner of Police give consideration to developing, and maintaining at the Firearms Registry, an alert system linking pieces of intelligence received by shooting clubs.

SSAA stated in their submissions that they supported recommendation 1 - the focus of their initial submission was that safety had been achieved by the installation of the tethering system – as set out below. In their supplementary submissions they specifically expressed their support for an alert system stating it would be of great assistance where intelligence received from shooting clubs could be disseminated in a timely fashion.

The Commissioner of Police in submissions did not support this recommendation, stating that:

- Counsel Assisting proposes (in his paragraphs 38 & 39) that an "alert system be implemented linking pieces of intelligence received by shooting clubs".
9. Ms Newbery understood the gravity of the information provided by Mr Hashemi – however failed to ensure that it was dealt with appropriately.
10. Had that information been dealt with in the way that she proposed, there is little doubt that it would have been acted upon by the Registry.
11. The deficiency arising in this case can be found in the processes adopted by the Club. The data base maintained by the Club did not allow for the necessary cross checking on those who attended the Club and about whom there was (or may have been) information, that should have been considered prior to that person being allowed to undertake a "try shooting" course.
12. It is submitted that the system set out in the proposed Recommendation of Counsel Assisting (paragraph 40), would not resolve the problems identified at the St Marys Club. If these deficiencies exist at other clubs, the "alert system" would be deficient from the outset. Accordingly, the proposed Recommendation is not supported at this time.

I note the reasons advanced by the Commissioner of Police that an alert system would not cure deficiencies in notification at the Pistol Club/Shooting Range level. However if there was a simple online reporting portal created where clubs could lodge instant notifications or alerts, this may assist in such notifications

occurring. I note that SI Bell's evidence indicated that the Registry review and reform project did look at issues of data accessibility and communication - so some such easy notification method may be possible. Given that providing a notification portal to clubs where concerns could be advised to Registry may actually see someone such as GH refused permission to use a pistol, then this recommendation, in conjunction with recommendation 20 of the Edwards Inquest, could prevent a future death and reduce risk of harm generally.

It is noted that a recommendation for an alert system may raise issues pertaining to clauses 101 and 104 of the Firearms Regulation 2017:

101 Special conditions relating to approved pistol clubs

Without limiting the conditions to which the approval of a pistol club may be subject, any such approval is subject to the following conditions—

- (a) the club must not admit a person ("the applicant") as a member unless—
 - (i) the applicant has submitted 2 character references from persons who are of or above the age of 18 and who have known the applicant for at least 2 years, or
 - (ii) the secretary or other relevant office holder of the club is satisfied that the applicant has submitted the name of any other approved pistol club or shooting club of which the applicant is a member,
- (b) if the club cancels or suspends the membership of any member, the secretary or other relevant office holder must, within 7 days of the cancellation or suspension, notify the Commissioner that the person's membership has been cancelled or suspended and advise the Commissioner of the reasons for the cancellation or suspension,
- (c) the club must ensure that a person whose category H (sport/target shooting) licence has been revoked or suspended does not, while the revocation or suspension remains in force, use a pistol on any shooting range or other premises of the club,
- (d) if the secretary or other relevant office holder of an approved pistol club is of the opinion that any person who is a member of the club, or who has applied to be a member of the club, may pose a threat to public safety (or a threat to the person's own safety) if in possession of a firearm, the secretary or office holder must inform the Commissioner of that opinion.

Clause 101(d) places a legislative obligation on approved pistol club to notify of risks posed by members of the club or persons who have applied to be a member. The imposition of such legislative obligation provides protection to those making disclosures about members of the public in accordance with the clause. Clause 101 only applies to a pistol club in relation to a member of the club, or an applicant for membership, and not to other unlicensed shooters participating in courses such as try shooting courses. If the Commissioner of

police was to consider an alert system, whether by a simple portal or other function, it might be that an amendment to clause 101 would be facilitative of such to a system.

79A Disclosure of certain information by club officials

The disclosure of any information or other matter by the secretary or other relevant office holder of a pistol club or a collectors' society or club to the Commissioner in accordance with any requirement imposed on the secretary or office holder under the regulations does not, if the disclosure was in good faith, subject the society or club, or the secretary or office holder, to any criminal or civil liability.

The interplay of section 79A of the Firearms Act 1996 with clause 101 of the Regulation provides protection from criminal or civil liability to the club or secretary or other relevant office holder of the club or society where information is provided in good faith. There is a prescribed form for the purposes of the Club Secretary or other relevant office holder notifying the Commissioner under the provisions of clause 101(d) of the Firearms Regulation 2017.

Clause 104 of the Firearms Regulation 2017 provides for the Commissioner of Police to disseminate information indicating risk issues:

104 Commissioner authorised to disclose information to club

The Commissioner is authorised to disclose to the secretary or other relevant office holder of an approved club, or of any association with which an approved club is affiliated, any information as to the following—

- (a) the pistols that are held by an applicant in connection with membership of the approved club,
- (b) any other club of which an applicant for membership of the approved club is a member,
- (c) any other information that, in the opinion of the Commissioner, is relevant to a person's application for membership, or a person's continued membership, of the approved club

Clause 104 thereby authorises such disclosure about individual in the community by the Commissioner of Police, to clubs. Again clause 104 applies only in relation to members of the club and not to an unlicensed person in the community who may apply to participate in a try shooting course. The proposed recommendation for an alert system may involve consideration of the extension of clause 104 to cover unlicensed persons who are not members of a club.

It is noted that these legislative issues were not raised during the inquest, and the parties, being the Commissioner of Police and SSAA, were therefore not given an opportunity in their initial submissions to comment on the impact of these legislative provisions. For this reason I caused the solicitors assisting the Coroner to write to the parties and invite further submissions on this issue, and the date for findings to be delivered was adjourned to allow this to occur.

I note that the parties were advised in that correspondence that the Coroner had formed no settled view on proposed recommendation 1; and also noted that Proposed Recommendation 1 was not supported by the Commissioner of Police. In that context the parties were invited to provide submissions in relation to the regulations and also in relation to a further proposed recommendation which might be required if proposed recommendation 1 was made, being proposed recommendation 1B:

Proposed recommendation 1B – the Commissioner of Police, in its consideration of whether an alert system be developed and maintained, also consider whether amendments to clause 101 and 104 of the Firearms Regulation 2017 may be beneficial and/or required.

The further submissions received on this issued state as follows.

SSAA Pty Ltd as owner/operator of the St Marys Indoor Shooting Centre (SMISC) has noted the proposed recommendations 1a and 1b and makes the following submissions.

The development of an alert system to be maintained by the Firearms Registry would be of great assistance to Centres such as SMISC, where intelligence received from shooting clubs could be disseminated in a timely fashion.

Additionally, an amendment to clause 101 and 104 of the Firearms Regulation 2017 to include persons who are applying to use Club firearms for try shooting courses would alleviate fears of staff and management at SMISC and other Centres pertaining to privacy considerations. Such proposed amendment would provide greater protection for Clubs to provide information of concern to the Firearms Registry, in such circumstances pertaining to such persons who are not members or proposed Club members.

SSAA Pty Ltd supports both proposed recommendations.

The Commissioner of Police further submission on these legislative provisions stated

the NSW Deputy Premier and Minister for Police announced that former Assistant Commissioner Geoff McKechnie would be conducting a three month review of the NSW Firearms Registry. The announcement indicated that the review was being conducted to ensure that the processes around the licencing of firearms are robust, timely and efficient. ...Given the interplay set out in your correspondence between her Honour's proposed recommendation and the Edwards recommendations, it [was suggested the findings may be deferred until the outcome of Mr McKechnie's review....

Following this correspondence, the parties were consulted on a recommendation - that the proposed recommendations be sent to the McKechnie Review for consideration by that Review - and this course was supported by both parties. This will be further set out below.

Issue 4 – Registry oversight of P650 forms

A stated issue to be considered at the inquest was whether it was feasible or desirable for the Registry to have oversight over the P650 forms completed by unlicensed persons who engage in try shooting sessions conducted by approved shooting ranges, pursuant to the exception in s6B of the Act.

This issue received consideration in the inquest into the deaths of John, Jack and Jennifer Edwards (“Edwards Inquest”). Counsel Assisting in submissions the current inquest referred to the findings in the Edwards Inquest and recommendations made, in particular that recommendation 20 made by the State Coroner in the Edwards inquest had covered this issue.

The Commissioner of Police stated in submissions, that the matter had been addressed in the Edwards Inquest. I note there was considerable investigation and consideration of the P650 forms in the Edwards inquest – (refer paragraphs 677 – 701 of the findings of the State Coroner in the Edwards inquest). I note also that a number of parties to that inquest provided detailed submissions, referred to by Her Honour, the State Coroner, in her reasons, in relation to the operation of the P650 form and the risks to public safety which the P650 form

represents. Reference should be had to the findings in the Edwards Inquest to understand the acknowledgement of risk by parties to that inquest. During the inquest various options were considered including digitalisation of the P650 form, use of a portal, and oversight by the Registry.

I observe that in the course of the Edwards Inquest, the State Coroner made the following (recommendation 20):

“That the NSW Government take steps to revoke the use of the P650 form (which currently allows an unlicensed person to undergo firearms training without involvement or vetting by the Firearms Registry), with the view to amending cl. 129 of the Firearms Regulation 2017 and implementing an alternative scheme which provides for adequate verification of information and oversight by the Firearms Registry.”

As the issue of the use of the P650 form to allow possession and use of firearms by unlicensed persons, has already been subject of considerable consideration in the Edwards Inquest, and been subject of a recommendation by the State Coroner, there is no need for a further recommendation to be made in the current proceedings.

I note that Superintendent (SI) Bell, who was the Commander of the Registry at the time of the Edwards Inquest, provided two statements in the course of that inquest. Both of those statements were tendered in the present proceedings (exhibits 4 and 5). SI Bell’s concerns about the risks posed by the P650 form are also detailed in the findings of the Edwards Inquest at paragraph 682. One of the concerns articulated by Superintendent Bell was that a person suffering from a mental illness may gain access to firearms through this process and commit self harm and/or attempt to harm others. Superintendent Bell also noted, as stated at paragraph 682 of the findings in the Edwards inquest, that because P650 forms are retained by clubs and other industry stakeholders, the Registry has no supervision over who is engaged in unlicensed shooting, nor whether they have been authorised or prevented from engaging in unlicensed shooting, unless an issue is brought to the attention of the Registry. He also observed during his evidence to the Edwards inquest, as recorded in the State Coroner’s findings, that there were risks also in being unable to validate a

person's identity, and being unable to check that the answers given by a person to the questions in the P650 form were truthful. It is noted that during the Edwards inquest, the pistol sport parties supported the proposed recommendation (which became recommendation 20) noting that the P650 process placed a heavy burden on clubs and its volunteer base in relation to evaluation of the P650 forms.

Superintendent Bell's statements in evidence in the current proceedings, and the findings of the Edwards Inquest, confirm that there have been some considerable steps taken to update and improve practices of the Registry, during the "the Firearms transformation project", and that the reform project is ongoing at this time. The Project, on the evidence presented to this inquest, has involved restructure of the way work is done in the Registry, changes to use of data, and an enhanced focus on risk assessment evaluation techniques in the processes for firearms application processing.

I observe that considerable review and reform has been undertaken by the Firearms Registry since the death of GH and also in the light of the issues examined in the Edwards Inquest. Evidence indicates that those reform processes are continuing at this time.

For completeness, I note that questions about the appropriateness of the mandatory questions in the P650 form were canvassed during the course of this inquest, and I observe that the wording of the P650 form has been changed since the date of GH's death. The updated P650 form was admitted into evidence (exhibit 7) (together with an explanatory document giving guidance to an applicant as to how to complete that form- exhibit 8).

Have you in NSW or elsewhere;

- a) Been refused or prohibited from holding a firearms licence or permit or had a firearms licence or permit suspended, cancelled or revoked?
- b) Been the subject of a Firearms Prohibition Order?
- c) Within the last 10 years been convicted of an offence involving firearms, weapons, prohibited drugs, robbery, violence, terrorism or an offence of a sexual nature?
- d) Within the last 10 years been the subject of a Family Law or Domestic Violence Order or an

- Apprehended Violence Order (other than an order that was revoked)?
- e) Ever attempted suicide or self harm?
 - f) In the past 12 months been treated or referred for treatment for alcoholism, drug dependence or a mental illness within the meaning of the *Mental Health Act 2007* or as a mentally disordered person within the meaning of that Act?
 - g) Currently subject to a Good Behaviour Bond?
 - g) Currently subject to a Good Behaviour Bond?
 - h) Currently subject to an Interim Apprehended Violence Order?
 - i) Currently suffering from any mental illness or other disorder that may prevent you from using a firearm safely?

I observe that if GH had answered these questions on the P650 form correctly, in particular the question directed at previous self harm attempts, his risk of harm would have been flagged for the Club, given that according to what we know of GH, he had attempted self harm previously.

Registry oversight of access to firearms, by unlicensed shooters at clubs, and verification of information provided by those unlicensed persons seeking to access firearms at shooting clubs, as recommended by recommendation 20 of the Edwards Inquest, goes to address reduction in risk of harm.

Issue 5- the nature and adequacy of any changes implemented by the St Mary's Indoor Shooting Centre and the Sporting Shooters' Association

The evidence establishes that since the date of GH's death, the St Marys Indoor Shooting Centre was required, by the Registry, to install a tethering system as a condition of that centres' approval to conduct future trying shooting sessions. St Marys Indoor Shooting Centre displayed some effort in designing the system ultimately installed.

Mr Oakely, who was a witnesses experienced in shooting ranges (refer above), stated that the tethering device has had a "dramatic" improvement on the safety of the patrons of a shooting range. The tethering system has been, in both Mr Oakley's and Ms Newbery's view, effective to prevent the firearm from being turned to the rear (in the direction of either the person handling the firearm or other patrons).

The evidence suggested that the tethering system that has been installed at the St Marys Indoor Shooting Centre is relatively inexpensive and has not significantly detracted from the experience of those who wish to participate in a try shooting session (the evidence of both Mr Oakley and Ms Newbery was to the effect that the tethered firearm maintained a realistic balance and feel).

Mr Oakley gave evidence that a similar condition has been imposed at three other of approved shooting centres which permit unlicensed shooting pursuant to s. 6B of the Firearms Act . Mr Oakley gave evidence that this condition was imposed after patrons of those clubs had used the firearms to commit suicides.

Mr Oakley's personal opinion, and I note that he is no longer is employed at the Registry, is that the tethering condition that was successfully imposed at the St Mary's Shooting Club should be imposed at "all ranges where unlicensed persons use pistols".

Counsel Assisting submitted that the Court would make a recommendation, and has modelled the recommendation on the condition which the Registry imposed on St Mary's Indoor Shooting Centre after GH's death. Counsel Assisting proposed the following recommendation:

Proposed Recommendation 2: The Commissioner of Police give consideration to imposing the following condition on all approved shooting ranges that permit unlicensed persons to handle or use firearms pursuant to s. 6B of the Firearms Act 1996:

- (a) Unlicensed possession and use of pistols pursuant to section 6B(1)(a) of the Firearms Act 1996 and clause 129 of the Firearms Regulation 2017 is not permitted at the shooting range unless the pistol is securely tethered in such a manner that prevents the pistol from being turned to the rear or any direction other than towards the designated target area.
- (b) Compliance with condition (a) above may be dispensed with in circumstances where the range official is satisfied that the unlicensed shooter is a member of an approved pistol club and has successfully

completed an approved firearms (pistol) safety training course conducted by an approved pistol club.

I observe that both these recommendations are supported by SSAA Pty Ltd/St Marys Indoor Shooting Centre – in submissions SSAA states that “the pistol tethering system at St Marys Indoor Shooting Centre has significantly increased safety on that range, particularly in circumstances where a person forms an intention to cause either themselves or another person injury with a pistol, to the point where that danger, it is submitted, has been eliminated.” ... “the pistol tethering system also provides significant workplace health and safety protection for employees of ranges, particularly Range Officers who conduct try shooting sessions”

I note that the Commissioner of Police supports the recommendation, however makes an observation that the installation costs should be borne by the respective clubs who offer the services.

I observe that the recommendation of Counsel Assisting involves an exemption in relation to pistol club members, who have completed training conducted by an approved club, this was also modelled on the condition imposed by the Registry on St Marys Indoor Shooting Range. No other party at the inquest opposed the proposed exemption. I note that during this inquest the role of clubs offering training/ access to firearms under the P650 form, as part of the club membership process, was not specifically examined (GH was not a club member but accessed firearms in a try shooting course).

It may be noted that, in his evidence, Mr Oakley stated that it was not part of the role of the Registry to check or vet the membership of a pistol club. This gives rise to the continuing possibility of a person not subject of Registry oversight accessing an untethered firearm. Counsel Assisting submits that the current wording of the condition remains appropriate, submitting that applying for club membership includes some additional commitment to safe use of firearms through commitment to a training course.

I observe that recommendation 20 of the Edwards Inquest, if implemented, would apply to those accessing firearms as club members, providing further protection.

I note that there was considerable examination during the Edwards Inquest of risks that can be presented by unlicensed shooters seeking to access firearms through club membership, noting that at the time of the Edwards Inquest it was difficult for a club to ascertain whether an applicant for membership had applied to a number of clubs, or been previously refused by other clubs (refer part E of the findings of the State Coroner in the Edwards inquest at paragraphs 619 – 668 and also at paragraphs 702 -711; and 712 – 732). Having regard to the detailed examination and findings made during the Edwards inquest, and the recommendations made to address the risks identified – recommendation 21 and recommendation 22a and 22b - I am of the view that some of the risks presented by access to firearms as members of the club, pursuant to the P650 form, are addressed and so that the exception in the proposed recommendation is supported on that basis.

It is appropriate to reproduce the relevant recommendations made in Edwards for information purposes:

Recommendation 21: that the New South Wales government take steps to implement a regulatory change under which gun clubs are under an obligation to inform the Firearms Registry if they have refused a person membership, and the reasons for that refusal.”

Recommendation 22a: that the New South Wales government take steps to amend clause 101 of the Firearms Regulation 2017 to impose the mandatory reporting obligation therein on any type of gun club (not only a pistol club).

Recommendation 22b: that the Firearms Registry undertake consultation with industry stakeholders and the New South Wales government with the view to lowering the reporting threshold in clause 101 of the Firearms Regulation 2017 from the current test of “may pose a threat to public safety (or a threat to the person’s own safety) if in possession of a firearm”, to include a situation where the club has concerns in relation to risk posed by a prospective or current member, and developing appropriate parameters to assist in assessing any such risk”

For reasons above stated, given that club membership processes have not been examined in this inquest, and noting the further safeguards which would

be provided by implementation of recommendation 20 of the Edwards Inquest, and the additional safeguards involved in recommendations 21 and 22a and 22b, then I am satisfied that the exemption provided for in the recommendation is appropriate.

SUMMARY - RECOMMENDATION

For reasons above detailed the following “Proposed recommendations” were subject of consideration, however given the current Review of the Firearms Registry, the Recommendation is for the Proposed Recommendations to be considered by that Review. It is noted that the Review announced on 3 May 2022 is intended to ensure that processes around the licencing of Firearms are robust, timely and efficient, and it is understood the Review will consider Registry’s response to the recommendations of the Edwards Inquest. The Proposed Recommendations may well have an impact on robust decision making, and efficiency of information sharing, and may have capacity to impact positively on licencing decisions in a way that promotes safety. For these reasons it is seen as appropriate to refer the proposed recommendations for consideration by the Review.

Recommendation 1:

That the Proposed Recommendations of this inquest, being Proposed Recommendation 1a, 1b and 2, as set out below, in addition to the Reasons for Decision of this Inquest, be referred to the Review of the Firearms Registry being conducted by former NSW Assistant Commissioner Geoff McKechnie, for consideration by that Review. It is noted that the Review was announced by the NSW Deputy Premier and Minister for Police on 3 May 2022, to ensure that processes around licencing of firearms are robust timely and efficient.

Proposed recommendations for consideration by Review

Proposed Recommendation 1a:

That the Commissioner of Police give consideration to developing, and maintaining at the Firearms Registry, an alert system linking pieces of intelligence received by shooting clubs; and

Proposed Recommendation 1b:

That the Commissioner of Police in its consideration of whether an alert system be developed and maintained, also consider whether amendments to clause 101 and 104 of the Firearms Regulation 2017 may be required, particularly in relation to unlicensed persons who are not club members or proposed club members, who are applying to use club firearms for try shooting courses.

It is noted that recommendations 22a and 22b in the Edwards Inquest proposed certain changes to cl101.

Proposed Recommendation 2:

The Commissioner of Police give consideration to imposing the following condition on all approved shooting ranges that permit unlicensed persons to handle or use firearms pursuant to s. 6B of the Firearms Act 1996:

- (a) Unlicensed possession and use of pistols pursuant to section 6B(1)(a) of the Firearms Act 1996 and clause 129 of the Firearms Regulation 2017 is not permitted at the shooting range unless the pistol is securely tethered in such a manner that prevents the pistol from being turned to the rear or any direction other than towards the designated target area.
- (b) Compliance with condition (a) above may be dispensed with in circumstances where the range official is satisfied that the unlicensed shooter is a member of an approved pistol club and has successfully completed an approved firearms (pistol) safety training course conducted by an approved pistol club.

I note that given the Recommendation 20 made in the Edwards Inquest, no further recommendation is made in the current matter in relation to P650 forms.

Closing

I acknowledge and express my gratitude to Counsel Assisting, Mr Michael Della Pozza, and the instructing solicitor from Crown Solicitors Office, Ms Leah Burgoyne, for their assistance both before and during the inquest. I also thank the investigating Police Officers, and in particular Officers in Charge, Detective Senior Detective Senior Constable Moy and Detective Sergeant Fokes, for their work in the Police investigation and compiling the evidence for the inquest.

On behalf of the Coroners Court of New South Wales, I offer my sincere and respectful condolences to GH's family.

I close this inquest.

A handwritten signature in black ink, appearing to read 'Carolyn Huntsman', with a large, stylized flourish at the end.

Magistrate Carolyn Huntsman

Deputy State Coroner

Coroners Court of New South Wales
